

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN RE: D.O.T. LITIGATION

GREEN LEAF FARM HOLDINGS,
LLC; GREEN THERAPEUTIX LLC,
NEVCANN, LLC; RED EARTH, LLC
AND THC NEVADA, LLC,

Appellants,

vs.

THE STATE OF NEVADA, ON
RELATION OF ITS DEPARTMENT
OF TAXATION; CANNABIS
COMPLIANCE BOARD; LONE
MOUNTAIN PARTNERS, LLC; DEEP
ROOTS MEDICAL, LLC; NEVADA
ORGANIC REMEDIES, LLC,

Respondents.

Supreme Court Case No. 86071-1
District Court Case No. A-787004-B
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**LONE MOUNTAIN PARTNERS, LLC'S
APPENDIX TO ANSWERING BRIEF
VOLUME 1 OF 4**

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| 2. | Transcript of Proceedings: Bench Trial - Day 3 (07/21/2020) | 09/03/2020 | 1-2 | RA022-RA331 |
| 3. | Transcript of Proceedings: Bench Trial - Day 5 (07/23/2020) | 09/03/2020 | 2-3 | RA332-RA664 |
| 4. | Transcript of Proceedings: Bench Trial - Day 20 (08/18/2020) | 09/03/2020 | 3-4 | RA665-RA796 |

Dated this 22nd day of January 2024.

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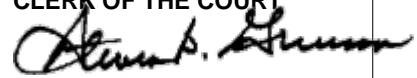
CERTIFICATE OF SERVICE

I certify that I am an employee of Hone Law and that on Monday, January 22, 2024, I submitted for filing the foregoing **LONE MOUNTAIN PARTNERS, LLC'S APPENDIX TO ANSWERING BRIEF VOLUME 1 OF 4** and caused a true and correct copy to be served on all registered parties via the Court's eFlex electronic filing system.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.



Karen M. Morrow, an employee of HONE LAW



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11 **EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13
14
15 In Re: D.O.T. Litigation,

Case No. A-19-787004-B
Consolidated with A-785818
A-786357
A-786962
A-787035
A-787540
A-787726
A-801416

Dept. No. XI

16
17 **LONE MOUNTAIN PARTNERS, LLC'S**
18 **ANSWER TO ETW'S THIRD**
19 **AMENDED COMPLAINT**

20 Lone Mountain Partners, LLC ("Lone Mountain"), by and through counsel undersigned,
21 hereby files this answer to the *Third Amended Complaint* ("Complaint") filed on January 29,
22 2020 by ETW Management Group LLC, Global Harmony LLC, Green Leaf Farms Holdings
23 LLC, Green Therapeutics LLC, Herbal Choice Inc., Just Quality, LLC, Libra Wellness Center,
24 LLC, Rombough Real Estate Inc. dba Mother Herb, Nevcan LLC, Red Earth LLC, The Nevada
25 LLC, Zion Gardens LLC, and MMOF Vegas Retail, Inc. (collectively "Plaintiffs"). Lone
26 Mountain answers as follows:

27 Lone Mountain denies each and every allegation in the Complaint except those
28 allegations that are admitted, qualified, or otherwise answered herein.



PARTIES

1
2 1. Answering paragraph 1, Lone Mountain lacks sufficient knowledge or
3 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
4 denies.

5 2. Answering paragraph 2, Lone Mountain lacks sufficient knowledge or
6 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
7 denies.

8 3. Answering paragraph 3, Lone Mountain lacks sufficient knowledge or
9 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
10 denies.

11 4. Answering paragraph 4, Lone Mountain lacks sufficient knowledge or
12 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
13 denies.

14 5. Answering paragraph 5, Lone Mountain lacks sufficient knowledge or
15 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
16 denies.

17 6. Answering paragraph 6, Lone Mountain lacks sufficient knowledge or
18 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
19 denies.

20 7. Answering paragraph 7, Lone Mountain lacks sufficient knowledge or
21 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
22 denies.

23 8. Answering paragraph 8, Lone Mountain lacks sufficient knowledge or
24 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
25 denies.

26 9. Answering paragraph 9, Lone Mountain lacks sufficient knowledge or
27 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
28 denies.





1 10. Answering paragraph 10, Lone Mountain lacks sufficient knowledge or
2 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
3 denies.

4 11. Answering paragraph 11, Lone Mountain lacks sufficient knowledge or
5 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
6 denies.

7 12. Answering paragraph 12, Lone Mountain lacks sufficient knowledge or
8 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
9 denies.

10 13. Answering paragraph 13, Lone Mountain lacks sufficient knowledge or
11 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
12 denies.

13 14. Answering paragraph 14, Lone Mountain admits that the DOT is an agency of the
14 State of Nevada, and denies all other allegations.

15 15. Answering paragraph 15, Lone Mountain lacks sufficient knowledge or
16 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
17 denies.

18 16. Answering paragraph 16, Lone Mountain lacks sufficient knowledge or
19 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
20 denies.

21 17. Answering paragraph 17, Lone Mountain lacks sufficient knowledge or
22 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
23 denies.

24 18. Answering paragraph 18, Lone Mountain lacks sufficient knowledge or
25 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
26 denies.

27 19. Answering paragraph 19, Lone Mountain lacks sufficient knowledge or
28 information as to the truth or falsity of the allegations contained in this paragraph, and therefore



1 denies.

2 20. Answering paragraph 20, Lone Mountain lacks sufficient knowledge or
3 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
4 denies.

5 21. Answering paragraph 21, Lone Mountain lacks sufficient knowledge or
6 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
7 denies.

8 22. Answering paragraph 22, Lone Mountain lacks sufficient knowledge or
9 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
10 denies.

11 23. Answering paragraph 23, Lone Mountain lacks sufficient knowledge or
12 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
13 denies.

14 24. Answering paragraph 24, Lone Mountain lacks sufficient knowledge or
15 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
16 denies.

17 25. Answering paragraph 25, Lone Mountain lacks sufficient knowledge or
18 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
19 denies.

20 26. Answering paragraph 26, Lone Mountain admits it is a Nevada Limited Liability
21 Company organized and existing under the laws of the State of Nevada and authorized to do
22 business in Clark County, Nevada, but denies the remaining allegations.

23 27. Answering paragraph 27, Lone Mountain lacks sufficient knowledge or
24 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
25 denies.

26 28. Answering paragraph 28, Lone Mountain lacks sufficient knowledge or
27 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
28 denies.

29. Answering paragraph 29, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

30. Answering paragraph 30, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

31. Answering paragraph 31, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

32. Answering paragraph 32, for allegations regarding Lone Mountain, it admits that it was granted condition recreational marijuana establishment licenses by the DOT on or after December 5, 2018 and denies all other allegations. For allegations regarding persons or entities other than Lone Mountain, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

33. Answering paragraph 33, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

34. Answering paragraph 34, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

JURISDICTION AND VENUE

35. Answering paragraph 35, the allegations call for legal conclusions to which no response is required. To the extent a response is required, Lone Mountain denies.

36. Answering paragraph 36, the allegations call for legal conclusions to which no response is required. To the extent a response is required, Lone Mountain denies.

GENERAL ALLEGATIONS

37. Answering paragraph 37, Lone Mountain incorporates, restates, and realleges all proceeding paragraphs as though fully set forth herein.



The Statutory Scheme Governing Retail Marijuana Licenses

38. Answering paragraph 38, Lone Mountain states that the ballot initiative is of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

39. Answering paragraph 39, Lone Mountain states that NRS Chapter 453D is of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

40. Answering paragraph 40, Lone Mountain states that NRS 453D.200(1) is of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

41. Answering paragraph 41, Lone Mountain states that NRS 453D.200(6) is of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

42. Answering paragraph 42, Lone Mountain states that NRS 453D.210(5)(b) is of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

43. Answering paragraph 43, Lone Mountain states that NRS 453D.210(4)-(5) and NRS 453D.200(1)(a) are of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

44. Answering paragraph 44, Lone Mountain states that NRS 453D.210(5)(d) is of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

45. Answering paragraph 45, Lone Mountain states that NRS 453D.210(5)(d) is of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith. Lone Mountain denies that NRS 453D.210(d)(5) exists.

46. Answering paragraph 46, Lone Mountain states that NRS 453D.210(6) is of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

The DOT's Adoption of Flawed Regulations that Do Not Comply with Chapter 453D

47. Answering paragraph 47, Lone Mountain states that the temporary regulations are insufficiently identified, and therefore Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

48. Answering paragraph 48, Lone Mountain states that NRS 453D.200(1) is of independent legal significance, and Lone Mountain denies any allegations inconsistent therewith. For all other allegations, Lone Mountain lacks sufficient knowledge or information as to the truth

1 or falsity of the allegations contained in this paragraph, and therefore denies.

2 49. Answering paragraph 49, Lone Mountain states that NRS 453D.200(1) is of
3 independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.
4 For all other allegations, Lone Mountain states that the Notice of Intent is insufficiently
5 identified, and therefore Lone Mountain lacks sufficient knowledge or information as to the truth
6 or falsity of the allegations contained in this paragraph, and therefore denies.

7 50. Answering paragraph 50, Lone Mountain states that LCB File No. R092-17 is
8 insufficiently identified, and therefore Lone Mountain lacks sufficient knowledge or information
9 as to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

10 51. Answering paragraph 51, Lone Mountain lacks sufficient knowledge or
11 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
12 denies.

13 52. Answering paragraph 52, Lone Mountain states that NAC 453D is of independent
14 legal significance, and Lone Mountain denies any allegations inconsistent therewith. For all other
15 allegations, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of
16 the allegations contained in this paragraph, and therefore denies.

17 53. Answering paragraph 53, Lone Mountain states that NRS 453D.200(1)(a), NAC
18 453D.268, and NAC 453D.272 are of independent legal significance, and Lone Mountain denies
19 any allegations inconsistent therewith.

20 54. Answering paragraph 54 Lone Mountain states that NAC 453D.272(1) is of
21 independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

22 55. Answering paragraph 55 and subparagraphs (a)-(i), Lone Mountain states that
23 NAC 453D.272(1) is of independent legal significance, and Lone Mountain denies any
24 allegations inconsistent therewith.

25 56. Answering paragraph 56, Lone Mountain states that the allegations call for a legal
26 conclusion to which no response is required. To the extent a response is required, Lone Mountain
27 states that the application process for recreational licenses was subject to statutes and regulations
28 that are of independent legal significance, and Lone Mountain denies any allegations inconsistent



1 therewith.

2 57. Answering paragraph 57, Lone Mountain states that NAC 453D.272(5) is of
3 independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

4 58. Answering paragraph 58, Lone Mountain states that NRS 453D.210(4)(b) and
5 NAC 453D.312(4) are of independent legal significance, and Lone Mountain denies any
6 allegations inconsistent therewith.

7 ***Plaintiffs Receive Arbitrary Denials of their Applications for Retail Marijuana***
8 ***Licenses***

9 59. Answering paragraph 59, Lone Mountain states that NRS 453D.210 is of
10 independent legal significance, and Lone Mountain denies any allegations inconsistent therewith.

11 60. Answering paragraph 60, Lone Mountain lacks sufficient knowledge or
12 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
13 denies.

14 61. Answering paragraph 61, Lone Mountain lacks sufficient knowledge or
15 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
16 denies.

17 62. Answering paragraph 62, Lone Mountain states that the application package is a
18 document of independent legal significance, and Lone Mountain denies all allegations
19 inconsistent therewith. To the extent this paragraph calls for a legal conclusion, Lone Mountain
20 denies.

21 63. Answering paragraph 63, Lone Mountain states that the revised application
22 package is a document of independent legal significance, and Lone Mountain denies all
23 allegations inconsistent therewith. To the extent this paragraph calls for a legal conclusion, Lone
24 Mountain denies. As to the remaining allegations, Lone Mountain lacks sufficient knowledge or
25 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
26 denies.

27 64. Answering paragraph 64, Lone Mountain lacks sufficient knowledge or
28 information as to the truth or falsity of the allegations contained in this paragraph, and therefore



1 denies.

2 65. Answering paragraph 65, Lone Mountain lacks sufficient knowledge or
3 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
4 denies.

5 66. Answering paragraph 66, Lone Mountain states that the form application is a
6 document of independent legal significance, and Lone Mountain denies all allegations
7 inconsistent therewith. As to the remaining allegations, Lone Mountain lacks sufficient
8 knowledge or information as to the truth or falsity of the allegations contained in this paragraph,
9 and therefore denies.

10 67. Answering paragraph 67, insofar as the allegations relate to Lone Mountain, it
11 admits that it submitted applications to the DOT for recreational marijuana establishment
12 licenses and denies all other allegations. Insofar as the allegations relate to those persons and
13 entities other than Lone Mountain, Lone Mountain lacks sufficient knowledge or information as
14 to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

15 68. Answering paragraph 68, insofar as the allegations relate to Lone Mountain, it
16 denies. Insofar as the allegations relate to those persons and entities other than Lone Mountain,
17 Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the
18 allegations contained in this paragraph, and therefore denies. Further, Lone Mountain states that
19 NAC 453D.268 is of independent legal significance and denies all allegations inconsistent
20 therewith.

21 69. Answering paragraph 69 and subparagraphs (a)-(g), insofar as the allegations
22 relate to Lone Mountain, it denies. Insofar as the allegations relate to those persons and entities
23 other than Lone Mountain, Lone Mountain lacks sufficient knowledge or information as to the
24 truth or falsity of the allegations contained in this paragraph, and therefore denies.

25 70. Answering paragraph 70 and subparagraphs (a)-(c), Lone Mountain states that
26 NRS 453D.210(5) is of independent legal significance and denies all allegations inconsistent
27 therewith. Further, insofar as the allegations relate to Lone Mountain, it denies. Insofar as the
28 allegations relate to those persons and entities other than Lone Mountain, Lone Mountain lacks



1 sufficient knowledge or information as to the truth or falsity of the allegations contained in this
2 paragraph, and therefore denies.

3 71. Answering paragraph 71, Lone Mountain states that NRS 453D.210(5)(b) is of
4 independent legal significance and denies all allegations inconsistent therewith. Further, insofar
5 as the allegations relate to Lone Mountain, it denies. Insofar as the allegations relate to those
6 persons and entities other than Lone Mountain, Lone Mountain lacks sufficient knowledge or
7 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
8 denies.

9 72. Answering paragraph 72, insofar as the allegations relate to Lone Mountain, it
10 admits that it was awarded conditional recreational establishment licenses and denies all other
11 allegations. Insofar as the allegations relate to those persons and entities other than Lone
12 Mountain, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of
13 the allegations contained in this paragraph, and therefore denies.

14 73. Answering paragraph 73, Lone Mountain lacks sufficient knowledge or
15 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
16 denies.

17 74. Answering paragraph 74, Lone Mountain lacks sufficient knowledge or
18 information as to the truth or falsity of the allegations contained in this paragraph, and therefore
19 denies.

20 75. Answering paragraph 75, Lone Mountain states that the allegations are Plaintiffs'
21 legal conclusions to which no response is required. To the extent a response is required, Lone
22 Mountain denies.

23 76. Answering paragraph 76 and subparagraphs (a)-(d), Lone Mountain states that the
24 allegations are Plaintiffs' legal conclusions to which no response is required. To the extent a
25 response is required, Lone Mountain denies. For allegations regarding Plaintiffs, Lone Mountain
26 lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in
27 this paragraph, and therefore denies.

28 77. Answering paragraph 77, Lone Mountain states that the allegations are Plaintiffs'



1 legal conclusions to which no response is required. To the extent a response is required, Lone
2 Mountain denies. For allegations regarding Plaintiffs, Lone Mountain lacks sufficient
3 knowledge or information as to the truth or falsity of the allegations contained in this paragraph,
4 and therefore denies.

5 78. Answering paragraph 78, Lone Mountain states that the allegations are Plaintiffs'
6 legal conclusions to which no response is required. To the extent a response is required, Lone
7 Mountain denies. For allegations regarding Plaintiffs, Lone Mountain lacks sufficient
8 knowledge or information as to the truth or falsity of the allegations contained in this paragraph,
9 and therefore denies.

10 79. Answering paragraph 79, Lone Mountain states that the allegations are Plaintiffs'
11 legal conclusions to which no response is required. To the extent a response is required, insofar
12 as the allegations relate to Lone Mountain, it admits it received conditional recreational
13 marijuana establishment licenses and denies all other allegations. Insofar as the allegations relate
14 to those persons and entities other than Lone Mountain, Lone Mountain states that it lacks
15 sufficient knowledge or information as to the truth or falsity of the allegations, and therefore
16 denies.

17 **FIRST CLAIM FOR RELIEF**

18 **Violation of Substantive Due Process - The DOT**

19 80. Answering paragraph 80, Lone Mountain incorporates, restates, and realleges all
20 prior paragraphs as though fully set forth herein.

21 81. Answering paragraph 81, Lone Mountain states that the Fourteenth Amendment
22 to the United States Constitution is of independent legal significance and denies all allegations
23 inconsistent therewith.

24 82. Answering paragraph 82, Lone Mountain states that Article 1, Section 8 of the
25 Nevada Constitution is of independent legal significance and denies all allegations inconsistent
26 therewith.

27 83. Answering paragraph 83, Lone Mountain states that the allegations are Plaintiffs'
28 legal conclusions to which no response is required. To the extent a response is required, Lone



Mountain denies.

84. Answering paragraph 84, Lone Mountain states that NRS 453D.210 is of independent legal significance and denies all allegations inconsistent therewith.

85. Answering paragraph 85, Lone Mountain states that the allegations are Plaintiffs' legal conclusions to which no response is required. To the extent a response is required, Lone Mountain denies. Further, Lone Mountain states that NRS 453D.210 is of independent legal significance and denies all allegations inconsistent therewith.

86. Answering paragraph 86, Lone Mountain states that the allegations are Plaintiffs' legal conclusions to which no response is required. To the extent a response is required, Lone Mountain denies.

87. Answering paragraph 87, Lone Mountain states that the allegations are Plaintiffs' legal conclusions to which no response is required. To the extent a response is required, Lone Mountain denies. Further, Lone Mountain states that the Nevada and United States Constitutions are of independent legal significance and denies all allegations inconsistent therewith.

88. Answering paragraph 88, Lone Mountain denies.

89. Answering paragraph 89, Lone Mountain denies.

90. Answering paragraph 90, Lone Mountain denies.

91. Answering paragraph 91, Lone Mountain states that the recreational marijuana licensing application process was governed by statutes and regulations of independent legal significance and denies any inconsistent allegations therewith. For allegations related to Plaintiffs, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations contained in this paragraph, and therefore denies.

92. Answering paragraph 92, Lone Mountain denies.

93. Answering paragraph 93, Lone Mountain denies.

94. Answering paragraph 94 and subparagraphs (a)-(f), Lone Mountain denies.

95. Answering paragraph 95, Lone Mountain denies.

96. Answering paragraph 96, Lone Mountain denies.

97. Answering paragraph 97, Lone Mountain denies.



SECOND CLAIM FOR RELIEF

Violation of Procedural Due Process - The DOT

98. Answering paragraph 98, Lone Mountain incorporates, restates, and realleges all prior paragraphs as though fully set forth herein.

99. Answering paragraph 99, Lone Mountain states that the Fourteenth Amendment to the United States Constitution is of independent legal significance and denies all allegations inconsistent therewith.

100. Answering paragraph 100, Lone Mountain states that Article 1, Section 8 of the Nevada Constitution is of independent legal significance and denies all allegations inconsistent therewith.

101. Answering paragraph 101, Lone Mountain states that the allegations are Plaintiffs' legal conclusions to which no response is required. To the extent a response is required, Lone Mountain denies.

102. Answering paragraph 102, Lone Mountain states that NRS 453D.210 is of independent legal significance and denies all allegations inconsistent therewith.

103. Answering paragraph 103, Lone Mountain states that the allegations are Plaintiffs' legal conclusions to which no response is required. To the extent a response is required, Lone Mountain denies. Further, Lone Mountain states that NRS 453D.210 is of independent legal significance and denies all allegations inconsistent therewith.

104. Answering paragraph 104, Lone Mountain states that the allegations are Plaintiffs' legal conclusions to which no response is required. To the extent a response is required, Lone Mountain denies.

105. Answering paragraph 105, Lone Mountain states that the allegations are Plaintiffs' legal conclusions to which no response is required. To the extent a response is required, Lone Mountain denies.

106. Answering paragraph 106, Lone Mountain denies.

107. Answering paragraph 107, Lone Mountain denies.

108. Answering paragraph 108, Lone Mountain states this paragraph is blank and no

1 response is required.

2 109. Answering paragraph 109, Lone Mountain states that NRS 453D and the cited
3 regulations are of independent legal significance and denies all allegations inconsistent
4 therewith.

5 110. Answering paragraph 110, Lone Mountain denies.

6 111. Answering paragraph 111, Lone Mountain denies.

7 112. Answering paragraph 112, Lone Mountain states that NRS 453D and the cited
8 regulations are of independent legal significance and denies all allegations inconsistent
9 therewith.

10 113. Answering paragraph 113, Lone Mountain denies.

11 114. Answering paragraph 114, Lone Mountain denies.

12 115. Answering paragraph 115, Lone Mountain denies.

13 **THIRD CLAIM FOR RELIEF**

14 **Violation of Equal Protection - The DOT**

15 116. Answering paragraph 116, Lone Mountain incorporates, restates, and realleges all
16 prior paragraphs as though fully set forth herein.

17 117. Answering paragraph 117, Lone Mountain states that the Fourteenth Amendment
18 to the United States Constitution is of independent legal significance and denies all allegations
19 inconsistent therewith.

20 118. Answering paragraph 118, Lone Mountain states that Article 4, Section 21 of the
21 Nevada Constitution is of independent legal significance and denies all allegations inconsistent
22 therewith.

23 119. Answering paragraph 119, Lone Mountain states that the allegations are
24 Plaintiffs' legal conclusions to which no response is required. To the extent a response is
25 required, Lone Mountain denies.

26 120. Answering paragraph 120, Lone Mountain states that the allegations are
27 Plaintiffs' legal conclusions to which no response is required. To the extent a response is
28 required, Lone Mountain denies.



121. Answering paragraph 121, Lone Mountain states that the application process for recreational marijuana establishment licenses is subject to statutes and regulations that are of independent legal significance and denies any allegations inconsistent therewith.

122. Answering paragraph 122, Lone Mountain denies.

123. Answering paragraph 123, Lone Mountain denies.

124. Answering paragraph 124, Lone Mountain denies.

125. Answering paragraph 125, Lone Mountain denies.

126. Answering paragraph 126, Lone Mountain denies.

127. Answering paragraph 127 and subparagraphs (a)-(f), Lone Mountain denies.

128. Answering paragraph 128, Lone Mountain denies.

129. Answering paragraph 129, Lone Mountain denies.

130. Answering paragraph 130, Lone Mountain denies.

FOURTH CLAIM FOR RELIEF

Declaratory Judgment – All Defendants

131. Answering paragraph 131, Lone Mountain incorporates, restates, and realleges all prior paragraphs as though fully set forth herein.

132. Answering paragraph 132, Lone Mountain states that NRS 30.010 is of independent legal significance and denies any allegations inconsistent therewith.

133. Answering paragraph 133, for allegations relating to Lone Mountain, Lone Mountain admits that it submitted applications for recreational marijuana establishment licenses between September 7 and September 20, 2018 and denies all other allegations. For the allegations relating to those persons and entities other than Lone Mountain, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of the allegations, and therefore denies.

134. Answering paragraph 134, for allegations relating to Lone Mountain, Lone Mountain admits that it submitted applications for recreational marijuana establishment licenses for different localities and denies all other allegations. For allegations relating to those persons and entities other than Lone Mountain, Lone Mountain lacks sufficient knowledge or



1 information as to the truth or falsity of the allegations, and therefore denies.

2 135. Answering paragraph 135, Lone Mountain states that NRS 453D.210(4)-(5)(a)
3 and NAC 453D.268 are of independent legal significance and denies any allegations inconsistent
4 therewith.

5 136. Answering paragraph 136, Lone Mountain states that NRS 453D.210(5) is of
6 independent legal significance and denies any allegations inconsistent therewith.

7 137. Answering paragraph 137, Lone Mountain states that NAC 453D.272(5), NRS
8 453D.200, NRS 453D.210(6), and all other regulations cited by Plaintiffs in this paragraph are of
9 independent legal significance and denies any allegations inconsistent therewith.

10 138. Answering paragraph 138, Lone Mountain states that NRS 453D.210(6) is of
11 independent legal significance, and Lone Mountain denies all allegations inconsistent therewith.

12 139. Answering paragraph 139 and subparagraphs (a)-(k), Lone Mountain denies.

13 140. Answering paragraph 140 and subparagraphs (a)-(c), Lone Mountain states that
14 the recreational marijuana licensing application process was subject to statute and regulations
15 that are of independent legal significance and denies any allegations inconsistent therewith. By
16 way of further response, the allegations of this paragraph are Plaintiffs' legal conclusions, to
17 which no response is required. To the extent a response is required, Lone Mountain lacks
18 sufficient knowledge or information as to the truth or falsity of the allegations, and therefore
19 denies.

20 141. Answering paragraph 141 and subparagraphs (a)-(b), Lone Mountain states that
21 the recreational marijuana licensing application process was subject to statute and regulations
22 that are of independent legal significance and denies any allegations inconsistent therewith. By
23 way of further response, the allegations of this paragraph are Plaintiffs' legal conclusions, to
24 which no response is required. To the extent a response is required, Lone Mountain lacks
25 sufficient knowledge or information as to the truth or falsity of the allegations, and therefore
26 denies.

27 142. Answering paragraph 142, Lone Mountain denies.

28 143. Answering paragraph 143, Lone Mountain denies and requests that Plaintiffs'

1 requested declaratory relief be denied.

2 **FIFTH CLAIM FOR RELIEF**

3 **Petition for Judicial Review – All Defendants**

4 144. Answering paragraph 144, Lone Mountain incorporates, restates, and realleges all
5 prior paragraphs as though fully set forth herein.

6 145. Answering paragraph 145, Lone Mountain denies.

7 146. Answering paragraph 146, Lone Mountain denies. For allegations regarding
8 Plaintiff, Lone Mountain lacks sufficient knowledge or information as to the truth or falsity of
9 the allegations contained in this paragraph, and therefore denies.

10 147. Answering paragraph 147, Lone Mountain denies.

11 148. Answering paragraph 148 and subparagraphs (a)-(c), Lone Mountain denies and
12 requests that Plaintiffs' requested petition be denied.

13 149. Answering paragraph 149, Lone Mountain denies.

14 **SIXTH CLAIM FOR RELIEF**

15 **Petition for Writ Review – The DOT**

16 150. Answering paragraph 150, Lone Mountain incorporates, restates, and realleges all
17 prior paragraphs as though fully set forth herein.

18 151. Answering paragraph 151, Lone Mountain states that the allegations are
19 Plaintiffs' legal conclusions to which no response is required. To the extent a response is
20 required, Lone Mountain denies.

21 152. Answering paragraph 152 and subparagraphs (a)-(b), Lone Mountain denies.

22 153. Answering paragraph 153 and subparagraphs (a)-(b), Lone Mountain denies.

23 154. Answering paragraph 154, Lone Mountain denies and requests that Plaintiffs'
24 requested petition be denied.

25 155. Answering paragraph 155, Lone Mountain denies.

26 **WHEREFORE**, Lone Mountain requests that Plaintiffs take nothing by way of their
27 Complaint and that judgment be awarded in Lone Mountain's favor.

28 \ \ \



AFFIRMATIVE DEFENSES

First Affirmative Defense

Lone Mountain adopts and incorporates herein all affirmative defenses plead by Defendants and other Intervenors in this matter.

Second Affirmative Defense

The Third Amended Complaint fails to state a claim upon which relief can be granted.

Third Affirmative Defense

Plaintiffs have not been damaged directly, indirectly, proximately or in any manner whatsoever by any conduct of Defendants.

Fourth Affirmative Defense

The State of Nevada, Department of Taxation is immune from suit when performing the functions at issue in this case.

Fifth Affirmative Defense

The actions of the State of Nevada, Department of Taxation were all official acts that were done in compliance with applicable laws and regulations.

Sixth Affirmative Defense

Plaintiffs' claims are barred because Plaintiffs have failed to exhaust administrative remedies, if any.

Seventh Affirmative Defense

Plaintiffs have failed to join necessary and indispensable parties to this litigation under NRCP 19 as the Court cannot grant any of Plaintiffs' claims without affecting the rights and privileges of those parties who received the licenses at issue as well as other third parties.

Eighth Affirmative Defense

The occurrences referred to in the Third Amended Complaint and all alleged damages, if any, resulting therefrom, were caused by a third party of which Defendants had no control.

Ninth Affirmative Defense

The actions of the State of Nevada, Department of Taxation were not arbitrary or capricious; and the State of Nevada, Department of Taxation had a rational basis for all of the



1 actions taken in the licensing process at issue; and the actions of the State of Nevada,
2 Department of Taxation met intermediate and strict scrutiny, where applicable.

3 **Tenth Affirmative Defense**

4 Plaintiffs' claims are barred, in whole or in part, by their failure to perform or satisfy
5 required conditions precedent and by their own bad acts.

6 **Eleventh Affirmative Defense**

7 Plaintiffs are not in possession and/or control of the documents and/or witnesses
8 necessary to prove its alleged causes of action against Defendants.

9 **Twelfth Affirmative Defense**

10 The claims, and each of them, are barred by the failure of Plaintiffs to plead those claims
11 with sufficient particularity.

12 **Thirteenth Affirmative Defense**

13 Injunctive relief is unavailable to Plaintiffs, because the State of Nevada, Department of
14 Taxation has already completed the tasks of issuing the conditional licenses.

15 **Fourteenth Affirmative Defense**

16 Plaintiffs have no constitutional rights to obtain privileged licenses.

17 **Fifteenth Affirmative Defense**

18 Mandamus is not available to compel the members of the executive branch to perform
19 non-ministerial, discretionary tasks.

20 **Sixteenth Affirmative Defense**

21 Plaintiffs are not entitled to judicial review on the denial of a license.

22 **Seventeenth Affirmative Defense**

23 Plaintiffs lack standing to seek the relief they request.

24 **Eighteenth Affirmative Defense**

25 Plaintiffs have failed to allege sufficient facts and cannot carry the burden of proof
26 imposed on them by law to recover attorney's fees incurred to bring this action.

27 **Nineteenth Affirmative Defense**

28 Declaratory relief will not give the Plaintiffs the relief that they are seeking.



Twentieth Affirmative Defense

Pursuant to Nevada Rules of Civil Procedure, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of this answer and, therefore, Lone Mountain reserves the right to amend this answer to allege additional affirmative defenses if subsequent investigation warrants.

Dated this 2nd day of July 2020.

H1 LAW GROUP

A blue ink signature of Eric D. Hone, written in a cursive style.

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CERTIFICATE OF SERVICE

The undersigned, an employee of H1 Law Group, hereby certifies that on the 2nd day of July 2020, he caused a copy of the foregoing, to be transmitted by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's Odyssey E-File & Serve system.

A handwritten signature in blue ink, appearing to read 'Dekova Huckaby', written over a horizontal line.

Dekova Huckaby, an employee of
H1 LAW GROUP

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For Jorge Pupo

OGONNA M. BROWN, ESQ.
For Amanda Connor

I N D E X
W I T N E S S E S

WITNESSES FOR THE PLAINTIFF:

AMANDA CONNOR

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1 **LAS VEGAS, CLARK COUNTY, NEVADA, JULY 21, 2020, 8:25 A.M.**

2 * * * * *

3 THE COURT: Counsel, are there any housekeeping
4 matters before we start with the witness?

5 (No audible response.)

6 THE COURT: All right. Ms. Connor, if you would
7 stand up to be sworn, please.

8 **AMANDA CONNOR**

9 [having been called as a witness and being first duly sworn,
10 testified as follows:]

11 THE CLERK: Thank you. Please be seated. Please
12 state and spell your name for the record.

13 THE WITNESS: May name is Amanda Connor.
14 A-m-a-n-d-a, C-o-n-n-o-r.

15 THE CLERK: Thank you.

16 THE COURT: And, Ms. Connor, as you know, we are
17 trying to do this trial in socially distanced ways wearing
18 masks. As a result of the mask, it's really hard to hear.
19 It's going to be difficult for you to hear the attorneys asking
20 you the questions, they will know if they need it to be
21 repeated, that's not a problem. It's also going to be
22 difficult for all of us to hear you with the mask, so please
23 make sure you are near the mic. You have to look at the big
24 screen, please turn around before you answer, get near the mic,
25 and then speak up.

1 Ogonna, if you need to make an objection, I'm going
2 to need you to to project like I know you can from the back
3 row.

4 MS. BROWN: Into that microphone, Your Honor?

5 THE COURT: That's the one.

6 MS. BROWN: Thank you.

7 THE COURT: Counsel, this room is very warm today.
8 Not sure why. Can you please remember, if you need to take off
9 your jackets or something, please feel free to. I don't need
10 somebody fainting because you have a mask and a jacket on. The
11 jacket can come off, the mask can't.

12 Mr. Gentile? Mr. Gentile, would you like to inquire?

13 MR. GENTILE: I am.

14 DIRECT EXAMINATION

15 BY MR. GENTILE:

16 Q Good morning, Ms. Connor, and thank you. We all in
17 this room recognize what you're taking yourself away from.
18 Unfortunately, this trial had to go on. And so we appreciate
19 it. And I'm going to try to get you out of here as fast as I
20 can. But that's going to be a function of you and my
21 adversaries. Okay.

22 MR. GENTILE: Shane, could you please put up on the
23 screen 1789-19-1329.

24 And for the record, counsel has -- Mr. Bice, who I
25 believe is speaking for everyone in this regard.

1 MR. BICE: Well --

2 MR. GENTILE: I don't know.

3 MR. BICE: Well, that's -- that isn't true. I'm not.

4 MR. GENTILE: Okay.

5 MR. BICE: I need to -- you'll need to check with
6 them and I don't have any objection to what you're proposing.

7 These are the text messages Ms. Connor produced.

8 MR. GENTILE: These are all documents that Ms. Connor
9 produced in 1789, but 19 specifically is text messages.

10 MR. BICE: So hold on.

11 MR. GENTILE: I'm only asking for 19 right now.

12 MR. BICE: I understand that. But yesterday, and I
13 apologize, Your Honor. Yesterday Your Honor --

14 THE COURT: It's all right.

15 MR. BICE: -- Her Honor indicated that she can't --

16 THE COURT: I took my robe off, because I'm really
17 hot. So it's okay.

18 MR. BICE: She can't break down big, giant exhibits.

19 THE COURT: They had to do another exhibit. Shane
20 did two drives this morning.

21 MR. GENTILE: Right. We --

22 THE COURT: He gave it to Nick. Nick is saying it's
23 okay?

24 MR. GENTILE: We did it yesterday.

25 THE COURT: Nick said it's okay.

1 MR. GENTILE: We did it yesterday.

2 THE COURT: So it has been broken down in two parts.

3 MR. GENTILE: Because this --

4 THE COURT: Shane is going to work on the Bates
5 numbers that he's going to give me later, so it is inserted in
6 the exhibits. I didn't want you to have a heart attack when I
7 sent Nick away because I couldn't do the exhibits, because I
8 didn't have everything. So rather than that, we're going to
9 substitute the Bates numbers for various or what's ever
10 currently there, as soon as Shane is done with you and Brian is
11 working with the other people. That's the plan.

12 MR. GENTILE: See what I mean?

13 THE COURT: So is 1789 as it is formatted, Mr. Bice,
14 which is the various documents that I have absolutely no idea
15 what they are, but they're on those drives, because Nick's
16 checked them, are you okay with that?

17 MR. GENTILE: Well --

18 MR. BICE: No, I don't think so.

19 THE COURT: All right.

20 MR. BICE: And I apologize.

21 THE COURT: So, Mr. Gentile -- It's okay. Mr.
22 Gentile.

23 MR. GENTILE: Okay. The scanner.

24 THE COURT: He needs to know what numbers they are.

25 MR. BICE: I thought we'd worked this out. I really

1 had. I thought we had --

2 THE COURT: I know. Do you know what numbers they
3 are, Mr. Gentile?

4 MR. GENTILE: Yeah. I mean, if you want, I'll just
5 go through them one at a time and we'll put them on the --

6 THE COURT: No, that's not what I'm asking. Can you
7 tell Mr. Bice the Bates numbers?

8 MR. GENTILE: I told him yesterday. I gave him an
9 index yesterday.

10 MR. J. SMITH: Your Honor, if I may. So what I
11 understood yesterday was 1789 was everything that Connor and
12 Connor produced.

13 THE COURT: Yes. It was --

14 MR. J. SMITH: Okay.

15 THE COURT: -- too big and so it didn't appear on the
16 drive.

17 MR. J. SMITH: That's right.

18 THE COURT: Okay.

19 MR. J. SMITH: And so yesterday Mr. Gentile gave us a
20 list of Bates numbers of the documents of that larger chunk
21 that he was interested in looking at. And I understood that
22 there was going to be those specific Bates numbers added to a
23 drive, added to the end of their list.

24 MR. GENTILE: No, that's not how it worked.

25 MR. J. SMITH: So -- well --

1 MR. GENTILE: So did I.

2 THE COURT: Hold on. Let Mr. Smith finish, please.

3 MR. J. SMITH: So we looked at those specific Bates
4 ranges that Mr. Gentile highlighted that he may use today, and
5 I'm prepared to talk about each one of those Bates ranges. But
6 it needs to be done on a Bates range by Bates range basis, not
7 just 1789 en masse.

8 THE COURT: Okay.

9 MR. J. SMITH: 1880, or whatever the number is.

10 MR. KOCH: And I did speak with Mr. Gentile as well.
11 My understanding was that those documents would be added to the
12 list. I pulled it up now and it shows, you know, left blank,
13 because it's too big. I don't think those documents are a part
14 of what is available for us to look at at this point.

15 THE COURT: They have now been substituted as 1789 on
16 the drive that Shane gave Nick and Nick checked and said they
17 were okay, and have now been handed to Dulce.

18 MR. BICE: But if 1789 is 70 -- or 86 different
19 documents, then I think we still have a -- that those -- that
20 needs to be broken down into documents, not --

21 THE COURT: It's not. So --

22 MR. J. SMITH: So this -- it's the same issue we
23 have --

24 THE COURT: Okay.

25 MR. J. SMITH: -- just with a smaller universe.

1 THE COURT: So do you have objections to the
2 documents within the current version of 1789?

3 MR. BICE: Some of them, yes.

4 THE COURT: All right. I can't admit them in parts,
5 Mr. Gentile.

6 MR. GENTILE: That's fine.

7 THE COURT: So if what we need to do is to have Shane
8 break down each document and give the drives that Nick gave to
9 Dulce back to Shane, so that Shane can put them in each
10 individual file with a exhibit number at the end as next in
11 order, then that's what we need to do.

12 MR. BICE: But, Your Honor --

13 THE COURT: Because it sounds like I got an
14 objection.

15 MR. BICE: And on the -- but on the text messages,
16 which is what Mr. Gentile wants to start with, on that we have
17 no objection. Those are her documents, we understand.

18 THE COURT: And do you know what Bates numbers those
19 are? Mr. Gentile?

20 MR. GENTILE: Yes.

21 THE COURT: The text messages?

22 MR. GENTILE: They are 1789-19-a bunch. But they are
23 all text messages of Ms. Connor that she --

24 THE COURT: A bunch doesn't help me.

25 MR. GENTILE: Pardon me?

1 THE COURT: 1789-19-to a bunch does not help me.

2 MR. GENTILE: I don't know how many text messages
3 there are. I could tell you the ones I'm going to use.

4 THE COURT: I don't -- I need to know what to admit.
5 I need to be able to ask them if they are okay with Bates range
6 such-and-such, since 1789 is screwed up.

7 MR. GENTILE: I was told this morning by defense
8 counsel, who I will not identify, unless he wants to identify
9 himself, that there was no objection to the text messages,
10 because they were Ms. Connor's statements to Mr. Pupo and back.

11 THE COURT: That's not the issue, Mr. Gentile. The
12 issue is that I cannot, from an electronic exhibit standpoint,
13 accept a document that's going to be offered in pieces or
14 parts. I can object -- I can accept it as 1789 is stipulated
15 to and therefore it's being admitted.

16 MR. GENTILE: Just a moment, please.

17 THE COURT: Sure.

18 (Pause in proceedings.)

19 MR. GENTILE: Your Honor, I followed the instructions
20 that I was given yesterday with regard to how to do this.
21 Exhibit 1789 was, in fact --

22 THE COURT: Hold on. I can't go with all the people
23 behind you who are still talking.

24 MR. GENTILE: I can't hear you.

25 THE COURT: I've got to -- you know, they've got to

1 stop or you've got to figure out what Ross has figured out and
2 have him tell you, because he's standing right behind you.

3 MR. GENTILE: Well, then I'm going to have to redo
4 Exhibit 1789, break it down into 72 exhibits. And that's not
5 what I was told yesterday. I did what I was instructed to do
6 yesterday.

7 THE COURT: Mr. Gentile, what you asked me was could
8 you admit portions of 1789 as a separate exhibit. And the
9 answer is absolutely yes. The problem is you do not have a
10 stipulation to the entirety of 1789. As a result, while you
11 may have a stipulation to parts of 1789, I can't admit it
12 electronically as a portion. I am perfectly happy for you to
13 substitute a part of 1789 as 1789, because 1789 was too big to
14 distribute. I --

15 MR. GENTILE: So in other words, without a
16 stipulation, I have to break them down at that separate
17 exhibits?

18 THE COURT: If you want me to admit it.

19 MR. GENTILE: Well, clearly, I --

20 THE COURT: Because I can't admit it in parts.

21 MR. GENTILE: Clearly, that's not what my impression
22 was yesterday. And I think I behaved in good faith.

23 THE COURT: I'm pretty sure that's what the
24 electronic exhibit protocol says, but that's not the issue
25 today. So if Shane wants to put the text messages only on 1789

1 and the others on the rest, we will work with 1789, the text
2 messages.

3 MR. GENTILE: Your Honor, Court's indulgence.

4 (Pause in proceedings.)

5 MS. BROWN: Excuse me, Mr. Gentile, before you begin,
6 I just wanted to point out for the record, Ogonna Brown on
7 behalf of Amanda Connor. We do have a witness feed check here,
8 but it's made out to Amber Connor. So I just wanted that to be
9 addressed at some point.

10 THE COURT: Huh.

11 MS. BROWN: Technically, she's not supposed to be
12 here.

13 MR. GENTILE: I did not hear.

14 THE COURT: So the witness check has the wrong name
15 on it.

16 MR. GENTILE: The witness check has the wrong name on
17 it?

18 THE COURT: Yep. Ms. Brown's walking over to hand it
19 to you. It's Mr. Gentile's check? Or is that from some other
20 firm?

21 MS. BROWN: The CompuServ.

22 THE COURT: Oh, lovely.

23 MR. GENTILE: Well, this is from a process --

24 THE COURT: I'd really like to get started with the
25 witness. So I understand --

1 MR. GENTILE: So would I, but apparently --

2 THE COURT: -- we have lots of stuff, because I want
3 to get her back to her family vacation.

4 MR. GENTILE: Is Ms. Connor maintaining that she's
5 not properly here, and she's going to leave?

6 THE COURT: No, she's here. But she'd really like
7 the check fixed.

8 MR. GENTILE: Oh, I'll fix the check. That's not a
9 problem.

10 THE COURT: Great. Do you want it sent to you,
11 Ms. Brown?

12 MS. BROWN: Yes, please.

13 THE COURT: All right. So Mr. Gentile, when you fix
14 the check, will you send it to Ms. Brown, please?

15 MR. GENTILE: Shall do.

16 THE COURT: Thank you.

17 MS. BROWN: And for the record, I believe that's from
18 Mr. Rulis' office.

19 THE COURT: Mr. Rulis, your process server screwed
20 up.

21 MR. RULIS: We'll fix it.

22 THE COURT: Yeah.

23 MR. GENTILE: There's an old saying around a casino
24 that if it was raining soup, I'd have a fork.

25 THE COURT: Okay. Are we ready to start?

1 MR. GENTILE: In a moment.

2 THE COURT: Okay.

3 MR. GENTILE: Shane, could you please put up what I
4 have it on information and belief is Exhibit 1589.

5 MR. J. SMITH: 88.

6 MR. GENTILE: 88-1329.

7 THE CLERK: I'm sorry, 15 or 1388?

8 MR. GENTILE: I was -- 1588, page 1329.

9 THE COURT: Has 1588 been admitted, Dulce?

10 THE CLERK: I'm sorry, Your Honor.

11 THE COURT: Is there a stipulation to 1588?

12 MR. PRINCE: What did you say the Bate number was?

13 THE COURT: It -- I'm not asking about a Bate number,
14 Mr. Prince. I'm asking about Exhibit 1588 --

15 MR. PRINCE: I just -- Your Honor, I understand 1588,
16 I think we're generally speaking okay with. Mr. Gentile called
17 out a number that I'm not sure applies to that exhibit. That's
18 why I want to clarify. What number --

19 MR. GENTILE: The bottom of the page that I'm
20 seeking, it's got a Bates stamp that ends in 1329.

21 MR. PRINCE: Okay. Done. Yeah. We'll do. 1588,
22 we're fine.

23 THE COURT: No objection? It's admitted.

24 (Exhibit Number(s) 1588 admitted.)

25 MR. GENTILE: I'm going to use others in 1588. It is

1 my understanding there is no objection to 1588.

2 THE COURT: 1588 is admitted. So you can use all of
3 1588. Go. What page are we?

4 MR. GENTILE: It's the first time I'm right all day.
5 Okay. Let's go.

6 CONTINUED DIRECT EXAMINATION

7 BY MR. GENTILE:

8 Q Ms. Connor, you see that document?

9 A Yes.

10 Q You recognize it?

11 A Yes.

12 Q What is it?

13 A It is a text message chain between myself and Mr.
14 Jorge Pupo.

15 Q Right. And i want to call your attention to July the
16 5th of 2018. That was a day that it appears from this text
17 message, at least --

18 THE COURT: Hold on a second. We've lost the feed.

19 (Pause in proceedings.)

20 THE COURT: Thank you.

21 Can you see it now?

22 THE WITNESS: Yes.

23 THE COURT: All right.

24 BY MR. GENTILE:

25 Q July the 5th, 2018, 4:36 p.m., it appears to me from

1 this communication between you and Mr. Pupo that you were
2 awaiting something to recall that day; am I right?

3 A I had understood something had been released at 3:00
4 p.m. and I had not seen it.

5 Q And that something was the application form for
6 retail dispensary licenses that were going to be issued in what
7 was to be a impartial, numerically scored, competitive process;
8 am I correct?

9 A That's correct.

10 Q And that was because of the passage of Ballot
11 Question 2 almost two years before; am I right?

12 A I would say about 18 months before, but yes.

13 MR. GENTILE: I can't hear her.

14 MR. PRINCE: Your Honor, I'm going to lodge an
15 objection, just nothing technical. Mr. Gentile needs to call
16 out the actual trial Bate numbering. What he called out was
17 1329 is the discovery Bate numbering. So I want to make sure
18 our record is correct, because I'm looking for the trial Bate
19 number at 1588, and just so we're clear what needs to be called
20 out for the record.

21 THE COURT: We're on 1588-051, for the record.

22 MR. PRINCE: Agreed. He called it 1329, but that's
23 really the discovery Bate numbering from the Connor and Connor
24 class.

25 THE COURT: Okay.

1 MR. GENTILE: Okay.

2 THE COURT: Mr. Gentile, I need you to keep your mask
3 up. Sorry. It's the Jordan Smith Rule.

4 MR. GENTILE: They don't make masks --

5 THE COURT: It's from a prior proceeding.

6 MR. GENTILE: They don't make masks for Italian
7 noses, Judge.

8 THE COURT: They don't make masks for any face, trust
9 me.

10 MR. GENTILE: Okay.

11 THE COURT: They all fall off.

12 MR. GENTILE: If I may have just a second, because I
13 think I figured out a way to do this. Well, that's not good.

14 (Pause in proceedings.)

15 THE COURT: Can you please put me on mute.

16 MR. PARKER: Huh?

17 THE COURT: Please put me on mute.

18 MR. GENTILE: Where is Andy. Your Honor, I -- if I
19 could get this straightened out, I think we can move smoothly,
20 but now that the trial page numbers are different, the only
21 thing that I can call out, based on my outline, is the 1789
22 numbers, which, of course, don't exist anymore, because that's
23 not what these exhibits are. And we're going to run into a
24 glitch.

25 For which I apologize, Ms. Connor. Can't help it.

1 MR. PRINCE: Mr. Gentile, if you call out the Bates
2 number, we'll be able to [indiscernible].

3 MR. GENTILE: Okay. So --

4 THE COURT: They're going to give it to you.

5 MR. GENTILE: Okay. Good.

6 THE COURT: The best you can.

7 MR. GENTILE: Good.

8 BY MR. GENTILE:

9 Q All right. So the point is that July the 5th, you
10 were anticipating that the application was going to come out.
11 It didn't come out by 3:00, and you called -- well, you texted
12 Jorge Pupo, basically, to find out why not. And then he told
13 you that it would go out closer to 5:00 on the LISTSERV; am I
14 right?

15 A No, that is not correct.

16 Q Oh. All right. Well, what is correct?

17 A I had heard that the application had been released at
18 3:00, but I had not seen it, so that's what I reached out to
19 him about, saying it was past 3:00 and I hadn't seen it. He
20 responded, saying it had already been posted to the website and
21 that a LISTSERV would go out close to 5:00.

22 Q Oh, you hadn't looked on the website, I take it?

23 A My understanding is that Department of Tax posted the
24 application on the website at 3:00. I have heard it had been
25 released, but hadn't seen it. And that's why I reached out.

1 He clarified it was on the website, but the LISTSERV had not
2 yet gone out.

3 Q Right. But I think that the answer to my question,
4 then, was yes, you did not look at the website before you
5 communicated with Mr. Pupo.

6 A That's correct. I had just been expecting a
7 LISTSERV.

8 Q Okay. Then the application did come out and I take
9 it you obtained it on the 5th or the 6th; is that fair to say?

10 A I obtained in on the 5th.

11 Q Okay.

12 A That is correct.

13 Q And then you read it?

14 A I did read it, yes.

15 Q Okay. And did you already have clients that were
16 going to be -- that had asked you to represent them in the
17 application process?

18 A I had already been retained by the clients I was
19 going to assist --

20 Q Okay.

21 A -- prior to that location reading.

22 Q All right. And then after reading it --

23 MR. GENTILE: Shane, could you put up, I guess it's
24 1588-19-1330 and 31 with regard to the Bates stamps that are
25 not in 1588, so they'll pull it up.

1 IT TECHNICIAN: It'll be 1588, 52, and 53.

2 THE COURT: Thank you, Shane.

3 BY MR. GENTILE:

4 Q A few days later, on July the 9th, you sent this
5 message to Mr. Pupo; is that correct?

6 A I did send a message on July 9th in the afternoon to
7 Mr. Pupo.

8 Q So that is correct?

9 A Yes.

10 Q Thank you. And in that message, you say to him, List
11 of things for us to talk about when you can call me. And you
12 refer to Attachment E, Attachment I, requirement for a location
13 or physical address, Attachment F, requirement for initial
14 license fee. And then separately, transfers of ownership; am I
15 right?

16 A Yes.

17 Q And with respect to everything other than transfers
18 of ownership -- let me rephrase that.

19 With respect to Attachment E, you meant Attachment E
20 of the application that had just come out on the 5th or 6th,
21 right?

22 A Yes. Attachment E of the retail store application.

23 Q And with respect to Attachment I, you meant
24 Attachment I of the retail store application?

25 A Yes.

1 Q And with respect to the requirement for a location or
2 physical address, you meant the reference in the retail store
3 application to that subject?

4 A Yes.

5 Q And with respect to Attachment F, you meant
6 Attachment F of the retail store application?

7 A Yes.

8 Q And with respect to the requirement for initial
9 license fee, that was also on the application, on the front end
10 of it; right?

11 A Yes.

12 Q Now, with respect to transfers of ownership, there
13 was nothing on the application form that referred to transfers
14 of ownership; am I correct?

15 A To my recollection, you are correct.

16 Q Right. It was a separate issue that you wanted to
17 discuss with Mr. Pupo?

18 A Correct. It's a regulatory --

19 THE COURT: Hold on a second. For those of you on
20 the phone, please put us on mute.

21 We're going to have to suspend the witness if you
22 can't do it. Thank you.

23 Mr. Gentile, you may continue.

24 BY MR. GENTILE:

25 Q Because you had a client that -- and you don't have

1 to identify it, I'm not asking -- that had an issue, because
2 they were contemplating a transfer of ownership; system I
3 correct?

4 A That is not correct. That transfers of ownership was
5 discussing several clients that I represented for regulatory
6 compliance that had transfers pending at the time that I wanted
7 to discuss with him.

8 Q So you wanted to talk to Mr. Pupo about historic
9 transfers of ownership or one that was -- that you were
10 inquiring about that might occur?

11 A Ones that are pending, meaning they had been
12 submitted to the Department of Tax for review, but had not been
13 approved yet.

14 Q I gotcha. So it had already been submitted?

15 A Yes.

16 Q I gotcha. Okay.

17 MR. GENTILE: Can we go to the next -- stay there,
18 but below it, please.

19 BY MR. GENTILE:

20 Q Mr. Pupo responds to you saying, Can you talk to
21 Steve dealong [sic] with getting my daughter an apartment? Do
22 you think that he meant to say dealing?

23 A Yes.

24 Q Okay. Dealing with getting my daughter an apartment.
25 And you knew at that time, did you not, that Mr. Pupo was not

1 in town, he was not in Nevada?

2 A I believe I became aware that day that he was out of
3 town, correct.

4 Q Okay. And so you respond to him, I would prefer to
5 talk to you when you were available. I can wait, good luck
6 apartment shopping.

7 A I believe you misread. It says, It can wait, not I
8 can wait. But yes, that is my response.

9 MR. GENTILE: I'm sorry, I'm having a really hard
10 time understanding her. And it's not her fault. It's just the
11 mask situation.

12 THE COURT: She said you misread it, that it says, It
13 can wait, not I can wait.

14 MR. GENTILE: Oh. Okay. It can wait. Good luck
15 apartment shopping. Okay.

16 BY MR. GENTILE:

17 Q Now, Steve, you knew Steve to be Steve Gilbert,
18 right?

19 A Yes.

20 Q And these questions that you were going to ask most
21 of them, at least, were relating to the application form that
22 had just come out; right?

23 A Yes.

24 Q All right. And Steve Gilbert was knowledgeable, you
25 had known him for going back to the Public and Behavioral

1 Health days?

2 A Yes, I had worked with Steve since 2014.

3 Q Right. And so by this time, you had four years of
4 dealing with Steve Gilbert and you knew him to be a
5 knowledgeable fellow?

6 A Yes.

7 Q All right. But you chose, you made a decision that
8 rather than talk to Steve, you would prefer to talk to Jorge
9 Pupo about your list; am I right?

10 A Yes.

11 Q Okay.

12 A Because it was my understanding Steve would then go
13 directly to Jorge to discuss it with him. So I wanted to make
14 sure my perspective was conveyed.

15 Q And where did you get that understanding?

16 A From practicing regulatory compliance law for several
17 years with the Department of Tax, I knew that Jorge was his
18 supervisor.

19 Q Okay. And so as a matter of practice, then, you
20 would speak to Jorge Pupo about things, even though you might
21 have been able to speak to someone beneath him; is that fair to
22 say?

23 A I don't think that's fair to say. But on issues that
24 I felt were important that my message get conveyed, I would
25 often reach out to Jorge.

1 Q And the list of things that are on here, you wanted
2 to talk to him because you had some concerns about those parts
3 of the application?

4 A That's correct. I felt that either the instructions
5 in the application were unclear, or from my understanding of
6 the regulations as participating in the working group, I was
7 concerned that some of them may not have addressed what the
8 regulations called for.

9 Q Okay. One of those regulations was 453D.268(1)(e);
10 am I right?

11 A I apologize. I don't have the numbers of the
12 regulations memorized.

13 Q Okay.

14 MR. GENTILE: Well, can we pull that up? We used it
15 yesterday. I don't know the exhibit number, but I think it was
16 a demonstrative.

17 MR. PARKER: Your Honor, this is Teddy Parker.

18 THE COURT: Yes, sir?

19 MR. PARKER: Is there any way we can have the witness
20 speak closer to the microphone? It's very difficult to hear.

21 THE COURT: She -- the witness is right on top of the
22 microphone, Mr. Parker. As I've told everybody, because we are
23 at the convention center, our technology is not nearly as good
24 as it is at the RJC. For that reason, those of you on the
25 phone are at a disadvantage of being able to hear the

1 proceedings.

2 I am not going to be able to repeat --

3 MR. PARKER: I appreciate, Your Honor. I'm just --
4 it's very, very difficult to hear any responses. I'm trying to
5 make out the responses just based on the follow-up question
6 from Mr. Gentile.

7 THE COURT: All right.

8 MR. PARKER: So I'm just asking.

9 THE COURT: We hope you are able to rejoin us --

10 MR. PARKER: Thank you.

11 THE COURT: -- soon, Mr. Parker.

12 MR. GENTILE: There we go. Okay. Shane, could you
13 highlight, please, subparagraph 2, subparagraph E -- no,
14 subparagraph 2, subparagraph -- well, let's start with 1.
15 BY MR. GENTILE:

16 Q NAC 453D.268, were you familiar with it in July of
17 the year 2018?

18 A Yes.

19 Q Okay. And how did you become familiar with it?

20 A I practice regulatory compliance law day in and day
21 out. So working with these regulations on behalf of my client
22 was part of the process. I also was a part of the working
23 group that develops suggested language for the regulations.

24 Q Okay. And when you are a marijuana regulatory
25 compliance lawyer, I think that you need to know what the

1 regulations are, right?

2 A I would feel a competent one should, yes.

3 Q And the reason that you need to know is because the
4 regulations are -- they govern what you must do in order to get
5 whatever your client needs accomplished?

6 A I would say the regulations are the rules that my
7 client must operate by for their privilege license.

8 Q Right. And this particular regulation, which was in
9 effect in July of 2018, when the application came out on July
10 the 6th, requires that a nonrefundable application fee of
11 \$5,000 be paid; am I right?

12 A Yes.

13 Q All right. And the clients that you represented,
14 they all paid the \$5,000 fee when they filed their applications
15 in September of 2018; am I correct?

16 A Yes.

17 Q Okay. And among the clients that you represented was
18 a plaintiff in this case, TGIG, right?

19 A Yes.

20 Q All right. And you also represented several of the
21 intervenors that are on the defense side of this case; am I
22 right?

23 A I apologize, I am not familiar enough with -- to know
24 who the intervenors are.

25 Q Okay. Well, let's start with Integral Associates.

1 A I represented the Essence Entities, yes.

2 Q Okay. And we'll get into more detail about that
3 later. But -- and you also represented Thrive; am I right?

4 A Yes.

5 Q In the application process. And you represented
6 Nevada Organic Remedies in the application process?

7 A Yes.

8 Q All right. And then you represented TGIG, which
9 you're already said. And you've represented CW Nevada; am I
10 right?

11 A In the application process, yes.

12 Q Okay. Now, since this lawsuit has been filed, you
13 have -- you have decided to no longer represent TGIG; am I
14 correct?

15 A I felt a conflict of interest was created when they
16 subpoenaed me for my records. So yes, I no longer represent
17 TGIG.

18 Q Okay. And we'll get into that more later too. Now,
19 getting back to NAC 453D.268.

20 MR. GENTILE: Let's take a look at subparagraph 2,
21 please. Can you highlight 2E.

22 Q All right. 453.268, paragraph 2, subparagraph E
23 reads -- would you read that aloud, please, Ms. Connor?

24 A 2E says, The physical address where the proposed
25 marijuana establishment will be located and the physical

1 address of any co-owned or otherwise affiliated marijuana
2 establishments.

3 Q Well, actually, that's not what it says. Just E says
4 that. I'd like you to read 2E, please.

5 A 2, An application on a form prescribed by the
6 department.

7 MR. GENTILE: Swell. Just so that the record's
8 clear, I wasn't saying swell to Ms. Connor's testimony. I was
9 saying it to the fact that the monitor went down.

10 THE COURT: Sweet. But you don't need to have her
11 read it, because it was kind for everybody to put it up on
12 their monitors where I can read it myself.

13 MR. GENTILE: I understand that, but I needed her
14 to -- for another reason, Your Honor.

15 THE COURT: If you say, Mr. Gentile.

16 MR. GENTILE: Okay. So I will follow it up.

17 BY MR. GENTILE:

18 Q Now, at the time that the original application came
19 out, the one that came out on July the 6th -- 5th, 6th, depends
20 on where you look for it, that application did require that a
21 physical address where the proposed marijuana establishment
22 will be located be placed on the application form when it was
23 submitted; am I right?

24 A Yes. I believe on the basic information sheet of the
25 application, it required a physical address.

1 Q Okay. So it was pretty clear that's not what you
2 were calling Mr. Pupo -- that's not what you wanted to talk to
3 him about, about the physical location, because it was clear on
4 the application that the application required what NAC
5 453D.268(2)(e) required.

6 A That's correct. I was talking about a different
7 portion of the application.

8 Q Okay. Now, there had been some experience in the
9 medical marijuana process back in 2014 where people that were
10 seeking licenses had to spend a good deal of money and go
11 through a lot to acquire a location before submitting an
12 application; am I right?

13 A Under the medical marijuana statute, there was a
14 requirement that you have a location and that if the local
15 jurisdiction had an approval process to approve that location,
16 that you had that approval prior to submitting the state
17 application.

18 Q Right. And you -- without talking about who your
19 clients were or who you spoke to and who you didn't, had there
20 been any discussions, either -- let me rephrase that.

21 There came a point in time --

22 MR. PARKER: Oh, goodness.

23 THE COURT: Can you please put us on mute. Can you
24 please put us on mute. Thank you.

25 / / /

1 BY MR. GENTILE:

2 Q Can I ask, then, with regard to the other exhibits or
3 attachments, I should say, to the application, what your areas
4 of concern were that you wanted to talk to Mr. Pupo about?

5 A Without having the application in front of me, I
6 wouldn't recall specifically which attachment referred to what.
7 But in general, my concerns were some of the instructions
8 weren't clear. For instance, if you read the instructions,
9 there were some attachments that had no instructions on where
10 they were to be placed, either in the nonidentified or the
11 identified section and what tab they should go under. And
12 the -- just getting those kind of clarification issues were one
13 of the things I wanted.

14 Q And you felt that if you would have asked Mr. Gilbert
15 those, he would have still had to go to Mr. Pupo to clarify it
16 for you?

17 A I -- it was my opinion at the time that Mr. Gilbert
18 would discuss with Mr. Pupo those concerns. It was my
19 understanding that several people in the industry had been
20 reaching out. And so I wanted to make sure that, on behalf of
21 my clients, I voice my concerns.

22 Q Okay. In any case, you learned that Mr. Pupo was in
23 Arizona.

24 MR. GENTILE: And can we now have 1588, what would be
25 page 1333 with regard to Bates stamp, but it won't be with

1 regard to 1588, put on the --

2 THE COURT: Thank you, Shane.

3 MR. GENTILE: Actually, wait a minute. Leave that
4 one on. Leave the second page on, will you? Go to the second
5 page.

6 BY MR. GENTILE:

7 Q All right. So Mr. Pupo responds to you that they --
8 after you asked about how they were doing with getting into the
9 apartment, that he be -- that they had been registered at
10 school and he was going to go shopping for an apartment that
11 day.

12 MR. GENTILE: And -- man, that's hard to see.

13 THE COURT: He blew it up for you.

14 MR. GENTILE: Oh, let's go to the green one, please.

15 BY MR. GENTILE:

16 Q All right. And you said, Well, hope all is well. Do
17 you have time for a lunch and a dinner next week? Right?

18 A Yes.

19 Q Okay. And then if we go down further, you knew from
20 that auto message that he was going to be out of the office
21 until July 16th, and he was suggesting that anybody that texted
22 him should call Steve Gilbert. But you chose not to call Steve
23 about these things and, basically, said, in so many words, you
24 said, When you get back, can you go out to lunch and go out to
25 dinner?

1 A I had requested a lunch and dinner with him for the
2 next week, yes.

3 Q Okay.

4 MR. GENTILE: Can we pull now 1588, Bates stamp 1333
5 through 1336. I'm going to go through each of the
6 sequentially.

7 (Pause in proceedings.)

8 MR. GENTILE: Is this 1334? No. That's 1333? Okay.
9 Could we go to the next one, please. Keep going, please.
10 Okay.

11 Q This page, which is --

12 MR. GENTILE: Shane, if you could read that, it's
13 1588, then 00058.

14 BY MR. GENTILE:

15 Q This is you on July the 13th, before Mr. Pupo gets
16 back, sending him a text saying, I propose a dinner on Tuesday
17 the 17th. And remind me to talk to you about the guard and
18 inappropriate behavior.

19 So you were asking him to go to dinner with you on
20 the 17th; am I correct?

21 A Yes.

22 Q Okay. And on the 17th of July, you had dinner with
23 Mr. Pupo and Mr. Armen Yemenidjian -- however he says it -- at
24 Hank's at the Green Valley Ranch, right?

25 A Yes.

1 Q Okay. And you got there around 6:00, maybe a few
2 minutes later?

3 A I don't recall specifically. But it was for dinner
4 in the evening.

5 MR. GENTILE: All right. Can you pull up 1588-0 --
6 excuse me, I'm sorry. 1797-00002.

7 THE COURT: Any objection?

8 MR. BICE: Not to those two pages. But it's part of
9 the bigger problem that [indiscernible]. If it's just the
10 receipt and the appointment, I don't have objection to that.

11 MR. SHEVORSKI: State has no objection to those two
12 pages.

13 THE COURT: Is it somewhere else in the documents
14 besides that page?

15 Shane, can you drop it to the little file next in
16 order for those two pages, please? That's great.

17 IT TECHNICIAN: Would that be 1 and 2?

18 MR. GENTILE: Pages 2 and 3.

19 MR. BICE: Your Honor, I would have no objection. I
20 actually would ask if he'd let it go up on the screen so I can
21 just verify that we're all talking about the same document
22 before --

23 THE COURT: I am happy to do that.

24 MR. BICE: Thank you.

25 THE COURT: I am turning away from the monitor.

1 MR. BICE: We could try 1305.

2 MR. GENTILE: There we go.

3 MR. BICE: Just those two pages?

4 MR. GENTILE: Well, what's the third page? Probably
5 just the cover sheet from Stations Casinos. Yeah, just those
6 two pages is all I care about.

7 MR. J. SMITH: Shane, if we could check 1305, it
8 might be the same thing. 1305?

9 MR. GENTILE: If this is what I'm seeking --

10 THE COURT: Because I have to give the drive to the
11 IT guy. The IT guy has to then process the drive. The drive
12 then has to be given to Dulce, Mr. Gentile. That's why. And
13 Nick is enjoying sitting here through the trial.

14 Thank you, Nick.

15 Is it the same?

16 MR. GENTILE: This is the one that I want to use. If
17 they're the same, I don't care which one.

18 THE COURT: Mr. Gentile, I can't look at it. It's
19 not admitted. So I'm asking Mr. Smith if it's the same as the
20 document that he was --

21 MR. J. SMITH: No, it's not, Your Honor.

22 THE COURT: All right. How many of those little fun
23 drives did you bring with you today, Shane?

24 IT TECHNICIAN: I'll have to get some more, Your
25 Honor, but I have five of them.

1 THE COURT: Okay. So can you drop that one to a
2 file, and Nick's going to come over and do what he has to do.

3 MR. GENTILE: Well, if the third page is the Stations
4 Casino cover page, which -- without you seeing it, if he could
5 show us the third page, I'll move them all in, he doesn't have
6 to do that.

7 THE COURT: Okay.

8 MR. GENTILE: No, then what if it's a subpoena?

9 THE COURT: Is the 1797?

10 MR. GENTILE: It's a subpoena, it's all it is.

11 THE COURT: Oh, is this 1797?

12 MR. GENTILE: Yeah, 1797.

13 THE COURT: Is that a three-page document? Is it
14 supposed to be three pages?

15 MR. GENTILE: Did you go to the -- is there more than
16 three pages, Shane?

17 IT TECHNICIAN: There are.

18 THE COURT: Okay.

19 MR. GENTILE: Is there more than that?

20 IT TECHNICIAN: Yeah.

21 MR. GENTILE: Then no. Then he's going to have to do
22 it.

23 THE COURT: I know.

24 MR. GENTILE: It's the subpoena. Okay. So what I
25 want is pages 2 and 3.

1 THE COURT: So you're welcome to ask the witness
2 questions about it before we admit it, while Shane's doing
3 that.

4 MR. GENTILE: Okay.

5 BY MR. GENTILE:

6 Q Ms. Connor, at your deposition a couple of weeks ago,
7 I showed you what is now 1797 and called your attention to the
8 part about almost halfway down where it's got your name and it
9 indicates a timestamp of 6:06 p.m.; you see that?

10 A Yes.

11 Q Okay. And it says that there were three people in
12 the party?

13 A Yes.

14 Q Does that refresh your memory that there were three
15 of you and that you got there a few minutes after 6:00?

16 A Yes. I knew there was three. But yes, that
17 indicates that we got there around 6:00 p.m.

18 Q All right. And it also indicates that you were there
19 for two hours and 49 minutes. Do you have any quarrel with
20 that? Does that sound about right?

21 A I don't have any quarrel with that, no.

22 Q Okay. All right. So you went to Hank's and you had
23 dinner with you, Armen Yemenidjian, and Jorge Pupo?

24 A Yes.

25 Q All right. And the second page of this, which is

1 page 3, is a copy of the receipt for that dinner. And is it --
2 as you look at it, does that seem to be about right? Is that
3 what you guys consumed that night?

4 A I don't remember what specifically we ate, but that
5 doesn't seem incorrect.

6 Q Okay. And it indicates that Armen Yemenidjian paid
7 the bill.

8 A Yes.

9 Q Is that your memory?

10 A Yes.

11 Q Okay. Now, at that dinner, you had to do something
12 for two hours and 49 minutes besides just eat, so can we -- did
13 you speak to each other?

14 A Yes, we spoke.

15 Q Okay. And this is the first time that you saw
16 Mr. Pupo since he had returned from Arizona?

17 A I don't recall.

18 Q All right. But you talked about marijuana regulatory
19 issues at that dinner, did you not?

20 A We mainly used that dinner as a introductory meeting
21 between Mr. Yemenidjian and Mr. Pupo. So the majority of the
22 conversation was about their backgrounds and I just kind of sat
23 back and listened.

24 Q I didn't ask you what you mainly talked about. But
25 thank you for your answer. Now I'll ask the question again.

1 You talked about marijuana regulatory issues that
2 night, did you not?

3 A My recollection is that they briefly discussed in
4 general some concerns with the industry, such as advertising
5 and some of the delays and agent cards, just general
6 operational things.

7 Q So you did talk about marijuana regulatory issues
8 that night?

9 A They spoke about it in general, yes.

10 Q Thank you. Are you telling us that you did not
11 discuss anything that night with regard to the application that
12 had come out on July 5th or 6th, including any of the issues
13 that you raised in your July 9th communication with Mr. Pupo
14 that said that you wanted to talk to him and didn't want to
15 talk to Steve Gilbert, you would just wait.

16 A That's correct. At the dinner, we did not discuss
17 the retail application.

18 Q You would agree that Armen Yemenidjian is a
19 stakeholder, is a member in -- at that time, at Integral
20 Associates; am I right?

21 A I believe that may be a privilege issue.

22 Q I did not hear you.

23 A I believe that may be a privilege issue.

24 Q You think that that's privilege?

25 A I believe so at that time, yes.

1 MR. BICE: Well, Your Honor, we -- on behalf of the
2 Essence parties, we would ask, she could answer that question.
3 I believe that's publicly available information. I believe she
4 could answer that question.

5 THE COURT: So your client has waived a privilege
6 issue related to that specific question?

7 MR. BICE: That question, yes.

8 THE COURT: So we were doing it on
9 question-by-question basis.

10 THE WITNESS: Okay.

11 THE COURT: If you think it goes beyond the
12 individuals and entities that Mr. Bice represents, and there
13 might be privilege issues beyond that. We will, of course,
14 then go down the little rows and see who it is.

15 THE WITNESS: Okay. All right. Based on publicly
16 available information that was released and based on my
17 instruction, yes, Mr. Yemenidjian was a stakeholder in Essence.

18 BY MR. GENTILE:

19 Q All right. And you would agree, would you not, that
20 Integral Associates is an LLC?

21 A Integral Associates is an LLC.

22 Q And Integral Associates is the sole member of two
23 other LLCs; am I correct?

24 A I'm hesitating, because I'm trying to determine if
25 that's a privilege issue as well. But I believe --

1 MS. BROWN: Hold on. Objection.

2 MR. BICE: She can --

3 MS. BROWN: Privilege.

4 MR. BICE: I think, Your Honor, part of the concern
5 here is that it's not just Essence Trop and Essence Henderson.
6 So I certainly don't -- and I know where Mr. Gentile is going.

7 THE COURT: So how about I have Mr. Gentile ask the
8 question differently by identifying the two LLCs he's inquiring
9 about.

10 MR. GENTILE: Well, actually, I'm going to identify
11 three.

12 THE COURT: Okay.

13 MR. GENTILE: Okay.

14 MR. BICE: Okay.

15 THE COURT: Well, then, identify three.

16 MR. GENTILE: Well, let me ask her this -- okay.

17 BY MR. GENTILE:

18 Q Is Integral Associates LLC the sole member of Essence
19 Tropicana LLC?

20 A Based on publicly available records, yes.

21 Q Is Integral Associates the sole member of Essence
22 Henderson LLC?

23 A Based on publicly available records, yes.

24 Q Is it the sole member of Essence Las Vegas LLC?

25 A I believe that calls for privilege.

1 Q I can't hear you.

2 THE COURT: She said she believes that calls for
3 privileged information.

4 Mr. Bice? Essence Las Vegas.

5 MR. BICE: I believe that would similarly be publicly
6 available information, Your Honor, so I believe she can answer
7 that question.

8 THE COURT: Ms. Connor?

9 THE WITNESS: I -- Mr. Bice, can you confirm you
10 represent that entity?

11 MR. GENTILE: Can't hear.

12 THE COURT: She asked Mr. Bice to confirm he
13 represents Essence Las Vegas. Hold on, he's looking at
14 Mr. Smith.

15 MR. BICE: Well, it's not a party to the -- this
16 proceeding, Your Honor.

17 THE COURT: I know.

18 MR. BICE: So I guess I can't make that
19 representation.

20 THE COURT: Okay.

21 MS. BROWN: Objection. Attorney-client privilege.

22 MR. BICE: So I understand her point now. I didn't
23 before.

24 MR. GENTILE: All right.

25 THE COURT: You're a litigator, not a regulatory

1 lawyer.

2 BY MR. GENTILE:

3 Q So after that dinner that night, on July 31st of
4 2018, the application that was originally released on July the
5 5th or 6th was amended. It was changed. Do you recall that?

6 A I recall that the application was amended. I don't,
7 off the top of my head, recall the specific date.

8 Q Okay. Now, at any time between July the 5th of 2018
9 and July the 31st of 2018, did you speak with Mr. Pupo with
10 regard to the concerns that you had relating to the
11 application?

12 A Yes.

13 Q All right. And what did you talk about?

14 A I discussed that my concerns were that the
15 instructions were unclear on several of the attachments. I
16 also discussed that I felt that the regulations were very
17 clear, that location was not to be scored, but the application
18 portion, some of the portions had things that I felt would be
19 scoring the location. And I went through some of the
20 attachments that I felt, like I said, it was unclear where they
21 were to go in the application.

22 Q As it turned out, the July 31st version of the
23 application, when it was published, did not require a physical
24 location to be listed. Is that your memory?

25 A No, I believe that the basic information sheet still

1 required a physical address.

2 Q Where the actual store was to be located?

3 A I don't have the language in front of me, but I do
4 recall the requirement to list a physical address.

5 Q All right. Did you list, on the applications that
6 you filed for your clients, the actual physical addresses at
7 which they were going to open their retail stores if they got a
8 license?

9 MR. J. SMITH: Object to form.

10 THE COURT: Overruled.

11 THE WITNESS: There was no process by which to
12 receive local government approval, and therefore, no, my
13 clients did not list locations where they intended -- at least
14 it was my understanding they did not intend to put stores
15 there.

16 BY MR. GENTILE:

17 Q But you would agree, would you not, that NAC 245 --
18 excuse me, NAC 453D.268(2)(e) had not been changed at all prior
19 to July 31st of 2018; am I right?

20 A The regulation was not amended, correct.

21 Q And the regulation was not amended by September the
22 20th of 2018, when the applications had to be filed; am I
23 right?

24 A Correct.

25 Q Am I right?

1 A Yes.

2 Q Okay. And you knew that the regulation required the
3 physical address where the proposed marijuana establishment
4 will be located and the physical address of any co-owned or
5 otherwise affiliated marijuana establishment?

6 A Yes, I know that is in the regulation. It was my
7 understanding from the working group it would be a
8 multiple-part process.

9 Q You -- it was your understanding from what?

10 A The working groups, it would be multiple process,
11 that the first step would be that the State reviewed the
12 application related to the operations and then you would go to
13 the local governments and get approval for the location, which
14 would be approved by the State. We had a long, multiple-day
15 discussion in our working groups about this, because of the
16 litigation that resulted from the 2014 application process.

17 Q Now, the working group, the working group is not a
18 government body; am I right?

19 A No, but these regulations were drafted and suggested
20 from the working group.

21 Q That's right. And the working group did not say in
22 the regulation that it was going to be a multiple-phase
23 process, did it?

24 A I don't think that word was used, no.

25 Q The working groups spoke in -- well, the working

1 group spoke, but the working group is not -- does not have the
2 authority to, in fact, enact the regulation. It could just
3 weigh in on it; am I right?

4 A That's correct.

5 Q And the authority for enacting the regulation of
6 ultimately as the Tax Commission; is it not?

7 A Correct.

8 Q All right. And the Tax Commission did not in any way
9 change 453D.268(2) (e) at all; am I right?

10 A I don't understand your question.

11 Q Let me ask it a little differently. Did the Tax
12 Commission enact a regulation that said that it was going to --
13 that the process was going to be in multiple phases and you
14 didn't have to list the physical -- the actual physical address
15 where the proposed marijuana establishment will be located on
16 the application?

17 A No. The adopted the regulations as they were. But
18 they also adopted a regulation that indicated location would
19 not be scored.

20 Q Right. Now, you would agree, would you not, that you
21 could list the actual physical location on the application,
22 even if it's not going to be scored?

23 A Yes.

24 Q And you would also agree that if one was going to
25 obey just the words themselves, the 453D.268(2) (e), scoring is

1 not contemplated at all by 453D.268(2) (e), is it?

2 A That regulation is talking about the contents of the
3 application, not the scoring.

4 Q Exactly. So the answer to my question is yes.

5 A Yes.

6 Q Thank you. I'll get you out of here, but yes is a
7 shorter answer.

8 MR. PRINCE: Your Honor, move to strike
9 [indiscernible].

10 THE COURT: Granted. Okay. Let's keep going.
11 BY MR. GENTILE:

12 Q And insofar as you know, nobody, not a working group,
13 not the industry, not the Department of Taxation, sought a
14 change in 453D.268(2) (e) prior to or during the application
15 process?

16 A If I understand your question correctly, no one
17 sought a regulation amendment during the application process to
18 my knowledge.

19 Q And there is an emergency regulation power on the
20 part of the Department of Taxation; you're aware of that?

21 A Yes.

22 Q Nobody sought that an emergency regulation be passed
23 to relieve the mandate of 453D.268(2) (e); am I right?

24 A Not to my knowledge.

25 Q Okay.

1 MR. GENTILE: Now, could we please pull up -- I guess
2 it's 1588 -- wait. Let me have a moment.

3 THE COURT: Shane, were you able to drop the receipt,
4 the three-page document, to a separate file?

5 IT TECHNICIAN: Yeah [indiscernible].

6 THE COURT: I would be if you could give it to Nick.

7 IT TECHNICIAN: Sure.

8 (Pause in proceedings.)

9 MR. GENTILE: I need a moment. Because I'm concerned
10 that the --

11 THE COURT: I need the three-page document, which
12 everyone's agreed to admit and was going to get a new number.
13 They're working on it, but I need to make sure we don't lose
14 track of that admitted document. So Dulce and Nick are
15 consulting with Shane. You are welcome to go over there if
16 you'd like.

17 I am trying to get the witness out of here.

18 MR. GENTILE: Well, my concern is I now have another
19 subpart of Exhibit -- what I thought was 1789.

20 THE COURT: So why don't we take our morning bathroom
21 break, for those of you who need to go to the biological
22 facilities, or get up and walk around and take off your jacket,
23 because it is steaming in this room. Or whatever.

24 (Proceedings recessed at 9:37 a.m. until 9:47 a.m.)

25 THE COURT: Mr. Gentile, you have your exhibits

1 straightened out?

2 MR. GENTILE: We're working on it.

3 THE COURT: Keep going, Mr. Gentile; we're trying to
4 get the witness out of here.

5 MR. GENTILE: Okay. Shane, can you pull up Zoom
6 Number 2064.

7 THE CLERK: Mr. Gentile, 2064?

8 MR. GENTILE: Well, you don't have it yet. He's
9 just --

10 THE CLERK: I don't have it yet.

11 MR. GENTILE: He's just -- it used to be 1789-72, but
12 it has -- morphed.

13 THE CLERK: It's proposed. Thank you.

14 MR. GENTILE: All right. I have discussed this with
15 counsel, and there was no objection to this document.

16 THE COURT: Any objection to this Proposed 2064?

17 MR. BICE: No objection, Your Honor.

18 THE COURT: Be admitted.

19 (Plaintiffs' Exhibit No. 2064 admitted.)

20 CONTINUED DIRECT EXAMINATION

21 BY MR. GENTILE:

22 Q Now, Ms. Connor, do you recognize this document?

23 A Yes.

24 Q Yes?

25 A Yes.

1 Q Okay. It appears that you wrote an email, and it's
2 actually the next page of this document. There we go. You are
3 communicating with Mr. Pupo with regards to what appears to you
4 to be an inconsistency in the application, and from what I'm
5 reading, it appears to me that it has something to do with
6 location. And you're asking him to confirm that a location is
7 not required, and documentation about a location will not be
8 considered or no points will be granted for having a location;
9 am I right?

10 A I asked him to confirm that a location is not
11 required, and the documentation about a location will not be
12 considered or no points will be granted for having the
13 location.

14 Q So I am right.

15 A I don't think that's how your question was phrased.

16 Q Oh. Okay. Well, here's what I need to know. Is
17 there a difference between a location being required with
18 regard to 453D.268 2(e), and you've already read that many
19 times, and whether a location if required is scored on that?
20 In other words, couldn't it be that there is a consistency that
21 if 453D.268 2(e) were followed that the Department of Taxation
22 did not have to score it; would you agree?

23 A Would I agree that that's a possibility?

24 Q Yes.

25 A Yes, I agree that's a possibility.

1 Q Okay. And how did you come to conclude that, that
2 the listing of a location on the application was not required?
3 There was no regulation to that effect.

4 A My understanding, again, came from the many hours I
5 spent in the working group, which was a part of the Governor's
6 task force developing the suggested language for the
7 application and the application process. It was my
8 understanding based on that, that the State and this
9 application would not be looking at a location and granting no
10 points for securing a location.

11 Q So it was based on an understanding but not on a
12 regulation or the law?

13 A There is a regulation that says location would not be
14 scored.

15 Q Right. I'm talking about the listing of a location,
16 the physical location on the application.

17 A There is a requirement that a physical address be
18 listed in the regulations, but it made clear that it was not to
19 be considered or scored in the application.

20 Q So both existed and both could have been complied
21 with; fair to say?

22 A And I believe my clients complied with both.

23 Q Okay. But you did not list the actual locations as
24 453D.268 2(e) and the first application required you to?

25 A I disagree with that.

1 Q You're saying that the 453D.268 2(e) does not require
2 that the actual physical location be part of the application?

3 A It does. My clients' applications did list physical
4 addresses. What I disagree with is the insinuation that you
5 had to have secured approved location. It was not the process
6 to get land-use approval for these applications before
7 submitting.

8 Q All right. But it didn't require that you have
9 approval; it just required that you listed it; am I right?

10 A Well, it -- as a regulatory compliance attorney, I
11 understand that you would need land-use approval for the
12 location.

13 Q But that --

14 A So you kind of --

15 THE COURT: One of you at a time.

16 You've got to let her finish, Mr. Gentile.

17 MR. GENTILE: I didn't know she wasn't finished.

18 THE WITNESS: So you would have to complete that
19 process to know that you could move a location there. Now, I
20 believe that the intent of that regulation was that you were to
21 list a physical address.

22 BY MR. GENTILE:

23 Q So is it fair to say then, that at least as of August
24 the 22nd, 2018, you still had some concerns with regard to
25 ambiguity in the application and instructions as it related to

1 what you spoke about in this email that was dated August
2 22nd?

3 A I was working to confirm that the location would not
4 be scored as the regulations stated it would not.

5 Q And is it your testimony that the reason that you
6 wrote this is because you thought that some portions of the
7 application and thus the scoring don't list location as
8 something that would be scored?

9 A I felt that there was some, as my email states, some
10 inconsistency in the applications.

11 Q What were the inconsistencies?

12 A The notation on tab 3. I have it listed there in my
13 email, that says.

14 Please note the size or square footage
15 of the proposed establishment should include
16 the maximum size of the proposed operation
17 per the lease and property ownership. The
18 startup plans and potential expansion should
19 be clearly stated to prevent needless
20 misunderstanding and surrendering of
21 certification.

22 Q And so that language led you to believe that there
23 may be a problem in not submitting the actual location because
24 how could these things take place if there wasn't an actual
25 location; is that fair to say?

1 MR. BICE: Objection.

2 THE WITNESS: No. That is not fair to say.

3 THE COURT: Overruled.

4 BY MR. GENTILE:

5 Q All right. Well, let's take it one at a time.
6 Building establishment information. You've already said that
7 your clients ultimately -- when they did turn in their
8 applications, almost a month after this -- did not list the
9 actual locations that they intended to open in. In fact, most
10 of them listed UPS stores that had basically mail drop boxes;
11 am I right?

12 A They listed a physical address that was a UPS store
13 on some of my clients --

14 Q A physical address of the UPS store. They didn't
15 intend to open their establishments in that store; did they?

16 A I believe I testified earlier to this, but to my
17 knowledge, it's my understanding that they did not.

18 Q I didn't hear what you said.

19 A I believe I testified earlier today, but to my
20 knowledge, I do not believe the intent was to locate them in
21 that store.

22 Q Right. And it would have been even more difficult
23 because you were representing different clients that were not
24 necessarily business partners in any way; in fact, they were
25 competitors, and they were all listing essentially the same

1 address?

2 A It was different addresses, but it was in the same
3 parcel, yes.

4 Q So you didn't list the size of the post office box
5 that you listed as the address; am I right?

6 MR. BICE: Objection to the form.

7 THE COURT: Overruled.

8 THE WITNESS: The requirements of the application
9 were to list the proposed size and square footage of the
10 proposed establishment. So that is what my clients complied
11 with.

12 BY MR. GENTILE:

13 Q But the -- oh, so the proposed establishment was not
14 the one whose address you listed; is that what you're saying?

15 A I'm saying that this was talking about their
16 operations so they used a general floor plan -- start-up plan.

17 Q Okay. But the question that I'm asking you, is will
18 you agree that the location that you listed -- the address that
19 you listed in the application was not the proposed location;
20 would you agree to that?

21 A I would agree. As I said, I don't think they could
22 have complied with listing a proposed location for certain
23 because they couldn't obtain land use. And in the working
24 group we had discussed for several days of the part of the
25 Governor's task force that it would be unrealistic, and it was

1 problematic to have people secure properties, be it lease or
2 ownership for several months while the application process was
3 going on, and the working group talked about that that should
4 not be a requirement.

5 Q So then why did the working group or the industry not
6 go to the tax commission in seeking modification of the law?

7 MR. BICE: Objection. Foundation.

8 THE COURT: Overruled.

9 THE WITNESS: I believe you're asking why they didn't
10 seek to amend the regulations, and I cannot say why that was
11 not done.

12 MR. GENTILE: Can we go to the first page, please, of
13 this document. There you go.

14 BY MR. GENTILE:

15 Q You've clearly asked Mr. Pupo several questions
16 because of a need for clarification; that's fair to say; right?

17 A I was confirming my understanding.

18 Q Okay. You asked the questions because you wanted to
19 confirm that your understanding was accurate as opposed to
20 maybe some other things that you were hearing or some ambiguity
21 with regard to the documents?

22 A I wanted to confirm that my understanding was correct
23 to give my clients the best opportunity in their application.

24 Q All right. And Mr. Pupo, apparently has spoken with
25 you about this subject before?

1 A Yes.

2 Q More than once?

3 A I believe we spoke about this a couple different
4 times.

5 Q All right. And his response -- if we could move to
6 the top of the page -- seems to be in email speak he's shouting
7 at you because he capitalizes the language location is not
8 scored, dammit. Did that clarify it for you?

9 A It confirmed my understanding.

10 Q Okay. Thank you. Now, we did issue a subpoena to
11 you early on.

12 And may the record reflect that I have replaced the
13 check with one made out, I believe properly, can Ms. Brown
14 confirm that it was made out properly, please.

15 MS. BROWN: Objection to that. You did not issue the
16 subpoena. Mr. Kemp's firm issued the subpoena.

17 THE COURT: Did you get the correct check?

18 MS. BROWN: We have a correct check, yes.

19 THE COURT: Great.

20 MR. GENTILE: Thank you.

21 BY MR. GENTILE:

22 Q You received the subpoena for documents?

23 A My law firm and myself individually were subpoenaed.

24 Q And you -- and you attempted to comply with that
25 subpoena?

1 A Yes.

2 Q All right. And that subpoena asked for your
3 telephone records for the year of 2018?

4 A I believe that's accurate, yes.

5 Q And it asked for not just your cell phone records,
6 but also your business line?

7 A Yes.

8 Q Okay. And you did not produce all of your records,
9 excuse me. You did produce something, why don't you testify as
10 to what you did produce.

11 A I produced all the records -- telephone records that
12 I had available that were responsive to the subpoena.

13 Q All right. And what time period did those records
14 cover?

15 A I don't remember off the top of my head, but I know
16 that my -- I believe I was subpoenaed in February, and I
17 believe my provider went back one year. So I believe I was
18 able to provide from February 2019 to February 2020, if I'm
19 remembering correctly.

20 Q But nothing with regard to the year 2018? Am I
21 correct?

22 A I believe that's accurate, that I only had access to
23 the records available which was approximately a year.

24 Q And that was with regard to both your business and
25 your personal phone?

1 A Yes. I believe the time frame differed just slightly
2 on those records, but, yes, I produced was available and
3 responsive.

4 Q Okay. Now, in the years 2018, you did produce some
5 text messages from 2018, and we've already looked at some of
6 those.

7 THE COURT: Hold on. Are you able to rejoin us,
8 Mr. Parker?

9 MR. PARKER: I am.

10 THE COURT: All right. You're in the back.

11 BY MR. GENTILE:

12 Q Do you remember how many phone numbers --

13 MR. GENTILE: Mr. Parker, could you come here,
14 please? I need to refer --

15 THE COURT: You need to remember --

16 (Pause in the proceedings.)

17 BY MR. GENTILE:

18 Q How many phone numbers did you have for Jorge Pupo,
19 in the year 2018?

20 A I believe I had three numbers in the year 2018 for
21 him.

22 Q And where did those numbers attach? Were they
23 personal numbers? Business numbers?

24 A I had two cell phone numbers and his office landline
25 number.

1 Q Okay. We -- I think the last date that we covered
2 was the 22nd of August, that would have been of 2018, that
3 would have been the email that we just referenced, but sometime
4 in the month of August you learned that another client of yours
5 for whom you filed an application in Ely was not successful
6 with regard to their seeking of a license in Ely; am I right?

7 A For a medical marijuana dispensary in Ely, that is
8 correct.

9 Q And that was for Thrive; am I correct?

10 A Yes.

11 Q All right. And you had a score review, as you're
12 entitled to have, with regard to the application that was not
13 successful in Ely; am I right?

14 A Yes.

15 Q And that score review took place here in Las Vegas?

16 A Yes.

17 Q And with whom did the score review take place?

18 A The score review included myself, Karalin Cronkhite
19 of the Department of Taxation, Mitchell Britten and Philip
20 Peckman.

21 Q And Mr. Peckman and Mr. Britten are members of the
22 Thrive LLC?

23 A It's not Thrive LLC, but --

24 Q Excuse me.

25 A Mitchell Britten and Philip Peckman based on public

1 records are associated with Thrive.

2 Q Okay. Can we pull up Exhibit 1000, please.

3 THE CLERK: Proposed.

4 MR. GENTILE: This is already in evidence I believe?

5 THE COURT: No, it's --

6 THE CLERK: Is it 1000 or 1001?

7 THE COURT: He said 1003; right?

8 MR. GENTILE: It's Number 1000. Is 1000 not in
9 evidence?

10 THE CLERK: We started with 1001 with the
11 stipulations yesterday.

12 THE COURT: Any objection to 1000?

13 MR. PRINCE: No.

14 THE COURT: Mr. Bice?

15 MR. BICE: No. I'm sorry.

16 MR. GENTILE: It's been up on the screen so that's
17 the reason I thought it was.

18 THE COURT: Okay. Let's go. Be admitted.

19 (Exhibit No. 1000 admitted.)

20 MR. GENTILE: Okay.

21 BY MR. GENTILE:

22 Q Do you recognize Exhibit 1000?

23 A Yes.

24 Q What is it?

25 A It is my notes from the score review meeting for the

1 Ely application for Thrive.

2 Q These are your notes?

3 A These are my handwritten notes.

4 Q Did you say at your deposition that these were your
5 husband -- it was your husband's handwriting?

6 A No. You had a second page attached to this document
7 that was my husband's handwriting from a year later.

8 Q Oh. So the second page is your husband's
9 handwriting? The first page is yours?

10 A These are my notes.

11 Q These meaning page 1 of this document?

12 THE COURT: Excuse me, Shane.

13 UNIDENTIFIED SPEAKER: There is no second page of
14 this document; correct?

15 THE COURT: There's not a second page, Mr. Gentile.

16 THE WITNESS: In my deposition there was a second
17 page that was separate notes that were my husband's.

18 BY MR. GENTILE:

19 Q I gotcha. Okay. Your deposition -- you were in a
20 remote location and actually everybody was in a remote
21 location. I think there were two people in the room that I was
22 in. So and you had some trouble with your screen as I recall.
23 You could only see you or whatever the exhibits were.

24 A That's correct. I did not see who was attending the
25 deposition.

1 Q Right. Okay. Now, can you explain what these
2 columns mean, please.

3 A The notes are the different sections that were graded
4 for the medical marijuana dispensary application. The first
5 column just to the right describing what section is what my
6 client scored out of the total. And then the furthest column
7 to the right would be the average scores of the applications.

8 Q All right. And Karalin Cronkhite was the only
9 representative of the Department of Taxation at that meeting?

10 A During the score review meeting that is correct. I
11 do not recall if Jorge Pupo stopped in to say hello at some
12 point.

13 Q All right. But in any case, there was a time
14 after -- do you remember the date that this meeting took place?

15 A I believe this meeting took place September 12th of
16 2018 on my husband's birthday.

17 Q September 12th, because at your depo you couldn't
18 remember. You remember it now. Did you refresh your memory
19 with something?

20 MR. PRINCE: Objection. Move to strike. Lack of
21 foundation.

22 THE COURT: Overruled. Denied.

23 BY MR. GENTILE:

24 Q Did you refresh your recollection for the September
25 12th date?

1 A I had looked at my calendar.

2 Q Okay. And when did you submit the Thrive application
3 of -- for the September 20th deadline, impartial and
4 numerically scored competitive process?

5 A I don't remember the exact date I submitted the
6 Thrive applications, but I know it was the last couple days of
7 submission.

8 Q Without having to pull up your calendar, who is
9 [indiscernible]?

10 A That is my paralegal. One of the paralegals in my
11 office.

12 Q All right. And DJC is your husband?

13 A That's correct.

14 Q And you are ANC?

15 A Yes.

16 Q Your calendar, and I'll show it to if you want, but
17 your calendar indicates that you went through the Department of
18 Taxation with the applications on September 19th; does that
19 sound right?

20 A I wouldn't dispute it. I know it was the last couple
21 of days of submission and the last day was September 20th.

22 Q Okay. So this is consistent with your memory?

23 A Yes.

24 Q Okay. And so it would have been after September
25 12th?

1 A Yes.

2 Q Okay. Sometime after September 12th, but before
3 September 20th, you met with Jorge Pupo; am I correct?

4 A Not to my recollection, no.

5 Q You said that you remember -- well, excuse me. At
6 your deposition -- let me state it a little differently. Did
7 you review -- did you speak to Jorge Pupo about the Ely
8 application and the score review after you spoke with Kara
9 Cronkhite?

10 A I remember speaking with Jorge Pupo in general about
11 the Ely scores and the results, yes.

12 Q So you did, and when did you do that?

13 A I remember a phone call to discuss it and the
14 results.

15 Q And when was that phone call?

16 A I believe the phone call was prior to the score
17 review meeting because again it was just in general the
18 results, discussing how I was somewhat surprised that they did
19 not win. And Mr. Pupo shared in that sentiment.

20 Q And the subjects that you discussed with Mr. Pupo was
21 with regard to the building adequacy score?

22 A I don't -- I didn't discuss on that phone call
23 specific scores with him, no. I discussed with him the
24 application, the results, and I said that we knew areas that
25 were weak in the application.

1 Q All right. But the two areas that you remembered
2 discussing with him in the phone call, whether it was relating
3 to scores or not, was the building adequacy and the care,
4 quality, and safekeeping; am I correct?

5 A On that phone call I remember talking about that we
6 knew a portion of that application was weak, which would fall
7 under adequacy of the building.

8 Q Falls under what, I'm sorry?

9 A Fall under the adequacy of the building.

10 Q Right. And also the care, quality, and safekeeping;
11 am I right?

12 A I don't think we specifically talked about that
13 section in detail, but we discussed the weaknesses that I
14 perceived in the application.

15 Q And that would've been consistent with what you put
16 in your August 22nd letter because that kind of dealt with
17 the building and the size of the building and the scoring; am I
18 correct? You remember the August 22nd email that we
19 looked -- what I refer to as the dammit email?

20 A I do remember that email -- this is a separate,
21 different application under a separate statute, but, yes, they
22 were similar concepts, I guess.

23 Q Thank you. With regard to the application that you
24 filed for Thrive in the September impartial, numerically scored
25 competitive process, you made some changes with regard to the

1 areas of building adequacy; did you not?

2 A I did not make changes. I think it's important to
3 understand what my role was in the application process. I was
4 retained by my clients to assist them in reviewing the
5 application for regulatory compliance and compiling their
6 information into the format called for, for in the application.

7 Q All right. But you do speak -- without getting into
8 what you said to them, you do -- you as a marijuana regulatory
9 lawyer, when you learn things that you think will benefit your
10 clients, you tell your clients; do you not?

11 A Yes. I feel that I -- when I learned that my client
12 was denied for a separate medical application, I spent hours
13 reviewing the regulations, reviewing the application, reviewing
14 past applications I had done and advised all my clients on
15 that.

16 Q Right. And among the things that you gain
17 information from that you advised your clients about are
18 discussions with people such as Jorge Pupo; is that fair to
19 say?

20 MR. BICE: Your Honor, I object. I'm concerned about
21 privilege because the way Mr. Gentile -- and perhaps he could
22 rephrase it because I think he was asking her did she
23 communicate in essence, what was the subject she communicated
24 with her client.

25 MR. GENTILE: No, I'm not asking --

1 THE COURT: I don't think that's what he was asking,
2 Mr. Bice.

3 MR. GENTILE: That's not what it is.

4 MR. BICE: Then maybe I'm wrong.

5 THE COURT: So let's -- and the witness is very
6 conversant in the privilege issues and has been identifying
7 them for us. So I am certain we will not cross that line.

8 MR. BICE: Okay.

9 THE COURT: Mr. Gentile.

10 MR. GENTILE: Should I ask that to be read back?

11 THE COURT: Nope.

12 MR. GENTILE: Oh. Well, I can ask.

13 THE COURT: Yeah, you can ask anyone you want. But
14 the answer's no.

15 MR. GENTILE: Okay. All right.

16 BY MR. GENTILE:

17 Q Among the things from which you gain knowledge and
18 information are discussions with people that are agents of the
19 Department of Taxation or before that, agents of the Department
20 of Behavioral Services, you learn from this and you convey that
21 information to your clients; right?

22 A Without saying what I told or advised my clients, I
23 did gain knowledge from my conversations with agents at the
24 Department of Taxation and previously agents at the Department
25 of Public and Behavioral Health.

1 Q And among those people is Jorge Pupo?

2 A He would be one of those individuals.

3 Q And you agree, would you not, that your discussion
4 with Jorge Pupo about the lack of success and the reasons for
5 it with regard to the Ely application that you did the score
6 review on benefited Thrive's September application?

7 A I would agree that going through the application
8 process, having the denial and going through a score review to
9 confirm my belief of the areas that were weak, benefited not
10 only Thrive, but all of my clients through the application
11 process.

12 MR. GENTILE: Could you pull up 1135004.

13 I do not know, is that in evidence?

14 THE CLERK: Yes.

15 MR. GENTILE: It is? Okay. 1135 page 4.

16 MR. BICE: We don't have any objection to that.

17 THE CLERK: Yes, it's in evidence.

18 THE COURT: It's in evidence, Mr. Bice. Dulce says.

19 MR. BICE: So my apologies for the distraction.

20 THE COURT: Okay.

21 MR. PRINCE: This is also 1581.

22 THE COURT: Thank you for the cross-reference,
23 Mr. Prince.

24 MR. PRINCE: You're welcome. Because that was
25 admitted, Your Honor.

1 MR. GENTILE: I would say that Mr. Prince and I are
2 definitely not on the same page because we're looking at the
3 same exhibits with two different numbers.

4 MR. PRINCE: Well, they're your exhibit lists.
5 BY MR. GENTILE:

6 Q Do you recognize this document?

7 A I would need to see the top -- oh. There we go.
8 This appears to be a document that was released by the
9 Department of Tax pursuant to, I believe it was SB32 relating
10 to the scores of the retail marijuana application submitted in
11 September.

12 Q And on here you see Cheyenne Medical; am I correct?

13 A Cheyenne Medical on this page is Number 5.

14 Q Is Number 5, and Cheyenne Medical does business as
15 Thrive; am I right?

16 A Correct. That's listed next to it in the next
17 column.

18 Q And Thrive is the same company -- same DBA that was
19 not successful with regard to the miracle marijuana application
20 in Ely?

21 A Correct.

22 Q And this application for which these scores -- this
23 application meaning the one that is reflected in 1135, was
24 filed on September the 19th of 2018, with the department of
25 taxation; am I right?

1 A Pursuant to your representation that that's what my
2 calendar entry says, that's sounds correct. It's the last few
3 days of the application period.

4 Q And that was a week after your meeting with Kara
5 Cronkhite?

6 A It was after the score review meeting, yes.

7 Q And it was after your discussion with Mr. Pupo?

8 A It was after the phone call, yes.

9 Q Okay. And that note that -- Exhibit 1000, and we'll
10 put up again if you want, but in Exhibit 1000 under care,
11 quality score in Ely, Thrive got 58.7. On this one under care
12 and quality it got 84.17 as a score. So its score went up 27
13 points; is that fair to say? That's just math. So if my math
14 is right, it went up 24.17 points.

15 A I'm trying to do math in my head, but yes, it did
16 increase.

17 Q Okay. And then with regard to the adequacy of the
18 size of the building, which is the same issue that you brought
19 up in the August 22nd dammit email and also discussed with
20 Mr. Pupo after the Ely scores came out, on your Ely notes it
21 says that your score was 9.7. On this document can you see
22 what the score was in that same category?

23 A It appears for Cheyenne Medical the score of adequacy
24 of the building was 19.67, I believe that's a 7.

25 Q All right. Let's agree on a couple of things. No

1 building was identified in your application; isn't that fair to
2 say? You gave no physical address?

3 A There was a physical address listed in the
4 location --

5 Q Yeah.

6 A -- but not -- if you're asking if the building plans
7 were for a specific address --

8 Q We could agree, could we not, that the post office --
9 excuse me, a UPS drop box, which is identical to the kind you
10 find in a post office except that is not at a post office, is
11 not enough space to build a cannabis dispensary; can we agree
12 to that?

13 A I don't understand your question. If your question
14 is, is the little mailbox within the store big enough to build
15 an establishment, then I would agree that the little box is
16 not.

17 Q Okay. And the address was not just the street
18 address, not just the address of The Strip center, but also the
19 specific box because it has to get to that box if they're going
20 to mail something to it; right?

21 A Yes.

22 Q Okay. So between September the 12th and September
23 the 19th, this score went up almost 10 points; am I right?

24 A I don't think that's a fair representation. The
25 application for Ely was submitted in June. The score we

1 learned that's in September, but --

2 Q Okay. All right.

3 A -- they were graded much earlier than that.

4 Q Okay. So the application went in in June, but your
5 discussions with Mr. Pupo and Ms. Cronkhite were later?

6 A We learned -- yes. My score review meeting was
7 September 12th.

8 Q Okay. Now, you started practicing in the area of
9 marijuana law, excuse me, marijuana regulatory law -- is that
10 what it's referred to as?

11 A I believe as of July 1st we now have to refer to it
12 as cannabis law because the law changed, but I am fine with
13 marijuana regulatory compliance --

14 Q So it is cannabis law. Okay. You started
15 representing people in the cannabis law area of law in the year
16 2013?

17 A I started practicing in the year -- in the area of
18 cannabis compliance in the year 2013 with the passage of SB, I
19 think it was 274 or 374, which established medical marijuana
20 establishments in the state of Nevada.

21 Q Okay. And so you probably are the premier marijuana
22 regulatory lawyer in Nevada, and you need not be humble. Would
23 you agree that you -- that at least some people think you are?

24 A I would not dispute that I -- some people say that I
25 am one of the top cannabis compliance lawyers in the State.

1 Q And there are not really a whole lot of lawyers that
2 spend the -- well, it's a relative term, and you'll argue with
3 me.

4 Let's talk about -- would it be fair to say that in
5 terms of the people that you know that practice law that have a
6 substantial part of their practice in the arena of marijuana
7 regulatory compliance, it's a group of around 10 or fewer
8 people?

9 A I would say for the State of Nevada it is a very
10 small number of attorneys that practice regulatory compliance
11 as a primary area.

12 Q And you've named some of them, Maggie McLetchie is
13 one; right?

14 A Yes.

15 Q And Tisha Black is one.

16 A Yes.

17 Q And Alicia Ashcraft is one.

18 A Yes.

19 Q And they're -- Adam Fulton is one.

20 A Yes.

21 Q And that pretty much sums up the people who are
22 spending a large share of their time in this arena.

23 MR. BICE: Objection to form, foundation.

24 THE COURT: Overruled.

25 THE WITNESS: I would say those are the names that

1 come to my mind as the ones that practice day-to-day regulatory
2 compliance.

3 BY MR. GENTILE:

4 Q Now, there is a -- I don't know that it's a section
5 of the bar, but it's certainly, for lack of a better word, is a
6 section of the bar that the Nevada State --

7 A I believe there actually is a section of the bar. It
8 was added recently, a cannabis lawyers section.

9 Q Right. And I'm sure that that section has many more
10 members than the four or five that we've mentioned, but --

11 A If my memory serves me correctly, I think we had to
12 have 50 signatures to add that section.

13 Q Okay. I'm going to ask a favor of you. I tried to
14 not speak before you finish your answers, please try to not
15 speak before I finish my questions. Can we agree to that?

16 A Yes.

17 Q Thank you. So since the time that you started in the
18 marijuana regulatory compliance arena, have you become a member
19 of a LISTSERV that deals with that area of law?

20 MR. SHEVORSKI: Object. Form.

21 THE COURT: Overruled.

22 THE WITNESS: I'm unsure what you're asking.

23 BY MR. GENTILE:

24 Q Well, okay. Let's start with something simple. You
25 know what a LISTSERV is?

1 A I do know what a LISTSERV is, yes.

2 Q Do -- are you aware of any LISTSERVs that focus upon
3 people that are interested in marijuana regulatory compliance
4 laws?

5 A I am aware of the -- National Cannabis Bar
6 Association sends out a LISTSERV.

7 Q I'm sorry. I didn't hear you. I mean, I heard you,
8 but I didn't understand you.

9 A The National Cannabis Bar Association sends out a
10 LISTSERV.

11 Q Okay. What about just in the State of Nevada, are
12 there any LISTSERVs in Nevada such as
13 medicalmarijuana@listserv.state.nevada.us?

14 A Yes. Those are LISTSERVs for people in the marijuana
15 industry in the State of Nevada from the regulatory body.

16 Q Right. So it's not exclusive for lawyers. Anybody,
17 as I said in my question earlier, anybody who has an interest
18 in medical marijuana compliance can join such LISTSERVs; fair
19 to say?

20 A I don't think that's true for all the LISTSERVs that
21 the State sends out. It's my understanding that there's some
22 LISTSERVs that go to points of contact or the people that the
23 points of contact authorize, but there is a general one for
24 anyone who's interested to join.

25 Q Thank you. You're about a half page ahead of me.

1 We're going to get there, I promise.

2 How many LISTSERVs that deal with marijuana in
3 Nevada -- legal marijuana in Nevada -- are you on?

4 A That are sent out from the Department of Taxation?

5 Q Let's start with that.

6 A I believe I am on the LISTSERV for Cultivation
7 Facilities specific, Production Facilities specific,
8 Dispensaries specific, the medical marijuana LISTSERV and the
9 general LISTSERV. So is that five?

10 Q Now, do all of those LISTSERVs have identical people
11 that receive it?

12 A I do not have access to the list, but to my
13 understanding, no.

14 Q So some are on some or even more than one. Some are
15 on others or more than one. Some of them are only on one. Is
16 that pretty much -- can we at least make that assumption?

17 A It is my understanding that certain of the LISTSERVs
18 are specific to facility types, and therefore it would limit --
19 be limited to the people interested or related to those
20 facility types. So without any knowledge of who the recipients
21 are, I do think it's a fair assumption that the lists may
22 differ.

23 Q So there's one -- we've already mentioned medical
24 marijuana. There's a state MME at LISTSERV.state.nv.us; right?

25 A Yes, I believe that's correct.

1 Q All right. And those existed since -- since the
2 purely medical marijuana era. In other words prior to 2016's
3 ballot question?

4 A Yes, there was a -- there were LISTSERVs when the
5 marijuana program was at the Department of Public and
6 Behavioral Health.

7 Q Okay. Now, let's talk about the process that took
8 place back in 2014 -- oh, wait. Before we go there, you
9 mentioned it and I want to it.

10 What is a contact person as that term is used in the
11 marijuana regulatory compliance area?

12 A In regulations, the requirement is that each license
13 designate one point of contact to be the contact person from
14 the regulators to the license holder, and there are certain
15 actions that the point of contact must take on behalf of the
16 license holder.

17 Q And what are those?

18 A They -- if you want to submit requests for equipment
19 approval, they must be signed by the point of contact. If you
20 want to submit requests for menu item approval, they must be
21 signed by the point of contact. There's various other actions
22 that the point of contact takes on behalf of the establishment,
23 and they are the person that the Department or now the cannabis
24 compliance board contacts for on -- when they are reaching out
25 to the license holder.

1 Q Is there a LISTSERV that is exclusive to contact
2 persons?

3 A Not to my knowledge.

4 Q Would you agree -- I think you've already said. If
5 you are a licensee, you must have a contact person; am I right?

6 A Yes. Each license holder must designate a point of
7 contact.

8 Q And so the point of contact is exactly that for all
9 purposes in the sense that if the State wants to get in touch
10 with a licensee or if it wants to get in touch with all
11 licensees, which might be a better example here -- so let me
12 rephrase the question so that it's clear.

13 If the State wants to get in touch with all
14 licensees, it can do so by sending a communication to that
15 contact person; am I right?

16 A I believe, yes, hypothetically, if the State wanted
17 to send communication out to each point of contact, they could
18 do so.

19 Q And we've already, I believe, agreed that with regard
20 to the other LISTSERVs that the State operates they do not have
21 all licensees on them?

22 A I don't believe that's accurate. I don't think
23 that's what I testified to.

24 Q Okay. Is it your testimony that there is a LISTSERV
25 that the State operates that has all licensees on it?

1 A It is my understanding that the general LISTSERV
2 includes all license holders in there, but also can include
3 other people.

4 Q Have you ever done an audit of that to see if your
5 understanding is accurate?

6 A I have not been provided the list of the LISTSERV.

7 Q So what you're giving us is your understanding.
8 You're not saying that, in fact, there is a LISTSERV that has
9 all licensees on it?

10 A No. It is my understanding that the general LISTSERV
11 goes to all licensees, but I have not audited the list. I have
12 not been provided the list; so I cannot verify that.

13 Q So if the State has a policy statement that it wants
14 to announce, where does it send it?

15 UNIDENTIFIED SPEAKER: Object to form.

16 THE COURT: Overruled.

17 THE WITNESS: My understanding is the process for
18 policy statements are sent out via LISTSERV.

19 BY MR. GENTILE:

20 Q To what? I'm sorry.

21 A Via the LISTSERV.

22 Q The LISTSERV. What LISTSERV?

23 A I -- normally it's under the general LISTSERV, but if
24 it's a policy that is specific to a specific facility type, I
25 believe they would send it out via that specific facility type

1 LISTSERV.

2 Q And back in the 2014 era did you represent any
3 applicants in the -- for medical marijuana licenses when they
4 were first issued?

5 A Yes.

6 Q All right. How many -- you don't need to tell me who
7 they were, but how many?

8 A How many clients; is that what you're asking or how
9 many applications?

10 Q I don't care how many applications. How many
11 clients?

12 A Two different clients.

13 Q How many?

14 A Two.

15 Q Two. All right. And TGIG was one of them?

16 A I believe that might be privileged.

17 MR. GENTILE: May I -- we had a discussion about
18 this. Given that Mr. Bice has made a limited waiver only with
19 regard to the identity of his client, I would like to engage in
20 the same limited waiver with regard to the identity of TGIG,
21 which is a client of mine in this case.

22 THE COURT: Okay.

23 MR. BICE: Your Honor.

24 THE COURT: Yes.

25 MR. BICE: [Indiscernible] I don't think I said I was

1 making a limited waiver; I said that I think it was publicly
2 available --

3 THE COURT: It was on a question-by-question basis --

4 MR. BICE: Yes.

5 THE COURT: -- and whether it was publically
6 available.

7 MR. BICE: That's all I was --

8 THE COURT: I got it.

9 Did you hear what Mr. Gentile said about his waiver
10 on behalf of TGIG?

11 BY MR. GENTILE:

12 Q At the time -- and we're talking about 2014, what was
13 the business -- the nature of the business entity of TGIG; do
14 you know?

15 MS. BROWN: Objection, Your Honor. Just going back
16 to the privilege, I'm not sure that Mr. Gentile has the
17 authority to waive for TGIG. I think that initially came up at
18 the deposition about needing two of the members. And I don't
19 know that you have that, sir.

20 THE WITNESS: Just so the record is clear, Your
21 Honor, I have received writing from two different managers of
22 TGIG instructing me that they do not waive the privilege, and
23 he does not have the authority to rate the privilege.

24 THE COURT: Okay. That is an issue.

25 THE WITNESS: And we raised it at the deposition.

1 MR. GENTILE: I have not seen that.

2 THE WITNESS: And it was raised at the deposition.

3 THE COURT: Wait. Wait. One at a time.

4 Do we have those communications that can be provided
5 by your counsel to Mr. Gentile?

6 THE WITNESS: I believe those are privileged as well.
7 They are to me.

8 MS. BROWN: But I have seen them, Your Honor.

9 MR. GENTILE: We are in agreement on this side of the
10 room that at his deposition as the 30(b)(6), Demetri Kouretas
11 testified that he was with TGIG in the year 2014 and that it
12 applied for a license.

13 THE COURT: So that's publicly available information;
14 correct?

15 MR. GENTILE: Well, I don't know if that deposition
16 is publicly available, but he certainly testified that way in
17 this case.

18 THE COURT: Did anybody designate that deposition as
19 confidential?

20 MR. PRINCE: No.

21 MR. GENTILE: No.

22 THE COURT: All right. So that's publicly available
23 information.

24 THE WITNESS: Can you say what was stated in the
25 deposition because I did not hear that.

1 MR. GENTILE: Well, do you know what --

2 THE COURT: Okay.

3 MR. GENTILE: -- do you really want to go home. I'm
4 going to try to get you out of here. Okay.

5 THE COURT: Mr. Gentile, please.

6 MS. BROWN: Objection. Strike that comment.

7 THE COURT: Sustained. Granted.

8 Can we please focus on asking questions.

9 BY MR. GENTILE:

10 Q Regardless of how these policies are distributed,
11 circulated, for the most part, they do come out on LISTSERVs or
12 on a website?

13 A If you're asking about general policies from the
14 Marijuana Enforcement Division, yes, generally they come out
15 via the LISTSERV or the website; however, with METRC, which is
16 the seed-to-sale inventory tracking system, METRC has its own
17 bulletins that are sent directly to the license holders.

18 Q And you maintain an archive of those when you get
19 them; do you not?

20 A I'm sorry. What?

21 Q You keep them, you, as an individual lawyer. When
22 you have access to a new policy, you archive it?

23 A I save those -- I save my emails.

24 Q You save them?

25 A Yes.

1 Q Okay. That's what I asked. Now, in 2014, you did --
2 you've already testified you did represent applicants. Do you
3 remember that -- the process that was used then, just in
4 general?

5 I'm going to get to specifics, but I want to make
6 sure that you have some memory of it.

7 A I remember very generally the 2014 application
8 process, but given it was six years ago.

9 Q Okay. Well, let me ask you a couple of specifics.
10 At that time, the State, which was not the Department of
11 Taxation, maintained a written question and answer part of its
12 website; did it not?

13 A I believe, if you're asking, I believe there was a
14 frequently asked question section of the website.

15 Q Okay. And do you know, was that a competitive
16 process? Not the question and answers, but the application
17 process?

18 A The applications for medical marijuana establishments
19 in 2014 was a merit-based competitive application process.

20 Q And in 2014, when the applications were announced,
21 there was a cutoff date to submit questions. Do you recall
22 that?

23 A I do not specifically recall that, no.

24 Q You don't recall that. Okay.

25 And there was a single point of contact to which you

1 had to send the questions. Do you recall that?

2 A I do not recall that either.

3 Q You're not saying that that's not accurate. You're
4 saying you don't recall. Am I right?

5 A That's correct. I don't recall.

6 Q Okay. And that single point of contact had a
7 dedicated email address. Do you recall that?

8 A I don't recall.

9 Q Are you aware that a company called QuantumMark
10 administered the 2014 process?

11 A I was aware that there was a third party that came in
12 and graded the applications in the medical round. I don't -- I
13 did not know or don't recall who it was.

14 Q So do you know who created the overall process itself
15 in 2014?

16 A No.

17 Q So it might have been QuantumMark is what you're
18 saying?

19 A It could have been --

20 Q Okay. Good.

21 A -- I was not aware.

22 Q And you're not -- you don't remember that there was a
23 June 20th, 2014, deadline at 2:00 p.m. for submitting written
24 questions to the dedicated email address and the single point
25 of contact. Is that your testimony?

1 A I -- that's correct.

2 UNIDENTIFIED SPEAKER: Objection, Your Honor.

3 THE WITNESS: I don't --

4 THE COURT: Overruled.

5 THE WITNESS: Sorry.

6 THE COURT: It's okay.

7 THE WITNESS: I don't recall that there was a
8 question time or a single point of contact for questions.

9 BY MR. GENTILE:

10 Q Did you ever visit the website Health, dot, NV, dot,
11 Gov, slash, Medical Marijuana?

12 A I am sure I did. As a regulatory compliance lawyer,
13 I'm sure I visited their website for the --

14 Q Did you ever see that there were answers to questions
15 submitted by applicants posted on that website?

16 A Again, I -- at the time, when the Department of
17 Health oversaw the program, I visited that website frequently.
18 So I'm sure I visited that website. I don't have a specific
19 recollection of reviewing those questions.

20 Q So I suppose you wouldn't recall that they were on
21 page 9 of the application form, the website address?

22 A I don't -- I don't recall. No.

23 Q Okay. With regard to the application in 2014, do you
24 recall that it expressly forbid -- I suppose the word is
25 forbad -- or forbade actually -- employees and agents from

1 talking about the process directly with applicants?

2 A No, I don't specifically recall that.

3 Q Looking back at your memory with regard to the 2014
4 process, was it your custom at -- excuse me. Strike that.
5 Wrong. Wrong. Start again.

6 What is your memory about how you submitted questions
7 that you may have had back in 2014 during that process?

8 A I don't have a specific recollection of submitting
9 questions.

10 Q Do you recall -- you do recall that there was a
11 frequently asked questions page on that website?

12 A To my recollection, yes, there was a frequently asked
13 questions.

14 Q Do you recall that one of the frequently asked
15 questions dealt with advisory boards?

16 A No, I do not remember the content of the frequently
17 asked questions.

18 Q Do you remember that there was a frequently asked
19 question answer on that website that dealt with clarifying LLC
20 and trust ownership of medical marijuana applications?

21 A I do not recall specifically the content of the
22 questions.

23 Q So you don't recall any of it?

24 A No. I don't recall any of the questions that were
25 posted on the Department of Public and Behavioral Health

1 frequently asked questions. I just remember that there was
2 that on that website.

3 Q Do you know Maggie McLetchie's cell phone number?

4 A I do have Maggie McLetchie's cell phone number, yes.

5 Q You do?

6 A I do.

7 Q You do. Okay.

8 THE COURT: Let's not put it on the record.

9 MR. GENTILE: Okay. Well --

10 MS. SHELL: Thank you, Your Honor.

11 BY MR. GENTILE:

12 Q Do you know Tisha Black's?

13 A I do not believe I have Ms. Black's cell phone
14 number. I have her office phone number.

15 Q Do you know Alicia Ashcraft's?

16 A I believe I do have Ms. Ashcraft's cell phone number.

17 Q Do you know Adam Fulton's?

18 A I think I only have his office number. I believe.

19 Q Do you know -- from your -- have you, prior to
20 testifying today, been shown or have presented to you or
21 discussed with you the AT&T telephone records of Jorge Pupo's
22 cell phone?

23 A No.

24 Q You know nothing about it. You have not looked at
25 it? Nobody has talked to you about it? Nothing?

1 A I have --

2 MS. BROWN: Objection. Attorney-client privilege.

3 THE COURT: With Mr. Pupo?

4 MS. BROWN: No, with me.

5 THE COURT: Okay.

6 MS. BROWN: He said anybody.

7 THE COURT: All right. To the extent that involves
8 conversations with your attorney, we don't want to know about
9 it.

10 BY MR. GENTILE:

11 Q Yeah. I don't want to know what your lawyer said,
12 but I want to know if you've seen or had access to or know
13 anything at all about Jorge Pupo's those telephone records?

14 A I believe in my deposition you told me that there
15 were certain things that his phone records represented perhaps,
16 or maybe you were looking at mine because you talked about the
17 number of phone calls. But I have not seen his records nor
18 been presented with them.

19 Q You talked about the Governor's task force in the
20 2018 process. It's actually 2017, '18. You were not a member
21 of that task force, but you were on some of the working groups;
22 am I right?

23 A That's correct. I was not a member of the Governor's
24 task force. I was a member a two working groups.

25 Q And which were those working groups?

1 A I don't remember the full official titles, but one
2 was the cultivation working group, and one was the taxation
3 revenue and regulation one.

4 Q What kind of work did each of them do? Let's take
5 them one at a time. What was the first one?

6 A Cultivation.

7 Q Cultivation. Okay. What did the cultivation working
8 group work on as a group?

9 A The cultivation working group worked on developing
10 suggested language for regulation of cultivation establishments
11 throughout the State of Nevada.

12 Q All right. And what about the other one?

13 A The taxation revenue and regulation worked on more
14 general topics such as the application process and licensing of
15 recreational establishments.

16 Q You would agree, would you not, that the Governor's
17 task force had no ability to create law?

18 A The Governor's task force, the purpose of it was to
19 make recommendations on regulations to be considered, but they
20 did not have the authority to adopt the regulations.

21 Q And you would agree that the working groups had no
22 authority to create law?

23 A Correct. It was their job to create language to be
24 considered by the task force.

25 Q The Governor's task force in 2018 had many -- well, I

1 shouldn't say many. It met both in terms of workgroups, which
2 was not members of the task force, but they reported to the
3 task force; right?

4 A I think the timing is off. I don't think it was in
5 2018, but, yes, it met several -- the working groups met
6 several times, and the task force met several times.

7 Q And the Governor's task force published at times to
8 the public; am I right?

9 THE COURT: Published what?

10 MR. GENTILE: Reports.

11 THE COURT: Okay. Thank you.

12 THE WITNESS: I believe --

13 BY MR. GENTILE:

14 Q And releases and other types of written publications.

15 A I was not a member of the task force, but I believe
16 that certain items were released by the task force that were
17 publicly available, yes.

18 Q Would it be fair to say that the people that were
19 members of the Governor's task force were already in, and I'm
20 talking about the one that led to the 2018 impartial and
21 numerically scored competitive process. Many of the members of
22 the task force had first-hand experience in the cannabis
23 industry since it became legal, and maybe some before that, but
24 we're not going to talk about it.

25 A I believe there was only one industry representative

1 on the task force, and that was John Ritter.

2 Q With regard to the working groups, they were
3 populated by people that had, I'm not saying exclusively, but
4 there were a substantial number of people that had experience
5 in the area of cannabis and regulatory compliance?

6 A Yes. The working groups were -- among other people,
7 had members that were industry representatives and worked in
8 compliance.

9 Q And what was your sense -- well, let me state it a
10 little differently.

11 To the extent -- to the best of your knowledge, to
12 the best of your knowledge, have you pretty much read
13 everything that the Governor's task force has published?

14 A [No response.]

15 Q You know, let me ask that a different way. Do you
16 know of anything you didn't read that the Governor's task force
17 published?

18 A I -- I cannot say with certainty that I read
19 everything the Governor's task force published. I can say I
20 read the proposed draft regulations that came out as a result
21 of the Governor's task force.

22 Q Only the draft regulations, or the commentary as
23 well?

24 A I -- I know I read some of the stuff out of the
25 Governor's task force. I do not feel comfortable saying I read

1 everything that came out.

2 Q You would agree, would you not, that based on the
3 published materials of the Governor's task force, the task
4 force intended that the 2018 process be substantially similar
5 to the 2014?

6 A I -- I don't have a specific recollection of that
7 being stated.

8 Q So you're not saying that that's not the case. You
9 just don't remember?

10 A I don't recall the Governor's task force saying that
11 the process should be substantially similar.

12 Q Okay. Now, let's talk about what you did in the 2018
13 licensing process for your clients.

14 You would agree, would you not, that there were a
15 limited number of licenses that were going to be awarded to
16 those who applied for licenses in 2018?

17 A Yes. By law there was a limited number of retail
18 store licenses available.

19 Q And you would agree, would you not, that it was a
20 competitive process?

21 A Yes.

22 Q Okay. And you've already said that you
23 represented -- I think you said -- well, let's go through it
24 again.

25 Actually, before we do that, could you pull up

1 Exhibit 2065.

2 THE CLERK: Proposed.

3 MR. GENTILE: Which was -- 2065 is a new number
4 that's been assigned to what was 1789-59.

5 THE COURT: Any objection?

6 UNIDENTIFIED SPEAKER: Is this all of it?

7 MR. GENTILE: Yes.

8 THE COURT: Any objection?

9 MR. SHEVORSKI: No, Your Honor.

10 ATTORNEYS: No, Your Honor.

11 THE COURT: Be admitted.

12 (Exhibit Number(s) 2065 admitted.)

13 MR. PRINCE: We're just going to make sure the
14 numbers are accurate. Hang on.

15 MR. GENTILE: Shane, can you make it so that I can
16 read it.

17 BY MR. GENTILE:

18 Q There was a -- essentially a checklist with regard to
19 submitting an application, and it was published on September
20 13th of 2018, by the Department of Taxation. Do you recall
21 that?

22 A I believe there was an intake checklist that was
23 provided.

24 Q Right. Do you recall what was on it?

25 A I do not recall specifically, but it was how to --

1 what was needed to submit for, such as payment, where to go.

2 MR. GENTILE: There should be three pages to this,
3 Shane.

4 BY MR. GENTILE:

5 Q Okay. Does that look familiar to you? That's the
6 second page. It's -- does that look familiar to you?

7 A Yes.

8 Q All right. So it asked for the establishment ID
9 number. It asked for the TID number for the establishment
10 you're applying under, and it asked for how many locations
11 you're applying for. Am I right?

12 A Yes.

13 Q But you only needed to file the one. You could apply
14 for a number of different locations under the single
15 application. Am I right?

16 A Correct.

17 Q Okay. And then it asked if you included payment of
18 the \$5,000 times the number of locations you're applying for;
19 correct?

20 A Correct.

21 Q And if you're applying for more than one location,
22 you have to include Attachments A, E, F and I, and you've
23 talked about those earlier in terms of some questions that you
24 had in July with regard to them. Right?

25 A Yes.

1 Q And you needed to submit a couple of thumb drives?

2 A Yes.

3 Q Okay. And every one of your clients that you
4 submitted applications for in September of 2018 complied with
5 those requests. They're not requests. They're mandates.
6 Right?

7 A Yes. It is my opinion that all my client's submitted
8 compliant applications and complied with those requirements.

9 Q Okay. Now, you would agree, would you not, that if
10 it's a competitive process, your clients were competing with
11 each other --

12 A Yeah.

13 Q -- and -- and the clients of other attorneys?

14 A Yes.

15 Q Now, for Thrive Cannabis Market, LLC, you submitted
16 no applications if I understand you correctly?

17 MR. PRINCE: Objection. Foundation. Misstates the
18 evidence.

19 THE COURT: Can you rephrase your question, please.

20 MR. GENTILE: Sure. Let me ask it a different way.

21 BY MR. GENTILE:

22 Q Cheyenne Medical, LLC, it is a single-member LLC; am
23 I right?

24 A I'm -- I'm pausing. I believe I can answer on public
25 record, but I'm going to -- it might be privileged. So I'm

1 going to pause.

2 THE COURT: So let's answer based upon the publicly
3 available information.

4 THE WITNESS: Okay. Public -- based on publicly
5 available information, yes, it's a single-member LLC.

6 BY MR. GENTILE:

7 Q And that single member is Thrive Cannabis Market,
8 LLC?

9 A No.

10 Q Well, who is the single member?

11 MR. PRINCE: Objection. Attorney-client privilege.

12 THE COURT: Sustained.

13 BY MR. GENTILE:

14 Q Commerce Park, LLC, is a single-member LLC.

15 A Yes. Based on publicly available records.

16 Q Okay. And who is the single member?

17 MR. PRINCE: Objection. Attorney-client [inaudible].

18 THE COURT: If your sole answer is based on
19 attorney-client privilege as opposed to publicly available
20 information, the objection is sustained. If you have publicly
21 available information, I'm happy to hear it.

22 THE WITNESS: I do not feel comfortable saying
23 there's publicly available information.

24 THE COURT: Okay.

25 / / /

1 BY MR. GENTILE:

2 Q Is the single member of Cheyenne Medical, LLC, the
3 same as the single member of Commerce Park, LLC?

4 MR. PRINCE: Objection. Attorney-client privilege.

5 THE COURT: Sustained.

6 MR. GENTILE: Your Honor, that calls for a yes or a
7 no. That's all it calls. It does not --

8 THE COURT: It calls for substantive information.

9 BY MR. GENTILE:

10 Q Integral Associates, LLC, is a client of yours?

11 A I'm pausing again because I believe that might call
12 for attorney-client privilege.

13 MR. BICE: She can -- she can answer that question,
14 Your Honor.

15 THE COURT: So you can answer that question.

16 MR. BICE: That information is already in the record.

17 THE WITNESS: Yes.

18 BY MR. GENTILE:

19 Q Essence Tropicana, LLC, is a single-member LLC; is it
20 not?

21 MR. BICE: That's publicly available information,
22 Your Honor. She can answer that.

23 THE COURT: All right. Thank you.

24 THE WITNESS: Based on publicly available
25 information, yes.

1 BY MR. GENTILE:

2 Q Essence Henderson, LLC, is a single-member LLC, is it
3 not?

4 A Based on publicly available information, yes.

5 Q Is the single member of Essence Tropicana, LLC, the
6 same as the single member of Essence Henderson, LLC?

7 MR. BICE: That's also publicly available
8 information.

9 MS. BROWN: Objection. Privileged.

10 THE COURT: You may answer.

11 THE WITNESS: Based on publicly available
12 information, yes.

13 BY MR. GENTILE:

14 Q Okay. You represented Nevada Organic Remedies in the
15 2018 application process?

16 A Based on publicly available information, yes.

17 Q And you represented TGIG in the -- in the
18 September 2018 process?

19 A Based on publicly available information, yes.

20 Q And you represented CW Nevada?

21 A In the competitive 2018 application process for
22 retail stores, based on publicly available information, yes.

23 Q Did you seek an ethics opinion as to whether you
24 could represent those five people in a competitive process in
25 which limited licenses were available?

1 MR. PRINCE: Objection. Relevance. Foundation.

2 THE COURT: Overruled.

3 MR. BICE: Your Honor, I object on -- I'm joining
4 that objection on relevance, which I understand you've
5 overruled, but I'm also objecting on attorney-client to the
6 extent she has got information that pertains to her services
7 for my client that would be privileged.

8 THE COURT: And you're not waiving that?

9 MR. GENTILE: I'm not asking for that. I am not
10 asking for that. I'm asking if she -- well, you know, what I
11 asked.

12 THE COURT: Yeah.

13 So be cognizant of navigating that privileged issue,
14 but if you have publicly available information.

15 THE WITNESS: My -- I personally did not seek an
16 ethics opinion on that issue.

17 BY MR. GENTILE:

18 Q Did you notify your malpractice carrier?

19 MR. BICE: Well, I'm going to -- Your Honor.

20 MR. PRINCE: Objection. Relevance.

21 THE COURT: Sustained.

22 BY MR. GENTILE:

23 Q Okay. At the end of this process -- well, excuse me.
24 Before we get there. With regard to Cheyenne Medical, LLC, and
25 Commerce Park, LLC, you submitted separate applications. Am I

1 correct?

2 A Based on publicly available information, yes.

3 Q And you submitted those applications in the very same
4 jurisdictions though?

5 A No.

6 Q Did you submit applications for -- okay. Let me
7 rephrase the question.

8 Was there any jurisdiction in which you submitted an
9 application for Cheyenne Medical, LLC, and Commerce Park, LLC?

10 A I'm sorry. Can you repeat that.

11 Q Was there any jurisdiction in which you submitted an
12 application for both Cheyenne Medical, LLC, and Commerce Park,
13 LLC? And I don't mean a joint application. I mean separate
14 applications, but in the same jurisdiction.

15 A Yes.

16 Q And what was that jurisdiction?

17 A Unincorporated Clark County.

18 Q Anywhere else?

19 A To my recollection, no.

20 Q With regard to Essence Tropicana and Essence
21 Henderson, LLC, both of which we have established are
22 single-member LLCs that have the same member as their single
23 member, did you apply separately for them in any single
24 jurisdiction?

25 A Based on publicly available records, yes.

1 Q And where was that?

2 A To my recollection, it was unincorporated Clark
3 County.

4 MR. GENTILE: Okay. Now, could you put Exhibit 1581
5 on the screen, please.

6 UNIDENTIFIED SPEAKER: 1581?

7 MR. GENTILE: 1581. 1581. Yes.

8 (Pause in the proceedings.)

9 UNIDENTIFIED SPEAKER: Is this already in?

10 MR. GENTILE: I believe it's in. It's --

11 THE CLERK: Yes, it is.

12 MR. GENTILE: Yeah. It was used with Mr. Gilbert.

13 THE COURT: And we asked about the red -- red lines.

14 MR. GENTILE: Oh, by the way, Your Honor, before I
15 forget, those -- the receipt from Hanks and the reservation
16 page from Hanks, I don't think I have formally moved it into
17 evidence. So I want to do that now.

18 THE COURT: They've been admitted. I've accepted
19 them. I admitted them. Dulce had to go over and get the drive
20 so she could do it. So we sent Nick home. The drives are
21 here. Dulce has them, and --

22 THE CLERK: Do you know what --

23 MR. GENTILE: Okay. Good. I just --

24 MR. PRINCE: Your Honor, would now be an okay time to
25 take like a five-minute rest room break?

1 THE COURT: Sure.

2 How much longer do you have, Mr. Gentile, at the pace
3 you're currently going?

4 MR. GENTILE: Well, that depends.

5 THE COURT: That's not what I asked, Mr. Gentile.
6 Don't -- I'm just asking.

7 MR. GENTILE: My best guess, maybe a couple hours.

8 THE COURT: Okay.

9 MR. GENTILE: Maybe not.

10 THE COURT: All right. Thank you. 10 minutes.

11 MR. PRINCE: Thanks, Judge.

12 (Proceedings recessed at 11:12 a.m. until 11:24 a.m.)

13 MR. GENTILE: Okay. I believe we had Exhibit 1581 on
14 the screen when we adjourned.

15 THE COURT: 1581?

16 MR. GENTILE: Yeah.

17 Shane, could you move it -- well, no, that's not
18 going to be very helpful. Here's.

19 What I'd like to have you do is highlight the green
20 part first. There we go.

21 BY MR. GENTILE:

22 Q Do you see Exhibit 1581 before you, Ms. Connor --
23 Mrs. Connor?

24 A Yes.

25 Q Okay. And do you recognize any clients of yours on

1 that list?

2 A Clients for the retail application, or clients for
3 regulatory --

4 Q Clients for the retail application, clients that you
5 represented in this impartial numerically scored competitive
6 process.

7 A Yes.

8 Q And who are they?

9 A On this page, I see Nevada Organic Remedies, Cheyenne
10 Medical, Essence Tropicana. I believe the next one says
11 Commerce Park Medical and Essence Henderson.

12 Q Huh. So the only -- out of 25 clients, 20 of them
13 were yours -- I mean 25 applicants, 20 of them were yours?

14 A I don't think that's accurate.

15 Q Well, you said Clear River is not represented by you,
16 and that's three of them. Green Therapeutics wasn't. And
17 NewGen Farms wasn't. Right? That's five.

18 A On this particular page?

19 Q On that page.

20 A On that page, yes, it lists three others that are not
21 mine. But I don't think it's out of 25.

22 Q There's 25 lines on --

23 A Because that's the same person.

24 Q -- on that page.

25 A Yeah. But it's the same company listed several

1 times. So it's not 3 out of 25.

2 Q No. Yes. These are separate applications though.
3 You understand that. They're applications for separate
4 locations. Am I correct?

5 A That's correct.

6 Q Okay. So out of 25 locations referenced on here, 20
7 of them were for three or -- well, let's see. One, two -- for
8 clients that you filed the application for?

9 A Yes.

10 Q Am I correct?

11 A On this particular page, there appears 25 listed, and
12 it looks like 20 were clients I prepared applications for.

13 Q All right. And you will see in red --

14 MR. GENTILE: Shane, let's --

15 UNIDENTIFIED SPEAKER: Sorry, Mr. Gentile.

16 MR. GENTILE: Yeah. Reverse it, please. Go back to
17 where we started. No. No. Yeah, there you go.

18 BY MR. GENTILE:

19 Q Up at the top of this page you will see writing in
20 red. Now, you've seen this before, this page?

21 A I don't know if I've seen this page before.

22 Q You don't know if you seen it before, or --

23 A I don't recall seeing this particular page.

24 Q You don't recall seeing this page before?

25 A This particular page? No.

1 Q Okay. So you don't know then -- well, maybe you do
2 know. Maybe you didn't see it, but maybe you do know. This
3 says, Per Jorge, and it's got a date on it, and that date is
4 November 28th, 2018:

5 Essence Tropicana and Henderson and
6 Thrive Cheyenne and Commerce will be issued
7 both licenses for unincorporated Clark.

8 Do you see that?

9 A I do see that.

10 Q Now, do you know who wrote that on there?

11 A I do not.

12 Q Do you know why this says per Jorge?

13 A No.

14 Q Do you know why the date 11/28/18 appears on there?

15 A No.

16 Q Okay. Remember that date. Okay. 11/28/18.

17 A Okay.

18 Q So that we don't have to go back to this.

19 A Yes.

20 Q Thank you. I appreciate that.

21 MR. GENTILE: Can we see Exhibit 2066, please.

22 THE CLERK: Proposed.

23 MR. GENTILE: Which was Exhibit 43 in 1789. When it
24 became 1789 [inaudible].

25 (Pause in the proceedings.)

1 THE COURT: Any objection?

2 UNIDENTIFIED SPEAKER: I don't think so.

3 UNIDENTIFIED SPEAKER: No.

4 MR. BICE: No.

5 THE COURT: Be admitted.

6 (Exhibit Number(s) 2066 admitted.)

7 MR. GENTILE: Okay. I think I need to go to the
8 second page, please. No. Let's go to the third page.

9 MR. BICE: How many pages is this document? Can I
10 get a -- how many pages is this document?

11 UNIDENTIFIED SPEAKER: 30.

12 THE COURT: 30.

13 MR. BICE: Well, now --

14 MR. GENTILE: No, it's not. Is it? No, it can't be
15 30.

16 MR. BICE: So then I have an objection because --

17 THE COURT: How many is it, Shane?

18 IT TECHNICIAN: Thirty pages.

19 THE COURT: I go with Shane.

20 MR. BICE: I understand. Now, we looked at the first
21 page of the email. We don't have an issue with that. But if
22 there's 30 or 29 pages behind it --

23 THE COURT: You've got to be faster, Mr. Bice.

24 MR. BICE: Well --

25 MR. J. SMITH: I was slow, Your Honor. That's my

1 fault.

2 MR. BICE: No.

3 THE COURT: Mr. Smith, you got to be faster.

4 MR. PRINCE: Well, the issue is, Your Honor, these
5 aren't the exhibits that are marked and on the list. So this
6 is -- [indiscernible] new for everybody.

7 THE COURT: Well, I understand that because there was
8 apparently an issue that the document they wanted was too big.
9 So it didn't populate for anybody. So it became a problem.
10 And now it's my problem.

11 So look at the document real quick, you guys.

12 MR. GENTILE: Well, the third page --

13 THE COURT: Well, it's 30 pages is the problem,
14 Mr. Gentile.

15 MR. GENTILE: All right. I only need the first three
16 pages.

17 THE COURT: But the electronic document that has been
18 approved and given to the Court is 30 pages. So if somebody
19 would please look at the remaining pages and tell me if those
20 pages are problematic for you so I can deal with that issue.

21 MR. BICE: I don't have access because they're new.
22 So I don't -- they're not even on because they're new exhibits.

23 THE COURT: All right. I'm going to break for lunch.
24 I'm going to just go sit someplace quiet.

25 Could you please look at the document.

1 Shane, is there a way for you to present it to
2 people?

3 IT TECHNICIAN: Yes.

4 THE COURT: You're a wonderful man.

5 Are we okay coming back at 12:30?

6 UNIDENTIFIED SPEAKER: Yes.

7 THE COURT: 12:45?

8 UNIDENTIFIED SPEAKER: 12:30.

9 THE COURT: 12:30 is okay.

10 UNIDENTIFIED SPEAKER: Thank you.

11 THE COURT: We'll be in recess until 12:30 while
12 people figure this out.

13 (Proceedings recessed at 11:32 a.m. until 12:26 p.m.)

14 (Pause in the proceedings.)

15 THE COURT: All right. Mr. Gentile, you may begin.

16 MR. GENTILE: Thank you. Could you pull Exhibit 1588
17 up, please, and go to the former Bates stamp page 1300 and
18 1301.

19 IT TECH: Page 22 and 23.

20 THE COURT: Thank you.

21 BY MR. GENTILE:

22 Q Mrs. Connor, can you see that clearly or does he need
23 to make it larger for you?

24 A I can see it.

25 Q You can see it. Okay. This is a text message that

1 you sent -- well, they're really between you and Jorge Pupo, on
2 May the 15th of the year 2018.

3 A Yes.

4 Q Am I right?

5 A Yes.

6 Q Okay. And you started off, at least on this page, by
7 saying, Does, and then you redact a name, in Henderson have
8 final cultivation or production? Now, there's a little --

9 THE COURT: They're called memes.

10 MR. GENTILE: Meme. Okay, there's a meme.

11 THE COURT: That's what my daughter told me.

12 BY MR. GENTILE:

13 Q There's a meme that's got a tear --

14 THE COURT: Emojis?

15 BY MR. GENTILE:

16 Q -- in the meme's eye, which I would infer from that
17 that it's supposed to be a not happy face, a sad face. Is that
18 you that put that on there?

19 A Yes.

20 Q Okay. And what did you redact? Because that's not a
21 client of yours.

22 A I redacted a name.

23 Q Yeah, I know that. What's the name that you
24 redacted?

25 A I believe that I can't disclose that.

1 THE COURT: On what basis?

2 THE WITNESS: Privilege.

3 BY MR. GENTILE:

4 Q Privilege?

5 A Yes.

6 MR. GENTILE: Your Honor, there is no way that that
7 is good enough. Privilege. It better be one that the law
8 recognizes, and it's not her client. And she's communicating
9 it in a nonprivileged communication to a State employee.

10 THE COURT: I don't think privilege applies when you
11 communicate to Mr. Pupo.

12 MR. GENTILE: I did not hear you. I'm sorry.

13 THE COURT: I do not think privilege applies in a
14 communication to Mr. Pupo and I believe all of the
15 communications to Mr. Pupo I ordered produced.

16 MR. GENTILE: You believe that it was privileged? I
17 can't -- I'm having a difficult time --

18 THE COURT: I know. I've got a mask on. You've got
19 a mask on. I do not believe that the privilege applies in a
20 communication to a non-party Mr. Pupo -- non-client party
21 Mr. Pupo.

22 MR. GENTILE: Then I am asking that --

23 THE COURT: Wait. Can I finish?

24 MR. GENTILE: Sure.

25 THE COURT: In my in camera review of all of the

1 communications for which privilege was asserted, I ordered
2 those portions of the documents that were not privileged to be
3 produced. This, I do not recall being in my privilege review,
4 and if I had I would say you can't have a redaction in a
5 communication with Jorge Pupo.

6 Mr. Bice.

7 MR. BICE: Yes. So, Your Honor, I think I understand
8 what you're saying and, again, it's not my fight. But I would
9 ask the Court to consider, then, a foundation for Mr. Gentile
10 of why this is relevant to their claims. So it's obvious she
11 is communicating about -- well, I shouldn't say obvious. I
12 infer she is communicating about somebody else with the State.
13 So I don't know how that's relevant to his claims. He could
14 ask her if this is one of her clients. If it's not, then I'm
15 not quite sure how it's relevant and I don't know why the Court
16 would then --

17 THE COURT: I don't even think we need that inquiry,
18 Mr. Bice.

19 Ma'am, what's the name that was redacted?

20 MR. BICE: Okay.

21 THE COURT: And, Ogonna, if you need to consult with
22 your client about whether it can be redacted, given the fact
23 it's in a third party communication with the State of Nevada,
24 we'll have a discussion and argument.

25 Mr. Parker, please maintain your 6-foot distance from

1 everybody.

2 MR. PARKER: Of course, Your Honor.

3 THE COURT: And pull your mask up.

4 MR. GENTILE: Mr. Parker has invited me into the
5 hallway. May I go?

6 THE COURT: You may.

7 (Pause in the proceedings)

8 THE COURT: Did you have a chance to consult with
9 your attorney?

10 THE WITNESS: Yes, Your Honor. Do you want to wait
11 until --

12 THE COURT: Yeah, we'll wait. I just want to make
13 sure the record reflects you had a chance to consult related to
14 the privilege issue.

15 THE WITNESS: Yes, Your Honor.

16 THE COURT: Okay.

17 THE WITNESS: Thank you very much.

18 THE COURT: All right. Mr. Gentile, the witness has
19 had a chance to consult with her attorney.

20 Ma'am, can you tell us what is under the redaction?

21 THE WITNESS: So based on advice of my attorney, I am
22 going to identify that I had spoke with State Bar, and State
23 Bar had advised me that identifying parties and identifying
24 that they are clients or not could be privileged.

25 But to answer that specific question, today at this

1 moment, I know that that is a non-client, but I don't remember
2 the name that's under there.

3 THE COURT: Okay. Where is the unredacted version of
4 the text message?

5 THE WITNESS: I would have the text message on my
6 phone.

7 THE COURT: Okay. So can you and Ms. Brown pull up
8 your phone, look at the text message with Mr. Pupo on or about
9 May 15th, 2018, and identify what's underneath the redaction
10 for me. May 15, 2018, 10:20 a.m.

11 Oh, you can see it on the big screen. You don't need
12 my help.

13 MR. GENTILE: Well, not --

14 THE COURT: Let's just wait.

15 MR. GENTILE: Okay.

16 THE COURT: Were you able to refresh your memory as
17 to what's underneath the redaction?

18 THE WITNESS: Yes.

19 THE COURT: Can you tell us what's underneath the
20 redaction?

21 THE WITNESS: Unifern.

22 THE COURT: Who?

23 THE WITNESS: Unifern.

24 THE COURT: Can you spell that for us?

25 THE WITNESS: U-n-i-f-e-r-n.

1 THE COURT: Thank you.

2 BY MR. GENTILE:

3 Q And what is Unifern? Or what was it in 2018?

4 A I believe Unifern was the name of a company.

5 Q Thank you.

6 A But I don't know if it was the fictitious firm name
7 or the company name.

8 Q I think that it was a company in the --

9 A It was a company that --

10 Q -- cannabis industry. Please let me finish my
11 question. I know you're not a litigator. The record has got
12 to be clear. Thank you. Was Unifern engaged in the cannabis
13 industry in Nevada in May of 2018?

14 A I believe so with respect to cultivation and
15 production.

16 Q And why were you inquiring as to whether Unifern had
17 its final cultivation or production license?

18 A My recollection is that this was related to a story
19 that I was being interviewed for.

20 Q A story that what?

21 A I was being interviewed for.

22 Q Okay. And somehow you were sad that you had to make
23 this inquiry as to whether they had a final cultivation or
24 production license?

25 A No.

1 Q Well, why was your meme crying?

2 A I believe the emoji crying was separately sent that
3 my phone -- if my recollection serves correctly, that my phone
4 call was not answered.

5 Q And Mr. Pupo responded to you. He said, Yes, we have
6 a huge problem. Needs attention ASAP. I need to speak to you
7 and Riana ASAP. Do you see that?

8 A Yes.

9 Q And that was in response to your communication to
10 him, because he starts off with the word, Yes. So we can agree
11 to that?

12 A The yes is responsive.

13 Q Yes. Okay.

14 MR. GENTILE: Can we go further, please.

15 THE COURT: Who is Riana?

16 THE WITNESS: Riana is Riana Durrett, who is the
17 executive director of the Nevada Dispensary Association.

18 THE COURT: Thank you.

19 BY MR. GENTILE:

20 Q Then he says, Serious.

21 And then you say to him, Give me 5.

22 Right?

23 A Yes.

24 Q Meaning 5 minutes?

25 A Yes.

1 Q And he says, K. And then he says, Has final certs
2 issued last month. That's still responsive to your inquiry
3 about Unifern?

4 A That portion is responsive to my inquiry, yes.

5 Q All right.

6 MR. GENTILE: Can we go to the next page, please.

7 BY MR. GENTILE:

8 Q And you then say to him, How would I know that from
9 something public about -- and it's redacted, but I'm going to
10 assume Unifern is what's -- Unifern is what's under this
11 redaction.

12 A Yes.

13 Q Okay. Now, listen -- well, I'll withdraw that. I
14 apologize.

15 Why do you need a public source? This man who you
16 say you go to rather than go to Steve Gilbert because he is so
17 knowledgeable about the cannabis industry and everybody that
18 works for him goes to him to make a decision, why do you need a
19 public source? You've got it from Mr. Pupo.

20 MR. BICE: Objection to the form of the question,
21 Your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: As stated, I was -- this was in
24 relation to an interview for a story I was going to do and I
25 wanted to make sure that there were public records that I could

1 refer to.

2 BY MR. GENTILE:

3 Q Well, why couldn't you just tell the person
4 interviewing you, look, the deputy director of the Marijuana
5 Enforcement Division of the Department of Taxation assures me
6 that Unifern has its cultivation license? I mean, that's a
7 good source. You rely on that source a lot. Why didn't you do
8 that instead of asking him how can I get public information to
9 back that up?

10 MR. BICE: Objection to the form of the question.

11 THE COURT: Overruled. You can answer.

12 THE WITNESS: I felt it was more appropriate for the
13 interview to rely on public sources.

14 BY MR. GENTILE:

15 Q Okay. It wasn't that you didn't want to reveal him
16 as your source, was it?

17 A No. That thought didn't cross my mind.

18 Q Okay. And when you did the story, did you speak
19 about the Unifern situation?

20 A When I was interviewed we briefly spoke about the
21 Unifern situation.

22 Q You did talk about Unifern in the interview. And did
23 you tell the interviewer, look, Jorge Pupo told me?

24 A To my recollection, we didn't talk about the final
25 licensing issue so, no, I did not disclose that.

1 Q And as a matter of fact, they don't publish --
2 according to Mr. Pupo, he told you, We don't publish
3 cultivators' license info, so I don't know. There was a recent
4 article about them regarding -- maybe there's something there.
5 That's what he told you; right? We don't publish cultivators'
6 licenses. But he just published it to you; didn't he?

7 A Yes.

8 Q And you knew that he wasn't supposed to publish it to
9 you, which is why you were looking for a public source; didn't
10 you?

11 A No. I believe as point of contact I had access to
12 that information.

13 Q You were point of contact for Unifern?

14 A No. I was point of contact for the license holders,
15 but license holders have to verify final licenses for the other
16 license holders.

17 Q So what business was it of yours to ask for the
18 information about whether they got a cultivation license when
19 you already knew that that was not public information, that it
20 wasn't published?

21 MR. BICE: Object to the form of the question, Your
22 Honor, similar to what not or what interest of it is it of
23 Mr. Ritter's.

24 THE COURT: Overruled.

25 MR. BICE: Thank you.

1 MS. BROWN: Objection. Misstates prior testimony.

2 THE COURT: So can I ask a question? In the response
3 that says, We don't publish cultivators' license info, there
4 appears to be a redaction after the word "regarding." What is
5 that redaction?

6 THE WITNESS: I believe it's Unifern again --

7 THE COURT: Okay.

8 THE WITNESS: -- but I'd have to confirm.

9 THE COURT: All right. Thank you. I'm just trying
10 to make sure our record is clear.

11 THE WITNESS: Okay.

12 BY MR. GENTILE:

13 Q And so you then respond to him, I wonder if the City
14 of Henderson has issued them a business license. If so, that
15 would be on their public record. Right?

16 A Yes.

17 Q Mr. Pupo didn't say to you, I can't tell you that.
18 He said it's not -- we don't publish it, but this is the
19 situation, Unifern has the license; right?

20 A I don't understand your question.

21 Q I don't think I need to ask it again.

22 MR. GENTILE: So now let's go, if we can, to what was
23 previously 1310 and 1311, pages 1310 and 1311.

24 MR. PRINCE: Are we still in Exhibit 1588?

25 MR. GENTILE: We will be until I say differently.

1 Okay? I'm just going to --

2 MR. PRINCE: You're not calling it out that way, so I
3 can't [inaudible].

4 MR. GENTILE: I'm calling it out with page numbers.
5 1588 is what we're on. We're going to stay with text messages,
6 which are all 1588, until I transition, and then I'll tell you.
7 Okay.

8 BY MR. GENTILE:

9 Q All right. This is also between you and Mr. Pupo.

10 By the way, before I probe further in this, remember
11 the last communication that was on the screen where he said
12 that there was a problem and that he needed to talk to you ASAP
13 about it?

14 A Yes.

15 Q What was that about? He said it was serious. So
16 what was it?

17 A I don't remember what specific issue he was reaching
18 out to Riana and I to discuss.

19 Q Okay. Now, on June the 11th, you're asking him does
20 he have time to talk to discuss the address issue. Do you
21 have -- what was it about the address issue that you wanted to
22 discuss?

23 A I wanted to discuss the instructions in there that
24 talked about the lease and property ownership and also the
25 attachments that were required in the application relating to

1 addresses.

2 Q Could you --

3 MR. GENTILE: I'm sorry, Your Honor. Maybe if I can
4 read it back or something? But I can go over there. We
5 have -- I just can't understand her answer.

6 THE COURT: Okay. Could you repeat your answer,
7 please.

8 THE WITNESS: I wanted to discuss with him the
9 requirement in Tab 3 regarding lease and property ownership and
10 discuss the attachment that listed addresses as well is my
11 recollection.

12 BY MR. GENTILE:

13 Q Okay. Now, let me ask you something: How did you
14 know about that on June the 11th when the application didn't
15 come out until July the 5th?

16 A I'm talking about the Ely application there. That's
17 the Ely application address for Thrive.

18 Q Oh, the Ely application. Okay. All right. And so
19 he spoke with you about the address requirements. I take it he
20 did respond?

21 A My recollection of this, and I could be incorrect in
22 my timing, but my recollection of this was discussing the
23 medical requirement for approval of the location, which is
24 different from the retail app. That's my recollection.

25 Q Okay. But he did respond?

1 A We talked over the phone, is my recollection.

2 Q Now, if this was 2014, you would have had to have
3 submitted a written question to a single point of contact for
4 that same question. Am I right?

5 MR. BICE: Objection. Form. Foundation.

6 THE COURT: Overruled.

7 You can answer.

8 THE WITNESS: I don't know. I believe, as you
9 presented earlier, that the medical application had a question
10 period and a point of contact. So if that's what you're
11 asking, yes, that's what you purport the instruction.

12 BY MR. GENTILE:

13 Q But that's not the way it operated once it got to the
14 Department of Taxation; right?

15 A I felt I was able to ask questions, as were other
16 people.

17 MR. GENTILE: Could we go to what was -- Exhibit
18 1588.

19 MR. BICE: Okay.

20 MR. GENTILE: Formerly pages 1318 to 1321.

21 IT TECH: Pages 40, 41 and 42.

22 THE COURT: Thank you.

23 MR. BICE: Thanks, Shane.

24 BY MR. GENTILE:

25 Q Now, this is you communicating with Jorge Pupo;

1 right?

2 A These are text messages between myself and Jorge
3 Pupo.

4 Q Yeah, except that one of them was basically a capture
5 or a forwarding of a message that you received, that looks like
6 it was an email from Karalin Cronkhite; right? The middle one,
7 the big white one on that page.

8 A It's a screenshot of an email. Yes.

9 Q Right. And now, Karalin Cronkhite works -- well, not
10 anymore, but back then --

11 THE COURT: She still does. She's right there.

12 MR. GENTILE: Hi.

13 THE COURT: She's the company representative for the
14 Department of Taxation for the trial.

15 MR. GENTILE: Yes.

16 THE COURT: Yeah.

17 MR. GENTILE: I remember her from the hearing.

18 THE COURT: Yeah.

19 BY MR. GENTILE:

20 Q She sent you an email, and the question was, Was the
21 facility modification to remove the hand sink and replace it
22 with a three-compartment sink approved?

23 And then you forwarded that to Jorge Pupo and said, I
24 thought it wasn't going to be more issues.

25 Now, had you spoken to Mr. Pupo before this email --

1 excuse me, this text message of June 19th, 2018, at 9:06 a.m.
2 about the issue that Karalin Cronkhite wrote to you about in
3 this email that you have a screen capture on?

4 A Yes.

5 Q And when did you speak to him about it?

6 A I don't recall specifically, but it would have been
7 in the days surrounding that time frame.

8 Q And why did you speak to him about it? Was Karalin
9 Cronkhite -- was there something wrong with the way Karalin
10 Cronkhite was handling this situation?

11 A No. I -- if my recollection serves correctly, this
12 is the first time Kara had stepped in on this issue. It had
13 been previously being worked on with Marc Chmiel, who is cc'd
14 on there. But I --

15 Q And the --

16 A I had discussed the issue with Mr. Pupo because in my
17 opinion he was the ultimate decision maker. This was something
18 important to my client. I wanted him to be aware of this
19 ongoing issue that had been happening, so I had discussed it
20 with him.

21 MS. LEVIN: Your Honor, can I just make a comment on
22 the record? I don't know what this text pertains to, but I'm
23 concerned with the privilege and confidentiality under
24 NRS 360.255.

25 THE COURT: The document has already been admitted.

1 MS. LEVIN: Well, but this is a communication --

2 THE COURT: 1588 was admitted.

3 BY MR. GENTILE:

4 Q And, Mrs. Connor, why did you think it wasn't going
5 to be more issues?

6 A I thought in my discussion with Jorge that we had
7 addressed what the concern was and then I had worked with Marc
8 on that.

9 Q So you thought he fixed the situation?

10 A No. I thought --

11 Q Well, should I say repaired? Should I say --

12 THE COURT: You've got to let her finish her answer.

13 THE WITNESS: No. I thought my client had
14 appropriately responded.

15 BY MR. GENTILE:

16 Q And then he says, I haven't talked to her yet. Did
17 it get approved?

18 A Yes.

19 MR. GENTILE: Can we go to the next page.

20 BY MR. GENTILE:

21 Q And you respond to him as it's set out on here, and
22 although this exhibit is in the record I'm going to read it.
23 It says,

24 So the sink was added as a part of the
25 corrective action to the deficiencies and

1 he -- plan of correction was approved. For
2 the record, do you want me to submit a
3 separate facility modification? As soon as I
4 do, she is going to insist on hand sinks, et
5 cetera.

6 Now, were you unhappy with the way Karalin Cronkhite
7 was handling this?

8 A No. As I said, this was the first time, to my
9 recollection, she had stepped in. It was my understanding that
10 my clients had submitted a plan of correction that was
11 approved. They had taken the efforts to correct the
12 deficiency, submitted proof of that and it was approved. So I
13 was advocating on behalf of my client that no further action
14 should be required.

15 Q And he says to you, Just tell her it was part of the
16 pic which was approved.

17 And you said, Okay.

18 MR. GENTILE: Let's go to the next page, please.
19 Well, let's go to the page after that. Let's go to the one
20 that is -- that one. Yeah, that one.

21 BY MR. GENTILE:

22 Q This is the same day. It's about an hour or so
23 later. And now you're sending Mr. Pupo a screen capture of an
24 email that you got from Marc Chmiel; right?

25 A Yes.

1 Q And that email informs you that the plan of
2 correction that you submitted back in May, a little over six
3 weeks earlier,

4 Does not include language regarding the
5 removal of a hand sink nor the installation
6 of a three-compartment sink. There are no
7 facility modifications approved or pending.
8 Approval on the file for this facility in
9 this regard as well. A facility modification
10 such as the removal of a hand sink must be
11 first approved by the Department. Please
12 submit a facility modification request in
13 this regard for review by the Department.

14 And I believe that you addressed that a couple of
15 pages earlier. But he responds to you. Mr. Pupo responds to
16 you -- excuse me, you respond to Mr. Pupo. In continuation of
17 the screen capture,

18 Just for your information, saying it was
19 part of the picture didn't work. I can
20 submit a modification if needed, but I don't
21 want a lot of changes to continue to be
22 requested.

23 And Mr. Pupo responds, Okay. Submit the
24 modification.

25 Do you see that?

1 A Yes.

2 Q Okay. Again, is there something wrong with the
3 Department of Taxation operatives, like Marc Chmiel or Karalin
4 Cronkhite to ask for continuing modifications if they're
5 justified?

6 A If they are justified, no, but my -- I was advocating
7 on behalf of my client that their corrective action had already
8 been approved, and therefore the Department by its approval had
9 stated no further actions would be needed.

10 Q How many times did you take Karalin Cronkhite out to
11 dinner?

12 A I do not believe I've gone out to dinner with
13 Ms. Cronkhite.

14 Q How many times have you taken her out for drinks?
15 You and her?

16 A I have not gone out to drinks with Ms. Cronkhite.

17 Q How about Marc Chmiel? How many times have you taken
18 him to dinner?

19 A I have not gone to dinner with Mr. Chmiel.

20 Q How about -- how many times have you taken him out
21 for drinks?

22 A I have not taken Mr. Chmiel out for drinks.

23 Q How many times has your husband gone shooting with
24 Mr. Chmiel?

25 A He has not gone shooting with Mr. Chmiel.

1 Q To your knowledge?

2 A To my knowledge.

3 Q Okay. And Ms. Cronkhite, Ms. Cronkhite is a law
4 enforcement officer. No, she's not. Okay. Have you ever
5 entertained Ms. Cronkhite at all, spent any money entertaining
6 her, other than your Christmas things, which we'll get to
7 later?

8 A No. To my knowledge, no.

9 Q Okay. Same thing with Mr. Chmiel?

10 A No.

11 Q No, what? Not the same thing or yes, the same thing?

12 A No, I have not, except for the Christmas lunches.

13 Q Okay. Now, these -- the thread that I just read of
14 text messages occurred on June the 19th of 2018. Am I right?

15 A Yes.

16 Q Okay. A couple of months before that, back in April,
17 you had discussions with Mr. Pupo about some problems that your
18 clients were having because they had sold marijuana to minors.
19 Do you remember that?

20 A I remember my client self-reporting. I don't know
21 the specific dates.

22 Q You don't remember having a discussion with Mr. Pupo
23 about that on Friday, April 27th of 2018, that later wound up
24 in an email that I showed you at your deposition?

25 A I remember discussing it with Mr. Pupo. I just said

1 I don't remember the specific dates.

2 Q Okay, we'll get to it later. I just wanted to ask
3 you that, though.

4 MR. GENTILE: Can we go to page 1324, 25 of the Bates
5 stamps that existed when -- before this became Exhibit 1588.

6 MR. PRINCE: Well, no. No, no, that's the problem
7 with the record. 1588, Your Honor, was always an exhibit. It
8 has its own trial Bates numbering. Mr. Gentile is just not
9 familiar with it, but it has the trial --

10 THE COURT: Mr. Prince, I just need Shane to tell us
11 what the number is.

12 MR. GENTILE: He's been telling us.

13 IT TECH: Page 46 and 47.

14 THE COURT: Thank you.

15 MR. BICE: One more time, Shane.

16 THE COURT: We're on 1588, 46 and 47.

17 MR. BICE: Thank you.

18 BY MR. GENTILE:

19 Q There's a photograph on the first page here. What is
20 that?

21 A That is a photograph of all the letters my office had
22 received from the Department of Taxation that day.

23 Q That day?

24 A That day.

25 Q That day. Okay.

1 A That is representative of how much communication I
2 receive on behalf of my clients.

3 Q Certainly it was for that day?

4 A For that day.

5 MR. GENTILE: And we can reduce that now, Shane.

6 BY MR. GENTILE:

7 Q And Mr. Pupo says he'll call you back and then he
8 makes a comment with regard to the photograph. Am I right?

9 A Yes.

10 MR. GENTILE: Okay. And the record has the exhibit
11 in it and there's no particular need to read that comment into
12 the record.

13 THE COURT: None.

14 BY MR. GENTILE:

15 Q But you respond, It's letters from you guys.

16 And then he says, I'll call you back.

17 MR. GENTILE: Can we go to the next page, please.

18 BY MR. GENTILE:

19 Q And in response to him saying he'll call you back,
20 you say, Okay. I need a little help. Right?

21 A Yes.

22 Q Now, getting information from a representative of an
23 agency is one thing, but what kind of help did you need?

24 A I don't recall specifically what that text was in
25 regards to.

1 MR. GENTILE: Okay. Can we go to 1588, old page
2 1327. And please tell us the new page so that Mr. Prince will
3 be able to get to it.

4 IT TECH: Page 49.

5 THE COURT: Thank you.

6 MR. PRINCE: Thank you.

7 BY MR. GENTILE:

8 Q This is on the morning of June 29th, you send
9 Mr. Pupo this text message. And you're asking him as to
10 whether there will be notice posted that day about license
11 extensions or conditional approvals; right?

12 A Yes.

13 Q Okay. And you did that on behalf of your clients,
14 some of whom were apparently panicking?

15 A Yes.

16 MR. GENTILE: Can we go further down, please. Can we
17 please go to 1329. 1588, old page 1329.

18 IT TECH: 51.

19 THE COURT: Thank you.

20 MR. GENTILE: Oh, I'm sorry. We've already -- never
21 mind. We've already covered this one, I believe. This is the
22 one that you sent.

23 THE COURT: We did this morning.

24 MR. GENTILE: Yeah, this morning. Okay. Can we go
25 to page 1343, please.

1 IT TECH: 55.

2 THE COURT: Thank you, Shane.

3 BY MR. GENTILE:

4 Q All right. Now, this is an email to Mr. Pupo and if
5 my math is right, this is three days after you had dinner with
6 him at Hank's with Armen Yemenidjian. And you're asking him to
7 go out to dinner.

8 A Just to make sure the record is clear, this is not an
9 email; this is text messages.

10 Q Oh, I'm sorry. I misspoke. Thank you. This is a
11 text message three days after Mr. Yemenidjian bought you and
12 Mr. Pupo dinner, and you're asking Mr. Pupo out to dinner
13 again; right?

14 A Yes.

15 MR. GENTILE: Let's go to pages 1356 and 57, please.

16 IT TECH: 78 and 79.

17 THE COURT: Thank you.

18 BY MR. GENTILE:

19 Q And this is again between you and Mr. Pupo. It's
20 dated August 30th. And you are -- no. First of all, the
21 dinner -- that dinner invitation with regard to the earlier
22 exhibit, the text message was sent on the 20th and as a matter
23 of fact you had dinner with Mr. Pupo and Mitch Britten, who is
24 another principal of one of your clients, on the 27th of July.
25 Am I right?

1 A I don't believe that's accurate. And we did not have
2 dinner. I believe we --

3 Q Oh, you had lunch.

4 A Yes.

5 Q You invited him to dinner, but you changed it to a
6 lunch; right?

7 A That's correct. We had lunch.

8 Q Yes. Did Mr. Pupo pick up the check that day?

9 A I do not believe so.

10 Q Do you remember who did?

11 A I believe at that lunch it was paid for by Mr.
12 Britten, if I'm recalling correctly.

13 Q Mr. Britten. Okay. Now, in here -- on September the
14 4th, which is 16 days before the applications are due, you ask,
15 How would I get a summary of taxes paid by a company in the
16 last five years? Is there a way to request it from D.O.T.?

17 And he responds, Yeah. I can have Rachel send it to
18 you.

19 And then you respond, Okay. I need it for -- and you
20 redacted that.

21 Now, let me ask you a couple questions before I ask
22 you what's been redacted. You have clients that you represent
23 in that industry; correct?

24 A Correct.

25 Q Your clients, I assume, pay their taxes because

1 you're their contact person, and you would ensure that they do.
2 Fair to say?

3 A Well, I don't think that I can ensure that my clients
4 pay their taxes.

5 Q Well, has it been your experience that your clients
6 don't pay their taxes? Some of them.

7 MR. BICE: Your Honor, I'm going to have to object to
8 that as that -- first of all, if he'd like to talk to her about
9 his client and their joint client, that's fine, but other
10 clients I believe would be privileged -- her information.

11 MR. GENTILE: I'm not asking for the identification
12 of a client.

13 THE COURT: You're just asking a general statement --

14 MR. GENTILE: General.

15 THE COURT: -- has she ever had a client of any
16 nature who had an issue with not paying their taxes?

17 MR. GENTILE: Yes.

18 THE COURT: It's a general question. Yes or no.
19 Don't identify anybody specific.

20 THE WITNESS: In general I have had clients -- a
21 client that has issues with paying taxes or timely paying
22 taxes.

23 BY MR. GENTILE:

24 Q And it has been your experience when your clients do
25 pay their taxes that they do it by way of filing some sort of a

1 form, depending upon what tax they're paying?

2 A Yes.

3 Q Is that fair to say?

4 A Yes.

5 Q And you would also agree that if your client was --
6 let's just take any old client. Okay. If a client of yours
7 has paid taxes, you could find out how much taxes they've paid
8 by asking them for their tax returns. Fair to say?

9 A Generally, yes.

10 Q Or you could find out by asking them to give you
11 the -- either the check or the wire transfer, however it may
12 have been paid. Fair to say?

13 A Yes.

14 Q Okay. Now, who did you redact?

15 A It is privileged.

16 THE COURT: It's not privileged because it's a
17 communication with Mr. Pupo. Mr. Pupo is not one of your
18 clients. He's a third party. So if you could tell us the
19 names.

20 THE WITNESS: Can I refresh my memory?

21 THE COURT: Yes, you may.

22 THE WITNESS: I need -- what date was it?

23 MS. BROWN: Could you scroll up, please, so I can see
24 the date?

25 THE COURT: I think it's September 7th.

1 MR. BICE: 4th.

2 THE COURT: September 4th?

3 MR. BICE: Yes.

4 MR. GENTILE: That one is September 4th.

5 THE WITNESS: What's the time stamp on that, please?

6 THE COURT: Can we get a time?

7 THE WITNESS: Thank you.

8 THE COURT: September 4 at 2:19 p.m.

9 MR. GENTILE: 2:19 is the -- it looks like it's part
10 of the 2:19 p.m.

11 THE WITNESS: Thank you. For the portion on the
12 screen that is redacted out, it says, Albertson's/Safeway.
13 Albertson's, Inc.

14 BY MR. GENTILE:

15 Q Albertson's/Safeway?

16 A Yes.

17 THE COURT: The grocery store.

18 MR. GENTILE: Grocery store.

19 BY MR. GENTILE:

20 Q Now, to my knowledge they don't sell cannabis there.

21 A They do not.

22 Q Okay. So --

23 THE COURT: And is that the second entry below it in
24 the second bubble?

25 THE WITNESS: It's Albertson's Inc.

1 THE COURT: Okay.

2 BY MR. GENTILE:

3 Q And so let me ask you why -- okay, let me take a step
4 back. How do you have standing, how do you have a right in
5 your mind as a lawyer to ask for Albertson's or Safeway's tax
6 returns with the Department of Taxation?

7 MS. BROWN: Objection. Asks for a legal conclusion.

8 THE COURT: Overruled.

9 THE WITNESS: I was asking the process to get a
10 summary. I didn't identify the person. And I did not believe
11 I had standing. I was trying to inquire how we get a summary
12 of taxes paid. That was my question --

13 MR. GENTILE: And you were --

14 THE WITNESS: -- so that I could communicate that to
15 assist.

16 BY MR. GENTILE:

17 Q And you were asking Mr. Pupo to do that?

18 A Yes, as he was an agent of the Department of
19 Taxation.

20 Q He was what?

21 A He was an employee/agent of the Department of
22 Taxation.

23 Q And what division of the Department of Taxation was
24 he an employee or agent of?

25 A He was the deputy director of the Marijuana

1 Enforcement Division.

2 Q And we can agree that neither Safeway nor
3 Albertson's, to your knowledge, the premier lawyer in the state
4 in this arena, sell cannabis?

5 MR. BICE: Objection. Form of the question.

6 THE COURT: Overruled.

7 THE WITNESS: To my knowledge they do not.

8 BY MR. GENTILE:

9 Q Yet, you wanted to know what they had paid in taxes
10 over a period of five years?

11 A I did not want to know. I was asking the way to get
12 a summary.

13 Q Wait.

14 A I didn't need it for my personal knowledge. But,
15 yes, if you're asking, I was asking the process to obtain a
16 summary of the taxes paid by that company.

17 Q Then why did you name Albertson's and Safeway? Why
18 didn't you just say how do you go about getting five years'
19 worth of tax returns on anybody?

20 A That is what I asked in the beginning.

21 Q No. You said that you --

22 A And then he said -- he said I can have Rachel send it
23 to you. I wanted to make it clear that he understood who I was
24 asking from.

25 Q Right. That's my point. Thank you. We do

1 understand each other on this one. What I'm asking you is why
2 did you want Albertson's and Safeway's five years' worth of tax
3 payments in the state of Nevada? And there's a follow-up
4 question to that, but first let's ask that one.

5 THE WITNESS: Can I have a moment to consult with my
6 attorney?

7 THE COURT: You may.

8 (Pause in the proceedings)

9 THE COURT: Have you had a moment to consult with
10 your counsel related to the potential privilege issue?

11 THE WITNESS: I --

12 MS. BROWN: Yeah. The call of the question requires
13 a privilege response.

14 THE COURT: Ms. Brown, you've got to speak up.

15 MS. BROWN: The call of the question requires a
16 privilege response, so we're objecting on the basis of
17 attorney-client privilege.

18 THE COURT: Okay. That's a mental impression as to
19 why she was asking for it, so I'll give her that one.
20 Sustained.

21 MS. BROWN: Thank you, Your Honor.

22 BY MR. GENTILE:

23 Q Why would you be asking someone with the Marijuana
24 Enforcement Division for a grocery store's tax returns?

25 MS. BROWN: I made the objection on privilege, sir.

1 She can't answer that.

2 THE COURT: Same ruling.

3 BY MR. GENTILE:

4 Q Okay. Then we go to the next page and Mr. Pupo --
5 now I understand why he says LOL.

6 He says, What? Are they applying for a retail store?
7 Laugh Out Loud.

8 And you say, The owners of blank have ownership in
9 it, and I just want some sort of proof.

10 What did you mean by that?

11 A Again, I would believe that's privileged.

12 THE COURT: It's not privileged. It's a
13 communication you had with Mr. Pupo. While I'm happy to
14 protect your mental impressions that are not directly expressed
15 to him, the actual information you provided to him is not
16 privileged.

17 THE WITNESS: The redacted portion says, N.O.R.

18 MR. GENTILE: N.O.R., Nevada Organic Remedies. Okay.

19 Your Honor, I would like now to transition from
20 Exhibit 1588 to Exhibit 1451.

21 THE COURT: Has Mr. Bice had an opportunity to look
22 at exhibit -- Proposed Exhibit 1451?

23 MR. GENTILE: He may not have looked at it as 1451.

24 MR. BICE: 1451.

25 MR. GENTILE: But it was in the old --

1 MR. BICE: Yes, I have, Your Honor. And I don't have
2 any -- I have an objection to relevancy, Your Honor, but I
3 don't have any other objections.

4 THE COURT: Anybody else have an objection to
5 Proposed 1451? It will be admitted.

6 (Exhibit Number(s) 1451 admitted.)

7 MR. GENTILE: Can we put it up on the screen, please.

8 THE COURT: It's there.

9 MR. GENTILE: Okay. Can you enlarge that, please,
10 Shane.

11 BY MR. GENTILE:

12 Q This is an email that Ani Patenaude, who apparently
13 works for ConnorPLLC.com, sent to Armen Yemenidjian and others,
14 including you and other employees of your firm, regarding
15 Integral Associates LLC, Notice of Officers. Do you see that?

16 A Yes.

17 Q Okay. Now, you produced this document pursuant to
18 the subpoena that we served upon you; right?

19 A I don't -- I think that's a mischaracterization.
20 It's my understanding that this was produced by Essence.

21 Q Okay. Let's go through that a minute. You produced,
22 if your Bates stamps were accurate -- you filed them. Let me
23 put it that way. You put together over 21,000 pages of
24 documents in response to our subpoena. Is that fair to say?

25 A That sounds accurate, yes.

1 Q That sounds accurate. And you were paid for that.
2 You were paid I believe \$7,000, as I recall. Am I right?

3 A Yes.

4 Q And you were paid for that by my clients; right?

5 A I believe the check came from your law firm, but,
6 yes.

7 Q And what did you do once you assembled the 21,000
8 documents?

9 A Pursuant --

10 Q And while the Court knows this, the record doesn't.

11 A It is my understanding that pursuant to an agreement
12 I took any documents that were responsive to particular clients
13 and turned them over to their litigation counsel for privilege
14 review and other review. Anything that was my general
15 communication with the Department of Tax or other responsive
16 documents such as phone records I turned directly over to your
17 law office.

18 Q Okay. And this particular document, Exhibit 1451, I
19 believe was then -- well, you wouldn't know that, but it was
20 then produced by Essence. I believe at the bottom of it --

21 MR. GENTILE: Shane, could you go to the bottom,
22 please. Yeah, it's got an Essence Bates stamp mark on it.

23 BY MR. GENTILE:

24 Q All right. But this was a letter that was generated
25 by somebody who works for you and you received it. Am I right?

1 A It was an email, not a letter.

2 Q Okay. Well, the next page I think will be a letter.
3 So, you're right, this page is an email.

4 MR. GENTILE: Can we go to the next page, please.

5 BY MR. GENTILE:

6 Q Okay. Now, this letter -- this is a letter; right?

7 A This is a letter, yes.

8 Q Thank you. And it's dated September the 7th, 2018.
9 Now, that was 13 days before the applications for the retail
10 marijuana licenses that were subject to a impartial and
11 numerically scored competitive process were to be filed. Am I
12 right?

13 A Yes. I believe the cut-off date for submission of
14 the retail store applications was September 20th.

15 Q Okay. And you knew that diversity was to be scored
16 on the application -- in the application process?

17 A I knew diversity was to be considered, yes.

18 Q Well, when you say considered, was it to be scored or
19 was it supposed to be a tie breaker?

20 A I believe the -- if I'm recalling correctly, I
21 believe diversity was part of the category that they considered
22 outside the main scoring categories. So I believe -- I don't
23 know if they called it a tie break. I'd have to refresh my
24 recollection on the application, but...

25 Q So it was your understanding that it was going to be

1 considered, but it wasn't necessarily going to be considered
2 within the scoring process. Does that fairly state what you
3 just said?

4 A No, I don't think that's accurate. I think that
5 there was a scoring table in the application that listed basic
6 categories, and my recollection is after that scoring table
7 there was additional factors that they considered and I believe
8 diversity was in there. But I do think diversity was one of
9 the things they listed would be considered.

10 Q Okay. And what did -- well, never mind. That would
11 just be the 20th definition of it. So this letter written by
12 you to Karalin Cronkhite on September 7th -- why did you write
13 this letter?

14 A As stated in the letter, I was writing the letter to
15 notify of an appointment of the newest officer, which is at the
16 very bottom of the screen shot as it shows. But we were
17 notifying of an appointment of an officer.

18 Q All right. So the top paragraph says that
19 Integral -- excuse me. It names two companies, three
20 companies, four companies -- four LLCs, and states that,

21 The persons listed below have been
22 appointed as officers in Integral Associates,
23 LLC, which is the sole member of the
24 above-listed entities, in June 2018.

25 Right? That's what it says?

1 A I believe --

2 Q So you're writing in September of 2018 to report that
3 the people that are listed below have been appointed as
4 officers in June?

5 A No, that's not accurate. This letter -- the first
6 portion is saying that we had -- that those officers had been
7 appointed in June and there was a notice sent out in June
8 regarding this. The very bottom of the letter, which you now
9 cannot see, is this letter is the newest officer to be
10 appointed.

11 Q All right. Well, you remember when I said you put
12 together 21,000 documents?

13 A Yes.

14 Q And then you said that you sent them off to the
15 various lawyers that are representing clients of yours, but the
16 ones that were just yours you sent to me directly. Remember
17 you said that?

18 A The ones that were general that weren't client
19 specific.

20 Q Right. And we agree that this document was produced
21 by Essence after you sent it to Essence. Am I right?

22 A I don't know if it was after I sent it to Essence,
23 but, yes, I know Essence produced it.

24 Q All right. And you know --

25 MR. GENTILE: Mr. Bice, did you have an objection?

1 MR. BICE: I'm sorry?

2 MR. GENTILE: Oh, I thought I heard you. I didn't
3 know --

4 MR. BICE: Oh, no, no. I'm sorry if I made noise.
5 Sorry.

6 MR. GENTILE: Okay.

7 BY MR. GENTILE:

8 Q Are you familiar with NAC453D.438?

9 A Again, I apologize. I don't have the regulation
10 numbers memorized.

11 Q Okay. Well, you are aware that under the regulations
12 that govern the Department of Taxation Marijuana Enforcement
13 Division, when there is a change or an addition of officers by
14 somebody who is a licensee, they must file a written report of
15 that within 10 days. Am I right?

16 A Yes. By regulation any change in officers must be
17 reported within 10 days.

18 Q So a change would be you either added one or one
19 dropped off?

20 A Yes.

21 Q Or you added five or whatever; right?

22 A Yes.

23 Q All of those are changes?

24 A Yes.

25 Q Okay. And there's been no problem with you giving us

1 this September 7th, 2018, letter that references that these
2 five women -- they are all women? Alicia Abernathy, Jennifer
3 Wilcox, Anna Cohen, Sequoah Turner and Lesley Brousseau, they
4 are all women?

5 MS. BROWN: Objection. Assumes facts not in evidence
6 in terms of whether she --

7 THE COURT: Overruled.

8 MS. BROWN: -- produced it or whether Essence
9 produced it.

10 THE COURT: Regardless, overruled.

11 THE WITNESS: Those individuals you named are women.
12 Yes.

13 BY MR. GENTILE:

14 Q All right. And then the new one, Courtney Lynch, the
15 one that is being appointed now in September, that's also a
16 woman?

17 A Yes.

18 Q Okay. Now, here's my question and I know it doesn't
19 come as a surprise because I asked you this at the depo.
20 Where's the letter from June or July reporting to the
21 Department of Taxation that these five women -- Alicia
22 Abernathy, Jennifer Wilcox, Anna Cohen, Sequoah Turner and
23 Lesley Brousseau -- were appointed as officers in June?

24 MS. BROWN: Objection, Your Honor. This goes beyond
25 the scope of the subpoena and in relation to the meet and

1 confer that I held with Mr. Gentile on numerous occasions,
2 going back as recently as March 5th, 2020, where we
3 specifically limited the scope to all communications and
4 inquiries regarding the applications for licenses in the year
5 2018, and saying specifically incident reports, statements of
6 deficiencies and plans for correction going back to 2016 on
7 behalf of any of the applicants in 2018, and that is beyond the
8 ambit.

9 THE COURT: Okay. Mr. Gentile.

10 MR. GENTILE: Your Honor --

11 MR. BICE: I'll short-circuit this for you because I
12 don't know if -- it's actually an exhibit. It's Exhibit 3512
13 if he would like to see the June letter.

14 MR. GENTILE: Let's see the June letter, 3512.

15 THE COURT: Has 3512 been admitted?

16 THE CLERK: No, Your Honor.

17 MR. BICE: No.

18 THE COURT: Is 3512 more than the letter or the form?

19 MR. BICE: Exhibit 3512 is a June 18, 2018 letter.

20 THE COURT: Any objection to the admission of 3512?

21 MR. GENTILE: No.

22 THE COURT: It will be admitted. Thank you.

23 (Exhibit Number(s) 3512 admitted.)

24 MR. GENTILE: Can we see the bottom, please? So this
25 was also an Essence production?

1 MR. BICE: Yes.

2 BY MR. GENTILE:

3 Q Now, let me ask you this, Mrs. Connor: If you sent
4 this letter, the Department of Taxation should've received the
5 original; right?

6 A Can you scroll to the top, please.

7 I believe it, as indicated on the letter, it went via
8 email only. So it would have gone via email to Ms. Karalin
9 Cronkhite.

10 Q But they should have received it?

11 A Yes.

12 Q Okay. Ms. Cronkhite will be testifying. So.

13 THE COURT: Mr. Gentile, let's just focus on the
14 witness we have right now.

15 MR. GENTILE: Sure. Thank you, Judge. I'm sorry.
16 Just a moment, please.

17 THE COURT: You're getting near the two hours you
18 told me about, aren't you?

19 BY MR. GENTILE:

20 Q Now, are you aware -- when you say that when officers
21 change, you have to notify the State that there's been a
22 change, D.O.T.?

23 A Pursuant to regulation, yes.

24 Q Okay.

25 A A change in officers has to be noticed to the, at

1 that time, the Department of Tax.

2 Q Are you aware that two of the women that are named in
3 your -- in Exhibit 1451 were no longer officers by October of
4 2018?

5 MS. BROWN: Objection. Calls for attorney-client
6 privilege.

7 THE COURT: Is your only source of information
8 related to that from a client communication?

9 THE WITNESS: I believe so.

10 THE COURT: Sustained.

11 BY MR. GENTILE:

12 Q All right. Let me ask a different question. Did you
13 send a letter to the State in or about October or November
14 informing the State that two of these ladies were no longer
15 officers?

16 A I can't tell you the date of communications. I know
17 I have sent communications since this one regarding change of
18 officers.

19 Q I am -- I'm sorry. I -- could you please repeat
20 that, please.

21 A I apologize. I don't know the date, but I do know
22 since this September letter I have since sent notices regarding
23 change in officers.

24 Q Might those letters have gone out -- well, never
25 mind.

1 Have you produced those letters?

2 MS. BROWN: Objection. Beyond the scope of the
3 subpoena and the meet and confer that you and I held over a
4 series of weeks, Mr. Gentile.

5 MR. GENTILE: Well, you know, I have -- I don't agree
6 with that. And here's why. If they got off the board in
7 October, the letter would have had to go out by November. All
8 right. And the subpoena covered through the end of the year.

9 THE COURT: And you believe that relates to the
10 application process?

11 MR. GENTILE: Yes.

12 THE COURT: Okay. Mr. Bice.

13 MR. BICE: Well, number one, Your Honor, I don't know
14 how that impacts the application process. The applications
15 were submitted in September, and there was actually --
16 Mr. Gentile's own clients have testified that there was no
17 means by which or requirement to change the application after
18 the date of submittal. And again what does this have to do
19 with why there -- the legality of the process or their
20 constitutional claims, which is what this phase is supposed to
21 be at about? Again, you know, I just object to this roving TIG
22 we are now law enforcement.

23 THE COURT: TGIG.

24 MR. BICE: If you want to become Attorney General,
25 run for the job.

1 THE COURT: So can I ask you a question, Mr. Bice?

2 MR. BICE: Of course.

3 THE COURT: Was the late October-November letter
4 produced by your client?

5 MR. BICE: I don't -- I don't know, Your Honor. I
6 don't think so.

7 THE COURT: I'm looking at Mr. Smith, the brains of
8 the operation.

9 MR. BICE: I don't think so. And I think, Your
10 Honor -- I would have to go back and double check this. I
11 actually think it was -- I think we were beyond the 10 days. I
12 think we -- that it was an oversight is my recollection on
13 getting that to the State.

14 THE COURT: Okay.

15 MR. BICE: I think where we were past the 10 days.
16 That's -- I'm not going to commit to that, but I do think that
17 there was something about the timing on it.

18 THE COURT: All right. So, Mr. Gentile, this appears
19 to be beyond the scope of the agreement you negotiated with
20 Ms. Brown.

21 MR. GENTILE: I do not believe that it is.

22 THE COURT: It's okay. You don't have to agree with
23 me. So it appears to be beyond the scope which is why I asked
24 Mr. Bice if his client, who had an obligation apparently to
25 produce it has produced it. I would assume they've produced it

1 because they're pretty thorough in producing everything.

2 Perhaps Mr. Smith can look through and see if he can find it
3 since apparently it's not the date we were looking for.

4 MR. BICE: Well, on that point, Your Honor, I would
5 need to issue the following caveat. So the only parties that
6 served us with requests for production were Mr. Fetaz and
7 Mr. Parker and Mr. Kennedy's office. And we held a meet and
8 confer with Mr. Fetaz. I don't believe Mr. Parker or
9 Mr. Kennedy's office participated for their own reasons, and we
10 came to an agreement about what the scope of those responses
11 would be. So I can't tell you right now that this fell within
12 it.

13 THE COURT: But we're going to look for it.

14 MR. BICE: Well, we'll look.

15 THE COURT: I can tell that Mr. Smith is hard at work
16 looking for it right now.

17 MR. GENTILE: I'd ask the Court to also ask the
18 Department of Taxation to look for it because they should have
19 the original.

20 THE COURT: Well, did they produce the entire
21 licensee files? My recollection is no.

22 MR. GENTILE: No, they did not.

23 THE COURT: They only produced the applicant files
24 because that's all we're here about is the applicant files.

25 MR. GENTILE: Let's move on to -- let me go through

1 the receipts.

2 MR. BICE: Receipts?

3 MR. GENTILE: Receipts.

4 MR. BICE: Okay. I think we're in agreement on most
5 of those. Just list them off.

6 MR. GENTILE: Yeah, I will.

7 All right. Can we show Exhibit 2068, please.

8 THE CLERK: Proposed.

9 THE COURT: Any objection to 2068?

10 MR. BICE: You have to let me just catch up for one
11 second, Your Honor. My iPad is slow.

12 THE COURT: Mr. Prince, put your mask back on.

13 MR. PRINCE: Sorry, Judge.

14 MR. BICE: Mr. Gentile, there is no 2068.

15 MR. GENTILE: There is now.

16 (Pause in the proceedings.)

17 MR. GENTILE: I wish we could go back to a paper
18 trail.

19 THE COURT: Can't under the current public health
20 emergency the Chief Judge's rule is everything's got to be
21 electronic under the old electronic exhibit protocol that Max
22 Fetaz wrote when he was still my law clerk. That's a long time
23 ago.

24 MR. GENTILE: These masks impede the ability of a
25 jury to hear. That's one of the things I am realizing now.

1 THE COURT: It impedes a lot of things.

2 MR. GENTILE: Yeah.

3 Okay. 2068. Could you put it up, Shane, please.

4 THE CLERK: So proposed.

5 THE COURT: Any objection?

6 (No audible response.)

7 THE COURT: Was there an agreement?

8 (No audible response.)

9 THE COURT: Any objection? Hearing none.

10 MR. BICE: No. No. None.

11 THE COURT: It's admitted.

12 (Exhibit Number(s) 2068 admitted.)

13 BY MR. GENTILE:

14 Q 2068. What is it?

15 A That is a calendar entry from my calendar.

16 Q Okay. And what is the entry?

17 A It is to have lunch with Deonne Contine and Jorge
18 Pupo on March 2nd, 2018.

19 Q All right. And can we now go to 2069.

20 THE CLERK: Proposed.

21 BY MR. GENTILE:

22 Q By the way, excuse me. Before we go to 2069, who
23 paid for lunch that day? Jorge?

24 A If I recall, I believe either Deonne or Jorge paid,
25 if I recall.

1 Q And let's go to Exhibit 2 -- excuse me, Exhibit 2069.

2 THE CLERK: Proposed.

3 THE COURT: Any objection?

4 MR. BICE: No objection, Your Honor.

5 THE COURT: Be admitted.

6 (Exhibit Number(s) 2069 admitted.)

7 BY MR. GENTILE:

8 Q What is 2069?

9 A That is a credit card statement.

10 Q All right.

11 A For my -- I believe that's my business credit card,
12 mine and my husband, my law partner.

13 Q And there's an entry from June 28th. District
14 Bella Vita, Henderson, Nevada for \$124. What is district Bella
15 Vita?

16 A Bella Vita is a restaurant at the district in Green
17 Valley.

18 Q Okay. And did you have -- did you have lunch there
19 that day?

20 A My recollection is that was a dinner.

21 Q Okay. And with whom did you have dinner?

22 A My husband, and Mr. Pupo was there as well.

23 Q Thank you. That was June 28th. Okay.

24 Exhibit 2070, please.

25 THE CLERK: Proposed.

1 THE COURT: Any objection to 2070?

2 MR. BICE: No.

3 UNIDENTIFIED SPEAKER: No.

4 THE COURT: Be admitted.

5 (Exhibit Number(s) 2070 admitted.)

6 BY MR. GENTILE:

7 Q What is 2070?

8 A This is a calendar entry for my calendar for July
9 27th, 2018, to have lunch with Jorge Pupo and Mitch Britten.

10 Q And you've already testified earlier, I believe, that
11 this lunch was paid for by Mitch Britten?

12 A That is my recollection.

13 Q That's your memory. Okay.

14 Let us go to 2071, please.

15 THE CLERK: Proposed.

16 THE COURT: Any objection?

17 MR. BICE: No.

18 THE COURT: Be admitted.

19 (Exhibit Number(s) 2071 admitted.)

20 BY MR. GENTILE:

21 Q What is 2071?

22 A 2071 is my business credit card statement, and that
23 is a charge for Barcelona Tapas.

24 Q All right. And this was on August the 3rd; am I
25 correct?

1 A Yes.

2 Q And who did you have lunch with at Barcelona Tapas on
3 August the 3rd?

4 A I would need to confirm with my calendar, but I
5 believe my husband and Mr. Pupo might have been at that
6 meeting. I know Mr. Pupo was there. I just don't know if this
7 is the one my husband might have --

8 Q So it was either you and Mr. Pupo or you, your
9 husband and Mr. Pupo?

10 A Yes.

11 Q All right. But it was a dinner?

12 A It was a lunch.

13 Q It was a lunch. Okay. All right. So that was only
14 a week after the lunch with -- with -- never mind. We'll do
15 that later.

16 2072, please.

17 THE CLERK: Proposed.

18 THE COURT: Any objection?

19 MR. BICE: No objection, Your Honor.

20 THE COURT: Be admitted.

21 (Exhibit Number(s) 2072 admitted.)

22 BY MR. GENTILE:

23 Q What is 2072?

24 THE COURT: Is the Elephant Bar still around?

25 MR. GENTILE: I'm sorry?

1 THE CLERK: Closed.

2 UNIDENTIFIED SPEAKER: It's closed.

3 THE COURT: Yeah.

4 THE WITNESS: This is my -- it's hard to see with
5 this screenshot, but this is a portion of my business credit
6 card statement showing an August 30th charge for Elephant
7 Bar.

8 Q And who did you -- was that dinner, or was that just
9 drinks, or what was it?

10 A That was dinner with my husband, Mr. Pupo, and his
11 wife.

12 Q So this was a dinner at which Mr. Pupo and his wife
13 attended with you and your husband?

14 A Yes.

15 Q Is his wife an employee of the Department of
16 Taxation?

17 A No.

18 Q Can we now go to Exhibit 6 -- oh, excuse me,
19 Exhibit 2073.

20 THE CLERK: Proposed.

21 MR. BICE: Mr. Gentile, this is just one page as
22 well.

23 No objection.

24 THE COURT: Any objection?

25 MR. BICE: No. None. No, Your Honor.

1 THE COURT: Be admitted.

2 (Exhibit Number(s) 2073 admitted.)

3 (Pause in the proceedings.)

4 BY MR. GENTILE:

5 Q You see it?

6 A Yes.

7 Q All right. Did you have dinner at Ventura Munitions
8 on November 22nd?

9 A No.

10 Q Okay. What did you do there?

11 A That is not my credit card. That would be my
12 husband's.

13 Q All right. But you disclosed it in this case because
14 on that day and time -- well, let me rephrase the question.
15 Let me start over.

16 Ventura Munitions is basically an ammunition store.
17 It sells guns and [indiscernible].

18 A That's correct. That's my understanding.

19 Q All right. And your husband is a shooter?

20 A Yes.

21 Q Okay. And your husband shoots with, recreationally
22 shoots with Jorge Pupo. Am I correct?

23 A I wouldn't say -- the way you made it sound is that
24 they do it frequently. He has gone shooting with Mr. Pupo.

25 Q He has more than once with Mr. Pupo?

1 A I believe they've gone on two occasions. Yes.

2 Q Okay. And on this occasion, he bought the
3 ammunition?

4 THE COURT: Can you please put us on mute.

5 THE WITNESS: My -- my --

6 BY MR. GENTILE:

7 Q And this --

8 A My understanding is --

9 Q Please let me rephrase -- let me finish the question.
10 I can understand why you thought I was finished, but I wasn't.

11 The next day, in fact, before we even finish, let's
12 go to Exhibit 2074.

13 THE CLERK: Proposed.

14 THE COURT: Any objection to 2074?

15 MR. GENTILE: Well, wait a minute.

16 THE COURT: That wasn't where you wanted to go?

17 MR. GENTILE: No.

18 MR. BICE: I have no objection to that one.

19 UNIDENTIFIED SPEAKER: Yeah --

20 MR. GENTILE: Yeah, no.

21 THE COURT: 2074 will be admitted.

22 (Exhibit Number(s) 2074 admitted.)

23 MR. GENTILE: It's the wrong one that's identified,
24 Your Honor.

25 MR. PRINCE: We agree it can be admitted. We're

1 fine.

2 THE COURT: It's okay.

3 And the next one you want to go to?

4 MR. GENTILE: Well, the next one I want to go to is
5 marked 2074 on this page that Mr.-- that Shane gave me.

6 THE COURT: Why don't you give him the other Bates
7 number, and he'll do that magical thing he does and find it.

8 MR. GENTILE: The old -- the 1789 Bates number would
9 have been 1789-15.

10 (Pause in the proceedings.)

11 MR. GENTILE: That is it, but what number is it now?

12 UNIDENTIFIED SPEAKER: Doesn't have one yet.

13 THE COURT: So it'll be next in order.

14 MR. GENTILE: Next in order.

15 THE COURT: When you give the drive tomorrow to Nick,
16 who unfortunately will have to come back again tomorrow.

17 THE CLERK: That'll be 2081.

18 UNIDENTIFIED SPEAKER: -91.

19 THE CLERK: -91. -91 or -81?

20 THE COURT: He said 91. Apparently we're missing
21 some.

22 Any objection to 2091, which apparently is on the
23 screen for you guys?

24 MR. BICE: That can't be what you meant.

25 MR. GENTILE: That's not what I wanted. The date is

1 wrong. I have the right one. I'm just --

2 Oh, here we go. I'm sorry. Well, you know what, it
3 is the right -- it was the right one.

4 MR. BICE: Okay.

5 MR. GENTILE: But it was the third page.

6 THE COURT: Okay. Can we go to the third page.

7 MR. GENTILE: So we go back -- no. We've got to go
8 back to 2074.

9 BY MR. GENTILE:

10 Q And there are three pages in that exhibit, and the
11 second and third page are dated November 23rd. Am I right,
12 Mrs. Connor?

13 A Yes.

14 Q Okay. And this is from your calendar?

15 A Yeah.

16 Q And from your husband's calendar; right?

17 A Yes. I believe this is from my husband's calendar.

18 Q All right. So your husband made two entries that day
19 in his calendar regarding him going shooting with Jorge; right?

20 A Correct. Correct.

21 Q And then -- hmm. Okay. Do you know why the second
22 one says shooting with Derek Connor?

23 A My understanding is that this wasn't -- this came as
24 an invite from Jorge's calendar. Hence --

25 THE COURT: Do you know how to do that, Mr. Gentile?

1 MR. GENTILE: I'm sorry?

2 THE COURT: You put in the email of the invitee, and
3 you send it to him, and then they accept it, and it shows up on
4 their calendar too. It's a really cool function if you're
5 trying to force people to do things with you.

6 MR. GENTILE: Yeah. Maybe I should get a life.

7 THE COURT: I do it in mental health court.

8 MR. GENTILE: Okay.

9 BY MR. GENTILE:

10 Q Okay. So if you read them together, the receipt from
11 the day before, November 22nd shows that your husband spent
12 \$198 and change at the munitions store, then went shooting the
13 next day with Jorge; right?

14 A That is correct. And my understanding is that then
15 Jorge paid him back for the munition he purchased.

16 MR. GENTILE: I'm going to ask that that be stricken
17 because --

18 THE COURT: Denied.

19 MR. GENTILE: Well, it's pure hearsay.

20 THE COURT: Denied.

21 MR. GENTILE: Okay.

22 THE COURT: Okay. You're not going to ask about the
23 bakery on the prior page? Because I want to know about the
24 bakery in Carson City. Come on.

25 / / /

1 BY MR. GENTILE:

2 Q Let's go to 2075, please.

3 THE COURT: Isn't that nice? How do you
4 spend \$367.29 at a bakery? Even I don't spend that much at a
5 bakery at Freed's.

6 Come on. Ask.

7 BY MR. GENTILE:

8 Q 2075, please. Okay. All right. This is you --

9 THE COURT: No? Okay.

10 THE CLERK: Proposed 2075.

11 BY MR. GENTILE:

12 Q Now, this is another meeting between you and Mr. Pupo
13 and Mr. Britten. Am I correct? You had one earlier, but this
14 is a second one?

15 A Yes.

16 Q And this took place at Barcelona?

17 A Yes.

18 Q Tapas?

19 A Yes.

20 Q And who paid the bill?

21 A I don't recall, but it wasn't me.

22 Q It wasn't you, and it wasn't Mr. Pupo either, was it?

23 A I don't recall. I know -- I know Mitch had bought
24 the lunch previous is my recollection.

25 Q Okay. Let's look at --

1 THE CLERK: And that one is proposed.

2 THE COURT: Any objection?

3 MR. BICE: No objection [inaudible].

4 THE COURT: Be admitted.

5 (Exhibit Number(s) 2075 admitted.)

6 THE COURT: Thank you, Dulce.

7 BY MR. GENTILE:

8 Q 2076, please.

9 THE CLERK: Proposed.

10 BY MR. GENTILE:

11 Q Proposed 2076.

12 THE CLERK: Thank you.

13 MR. BICE: No objection.

14 THE COURT: Any objection to this one?

15 MR. BICE: No.

16 THE COURT: Be admitted.

17 (Exhibit Number(s) 2076 admitted.)

18 THE COURT: So this must not be the same Elephant Bar
19 that used to be on Maryland Parkway since this one says
20 Henderson.

21 MR. BICE: Right.

22 THE COURT: Okay.

23 BY MR. GENTILE:

24 Q Now, this is December 7th of 2018. Am I correct?

25 A Yes.

1 Q And that was two days after the public announcement
2 of who was the winners and losers in accordance with what was
3 to be the impartial and numerically scored competitive process.
4 Am I right?

5 A If I understand your question correctly, yes, this
6 was two days after the results were released in the retail
7 store application.

8 Q Okay. And this was at the Elephant Bar. Who was --
9 who was at the Elephant Bar that day besides you and
10 Mr. Yemenidjian and Mr. Pupo? Anyone?

11 MR. BICE: Objection.

12 THE WITNESS: Mr. Yemenidjian did not attend that
13 meeting.

14 BY MR. GENTILE:

15 Q This was just you and Mr. Pupo?

16 A And I believe my husband was there.

17 Q Okay.

18 MR. BICE: I'll withdraw my --

19 THE COURT: Were you going to make an objection?

20 MR. BICE: She -- she corrected him.

21 THE COURT: Okay. Thank you. I was trying to get
22 your whole objection out before I ruled on it.

23 MR. BICE: I'll withdraw.

24 THE COURT: Okay.

25 / / /

1 BY MR. GENTILE:

2 Q And was this drinks? Dinner?

3 A This was dinner.

4 Q And was Mr. Pupo's wife there that day?

5 A Not that I recall specifically.

6 MR. GENTILE: Okay. Can we see 2077 now, please.

7 THE CLERK: Proposed.

8 BY MR. GENTILE:

9 Q Do you remember when you just said that it was you
10 and your husband and Mr. Pupo? This is your calendar for
11 December the 7th. Am I right?

12 A Yes. That's correct. Originally Armen was going to
13 attend the meeting, but he was unable to.

14 Q Okay.

15 THE CLERK: That's proposed.

16 THE COURT: Any objection?

17 MR. BICE: No, no objection, Your Honor.

18 THE COURT: Be admitted.

19 (Exhibit Number(s) 2077 admitted.)

20 BY MR. GENTILE:

21 Q You would agree that the plan was that Armen
22 Yemenidjian would have been there with you and Mr. Pupo?

23 A That was what was originally planned, yes.

24 Q Two days after the announcement?

25 A Two days after the announcement of the results of the

1 retail --

2 Q Right.

3 A -- application.

4 Q And how long before the announcement did you make
5 arrangements for that December 7th meeting?

6 A I don't recall the specific date, but we had
7 requested a meeting in late November for this meeting.

8 Q Late November. Okay.

9 Can we look at Number 2078, please.

10 THE CLERK: Proposed.

11 MR. GENTILE: Proposed.

12 THE CLERK: Thank you.

13 THE COURT: Any objection?

14 MR. BICE: Can I see the whole document, please,
15 Shane. Keep going, Shane, please.

16 No objection.

17 THE COURT: Any objections?

18 (No audible response.)

19 THE COURT: Be admitted.

20 (Exhibit Number(s) 2078 admitted.)

21 THE COURT: Can you put us on mute.

22 MR. GENTILE: Let's take it from the bottom, Shane,
23 please.

24 BY MR. GENTILE:

25 Q Now, this is an email from you on November the 27th,

1 2018. You see that; am I correct?

2 A November 27th, 2018, yes.

3 Q Right. And Amber Virkler, who is she?

4 A She is an employee of the Department of Tax. I
5 believe she is an executive assistant.

6 Q So she's Mr. Pupo's assistant?

7 A She worked with Mr. Pupo, and I believe other
8 individuals in the Department of Tax.

9 Q And this is basically asking her at your request and
10 Armen Yemenidjian's request to meet with Jorge to discuss an
11 upcoming transfer:

12 Would he be available to meet with us on
13 December 7th between 3:00 and 5:00? If
14 possible, we'd like to meet somewhere away
15 from his office.

16 Right? That's what it says?

17 A Yes.

18 Q All right. Now, you remember that exhibit that had
19 up at the top, As per Jorge? It was in red, remember?

20 A Yes.

21 Q Do you remember the date? Remember I asked you to
22 remember the date?

23 A November 28, 2018.

24 Q Right. Okay. Let's go to the next one, not the next
25 exhibit but the next page of this.

1 On the 28th you are -- you receive a response from
2 Amber saying, Yes, that day and time will work. Please let me
3 know where you would like to meet so I can add it to the
4 calendar. Right?

5 A Yes.

6 Q And that's the same day that, As per Jorge, whoever
7 wrote that, that's the date that they put in it; right?

8 A That was the date on that exhibit, yes.

9 Q Right. And then now on November 29th, you
10 respond -- no, I take it back. Someone responds on your behalf
11 saying that, We are confirmed for December 7th at the
12 Elephant Bar located at 2270 Village Walk in Henderson.

13 And that meeting did take place, but you're saying
14 that Mr. Yemenidjian was not there?

15 A That's correct. And it was later because we ended up
16 being there later.

17 Q Are you aware of when Mr. Pupo received the results
18 of the scoring for the impartial, numerically scored,
19 competitive process, at least as it was characterized by the
20 law, when he received the scores?

21 A If I recall, in my deposition you stated that there
22 was a date he received the scores in late November.

23 Q But you don't --

24 A But I was not aware of that before you stated it in
25 my deposition.

1 Q Look at 2079, please.

2 THE CLERK: Proposed.

3 THE COURT: Any objection?

4 (Pause in the proceedings.)

5 THE COURT: How many pages is it?

6 UNIDENTIFIED SPEAKER: Seven.

7 THE COURT: Okay. Mr. Bice.

8 MR. BICE: Shane, can you just go through them real
9 quick. Thank you, Shane.

10 No objection, Your Honor.

11 UNIDENTIFIED SPEAKER: No objection.

12 THE COURT: Be admitted.

13 (Exhibit Number(s) 2079 admitted.)

14 BY MR. GENTILE:

15 Q Okay. Let's go through them. What is the first
16 page?

17 A This is a expense entry document that is used that my
18 firm. This one was completed or dated August 30th, 2018. It
19 says my initials and my husband's initials. Dinner with the
20 executive director of D.O.T.

21 Q Now, in fact, you did not have dinner with the
22 executive director of the D.O.T. Am I right? You had dinner
23 with the deputy director?

24 A Deputy director, yes.

25 Q Right. And also you had dinner with his wife that

1 night?

2 A That's correct.

3 Q All right. But this -- his wife does not appear on
4 here?

5 A That's correct. This was filled out by a staff
6 member of my firm, and it does not indicate that.

7 Q All right. But she fills it out at your direction,
8 doesn't she?

9 A We provide --

10 Q Or he?

11 A We provide her the receipt with some information, and
12 she completes it.

13 Q And I take it then that what you provided her did not
14 say that Mrs. Pupo was there?

15 A I -- I give her the receipt and just tell her what it
16 was.

17 Q Okay. Let's go to the next page, please.

18 Is that the receipt you gave her?

19 A That looks like the receipt from that dinner, yes.

20 Q Well, it's got the same date, but --

21 A It's the same date. Yeah.

22 Q This says there's only three guests there. That's
23 not your memory though; right?

24 A No. My memory is that my husband arrived a little
25 late and attended and ate dinner with us. And there were four

1 guests.

2 Q All right. Let's go to the next page, please. This
3 is -- oh, by the way that earlier one, that's a reimbursement
4 form. Am I correct? I mean, you're reimbursing yourself?

5 A No. Because it asks if it's being reimbursed, and it
6 says no.

7 Q Okay. Let's go to the first page. I'm sorry. I'm
8 not understanding what you're saying.

9 What does it say?

10 A So if you look, it says, Reimbursable. If, yes, to
11 whom.

12 Q It says no. I see. Okay.

13 A No.

14 Q All right. Let's go to the next -- the next form.
15 There we go.

16 D.O.T. holiday lunch, D.O.T. North, 3, 67, 29. What
17 was the event that occurred --

18 Well, let's go to the receipts, please. What is --
19 what is this D.O.T. North holiday lunch?

20 A I bought lunch and had it delivered to the D.O.T.
21 North -- or my firm bought lunch and had it delivered to the
22 D.O.T. North offices for the staff of the marijuana program.

23 Q Okay. And let's go to the page up, please. The form
24 there. No. The other one.

25 Okay. This was also nonreimbursable?

1 A Correct.

2 Q When you say nonreimbursable, does your -- this was
3 placed on a credit card; right? A Visa card?

4 A This was on my firm credit card.

5 Q Right. And your firm paid for it?

6 A Yes.

7 Q Okay. And the same thing is true with the earlier
8 one; right?

9 A That's correct.

10 Q With the one that Mrs. Pupo attended --

11 A Yes.

12 Q -- your firm paid for it?

13 A Yes.

14 Q So you weren't being reimbursed for it because you
15 never paid for it yourself in the first place?

16 A But that question is, is if -- if the staff member
17 needs to be reimbursed for their out-of-pocket expenses.

18 Q Sure.

19 A Since I have a firm credit card, I don't get
20 reimbursed.

21 Q I understand. Thank you.

22 MR. GENTILE: So let's go down again, please, Shane,
23 to the next event.

24 BY MR. GENTILE:

25 Q So this D.O.T. holiday party, what does that mean?

1 A It's not a holiday party.

2 Q It's not a holiday party. It's a holiday lunch?

3 A Yes. I provided lunch to the member -- the
4 regulators that I worked with on a daily basis throughout the
5 year as a thank you for all their hard work and effort.

6 Q And you do that both north and south?

7 A That's correct.

8 Q And you did that in 2018?

9 A Yes.

10 Q And you did it in 2017?

11 A I don't recall if I did it in 2017. I -- I did it
12 multiple times. Yes. I did it in 2017 as well. That is
13 accurate.

14 Q Right.

15 MR. GENTILE: Can we go to Exhibit 2080, please.

16 THE CLERK: Proposed.

17 BY MR. GENTILE:

18 Q So you did it in '17 and '18?

19 A I did.

20 THE COURT: Any objection, Mr. Bice?

21 MR. BICE: It's a single page, Shane?

22 MR. GENTILE: Single page, single entry.

23 MR. BICE: No objection.

24 THE COURT: Be admitted.

25 (Exhibit Number(s) 2080 admitted.)

1 BY MR. GENTILE:

2 Q All right. You produced Exhibit 2080 pursuant to our
3 subpoena, and it is an expenditure from February 12th, 2019.

4 Do you see that?

5 A Yes.

6 Q At Fantastic's. Do you see that?

7 A Yes. Fanatics, not Fantastic's.

8 Q Oh, I'm sorry. Again, it's -- I typed Fantastic's on
9 here, but it is Fanatics.

10 Now, Fanatics, to my understanding, because I have
11 done business with Fanatics, basically is a sports memorabilia
12 online store, or sometimes they have actual brick-and-mortar
13 stores. Is that your understanding of what Fantastic's (sic)
14 is?

15 A It's sports, sports-related items, yes.

16 Q Okay. And what did you buy and for whom for \$50.85
17 from Fanatics?

18 A I did not buy anything. My husband bought an
19 Michigan State, I don't remember what it was, but something
20 from Michigan State for one of the inspectors -- hence why we
21 left it there -- that works at the Department of Tax. They had
22 an ongoing rivalry. As you might know, Ohio State versus
23 Michigan. My husband is a big Ohio State fan. And when Ohio
24 State would win, my husband would -- the other person, the
25 inspector had to buy an Ohio State thing. My husband in return

1 bought him a Michigan item.

2 MR. GENTILE: Okay. Your Honor, Mr. Bice and I
3 discussed the next exhibits, and I think it might be a good
4 time to take a couple of minute break because I think there
5 will be objections to them.

6 I will read them, what they are into the record. My
7 next exhibits are 1293, and I don't know if that's proposed.

8 THE COURT: 1293.

9 MR. GENTILE: 1427.

10 THE CLERK: 1-4-2-7.

11 MR. GENTILE: 1-4-2-7. 1999.

12 THE CLERK: Okay.

13 THE COURT: And, Mr. Bice -- I'm sorry.

14 MR. GENTILE: 2084 through 2090, all of them,
15 inclusive.

16 THE COURT: Mr. Bice, did you have an opportunity to
17 look at those proposed exhibits?

18 MR. BICE: I will during our two minutes, Your Honor.

19 THE COURT: Okay.

20 MR. BICE: I don't think I have --

21 THE CLERK: They are all proposed.

22 THE COURT: I just was -- if you had already looked
23 at them, I was going to move forward. If you need time, we'll
24 do it.

25 All right. Thank you. We'll have a 10-minute break.

1 (Proceedings recessed at 2:07 p.m. until 2:18 p.m.)

2 THE COURT: All right.

3 BY MR. GENTILE:

4 Q All right. Mrs. Connor, one of the things that you
5 do for your clients, all of them, is deal with statements of
6 deficiency; am I correct?

7 A As a regulatory compliance lawyer, yes, I assist my
8 clients in responding to statements of deficiency.

9 Q And there is, I'm going to assume, but correct me if
10 I'm wrong, there are no people in the marijuana industry that
11 are always in compliance a hundred percent of the time; would
12 that be fair to say?

13 A If you're asking do I believe all or most licensees
14 receive statements of deficiency, the answer is yes.

15 Q Yes. So it's known, in at least some respects,
16 there's nobody in this room that may be in the marijuana
17 industry that has never had a statement of deficiency?

18 A To my knowledge I don't know of a license holder that
19 has not had a statement of deficiency.

20 Q Okay. And they are not all resolved the same way by
21 the Department of Taxation of Marijuana Enforcement Division
22 though, are they?

23 MS. LEVIN: Objection. Foundation.

24 THE COURT: Overruled.

25 THE WITNESS: The regulations lay out a process. The

1 statement of deficiency is issued. The license holder has 10
2 business days to submit a plan of correction. The -- what was
3 the Department of Tax had time to review that and determine if
4 the corrective actions were appropriate and approve it or
5 request additional corrective actions. If -- so I believe so
6 chooses the Department could tell the license holder how to
7 correct the action if their proposed corrective actions were
8 not appropriate.

9 Q Okay. And in your experience, and I don't mean
10 necessarily just with your clients, but in your experience,
11 have there been disciplinary impositions made by the Department
12 of Taxation either by way of fine or other kinds of, let's call
13 them penalties.

14 A I am aware that there have been civil penalties.

15 Q Civil penalties?

16 A Yes. I believe that's the terminology used in the
17 regulations.

18 Q And what are the nature of the civil penalties that
19 you're aware of?

20 A I don't understand the question.

21 Q With regard -- you said -- your answer was you are
22 aware that there have been civil penalties. My question for
23 you is, what civil penalties are you aware of, but don't,
24 please don't say who had the penalty imposed upon them. Just
25 the nature of the penalties.

1 A Are you asking me to, like, amount or nature like
2 what it was related to, that's what I don't understand.

3 Q I don't understand what you just said; so please say
4 it again. And I'm trying -- I'm not trying to be difficult. I
5 just can't understand through that mask, and it's not your
6 fault.

7 A My question was when you say nature, are you asking
8 amounts or are you asking what it was related to?

9 Q Well, both. Amounts and, you know, why.

10 A In the regulations there's civil penalties ranging
11 from, I believe, \$500 to \$30,000 and it relates -- it can be,
12 you know, things such as failure to disclose a proposed
13 transfer of ownership which would be a civil -- could result in
14 a civil penalty or things such as failure to have your
15 advertising approved and compliant or other such matters.

16 Q Okay. What about sale to minors?

17 A Are you asking if that could result in a civil
18 penalty?

19 Q I'm asking you if -- yes, I'm asking you if that
20 could result in a civil penalty?

21 A Yes. I believe under the regulation from the
22 Department of Taxes sale to someone under the age of 21 could
23 result in a civil penalty.

24 Q It could also result if there is more than one, it
25 could result in another civil penalty, and if it gets to the

1 three or four stage, it can result in suspensions and things of
2 that nature under NAC 453D.905-4?

3 A There are categories of civil penalties that were in
4 the regulations, and I believe that sale to someone under the
5 age of 21, if my memory serves correctly, is a category two.
6 And, yes, as you stated, depending on the number of violations
7 found and asserted they -- the penalties can escalate.

8 Q Okay. And then, of course, outside of the regulatory
9 aspect of it, there are also criminal penalties for sale of
10 marijuana, excuse me, cannabis under certain circumstances,
11 minors being one of them?

12 MR. BICE: Objection. Foundation.

13 THE COURT: Overruled.

14 THE WITNESS: I don't practice in the criminal law
15 area, but, yes, I believe there are criminal statutes and
16 penalties for sale of marijuana outside our legal marijuana
17 system.

18 BY MR. GENTILE:

19 Q In fact, Ballot Question 2 expressly reserved that
20 criminal penalties remain in effect for sale to minors, driving
21 under the influence and things of that nature?

22 A Yes, there were -- my understanding is that statute
23 preserved certain criminal penalties.

24 Q Okay. Now, have you ever heard of any -- well, let
25 me ask that differently.

1 Can we bring up Exhibit 2084.

2 THE COURT: Any objection? Mr. Bice, any objection?

3 MR. BICE: Yes, I do. This isn't one of the -- oh,
4 2084 through 97, Mr. Gentile?

5 MR. GENTILE: I am only bringing up 2084 at this
6 point.

7 MR. BICE: All right. So, yes, Your Honor, I do have
8 an objection to this. These are internal statements of
9 deficiencies investigation by the company under the State law
10 and also the Attorney General's office addressed this. These
11 matters are deemed confidential. There is simply no basis for
12 introducing them into the Court record.

13 This is another gratuitous attacks by the TGIG party.
14 It has nothing to do with their so-called claims about the
15 legality of the application process, and so I object to it.
16 It's not relevant [indiscernible] and State law declares it to
17 be confidential.

18 THE COURT: Thank you.

19 MS. LEVIN: Your Honor, same objection under NRS 360
20 [indiscernible] those records relating to investigations are
21 privileged and confidential. The Department cannot disclose
22 those; so I don't believe we can waive that privilege.

23 THE COURT: Well, but the Department not disclosing
24 them doesn't mean that they aren't able to be disclosed by the
25 party who submitted them. The Department clearly can't

1 disclose them without a Court order.

2 Mr. Gentile, would you like to respond?

3 MR. GENTILE: Yes. First of all, I think I need to
4 make it clear why these are being admitted. It should be clear
5 by now to certainly everyone in this room that we are
6 attempting to establish not only that this process was not
7 fair, but why it was not fair and who caused it to be unfair.

8 By way of a proffer, this particular exhibit would
9 establish a couple of things. Number 1, it would establish
10 that on February 3rd, 2018, March 27th, 2018, and April
11 7th, 2018, three different entities or -- three Essence
12 entities, different ones though, not the same ones, different
13 ones, were involved in a sale to underage persons.

14 These documents basically admit that, but they do
15 more than that because if you analyze these documents, whereas
16 Integral takes the position that its subsidiaries are separate
17 and apart from each other and therefore can file applications
18 separate and apart from each other, when their feet are under
19 fire, they suddenly become just a single entity, and the
20 documents prove that because it's their own statements and
21 statements by their lawyer, that is the inference from them.

22 And so separate and apart from the fact that these
23 have anything to do with any kind of a statement of deficiency,
24 if you want to call it that, they have a separate and important
25 in this case circ -- not even circumstantial, it's direct

1 evidence of an issue that has nothing to do with their behavior
2 in terms of why they were being disciplined or investigated
3 even.

4 Separate and apart from that, there is a thread of
5 emails here exchanged between people that work for the
6 Department of Taxation Marijuana Enforcement Division where the
7 agents -- not Mr. Pupo, but the agents are investigating this,
8 and they are basically recommending a -- and the specific agent
9 would be Damon Hernandez and others joined him -- are
10 recommending that there be a 30-day suspension because there
11 have been three of these episodes in less than 60 days.

12 It would also establish that -- and combined with
13 Ms. Connor's testimony, which she gave at her deposition and I
14 think partially today as well, there are no written
15 communications between Ms. Connor and Mr. Pupo, but there are
16 written communications between agents where one of them says
17 that Mr. Pupo advised him on a Friday before a decision is
18 made, that Mr. Pupo had spoken with one of the owners of
19 Essence; he doesn't say who, and that based on that discussion,
20 Mr. Pupo was directing that the investigation cease, that it be
21 removed from the log and et cetera, et cetera, et cetera.

22 So personally, I mean -- well, personally I do care,
23 but I have my own reasons for that, and I don't -- I'm not
24 arguing those for purposes of the Court or for purposes of this
25 case. Okay. Sale to minors is a -- it's a serious thing, but

1 that's not the reason that I'm putting it to the Court. I'm
2 putting it to the Court to prove those other issues.

3 THE COURT: Thank you. Mr. Bice, do you want to say
4 anything further?

5 MR. BICE: I'm sorry?

6 THE COURT: Did you want to say anything further?

7 MR. BICE: Yes, I do, Your Honor. So I disagree with
8 Mr. Gentile's characterization of why this is being offered as
9 evidenced by the fact that he has his own clients that have
10 also have sales to minors and even more egregious violations
11 that include employing of minors.

12 The theory that he's trying to suggest is, well,
13 those somehow aren't relevant, but his competitors' alleged
14 infractions are relevant? They are separate licensees. You
15 already heard from Mr. Gilbert yesterday about how they
16 interpret the regulation. If you have separate licenses, you
17 are allowed, each license was permitted to apply. I understand
18 that Mr. Ritter, Mr. Gentile's client doesn't like that fact,
19 but that's just the way that the law is, and it's actually
20 built into the regulation.

21 But this has nothing to do with it. Anybody who has
22 watched this proceeding, watched these opening statements knows
23 what this is. This is a smear campaign by competitors using
24 the court process for that end. And that's all this is. So if
25 my client's statement of deficiencies are relevant, Your Honor,

1 all of Mr. Gentile's clients' statements of deficiencies are
2 relevant and will all similarly be shoved into the court
3 record.

4 THE COURT: Thank you.

5 To the extent that the documents are from the
6 licensee certificate holder or counsel for any of those
7 entities they may be produced. If they are solely internal
8 records from the Department, they are protected from
9 disclosure.

10 MR. GENTILE: Thank you. Well, the communications --
11 well --

12 THE COURT: The communications as long as they go
13 outside as opposed to an internal communication with the D.O.T.
14 saying, hey, Jorge told me to do this is not.

15 MR. GENTILE: Is not what?

16 THE COURT: Not admissible because it is protected by
17 the statute.

18 MR. GENTILE: Okay. Well, then I want to move --

19 THE COURT: I don't know which one it is.

20 MR. GENTILE: Well, here's --

21 THE COURT: I don't know how I draw that line because
22 I can't look at it yet.

23 MR. GENTILE: Here's what I would ask. There
24 probably are some documents in here that based on your ruling
25 should not be put to this witness, but there are documents that

1 should, and my concern is given our situation with the
2 electronics, I'm going to need a little bit of time to call
3 out -- I want to -- listen, I want to put them in as a court's
4 exhibit for purposes of the record, sealed, if you will. But
5 I'm going to need to call them out. I don't think it's going
6 to take a lot of time, but it's probably going to take 15
7 minutes.

8 THE COURT: Okay. So can you tell me which of the
9 proposed exhibits are the ones that are external communications
10 and which ones are pure --

11 MR. GENTILE: No, because they're -- each exhibit has
12 a series of communications in it. Some of them are within the
13 Department. Some of them are not.

14 THE COURT: I remember from briefing before that
15 there is a particular email that there is, what I'll call the
16 question source as to how that internal email came to be
17 outside the Department. Since that did not have any indication
18 on the document itself that it was forwarded outside the
19 document by someone forwarded -- like an email that was
20 forwarded, that would fall within my scope of an email that we
21 would not be admitting, that relates to disciplinary issues.

22 But to the extent a Department member forwarded it to
23 somebody else, like the licensee or counsel for the licensee,
24 it's no longer a purely internal communication.

25 MR. GENTILE: What I would propose to do is to remove

1 all of the internal communications, make them a separate
2 exhibit, seal it and put it in the record for --

3 THE COURT: Okay.

4 MR. GENTILE: All right. But I'm going to need a
5 little bit of time to do that, and there are --

6 So that the record is clear, I'm going to be offering
7 Exhibits 1293, 1427, 1999, 2084, 85, 86, 87, 88, 89, and 90,
8 but I really do believe that I can call out what needs to be
9 called out in about 15 minutes.

10 THE COURT: So we will be patient.

11 MR. GENTILE: I did not hear you.

12 THE COURT: I said I will be patient.

13 MR. GENTILE: Thank you.

14 THE COURT: Mr. Shevorski, did you understand what I
15 was saying?

16 MR. SHEVORSKI: Yes, Your Honor.

17 THE COURT: All right. Because Ms. Levin made a very
18 nice, very well-founded objection I just want to make sure you
19 got pulled into the loop.

20 MR. SHEVORSKI: Your Honor, I don't even know why I'm
21 here.

22 THE COURT: So, yes, get up, walk around, hang out --

23 (Proceedings recessed at 2:37 p.m. until 2:51 p.m.)

24 MR. GENTILE: If I may be heard first.

25 THE COURT: You want to be heard?

1 MR. GENTILE: I want to be heard. I want to be able
2 to --

3 THE COURT: I'm listening.

4 MR. GENTILE: Okay. With regard to Exhibits 1293 and
5 2084, and the 1427 -- well, not even 2084 --

6 THE COURT: Ms. Black, can you put your mask back on.

7 MR. GENTILE: Well, let me take 1293 and 1427.

8 THE COURT: Uh-huh.

9 MR. GENTILE: Those documents in their entirety were
10 produced in this discovery by the Department of Taxation. They
11 are without a doubt, under the Rules of Evidence, party
12 admissions. They are, without a doubt. And they don't contain
13 any documents and any communications that were outside of the
14 Department of Taxation. I will absolutely assure the Court of
15 that.

16 But it would seem to me that by them disclosing them
17 as part of their 16.1 production, they concede that they are
18 relevant to this case, and they do not involve the
19 communications from anyone outside of the Department. So it's
20 not like they're revealing something that was given to them
21 that they have a duty to maintain confidentiality of. And they
22 produced them. And they are really powerful party admissions.

23 And so I don't know that these aren't covered. Now,
24 the change here, obviously, were this a jury trial, it would be
25 a no-brainer, you look at them, you make a decision. In a

1 bench trial, it has always been my understanding of the law
2 that a judge who was sitting as a trier of fact is deemed to
3 not consider inadmissible evidence.

4 THE COURT: That's right. We're supposed to forget
5 them as soon as we've decided they're not admissible.

6 MR. GENTILE: And so I'm going to ask you, before I
7 go forward, to review Exhibits 1293 and 1427, because I know
8 you're going to come back with they're party admission. So the
9 only issue becomes do they somehow qualify for a privilege when
10 the State has disclosed them voluntarily in this case.

11 THE COURT: Okay.

12 MR. GENTILE: All right.

13 THE COURT: Mr. Bice?

14 MR. BICE: There's nothing voluntary about the
15 State's disclosure. The Court ordered them to produce this
16 information as Mr. Gentile, I think, is well aware.

17 Number two, they -- this e-mail that he's referencing
18 at 1293 is the very one that it's the underlying original of
19 the one that we maintain was somehow stolen out of inside of
20 the D.O.T., and then conveniently placed in a newspaper
21 advertisement by TGIG.

22 So I know what this is about. I'm -- you know, I was
23 born at night, I wasn't born last night. And neither was the
24 Court. So we maintain our objection. It is a misuse of this
25 system, a misuse of the court processes, and it's a degradation

1 of the court's processes to participate in that.

2 THE COURT: Mr. Koch.

3 MR. KOCH: Your Honor, we also object that 1293
4 and -- he mentioned 1999. I'm not sure if he's changed that to
5 20 before now. Kind of relates to Henderson Organic Remedies
6 [indiscernible] not a party to this proceeding, tempted to
7 introduce information relating to [indiscernible] party. And
8 also [indiscernible] on the same basis [indiscernible].

9 MR. GENTILE: I -- am going to withdraw -- look, from
10 my point of view, given the reason that I articulated to the
11 Court that I am offering this, because I'm not offering this to
12 prove up that somebody violated selling to a minor. I'm
13 offering it for the other purpose that I articulated already.
14 And, honestly, I don't think they're -- Nevada Organic
15 Remedies -- I don't think that that proffer applies to Nevada
16 Organic Remedies. And so I'm going to voluntarily withdraw
17 Exhibit 2086 from my offer, and 1999.

18 I just -- I think that --

19 MR. KOCH: And also the 1293 takes that --

20 MR. BICE: Correct.

21 MR. KOCH: -- Anderson Organic Remedies.

22 MR. BICE: Correct.

23 MR. GENTILE: 1211, 193 --

24 MR. BICE: That only proves the point. He concedes
25 that it doesn't --

1 THE COURT: I only need one of you --

2 MR. BICE: Sorry. Apologies.

3 THE COURT: So --

4 MR. GENTILE: So I would ask you to review it, make
5 the determination, then we can go forward.

6 THE COURT: Mr. Shevorski, Ms. Levin, do you have
7 anything you would like to add to the discussion Mr. Gentile
8 has now made, which includes the party admission issue, which
9 he had not previously raised?

10 MR. SHEVORSKI: We maintain that they're still
11 confidential. Have to research if they were produced and in
12 what context. I can't [indiscernible] important, I do not
13 recall right now. I do not believe it's a party admission
14 against the State. How is it against our interests? He's
15 offering for a purpose against an interest in one of his
16 competitors.

17 THE COURT: Do you know when they were produced and
18 if they were produced as a result of an order that I entered as
19 opposed to as a Rule 16 production by you guys?

20 MR. SHEVORSKI: In all candor, I do not right at this
21 moment, Your Honor.

22 THE COURT: Okay. All right. Mr. Gentile, if you
23 have them, I would be happy to look at them.

24 MR. GENTILE: Thank you. I don't have them in hard
25 copy, I don't think.

1 THE COURT: I think you have to e-mail them to
2 Dulce --

3 MR. GENTILE: Okay.

4 THE COURT: -- and I have to look at them in camera.

5 THE CLERK: Judge, we have them.

6 THE COURT: Oh, you do?

7 THE CLERK: In the drives.

8 THE COURT: Oh.

9 MR. KOCH: Your Honor, one other item. He said
10 Mr. Gentile's withdrawing of the -- to [indiscernible] think it
11 solves the problem. But if not, there are names of employees
12 of the purported minor in the documents that have not been
13 redacted. And all of that information, if it were considered,
14 would need to be redacted [indiscernible].

15 THE COURT: Thank you, Mr. Koch.

16 Anybody else wish to be heard related to these
17 particular exhibits that are being offered by Mr. Gentile and
18 that I'm going to review in camera in just a minute?

19 MR. GENTILE: Oh, you're going to review them now?

20 THE COURT: As soon as they get to me. I'm waiting
21 for the little envelope --

22 MR. GENTILE: Okay.

23 THE COURT: -- to show up on my inbox.

24 MR. GENTILE: Should we stand down for a couple of
25 minutes?

1 THE COURT: You may stand down for a minute.

2 MR. GENTILE: Thank you.

3 THE COURT: Or two.

4 (Pause in proceedings.)

5 THE COURT: You guys ready?

6 MR. BICE: Yes.

7 THE COURT: So I need Mr. Shevorski to advise me
8 tomorrow what the time these documents were produced by the
9 State to the extent that the documents, which are -- hold on,
10 let me make them bigger -- 1427 and the other one is 1293,
11 Dulce?

12 THE CLERK: Yes, Your Honor.

13 MR. GENTILE: Yes.

14 THE COURT: 1427 and 1293 include communications to
15 Ms. Connor on behalf of her clients, those communications to
16 Ms. Connor may be admitted as a separate electronic exhibit. I
17 am reserving rulings on the internal communications by the
18 Marijuana Enforcement Division employees pending a
19 determination as to the manner by which these were produced by
20 the State.

21 So if they are part of a response to a Request for
22 Production, I will need to see that response. If they are a
23 discovery response, it's a Rule 16 production, I will need to
24 see that. If they were produced for some other purpose, I will
25 need to see that as well.

1 MR. SHEVORSKI: Yes, Your Honor.

2 THE COURT: And tomorrow?

3 MR. SHEVORSKI: Yes, Your Honor.

4 THE COURT: Okay.

5 MR. GENTILE: So that having been said by the Court,
6 I want to move in, subject to your ruling, Exhibit 1293, 1427,
7 again, subject to your ruling. I'm not going to move in 1999.

8 THE COURT: So the objection is sustained, because
9 those documents currently include the e-mails which I have
10 reserved ruling on pending the information from Mr. Shevorski.

11 MR. GENTILE: Right. I understand that. But it's --

12 THE COURT: So I have sustained the objection to
13 those documents.

14 MR. GENTILE: You're talking about 12 -- you
15 sustained the objection to 1293 and 1427?

16 THE COURT: Yes. Because the entire exhibit includes
17 the e-mails that I've discussed with Mr. Shevorski that I have
18 reserved ruling pending receipt of the manner by which those
19 documents were produced by the State.

20 MR. GENTILE: Okay. But when you received that
21 ruling, you may, basically, change your ruling --

22 THE COURT: I made --

23 MR. GENTILE: When you receive that info, you may
24 change the ruling.

25 THE COURT: I may.

1 MR. GENTILE: Okay.

2 THE COURT: But I need to receive it first.

3 MR. SHEVORSKI: Clarify, [indiscernible] 1999, 1293,
4 to the extent it's the Henderson Organic Remedies letter, we
5 would ask that that be withdrawn as well, [indiscernible] until
6 you be admitted.

7 THE CLERK: I'm sorry, which --

8 MR. GENTILE: I'm not going to withdraw 1293. I
9 withdrew 1999 and 2086. So I would --

10 MR. SHEVORSKI: Object to that again to the extent
11 1293 is Henderson Organic Remedies [indiscernible], which is
12 not a party to the proceeding, not relevant, and should not be
13 here.

14 THE COURT: That portion of the objection is
15 overruled. However, there will need to be an, I believe, a
16 redaction related to the personal identifiers that are in
17 there. If I remember correctly.

18 MR. GENTILE: I would also move that at this time,
19 2084, 2085, 2087, 2088, 2089, and 2090.

20 MR. BICE: Your Honor, I -- those conform to your
21 ruling, I have noted my objection. But I have checked them,
22 they conform to your ruling.

23 THE COURT: They're external communications.

24 MR. BICE: They are external communications between
25 State --

1 THE COURT: Any additional objections?

2 MR. BICE: All right. Well, I do object, but you --

3 THE COURT: Any additional objections?

4 MR. BICE: Yes.

5 THE COURT: They will be admitted.

6 MR. GRAF: With that in the record, I don't think I
7 even need to question the witness about that. And so I will
8 move forward.

9 CONTINUED DIRECT EXAMINATION

10 BY MR. GENTILE:

11 Q I think you've already testified in part, and I want
12 to start with that and then we'll go forward.

13 That in December of 2017 and then December of 2018,
14 you sent the tray of sandwiches to each of the north and south
15 offices of the Department of Taxation Marijuana Enforcement
16 Division; am I right?

17 A Yes.

18 Q You did not do that in 2019; am I correct?

19 A Correct.

20 Q Neither did you send anything else through the north
21 and south offices of the Department of Taxation Marijuana
22 Enforcement Division in the nature of cookies, candy, wine,
23 anything; am I right?

24 A Correct.

25 Q Okay.

1 A In 2019.

2 Q 2019, yes. 2019. Now, this lawsuit started real
3 close to the very beginning of 2019; you're aware of that?

4 A It is my understanding, yes, that it started --

5 Q Okay.

6 A -- early in 2019.

7 Q You remember me asking you the question at your depo
8 why you didn't send anything in 2019 to the Department of
9 Taxation Marijuana Enforcement Division's offices in the north
10 and the south during the Christmas holidays; do you remember me
11 asking you that question?

12 A Yes.

13 Q Okay. And it's because -- the reason you didn't do
14 it is because you did not think it would be appreciate, because
15 the attitude of the Department of Taxation Marijuana
16 Enforcement Division had changed under its new leadership; am I
17 right?

18 A Yes.

19 Q Before -- excuse me, the new leadership had the
20 Division very closed off from working with the industry and
21 seemed to be portrayed a more anti industry status than to be a
22 regulating body that was helping the industry in compliance.
23 That was one of the reasons that you didn't send it up there;
24 am I right?

25 A That what -- that is my opinion, yes.

1 Q Okay. And you think that this case that you're in
2 court in perhaps played into that?

3 A I -- yes. I believe this case perhaps played into
4 the attitude of the Department to become more enforcement
5 oriented --

6 Q Right.

7 A -- instead of working with the industry to be
8 compliant.

9 Q So it -- so the Marijuana Enforcement Division has
10 behaved with a more -- more of a focus on enforcement, in your
11 opinion, since this case started?

12 A I would say that it has taken a -- its attitude has
13 changed to be more enforcement against the industry than
14 working with the industry to be in compliance. And I said that
15 the case played a role. I don't think it's the only reason.

16 Q Right, the case played a role. And you also believe
17 that articles about ownership prompted an executive review
18 period?

19 A There is a pending executive review period, while it
20 may have lifted today, I was not at the Cannabis Compliance
21 Board, but there -- meeting. There's an executive review
22 period on transfers of ownership, and yes, I believe some news
23 articles may have played into that executive review period
24 starting.

25 Q You think a news story's breaking that an auditor

1 within the Department had reported to the FBI played in it --
2 played into it?

3 MR. BICE: Objection. Foundation.

4 THE COURT: Overruled.

5 BY MR. GENTILE:

6 Q Am I right?

7 A Do I -- can you repeat that? I'm sorry.

8 Q Yes. You believed -- you think news stories breaking
9 that an auditor within the Department had reported to the FBI
10 played into it?

11 A I believe that may have played into it, yes.

12 Q And you think that there has, in fact, been a change
13 in attitude in the year 2019?

14 A I believe there was a change in attitude at the
15 Marijuana Program Department of Tax in 2019, yes.

16 Q Prior to 2019, the Department had a different
17 attitude in that they were working to regulate the industry and
18 help develop the regulations that oversighted the industry;
19 that's your opinion?

20 A Yes.

21 Q But is it your opinion now that the attitude has
22 changed such that the Department sees itself more as an
23 enforcement body?

24 A Yes, that is my opinion.

25 MR. GENTILE: I don't have anything further.

1 THE COURT: Mr. Bult.

2 Can you clean off and disinfect for Mr. Bult, Mr.
3 Gentile, please.

4 Mr. Bult, you said 10 minutes. So on 15 minutes, I'm
5 going to remind you of your promise.

6 MR. BULT: I'm going to try and be even shorter. We
7 have some stipulated exhibits, if we can enter those.

8 I've already chatted with the State and Mr. Bice and
9 Mr. Smith. They are Exhibits 1996, 1997, 1998, and 2001.

10 THE COURT: Any objection?

11 MR. BICE: I don't think --

12 THE COURT: Oh, Mr. Bice said hold on a minute,
13 Judge.

14 MR. BICE: Your Honor, I don't believe so. But, you
15 know what, that discussion with Mr. Bult was heard before your
16 ruling. I just need to check something really quick.

17 And my apologies, Adam.

18 MR. BULT: They're all external, and there's paper
19 copies if you want them.

20 MR. BICE: That's what I thought. That's -- you're
21 right. No objection.

22 MR. BULT: Thanks, Todd.

23 MR. BICE: Other than the relevancy objection that
24 I --

25 THE COURT: Yeah, we -- I've got that part. Okay.

1 The objection's overruled. They'll be admitted.

2 (Exhibit Number(s) 1996-1998, 2001 admitted.)

3 MR. BULT: And before we get to those, Shane, can you
4 pull up 2064, please.

5 MR. BICE: Could I get that one again, please?

6 THE CLERK: I'm sorry, which one?

7 MR. BULT: 2064.

8 MR. BICE: 1264?

9 MR. BULT: 2064.

10 CROSS-EXAMINATION

11 BY MR. BULT:

12 Q Forgive me. This was admitted earlier and this
13 were -- was a set of exchanges. Forgive me, I don't have it in
14 paper, Ms. Connor, so I'm kind of reading here myself. These
15 were a series of exchanges between yourself and Mr. Pupo; do
16 you remember giving testimony about those e-mail exchanges
17 earlier this morning?

18 A Yes, I do.

19 Q Okay. I have just one follow-up question on that.
20 Do you know if the information that you exchanged with each
21 other in these series of e-mails was shared with other
22 applicants in the 2018 process?

23 A I do not know if these e-mails or this information
24 was shared with other applicants.

25 Q Thank you, Ms. Connor.

1 MR. BULT: Shane, can you pull up 1996.

2 BY MR. BULT:

3 Q Ms. Connor, I'll represent to you that this is a May
4 2nd, 2018, e-mail exchange between yourself and Terrence
5 Whittier. Why were you receiving this e-mail?

6 A I am a point of contact for that establishment, so I
7 would receive any statements of deficiencies or investigation.

8 Q Understood. And in the Re: line, it read, Integral
9 Associations, LLC, that's the dba for that entity; is -- that
10 sounds correct?

11 A Correct.

12 Q Okay. And thank you for your testimony that you
13 would have received this e-mail because you were the point of
14 contact. Why were you receiving this e-mail and its
15 attachment? What was the substance of that attachment?

16 A I would have to see the attachment to know.

17 Q Take your time. Do you remember my question,
18 Ms. Connor?

19 A I believe your question was why was I receiving this?
20 It's because it was a statement of investigation to a client
21 that I was point of contact for.

22 Q Understood. And was that SOD related to an April 7,
23 2018, incident?

24 A Can they scroll down so I can see?

25 Q Yes. And if --

1 MR. BULT: Shane, if you can turn to 1996, triple --
2 or quadruple 03 and call out the -- this allegation -- the
3 allegation for that.

4 THE WITNESS: Yes. That says April 7, 2018.

5 BY MR. BULT:

6 Q Okay. And so this letter was confirming that the
7 State had received information about this April 7, 2018, SOD?

8 A Yes. It indicates that the facility self-reported
9 the incident.

10 Q And forgive me, the hearing process, I didn't hear
11 everything you said.

12 A Sorry. It says it was an incident that occurred on
13 April 7th, and the facility self-reported the incident to the
14 Division.

15 Q Okay. And that incident, was that the minor sale,
16 had been self-reported by Essence?

17 A Product sold to a underage customer, which means
18 under the age of 21.

19 MR. BULT: Okay. Shane, can you call up 1997.

20 BY MR. BULT:

21 Q So, Ms. Connor, I'll note for the record that 1996
22 was dated Wednesday, May 2nd, 2018, and received at 9:35 a.m.
23 1997, which is in front of you, was received 9:39 a.m. Do you
24 see that at the top right?

25 A Yes, I do.

1 Q Yes -- yes, you do, is that what you said?

2 A Yes.

3 Q Okay. Forgive me, it's difficult. So it's my first
4 time up here. So I appreciate it's difficult.

5 So it looks like you are sending the e-mail you had
6 just received from Mr. Whittier to Mr. Pupo; is that correct?

7 A That's correct.

8 Q Okay. Do you recall at the time of -- that morning
9 after you sent this, any follow-up conversation with Mr. Pupo?

10 A Yes, we did discuss that information.

11 Q Okay. At that exact time or later in the day?

12 A I don't recall specifically.

13 Q Okay. So you can't rule out that you spoke to him
14 that morning, that afternoon, multiple times?

15 A I believe I only spoke to him once at around the time
16 this e-mail was sent. But I don't recall specifically when.

17 Q Okay. Do you know why phone records we have between
18 you and Mr. Pupo would show that that afternoon you had a phone
19 call for almost 22 minutes?

20 A I can't deny that, I haven't seen the phone record.

21 Q But it's your recollection, as you sit here today,
22 that there was a conversation at or around the time you
23 forwarded this e-mail to Mr. Pupo?

24 A Yes.

25 MR. BULT: Okay. Shane, if you can call up 1998.

1 BY MR. BULT:

2 Q Ms. Connor, I'll represent to you that this appears
3 to be a recall notice that would have been generated by Mr.
4 Whittier's computer after he attempted to recall that prior
5 e-mail that we -- that you were shown.

6 A That is correct.

7 Q Okay. Do you recall receiving this recall e-mail?

8 A Yes.

9 Q Okay. And it appears to be, if my math is right, a
10 little over two hours after you sent this to Mr. Pupo, correct?

11 A Yes.

12 Q Do you know why that initial set of -- or that
13 initial e-mail from Mr. Whittier was recalled?

14 A I do not know why.

15 Q Okay. Do you think it has anything to do with the
16 conversation you recalled having at or around the same time?

17 A I don't believe specifically. I talked to -- if we
18 could scroll up to the prior one.

19 Q Oh, are you saying the prior exhibit?

20 A Yes.

21 MR. BULT: Okay. Shane, that was 1997.

22 THE WITNESS: Is the attachment here or is it only in
23 Mr. Whittier's e-mail?

24 BY MR. BULT:

25 Q It's probably only in Mr. Whittier's. If you'd like

1 for Shane to call that up, we can.

2 A Actually, it's here.

3 Q Oh, it is?

4 A So if you could scroll down a little further. To the
5 next page, I believe it's on. Go down more.

6 IT TECHNICIAN: We'll have to go to 1996?

7 THE WITNESS: So if you see here on this last page of
8 this statement, it said, No further corrective action is
9 required. And then it was requiring a plan of correction.
10 BY MR. BULT:

11 Q Uh-huh.

12 A But it had -- we had already submitted with our
13 self-reporting, the corrective action, which was detailed above
14 in this notice. So that's what I was discussing with Mr. Pupo,
15 was that the corrective actions were already discussed and had
16 been identified by Mr. Whittier.

17 Q Okay.

18 A And it was noted by the Department, No further
19 corrective action is required. I cannot tell you if my
20 discussion with Mr. Pupo relates to the recall of the message.

21 Q Okay. So if --

22 MR. BULT: Keep that up, Shane.

23 Q If it reads, No further corrective action is
24 required, and you had already sent a POC, why did you need to
25 follow up with Mr. Pupo?

1 A Because, if you look at the next paragraph, it says,
2 Please submit a written plan of correction within 10 business
3 days.

4 Q Okay. And so your testimony is -- or your recall of
5 that was that you were calling to clarify that with him?

6 A I was calling to clarify to say, My client
7 self-reported the incident and had self-reported their
8 corrective actions. The Department stated no further
9 corrective action is required, so I was discussing what the
10 requirements would be.

11 Q Okay. And that's your testimony, why you believe you
12 ultimately would have received a recall notice?

13 A No, I said I don't know why I received a recall
14 notice.

15 Q Understood. Okay. Understood. Had you ever called
16 Mr. Pupo or one of his investigators to discuss some type of a
17 document that was incorrect or you wanted some clarification
18 on?

19 A Yes.

20 Q Okay. And when you received the clarification or
21 follow-up that you felt was appropriate, did his office recall
22 the prior e-mail?

23 A I have had experiences where e-mails have been
24 recalled. But I have also have sought clarification and had
25 amended letters issues or other things done.

1 Q Okay. Well, let me -- I mean, let me be a little
2 more direct. Because, I mean, you're held out as a regulatory
3 lawyer, you're held out as the type of person that deals with a
4 lot of clients on these issues. When these issues get
5 resolved, does the State recall the e-mails that prompted them?

6 A Are you saying when a plan of correction is approved,
7 do they recall the statement of deficiency? Is that what your
8 question is?

9 Q Yeah, does the investigator normally recall its
10 e-mail -- recall their e-mail?

11 A No. As a normal practice, when a plan of correction
12 is submitted, it's reviewed and approved.

13 Q Okay.

14 A And they note no further action is necessary.

15 Q Thank you, Ms. Connor. Are you aware that on that
16 exact same day,

17 May 2nd, 2018, Mr. Pupo held a meeting with his staff
18 before receiving the e-mail that we were just talking about,
19 that the Department of Taxation would not longer be issuing
20 civil penalties for self-reported violations?

21 A I was not aware that a meeting was held that said
22 civil penalties would not be issues for self-reporting, no.

23 Q That very same morning, you did not know that that
24 happened?

25 A I did not know that meeting occurred, no.

1 Q Okay. So you called right after this e-mail, and it
2 didn't come up that you were -- that he was actually going to
3 be walking into an e-mail to talk about issues like this?

4 MR. BICE: Objection to foundation.

5 THE COURT: Overruled.

6 THE WITNESS: No, I did not discuss with him the
7 meeting he would be holding with his staff.

8 BY MR. BULT:

9 Q Okay. And if I were to tell you that phone records
10 in this case will show that you were on the phone with him
11 later that day for 22 minutes, you have no specific
12 recollection about what you were necessarily talking about?

13 A I do not have a specific recollection.

14 Q Did Integral Associates ultimately receive a penalty
15 for the sale to a minor related to this April 7, 2018,
16 self-report?

17 A No, the -- no further corrective action was required.
18 They approved the corrections that the client did in the
19 self-reporting.

20 Q Okay. And, in fact, they were allowed to stay in
21 good standing at this time in the spring of 2018, correct?

22 A Yes, I believe by self-reporting, they were of the
23 utmost compliance.

24 MR. BULT: Okay. Nothing further. Thank you,
25 Ms. Connor.

1 THE COURT: Wow, you did it.

2 MR. BULT: I told you.

3 THE COURT: Who's next?

4 MR. BULT: Thank you, Your Honor.

5 THE COURT: Mr. Parker, how long you got?

6 MR. PARKER: The rest of the day.

7 THE COURT: It's now on 15 minutes. After
8 Mr. Parker, who's got questions?

9 MR. PARKER: Your Honor, when I say rest of the day,
10 first of all, I mean, the day and as long as you --

11 THE COURT: Uh-huh. After Mr. Parker who's next?
12 Mr. Christiansen?

13 MR. CHRISTIANSEN: No, ma'am.

14 THE COURT: Mr. Parker, that's paper. You know,
15 we're not supposed to deal with paper anymore.

16 MR. PARKER: I'm not going to use it anymore. This
17 is -- these are my notes.

18 THE COURT: Mr. Christiansen, it's very nice of you
19 to help Mr. Parker.

20 MR. CHRISTIANSEN: Yes, ma'am.

21 THE COURT: Apparently he had more stuff than he
22 could carry.

23 MR. PARKER: I did. I did. He's helping me this
24 afternoon and Mr. Bult had helped me bring it up this morning.

25 THE COURT: I'm just trying to gauge the row. How

1 long is yours? Team State?

2 MR. SHEVORSKI: Right now, I'm not seeing any.

3 THE COURT: 10 minutes or less?

4 MR. SHEVORSKI: Yeah.

5 THE COURT: Team [indiscernible]? It appears
6 unopened. I believe Ramsey placed it there.

7 UNIDENTIFIED SPEAKER: Half an hour.

8 MR. PARKER: It's open. I don't know.

9 THE COURT: Mr. Prince?

10 MR. PRINCE: Half a -- probably 45 minutes to an
11 hour.

12 MR. KOCH: 15 minutes.

13 THE COURT: They're going to get you out of here
14 tomorrow.

15 THE WITNESS: Okay.

16 THE COURT: That was my promise. So.

17 THE WITNESS: I appreciate that, Your Honor.

18 THE COURT: And Mr. Gilbert is on call for tomorrow
19 afternoon.

20 UNIDENTIFIED SPEAKER: He's here.

21 THE COURT: I know. I feel bad for him.

22 (Pause in the proceedings.)

23 THE COURT: All right, Mr. Parker.

24 MR. PARKER: Thank you so much, Your Honor.

25 / / /

CROSS-EXAMINATION

BY MR. PARKER:

Q Ms. Connor, how are you?

A I'm doing okay.

Q Good. Good. I'm sorry you've been here so long. I can only help to try to get you out this afternoon, but I suspect we'll be here tomorrow morning. Okay?

And I had the pleasure of taking your deposition, so I do -- I will do my best to be efficient and not redepose you. Okay?

A I appreciate that.

Q You're welcome. So I want to know how we -- how you and Mr. Pupo developed the relationship that you had, your working relationship, to the point where you could call and get answers to questions so easily. So if you could, can you tell the Court when you first met Mr. Pupo?

A My recollection --

MR. BICE: Your Honor, object. Object to the form of the question. The predicate statement isn't a question, it's Mr. Parker's statements.

THE COURT: Overruled. You can answer.

THE WITNESS: My recollection is I first met Mr. Pupo in 2017.

BY MR. PARKER:

Q In 2000 --

1 A '17.

2 Q -- 17. And would that have been the same time when
3 you were a member of the -- one or more of the working groups
4 assigned for the governor's task force?

5 A I don't recall if I specifically met him through the
6 working groups, but I met him when the Department of Tax was
7 developing regulations to take over the marijuana program.

8 Q Yes. And it's my understanding you were on two
9 working groups; is that correct?

10 A That's correct.

11 Q And, in fact, in addition to you being on two of the
12 working groups, there were two members of Integral or Essence
13 that were also on those working groups?

14 A There were multiple industry representatives on the
15 working groups, including, yes, two Essence members and various
16 other members from the industry.

17 Q If I remember correctly, Ms. Wilcox was on the
18 working group assigned to handle the application, which is
19 their regulatory working group. And Mr. Armen Yemenidjian was
20 on the working group dealing with cultivation, I believe; is
21 that correct?

22 A Yes. I believe that's accurate.

23 Q Is it a fair statement, Ms. Connor, that in 2017,
24 when you were introduced or met Mr. Pupo, not long thereafter,
25 you were able to obtain his telephone number?

1 A I believe that's a fair statement. His number was
2 publicly available.

3 Q That's right. And you had his cell number; isn't
4 that correct?

5 A I did obtain his cell phone number, yes.

6 Q And the number that you remember having was a number
7 that was 702-306, and I'm not going to put the other four
8 digits into the record?

9 A I don't remember specific numbers, but I had two cell
10 phone numbers and an office landline.

11 Q Okay. Do you remember me asking you during your
12 deposition that very question?

13 A Yes, you --

14 Q And then you --

15 A You asked me to read the numbers off.

16 Q Right, and you went into your phone and actually
17 found that number; is that correct?

18 A That's correct.

19 Q All right. Now, is it also a fair statement,
20 Ms. Connor, that you were asked to produce phone records
21 pursuant to subpoena in this case?

22 A Yes.

23 Q Is it true, Ms. Connor, that in the phone records you
24 provided, your records did not, unfortunately, go back to 2017
25 to the present related to your calls and communications with

1 Mr. Pupo on this telephone number?

2 A I provided all the records that I had available.

3 Q That's fine. But in terms of what you had available,
4 you would agree with me that from 2017 all the way, virtually,
5 to the end of 2018, there's a lot -- there's missing
6 information or missing calls between you and Mr. Pupo?

7 A I do not deny that I called Mr. Pupo in 2017 and
8 2018.

9 Q So, Ms. Connor, let me see if I can help you with
10 this next line of questioning. We have asked for Mr. Pupo's
11 phone records. And his phone records for that phone number,
12 unfortunately, are not available to us. Now that you've
13 testified that you've called him on that number, have you
14 produced, to your knowledge, text messages from 2017 through
15 December 2018?

16 A I produced --

17 MR. BICE: I object to the form of the question.
18 Counsel is making representations. And it's also beyond the
19 scope of, I believe, the agreement on the subpoena that counsel
20 reach.

21 THE COURT: Overruled.

22 MR. BICE: But go ahead.

23 THE COURT: You can answer.

24 THE WITNESS: Can I confer with my counsel, please?

25 THE COURT: You may.

1 (Pause in the proceedings.)

2 THE WITNESS: After conferring with my counsel, I
3 believe I turned over all text messages I had available between
4 myself and Mr. Pupo.

5 BY MR. PARKER:

6 Q And have you had a chance to review those documents,
7 Ms. Connor?

8 A I have not reviewed them, no.

9 Q All right. Ms. Connor, do you recall in December of
10 2018 Mr. Pupo instructing you to stop using that number and to
11 start using a different telephone number to call him?

12 A I believe if you're talking about an auto reply, his
13 phone did have an auto reply of a different number to contact.

14 Q And from that point on, when you attempted to use the
15 702-306 number, an auto reply instructed you to use a different
16 number; is that correct?

17 A That's correct.

18 Q All right.

19 A I don't know how long that auto reply lasted. I
20 should clarify, I don't know if it's from that point on. But
21 there was, for a period of time, an auto reply.

22 Q Well, Mr. Pupo has testified that, unfortunately, in
23 December of 2018, that phone stopped working as he was -- and
24 he started deleting items in preparation to give it to either
25 his wife or his daughter. So as a result, we lot

1 communications between him and everyone else, including
2 yourself. So I'm trying to determine if you had an opportunity
3 to review your own records, did you see any communications with
4 him, let's say in 2017?

5 MR. BICE: I'm going to object to these questions,
6 been asked and answered, and Mr. Pupo hasn't testified.

7 THE COURT: Overruled.

8 THE WITNESS: I don't understand your question. I'm
9 sorry.

10 BY MR. PARKER:

11 Q Do you -- did you review your records in terms of
12 2017?

13 A I -- in response to the subpoena, I reviewed all
14 responsive documents and provided all responsive text messages
15 that were in accordance with the agreement counsel had reached.

16 Q Okay. But my question is, in terms of 2017, within
17 the documents you produced, did you see any communications
18 there between you and Mr. Pupo?

19 A I don't recall specifically, but I produced all text
20 messages that -- as far as they went back in my records.

21 Q All right.

22 A So I don't know how far that went back.

23 Q All right. So, Ms. Connor, we're going to develop a
24 better understanding of your working relationships with those
25 at the Department of Taxation, okay?

1 A Okay.

2 Q We know right now you had at least two telephone
3 numbers from Mr. Pupo, cell numbers; is that correct?

4 A Yes.

5 Q Did you also have Ms. Kara Cronkhite's cell number?

6 A Yes.

7 Q Did you have Mr. Steve Gilbert's cell number?

8 A Yes.

9 Q When do you recall receiving Ms. Cronkhite's cell
10 number?

11 A I believe I received it while the program was still
12 at the Department of Public and Behavioral Health, under
13 Medical Marijuana. So prior to July of 2017.

14 Q All right. And how about Mr. Gilbert?

15 A I believe that would be the same, that I received it
16 when it was still the medical marijuana program.

17 Q All right. Did you also have Mr. Hernandez's cell
18 number?

19 A I do not believe I had Mr. Hernandez's cell phone
20 number.

21 Q All right. So prior to 2018, and perhaps even prior
22 to 2017, you had the cell telephone numbers of Ms. Cronkhite?
23 Mr. Gilbert?

24 A Yes.

25 Q All right. Anyone else you can think of at the

1 Department of Taxation or at the Department of Public Health --
2 Public and Behavioral Health?

3 A I had, I believe, some cell phone numbers of some
4 inspectors. And I may have had the cell phone number, I
5 believe, of Chad Westham [phonetic] and Joe Pollock [phonetic],
6 who were at the Department of Public and Behavioral Health, and
7 the supervisors and deputy directors there. I don't remember
8 their specific titles, I apologize.

9 Q Do you believe that those -- having their telephone
10 numbers put you in a position, Ms. Connor, where you could
11 simply call them, ask questions, and get information quickly?

12 A It gave me the ability to call them, yes. And ask
13 questions.

14 Q And you felt comfortable enough that you could call
15 them and, in fact, ask questions regarding, in this case, the
16 2018 application process?

17 MR. BICE: Objection to the form. Foundation.

18 THE COURT: Overruled.

19 MR. BICE: Both of them?

20 THE WITNESS: Who are you talking about?

21 BY MR. PARKER:

22 Q Well, let's start with Mr. Pupo, and then we'll go to
23 Ms. Cronkhite, and then we'll talk about Mr. Hernandez, and
24 we'll talk about Mr. Gilbert. Okay? And I'm -- what I'm
25 trying to do, Ms. Connor, is attempt to streamline this

1 examination, I'm going to attempt to take you right to evidence
2 to kind of refresh your recollection or clue you to the points
3 that we're going to discuss. Okay?

4 A Okay.

5 Q All right. So in terms of Mr. Pupo, for example, you
6 do recall having a conversation with him regarding location?

7 A Yes. As testified earlier today, I sent a text
8 message to him with some questions or concerns I had about the
9 application. And my recollection is we did have a conversation
10 about that afterwards.

11 Q And your conversation was so -- I'm sorry, strike
12 that. Your rapport with Mr. Pupo was such that that
13 conversation ultimately led to the first application released
14 to the public in July -- on July 5th or 6th, 2018, being
15 revised on or about July 30th or 31st, 2018; isn't that a true
16 statement?

17 MR. BICE: Objection to the form of the question.

18 UNIDENTIFIED SPEAKER: Objection. Speculation.

19 THE COURT: Overruled.

20 MR. BICE: Misstates the testimony and lacks
21 foundation.

22 THE COURT: Overruled. You can answer.

23 THE WITNESS: No, I do not believe that's accurate.
24 I believe that there were several industry representatives who
25 contacted Mr. Pupo and other individuals in the Department of

1 Tax expressing the same concerns. And the issues and the
2 application, there was an amended application released.

3 BY MR. PARKER:

4 Q Do you believe that you were one of the people that
5 convinced him to change the application from the July 5th
6 application to the July 31st application?

7 A I don't believe I convinced him. I believe that I,
8 along with several other industry representatives, pointed out
9 issue, and those issues were corrected.

10 Q Well, let's hear what Mr. Pupo had to say.

11 THE COURT: Let's not. Why do you want to play his
12 deposition in the middle of her examination? I know you can
13 use the deposition --

14 MR. PARKER: Thank you.

15 THE COURT: -- of a party for any purpose. But why
16 do you want to play it in the middle of our examination?

17 MR. PARKER: Your Honor, because it actually goes --
18 first, you're right. Under Rule 32, I can use it. He is a
19 party.

20 THE COURT: So ask why?

21 MR. PARKER: And because I --

22 MR. BICE: He's not a party to this phase.

23 THE COURT: He is absolutely a party to this phase.

24 UNIDENTIFIED SPEAKER: Not to this -- not to this
25 phase.

1 MR. PARKER: So --

2 THE COURT: He's absolutely a party to this phase,
3 Mr. Bice. He's a party of the case.

4 MR. PARKER: I can't believe you're arguing with the
5 judge.

6 MR. BICE: Section 19 -- all right, Your Honor.
7 Well, we [indiscernible] objection to that.

8 THE COURT: I'm not trying the 1983 actions, because
9 I can't seat a jury under the current public health crisis.

10 MR. PARKER: Correct.

11 THE COURT: At some point in time, I will seat a jury
12 and do the 1983 action and let you guys settle it.

13 So he's a party. But why?

14 MR. PARKER: Thank you. Your Honor, because I want
15 him to explain, so I can question her, Ms. Connor, further, on
16 the impact she had on his decision to change. And he goes into
17 it, Your Honor. That's why.

18 THE COURT: Quickly.

19 MR. PARKER: Thank you.

20 THE COURT: Because tomorrow, I'm going to cut you
21 off in the morning at some point in time and say, Mr. Parker,
22 you're done.

23 MR. PARKER: Understood, Your Honor.

24 THE COURT: Okay.

25 MR. PARKER: So --