

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 2 OF 4**

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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 2 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

1 MR. BICE: Has this been designated? If we object,
2 have we been given a chance to object?

3 THE COURT: They don't have to designate it unless
4 it's being used in lieu of live testimony. That's the
5 discussion we've had repeatedly. This is not being used in
6 lieu of live testimony.

7 MR. BICE: Then how do I know I don't have an
8 objection to it, since I don't know what it is?

9 THE COURT: Mr. Parker, do you want to tell Mr. Bice
10 what part of the depo it is?

11 MR. PARKER: I was intending to do it, Your Honor.

12 THE COURT: All right.

13 MR. BICE: Thank you.

14 MR. PARKER: As soon as I was going to give it to
15 Mr. -- to Shane, but it's --

16 THE COURT: But you've got to, then, do a pause for
17 Mr. Bice, to decide if he objects.

18 MR. PARKER: No worries, Your Honor. It is Volume II
19 of Mr. Pupo's deposition, page 281, line 15, through page 287,
20 line 5.

21 UNIDENTIFIED SPEAKER: One more time?

22 MR. PARKER: 281, line 15, through 287, line 5.

23 MR. BICE: Starts in the middle of an answer.
24 Objection.

25 THE COURT: That's not good, Mr. Parker.

1 MR. BICE: Objection number one.

2 MR. PARKER: There's a transition, Your Honor.

3 THE COURT: My recollection is he testified at the
4 preliminary injunction hearing and he got tired of being nagged
5 by Amanda Connor, so he changed it. That's my recollection of
6 what the testimony was. If somebody wants to play the depo,
7 great. Because I assume he testified consistent with what he
8 said at the preliminary injunction hearing.

9 MR. PARKER: And this came -- this part came from his
10 deposition, which expanded a little bit more. But you have a
11 very good recollection, Your Honor. And I'm just -- I'm ready
12 to go whenever.

13 THE COURT: Mr. Bice had an objection that your
14 designated started in the middle of an answer, Mr. Parker. So
15 I need you to fix that.

16 MR. BICE: Am I wrong?

17 THE COURT: Has there --

18 MS. WELCH: Your Honor, this is Diane Welch.

19 THE COURT: Yes?

20 MS. WELCH: Then I just would like to object.

21 Mr. Pupo is scheduled to testify live as to this information.
22 I don't think it would be appropriate to enter on the record
23 things that are made by recollection and not based on
24 testimony.

25 THE COURT: Okay. Thank you, Ms. Welch. Your

1 objection's overruled.

2 Next.

3 That wasn't nice, Mr. Bice.

4 MR. BICE: No, I am -- I'm sorry, Your Honor. I'm
5 tired. It's been a long day.

6 THE COURT: We've all -- we're all tired.

7 MR. BICE: I've noted my objection. I don't want to
8 waste any more time.

9 THE COURT: Mr. Parker, you've got to start with a
10 question. You can't start in the middle of an answer.

11 MR. PARKER: We can start from wherever the question
12 starts, Your Honor. I'm fine with it.

13 Can I look over your shoulder real quick so I can get
14 this done?

15 MR. BICE: Sure. But I don't know --

16 THE COURT: You're evading the six-foot space rule,
17 Mr. Parker.

18 Now, could you tell she --

19 MR. BICE: No, because the actual question is the
20 preceding page, where you're talking about --

21 MR. PARKER: Start 289, line 25, Shane. Line 5. I
22 mean, line 25.

23 Line 25, Your Honor.

24 THE COURT: If we could, please, Shane. Thank you.

25 (Publishing audio-video deposition of Jorge Pupo.)

1 Q And did you get any feedback from Ms. Cronkhite and
2 Mr. Gilbert regarding the first application or the second
3 application they had? Did either of them, for example, ask to
4 make changes [indiscernible] second application?

5 A Right. She representing -- it represents Cannabis
6 Coalition, as well.

7 Q Right. And during this process, you knew that
8 information that she was exchanging with your office could be
9 used to benefit her clients in this process; is that correct?

10 A Not necessarily, no. General exchanges, like, you
11 know, we had also, and Amanda --

12 (End of audio-video deposition.)

13 THE COURT: Can we stop the play for a minute.

14 Mr. Parker, Mr. Bice said that's not the part you
15 told him to look at.

16 MR. PARKER: It's the part that he skipped. I'll see
17 if I can start it in the middle of it, Your Honor.

18 Shane, I think you went -- you went to page 282 as
19 opposed to 280, line 25.

20 IT TECHNICIAN: You want to start at 280-25, correct?

21 MR. PARKER: Yeah. Page 280, line 25.

22 (Pause in the proceedings.)

23 MR. PARKER: I think that's what happened. I think
24 he started at 228.

25 THE COURT: I'm sorry, we all have masks on. It's

1 really hard for us to communicate, but we're doing the best we
2 can.

3 MR. PARKER: That's all we can do.

4 THE COURT: It's worse than having an interpreter or
5 translator.

6 MR. PARKER: Agreed. Shane, we're not holding this
7 against you.

8 THE COURT: But not with check interpreters. Check
9 interpreter's worse. Check, C-H-E-C-K, Flo. Thank you. Not
10 Czech, the country.

11 (Pause in proceedings.)

12 (Publishing audio-video deposition of Jorge Pupo.)

13 BY MR. PARKER:

14 Q And did you get any feedback from Ms. Cronkhite and
15 Mr. Gilbert regarding the first application or the second
16 application they had? Did either of them, for example, ask to
17 make changes [indiscernible] second application?

18 A No, they wouldn't ask me to make changes. So Steve
19 and his group were putting the application together, they sent
20 it to me for review. I took it over, tried to bounce it off
21 the regs, which is try to see if something was missing in them
22 or it could be wording.

23 On the second application, that came from -- input
24 from calls and e-mails, I guess, we were getting. Also, they
25 had a e-mail that was information put together by Deonne,

1 Riana, and Amanda, about -- excuse me -- about some
2 clarifications they needed regarding the application of some
3 attachments. At that point, you know, I spoke with my dad, I
4 spoke with Steve, kind of seeing about some of those
5 recommendations, and which changes should be made and which
6 shouldn't. And then Steve went back and made those -- Steve
7 and his group made those changes. And that's how the second
8 [indiscernible] application came out.

9 Q So you realize that this Amanda Connor represented an
10 applicant during this process; is that correct?

11 A Right. She represented the Cannabis Coalition, as
12 well.

13 Q Right. And you're in the process, you knew that
14 information that she was exchanging with your office could be
15 used to benefit her clients in this proces; is that correct?

16 A Not necessarily, no. They were general things, like,
17 you know, Riana would call so -- and Amanda had brought up and
18 Deonne, as well, had brought up about the -- you know, I keep
19 going back to the difference between construction plans and
20 general floor plans.

21 (End audio-video deposition.)

22 MR. PARKER: Stop right there, Shane.

23 BY MR. PARKER:

24 Q Ms. Connor, do you recall the scoring tool or the
25 criteria, I should say, for the application process for 2018?

1 A I do generally recall it, yes.

2 Q All right.

3 MR. PARKER: Your Honor, I'd like to move into --
4 have admitted into evidence Exhibit 108 -- I'm sorry, 1008. I
5 don't think there'll be an objection to it, but just in case.

6 THE COURT: Any objection?

7 MR. PRINCE: Hang on, Judge.

8 THE COURT: Mr. Prince, you had an objection?

9 MR. PRINCE: No, I'm just -- we're trying to get the
10 exhibit downloaded.

11 THE COURT: All right.

12 MR. BICE: Just a blank scoring tool?

13 MR. PARKER: So I'm going to ask for 108, 109 --

14 THE COURT: 1008.

15 MR. PARKER: Sorry. Thank you, Your Honor.

16 THE COURT: All righty.

17 MR. PARKER: 1008, 1009, 1010, 1011, 1012, and 1013.

18 MR. KOCH: Judge, no objection, other than 1010 does
19 appear to have highlighting and writing on the top.

20 THE COURT: Mr. Koch, you've got to get near a
21 microphone. No yawning.

22 MR. KOCH: I don't have an objection to the document.
23 It does appear that 1010, 1012 have some highlighting on the
24 document itself. I'm not sure whose handwriting it is. It
25 looks like --

1 It's just on the top, Teddy, on the --

2 MR. PARKER: Yeah, I'm --

3 MR. KOCH: -- this stuff up there. So I'm not sure
4 whose that is and whether it has any import here. But we can
5 get clean copies.

6 MR. PARKER: Yeah, I don't know what that's from,
7 Your Honor. Just wanted to --

8 THE COURT: So you're going to try and find clean
9 copies. And if you can't, we'll deal with it.

10 MR. PARKER: No worries.

11 MR. BICE: My only objection of this is that these
12 are the State's documents. I don't know what the basis is for
13 asking her about these documents, but I don't -- certainly I'm
14 not objecting to the authenticity of them.

15 THE COURT: Mr. Shevorski, any objection?

16 MR. SHEVORSKI: No objection to the authenticity,
17 Your Honor.

18 THE COURT: Be admitted.

19 (Exhibit Number(s) 1008-1013 admitted.)

20 MR. PARKER: Thank you, Your Honor.

21 THE COURT: Just keep going.

22 BY MR. PARKER:

23 Q Ms. Connor, I'm going to have you take a look at
24 these documents, and we'll start with 1008 which is the
25 organizational structure, which is the scoring criteria and the

1 elements for each criteria. Are you familiar with this
2 document?

3 A I don't recall seeing this document specifically, no.

4 Q Do you recall as a part of the application process
5 that organizational structure was under the identified section
6 of the application?

7 A Yes.

8 Q All right. And you remember there being an
9 identified and a nonidentified?

10 A Yeah.

11 Q Based upon the time you spent here with Mr. Gentile,
12 you've given testimony now but you've asked questions about
13 location; do you remember that?

14 A Yes.

15 Q You asked questions about taxes paid; do you remember
16 that?

17 A I don't think I -- well, I asked about a tax summary.

18 Q Well, let's take a look. We'll stop here to see if
19 we can help with that issue. If we take a look at Exhibit 112.

20 THE COURT: 1012 or 112.

21 MR. PARKER: Your Honor, you would -- thank you very
22 much.

23 THE COURT: I want to know which one.

24 MR. PARKER: 1012. 1012.

25 THE COURT: Thank you.

1 BY MR. PARKER:

2 Q This is a part of the identified section of the
3 scoring tool used for the 2018 application process; do you see
4 that?

5 A Yes.

6 Q And do you recognize that it says, under evaluation
7 elements, Evidence of taxes paid to the State of Nevada within
8 the last five years; do you see that?

9 A Yes.

10 Q Do you recall the question you asked in the text
11 message exchange, you said, regarding Safeway or Albertson's,
12 you wanted to know how you could find out how much a company
13 paid for five years in taxes; do you remember that?

14 A I wanted -- I was inquiring how you could get a
15 summary of taxes paid for five years, yes.

16 Q Right. Just happened to be one of the elements
17 within the 2018 application process, and this question was
18 right around less than a couple weeks before the deadline for
19 the applications to be submitted; do you recall that being the
20 timeline?

21 A I don't recall the specific time, but, yes, it was
22 during the application period.

23 Q All right. And then if we go back to your questions
24 regarding location and the dammit letter or email that
25 Mr. Gentile referred -- calls it. You understood that location

1 and potentially the scoring of location was an item on the
2 nonidentified section of the application grading criteria; is
3 that correct?

4 A I don't think that's correct. I think that
5 misrepresents.

6 Q Okay. You were concerned that location may be
7 scored; is that correct?

8 A I was concerned with the instructions that suggested
9 that leased or property ownership needed to be provided.

10 Q Right. But you were concerned that it would be
11 scored?

12 A I wanted to confirm that it would not be scored as
13 was required in the regulations.

14 Q Another question related to how the 2018 process
15 would be graded, one, potentially dealing with taxes, another
16 one dealing with location?

17 A Right. I don't think that's how they would be
18 graded.

19 Q All right.

20 A I was asking the questions -- and confirming my
21 understanding of regulations, not asking how they would be
22 graded.

23 Q Yes, ma'am. Now, you also asked questions about
24 Attachment E and Attachment I; do you remember that?

25 A I remember a text message and saying I wanted to

1 discuss those with him, yes.

2 Q All right. And you asked questions whether or not
3 owners, officers, and board members would be background
4 checked; do you remember that?

5 MR. BICE: Objection to the form.

6 THE COURT: Overruled.

7 THE WITNESS: I don't recall a question on would
8 owners, officers, and board members be background checked.
9 BY MR. PARKER:

10 Q Okay. Then we'll get to it then. I thought that you
11 had already looked at that email -- or text message, I'm sorry.

12 But in terms of what you knew about the identified
13 and nonidentified sections of that application scoring
14 criteria, you knew the questions that you were asking of
15 Mr. Pupo related to that scoring?

16 A No, I was -- I was confirming my understanding. I
17 wasn't asking questions about how it would be scored.

18 Q By saying you were confirming your understanding, you
19 were confirming your understanding as to scoring elements on
20 that application; isn't that correct?

21 A I was confirming my understanding that the regulation
22 stated location would not be scored.

23 Q You didn't mention the word regulations in any of
24 those text messages; did you?

25 A In the text messages, no, I did not mention the word

1 regulation.

2 Q That's right. All right.

3 MR. PARKER: Could you go forward further with that
4 playback for me, Shane.

5 IT TECHNICIAN: Do you remember where we left off?

6 MR. PARKER: You know, I actually do. I think we
7 left off at page 283, and I don't know what line, but I know
8 283.

9 (Pause in the proceedings.)

10 BY MR. PARKER:

11 Q Do you also recall asking about, Ms. Connor,
12 construction plans versus general plans or general floor plans,
13 I should say.

14 A I believe in that email that you referred to as the
15 dammit email there was discussion of construction plans and
16 general plans.

17 Q And you knew -- strike that.

18 Isn't it a fair statement, Ms. Connor, that your
19 winning applicants used floor plans as opposed to construction
20 plans? This is a part of the application, Ms. Connor.

21 A I understand that, but I don't believe the full
22 applications were disclosed. I don't have access to what
23 information was disclosed. So I don't know if I can answer
24 those questions.

25 MR. PARKER: I believe she can but, you know, I

1 don't.

2 THE COURT: Well, she can tell you one way or the
3 other whether she can or not.

4 MR. PARKER: Thank you.

5 BY MR. PARKER:

6 Q Go right ahead, Ms. Connor.

7 A What?

8 Q Did they use floor plans or did they use construction
9 plans?

10 MS. BROWN: We're objecting to the extent they
11 haven't been fully disclosed, but to my understanding, and
12 again we're not parties; so we don't know what's been
13 disclosed. So if counsel who represents those people could
14 please speak up and confirm what's been disclosed. We don't
15 [indiscernable].

16 MR. PARKER: Understood.

17 THE COURT: So let me ask this. Let me see if we can
18 set up a different ground rule. Based upon your recollection
19 as you sit here today, in general were floor plans used or
20 construction plans?

21 THE WITNESS: In general it varied by client.

22 THE COURT: Okay.

23 MR. PARKER: Okay.

24 BY MR. PARKER:

25 Q Do you recall which clients used -- and before you

1 answer which clients, I want to see if you remember one way or
2 the other, which clients used floor plans versus construction
3 plans?

4 THE COURT: And that's a yes or no.

5 THE WITNESS: Yes.

6 MR. PARKER: All right.

7 BY MR. PARKER:

8 Q And do you know if some of your clients that were
9 actually conditional winners used floor plans versus
10 construction plans?

11 MR. KOCH: Objection. [Indiscernible] information in
12 the application.

13 MR. PARKER: I didn't ask for the names.

14 THE COURT: No. I know. But he's saying it's
15 privileged information. It's not been produced.

16 MR. PARKER: I don't think that's true. I think that
17 those that have conditionally prevailed have identified
18 those -- identified that they did not provide locations and
19 they used floor plans.

20 THE COURT: Well, no.

21 MR. PARKER: That's being testified to.

22 THE COURT: We know they used --

23 MR. PRINCE: No. I disagree with that.

24 THE COURT: Okay.

25 MR. PARKER: Mr. Prince wasn't even at the

1 preliminary injunction hearing.

2 THE COURT: But he read the transcripts. I remember
3 him telling me that. He walked in the room and said I read it
4 all. And I looked at him and I go right, Dennis.

5 MR. PARKER: Right, Fernandez. Exactly.

6 MR. PRINCE: Okay. Well I [indiscernable] objection
7 now for sure.

8 THE COURT: I'm sure listening.

9 MR. PRINCE: Yeah. So now, yeah, so I guess him
10 saying that his recollection of the testimony, everybody's
11 testified that no one used floor plans versus building plans.
12 No, that hasn't -- that is not in this record.

13 THE COURT: No. He said they didn't use locations.

14 MR. PARKER: That's what I just said.

15 MR. PRINCE: And you talk about -- I thought I heard
16 building plans.

17 THE COURT: He said locations, Mr. Prince.

18 MR. PRINCE: I'm hearing plans in addition to the
19 location.

20 THE COURT: Okay. So the mask doesn't go over the
21 ears.

22 MR. PRINCE: Okay. So now you want to, oh, now you
23 want --

24 MR. PARKER: Listen, hey, I'm the cleanest guy in the
25 room.

1 MR. PRINCE: But you don't -- I'm not sure of that.

2 THE COURT: All right. Can we start over,
3 Mr. Parker.

4 MR. PARKER: Yes, Your Honor.

5 THE COURT: Thank you, Mr. Shevorski. That's how I
6 feel too.

7 BY MR. PARKER:

8 Q Ms. Connor, we digressed quite a bit, I apologize.

9 THE COURT: And he's going to restate a new question.

10 MR. PARKER: I am.

11 BY MR. PARKER:

12 Q Ms. Connor, you indicated that you recall that some
13 of your clients used floor plans versus construction plans.
14 The last question I asked you was whether or not you know any
15 of your clients that prevailed used floor plans as opposed to
16 construction plans, and that's where we were.

17 MR. KOCH: Same objection, Your Honor. It requires a
18 disclosure of information --

19 THE COURT: The objection is sustained.

20 MR. PARKER: All right.

21 BY MR. PARKER:

22 Q Ms. Connor, after speaking with Mr. Pupo, did you
23 have an understanding that floor plans could be used instead of
24 construction plans?

25 A No. I was -- in my email with Mr. Pupo was

1 confirming my understanding of the regulation that location
2 would not be scored. I knew the requirements of floor plans
3 and construction plans from the instructions and not location.

4 Q All right.

5 MR. PARKER: Shane, if you could.

6 He has a different recollection; I want you to hear
7 it, Ms. Connor.

8 THE COURT: Mr. Parker, no commentary, please.

9 (Publishing audio-video recording.)

10 A They had pushed to get rid of or doing workshops as
11 well, the [indiscernible] workshops to get rid of construction
12 plans and making general floor plans because of the costs being
13 incurred by licensees to get detailed, multiple copies of
14 construction plans.

15 Q [Video interference] information in terms of
16 Ms. Connor that she would be getting from her own applicants --
17 or I'm sorry, her own clients, it's fair to say she was putting
18 their applications together; isn't that correct?

19 A Yeah. [Indiscernible] those discussions had taken
20 place way before. I mean, even when -- during the '17 session
21 and -- in the Governor's task force meetings and the regulation
22 workshops about the construction plans and things like that.
23 So we had agreed, and I think the regulations say general floor
24 plans, and so that was one of the changes that we made.

25 Q If you had conversations with Ms. Connor in August

1 of 2018 where she specifically asked [indiscernible] you
2 whether or not location was required and whether or not [video
3 interference]. Do you remember that?

4 A Yes.

5 Q All right. So some of these conversations took place
6 right before, or within a month of submission of applications;
7 isn't that correct?

8 A Yeah.

9 Q All right. So my point being is you were having
10 conversation, like you indicated a few minutes ago -- thank
11 you -- conversations and communications with Amanda Connor
12 about this application process. Is that a fair statement?

13 A Yeah. I wouldn't to say about the process. She had
14 asked the questions about -- that you just brought up, and, you
15 know, she knew she -- I know she -- I believe she --

16 (Audio-video recording paused.)

17 MR. BICE: I have an objection.

18 THE COURT: Can we pause the video so Mr. Bice can
19 state his objection.

20 MR. BICE: Yeah. So they're editing out objections
21 that are made on the record that are in this transcript
22 without --

23 THE COURT: Without me ruling on them, huh?

24 MR. BICE: Without any ruling on them.

25 THE COURT: I was wondering why we were skipping

1 lines.

2 MR. BICE: And -- and this was a short clip, and I
3 don't know how long we've now been going with this clip.

4 THE COURT: Way too long.

5 MR. BICE: So those are my objections.

6 THE COURT: All right. Mr. Parker, do you want to
7 get to the point with this Pupo portion of the depo, or do
8 you --

9 MR. PARKER: The last part of the depo -- the last
10 part of this read in, Your Honor, or excerpt is lines 1 through
11 5 on page 287.

12 THE COURT: Maybe we could go there.

13 MR. PARKER: That's where we want to go.

14 (Publishing audio-video recording.)

15 Q Well, did you ever send out a LISTSERV saying
16 location will not be scored?

17 A No, not that I --

18 MR. PARKER: Thank you.

19 (End audio-video recording.)

20 BY MR. PARKER:

21 Q So, Ms. Connor, after having a conversation with
22 Mr. Pupo, you certainly became aware of the fact that he
23 changed the application form; is that correct?

24 A I became aware that the application had changed when
25 it was issued via the LISTSERV.

1 Q Okay. Did you ever see anything else regarding the
2 conversation you had with Mr. Pupo put out in the form of a
3 LISTSERV?

4 A What conversation?

5 Q Conversations regarding taxes paid, conversation
6 regarding construction plans versus floor plans, questions
7 about scoring of location.

8 Did you see anything clarifying the questions that
9 you had with Mr. Pupo released to the general public?

10 A I did not see my email communications or phone
11 communications with Mr. Pupo released via the LISTSERV, no.

12 Q All right. Now, a lot of questions have been asked
13 of you, Ms. Connor, regarding compliance issues today, be it
14 Mr. Bult or Mr. Gentile. Certainly you were aware of the
15 statements of deficiencies being received by your -- your
16 clients; is that correct?

17 A By "clients" you mean all my regulatory clients?

18 Q Well, let's just use Essence or Nevada Organics. You
19 were aware of those?

20 A I would be aware of statements of deficiency I
21 received as point of contact for clients I represented for
22 regulatory compliance, yes.

23 Q All right. And, in fact, you sent letters in
24 response to statements of deficiencies?

25 A As a part of my regulatory compliance representation,

1 I would submit plans of correction, yes.

2 Q Did you ever become aware of the fact that compliance
3 was not being utilized for purposes of evaluating the 2018
4 application -- applications, I should say?

5 MR. BICE: Objection to the form -- to the form of
6 the question. Misstates the terms of the application.

7 THE COURT: Overruled.

8 THE WITNESS: I was not -- if your question is was I
9 aware that compliance did not -- was not scored, no, I was not
10 aware that compliance was not considered.

11 BY MR. PARKER:

12 Q Well, you prepared the applications, didn't you?

13 A I did not prepare the applications.

14 Q I'm sorry?

15 A I did not prepare the application, no.

16 Q You didn't prepare --

17 A Is that what your question is?

18 Q Yeah. Did you prepare any of the applications for
19 your clients?

20 A Oh, I'm sorry. I misunderstood. I thought you meant
21 the application form.

22 Q No.

23 A I -- my role for the applications was my clients
24 prepared the documents. I reviewed them for compliance and
25 gave feedback, compiled those and helped with -- assisted with

1 the submission. But most of the documentation was my clients'
2 work.

3 Q Okay. Did you see anywhere in the application a
4 request for a compliance history?

5 A If you're asking if there was a section to list out
6 statements of deficiencies and responses, no, I do not believe
7 that was a part of the application.

8 Q All right. As a member of the working group that had
9 the responsibility of working on the application -- when I say
10 "application," how the application process would be handled --
11 you were aware that compliance was an important part of that
12 consideration for licensing and renewals of licensing; is that
13 correct?

14 A Yes. I -- myself and John Ritter worked together on
15 the proposal of items to be considered that we discussed at our
16 working group. And it was my understanding that one of those
17 items would be compliance.

18 Q In fact, I believe you testified at your deposition
19 that compliance was to be considered as a part of the
20 application process; is that correct?

21 A I believe that --

22 MR. BICE: Objection to the form.

23 THE COURT: Overruled.

24 THE WITNESS: I believe, yes, compliance was to be
25 considered.

1 BY MR. PARKER:

2 Q And I believe you also testified that impact on
3 community was also supposed to be considered as a part of the
4 application process; is that correct?

5 A Yes, I believe impact on community was to be
6 considered.

7 Q All right. And you -- were you aware of the fact
8 that impact to community was one of the criteria which was made
9 a part of the scoring for the 2018 recreational application
10 process?

11 A Yes. Pursuant to the application that was released,
12 there was a table that broke down the different sections and
13 the points that would be available in that, and, yes, I was
14 aware that community impact was part of that.

15 Q Okay. Community impact, is that a nonidentified or
16 identified section of the scoring, to your knowledge?

17 A I believe, to my recollection, it was in the tab 2,
18 which would have been nonidentified.

19 Q All right. Adequacy of size of building, is that
20 also a part of the nonidentified?

21 A Yes.

22 Q Would you also --

23 A It was part of -- the part 2 which was not
24 identified.

25 Q Okay. Location was not scored; is that correct?

1 A The physical address location was not scored. That
2 is my understanding of the regulations.

3 Q But floor plans would be a part of the nonidentified
4 section; is that correct?

5 A Part of the adequacy of the size criteria included
6 construction plans or general floor plans.

7 Q And would you agree with me that in between June
8 of 2018 and July 10th -- or 20th -- I think 10th of 2018, you
9 asked Mr. Pupo and/or other members of the D.O.T. staff
10 questions on those nonidentified elements?

11 A I do not agree that I asked questions about the
12 application before it was released. No.

13 Q That's not what I asked you. I said you asked
14 questions regarding those nonidentified elements that were
15 scored as a part of that process. You asked them in the form
16 of text messages; did you not?

17 A I don't believe so.

18 Q Well, we've gone over some of them this morning, and
19 Mr. Pupo just testified that you did. Are you sitting here
20 saying you did not?

21 A You said in June. The application wasn't released in
22 June.

23 Q I said -- I'm sorry. Between June, and I said July
24 of 2018.

25 MR. PRINCE: No. You said July 10th.

1 THE WITNESS: Yeah. You said before the application
2 was released. And no, I did not ask him questions about the
3 application before it was released.

4 BY MR. PARKER:

5 Q Okay. So you believe all your questions came after
6 it was released; is that correct?

7 A Related to the application and my clarifications or
8 confirmations, yes, it was after the application was released.

9 Q And would you also agree with me that in terms of
10 scoring, the portion of the scoring that was most deficient in
11 terms of Thrive's application in the Ely process would have
12 been the nonidentified section; isn't that correct?

13 A Yes. I believe that was the weaker area.

14 Q That's right. And the questions you asked dealt with
15 the area of the application which Thrive did the worst on in
16 the Ely process; is that correct?

17 A I asked various questions about the application, one
18 of which was related to adequacy of the size of the building.
19 And, yes, in the Ely application that was one of the weak areas
20 of the Thrive application.

21 Q Now, in terms of compliance, based upon your letters,
22 we know there were clients of yours that had repeated sales of
23 marijuana to minors; is that correct?

24 A I believe the record speaks for itself of what was
25 entered.

1 Q I'm sorry?

2 A I believe the record speaks for itself of what was
3 entered about the sales to minors on behalf of Integral. I
4 don't know which one you're referring to.

5 Q Well, I could say the names. But I'm first asking
6 you whether or not you recall that you had clients that are --
7 that you responded to the D.O.T. related to sales to minors,
8 repeated sales to minors?

9 A I don't think I responded to the D.O.T. I had
10 clients that self-reported.

11 Q Right.

12 A Sales to underage individuals, meaning under the age
13 of 21.

14 Q Yes. But you provided letters on your letterhead
15 with plans of corrections related to those sales to minors; is
16 that correct?

17 A Yes. We self-reported and provided the corrective
18 actions.

19 Q And in addition to sales to minors, you had a client
20 that was found to have contaminated marijuana on the shelf?

21 A With such a general statement and the number of
22 clients I represent, that is -- I don't know what you're going
23 for.

24 Q Do you recall one of the -- one of your clients that
25 happens to be one of the prevailing applicants had an issue

1 with salmonella-contaminated marijuana on the shelf?

2 A I don't recall that specifically.

3 Q Okay. Do you recall another one of your clients who
4 is also a successful applicant having withheld failed marijuana
5 testing for several months?

6 A No, I don't recall that specifically.

7 Q To the extent that those statements of deficiencies
8 are true, you would agree with me that that would be violations
9 of the Nevada Administrative Code; isn't that correct?

10 MR. BICE: Objection to the form. Assumes facts not
11 in evidence.

12 MR. KOCH: Lacks foundation.

13 THE COURT: Overruled.

14 THE WITNESS: I believe that the statements of
15 deficiency identify areas the license holder is deficient in,
16 and pursuant to regulation gives them an opportunity to
17 correct. And if they do so and it's approved, that's
18 compliance with the regulation.

19 BY MR. PARKER:

20 Q Ms. Connor, I'm not asking you in terms of curing the
21 violation. I'm asking you simply if it is a violation?

22 A Yes. I believe it -- in its name is finding a
23 deficiency in the compliance with a certain regulation. And
24 like I said, by regulation they're given an opportunity to
25 correct.

1 Q That's fine. But prior to the correcting, having --
2 selling to a minor is a violation; is that correct?

3 A Yes.

4 Q All right. Failing to report contaminated marijuana
5 or holding failed test results for months would be a violation
6 as well, wouldn't it?

7 A Well, I believe it's the duty of the lab to report
8 the test results. So and I don't represent any labs. So I'm
9 unsure of the deficiency of failing to report failed lab test
10 results, how you're stating it, and so I can't speak to that
11 one.

12 Q If compliance was actually considered as it should
13 have been, as you've testified, those statements of
14 deficiencies would have been available to the graders; is that
15 correct?

16 MR. BICE: Objection to the form. Misstates the
17 testimony, and it misstates the record -- or the application,
18 Your Honor.

19 MR. KOCH: Join.

20 THE COURT: Overruled.

21 THE WITNESS: I -- I don't know what was made
22 available to the graders and what was not.

23 BY MR. PARKER:

24 Q All right. But given your position with the working
25 group and your testimony that compliance was supposed to be

1 considered, graders would have only been able to consider it if
2 they were given that information. Isn't that a fair statement,
3 Ms. Connor?

4 MR. BICE: Objection to the form. Misstates the
5 testimony --

6 THE COURT: Overruled.

7 MR. BICE: -- and misstates the application.

8 BY MR. PARKER:

9 Q Isn't that true, Ms. Connor?

10 A I would agree that the grader could only consider the
11 things that were made available to them. Yes.

12 Q All right. Now, Ms. Connor, do you recall that in
13 addition to yourself having conversations with Mr. Pupo,
14 Ms. Cronkhite, Mr. Gilbert, that you also introduced your
15 clients to Mr. Pupo?

16 A I did on occasion introduce clients to Mr. Pupo, yes.

17 Q What clients do you recall introducing to Mr. Pupo?

18 THE COURT: In addition to the dinners and lunches we
19 went through with Mr. Gentile? Because we don't need to go
20 through those again.

21 MR. PARKER: I'm not, Your Honor.

22 THE COURT: Or the shooting. Yeah.

23 MR. PARKER: Your Honor, we are not.

24 THE COURT: Okay.

25 MR. PARKER: Although I could barely hear what was

1 going on.

2 THE COURT: I know.

3 MR. PARKER: I'm trying not to be redundant.

4 THE COURT: That's a problem with being on the phone.

5 MR. PARKER: It's very difficult.

6 BY MR. PARKER:

7 Q Ms. Connor?

8 A To the extent you're asking for clients outside of
9 the -- at issue in this litigation, I believe that --

10 Q I'm only talking about this litigation, Ms. Pupo -- I
11 mean Ms. Connor.

12 A To my recollection, I introduced Armen Yemenidjian to
13 Mr. Pupo, Mitchell Britten to Mr. Pupo. I believe I had
14 introduced Brian Padgett to Mr. Pupo. I did not -- I also
15 believe I introduced Andrew Jolley to Mr. Pupo. I did not
16 introduce him to John Ritter because John Ritter had a
17 long-standing friendship with Mr. Pupo before he -- before the
18 program moved over.

19 Q So let's take them one at a time. In terms of
20 Mr. Yemenidjian or Yemenidjian, his company Integral, which is
21 Essence Trop and Essence Henderson, they received eight
22 licenses as a part of this process; is that correct?

23 A I believe between the two applicants, yes, they
24 received eight licenses.

25 Q All right. And Mr. Jolley, that's The Source or

1 Nevada Organic Remedies; correct?

2 A Yeah, it's based on publicly available records he is
3 related to that entity.

4 Q All right. And they received was it six or seven
5 licenses?

6 A I believe Nevada Organic Remedies received seven.

7 Q All right. And then finally, Thrive, which is Mitch
8 Britten; is that correct?

9 A Mitch Britten, yes, based on publicly available
10 records is related to Thrive.

11 Q And I believe they received six licenses or seven?

12 A Six, yes.

13 Q Six. So between the three of those clients that you
14 introduced to Mr. Pupo, they received 21 licenses; is that
15 correct?

16 A I believe that math is correct, yes.

17 Q All right. Now, and when you say introduced them,
18 that would include cell phone numbers that led to the dinners
19 and lunches that we've already -- you have already discussed
20 with Mr. Gentile; is that correct?

21 A I don't recall if I shared cell phone numbers with
22 everybody, but, yes, I did introductions, and we had some
23 dinners or lunches.

24 Q Okay. Before we get to those introductions, do you
25 recall why Mr. Pupo asked you to stop using the (702) 306

1 number?

2 A I -- I just got the auto reply.

3 Q And after that, receiving that auto reply, did you
4 start using the new number?

5 A I believe I may have used both.

6 Q Okay. So let's take a look at Exhibit 1586, page 60.

7 MR. PARKER: I'm not sure, but I believe 1586 has
8 been admitted; is that correct?

9 THE CLERK: No. It's still proposed.

10 THE COURT: It's a proposed exhibit, Mr. Parker.

11 MR. PARKER: Okay. Is it proposed --

12 THE COURT: Mr. Bice, Mr. Prince, Mr. Shevorski, can
13 you look at it and tell me.

14 MR. BICE: Yes. We're looking right now, Your Honor.

15 THE COURT: Thank you.

16 (Pause in the proceedings.)

17 MR. PARKER: Your Honor, I wanted to only look at
18 page 60.

19 THE COURT: Can't do it, Teddy. Got to admit the
20 entire electronic exhibit or none of it.

21 MR. PARKER: You know something, we'll hold off on
22 that till tomorrow.

23 THE COURT: Isn't that lovely.

24 MR. PARKER: Yeah, we can do that, Your Honor.

25 THE COURT: Okay. And then Shane has to put it on a

1 separate drive, whether it's a thumb drive or something else,
2 with all the other exhibits you want to split up. And then
3 Nick, the IT guy, will be here at 8:00ish to look at them and
4 hand them off to Dulce. And if you screw up, and it's not
5 right, Nick has to sit here and not do his other job and
6 provide support to the other staff at the courthouse.

7 MR. PARKER: Understood, Your Honor.

8 THE COURT: Which is a bad thing since we are short
9 staffed.

10 MR. PARKER: Understood, Your Honor.

11 THE COURT: So don't screw it up.

12 MR. PARKER: I will not.

13 THE COURT: Okay.

14 MR. PARKER: Thank you.

15 BY MR. PARKER:

16 Q When you received the second app, Ms. Connor, which
17 would have been on the 30th or 31st of July, do you recall
18 having any further conversations with Mr. Pupo regarding any
19 other areas that needed clarification for you or confirmation?

20 A I believe I had the email conversation in August that
21 you guys refer to as "the dammit email."

22 Q Okay. And so in that email, and I believe that is
23 Exhibit 1147. I think it's 1147.

24 THE CLERK: That's proposed.

25 MR. PARKER: Is it also proposed?

1 Your Honor, I would move for the admission of
2 Exhibit 1147.

3 THE COURT: Any objection?

4 MR. SHEVORSKI: I think it's already in. This might
5 be a duplicate.

6 MR. PARKER: Is it already in? I know it's been
7 discussed, but --

8 THE COURT: We think it's a duplicate, Mr. Parker,
9 but don't know.

10 Mr. Prince has been the one who has given the cross
11 reference numbers all day long.

12 MR. PRINCE: My computer just -- the battery
13 [inaudible].

14 THE COURT: But he is going to fail us on this.

15 MR. PARKER: Just as soon as you prop him up, that's
16 what happens.

17 MR. J. SMITH: I think it's 2064, Your Honor.

18 THE COURT: Thank you, Mr. Smith.

19 THE CLERK: Thank you.

20 MR. PARKER: We have it as 1147, page 1 and 2.

21 THE COURT: It could be 2064 as well perhaps.

22 MR. PARKER: Okay. Does it matter which one we pull
23 up, Your Honor?

24 THE COURT: Yes. We have to pull up the admitted
25 one.

1 MR. PARKER: Has it been admitted as 2064?

2 UNIDENTIFIED SPEAKER: Yes.

3 THE CLERK: Yes.

4 MR. PARKER: Okay. Well, then, Shane, if you could
5 bring up 2064.

6 THE COURT: We've never seen this email before. That
7 was sarcasm for anybody who is on the other end.

8 MR. PARKER: Even with the mask I could tell, Your
9 Honor.

10 BY MR. PARKER:

11 Q So other than this email, do you recall any further
12 conversations or communications with Mr. Pupo as to any other
13 areas of the application that you are unclear on?

14 A I believe you -- to clarify, your question was after
15 the second application?

16 Q That is correct.

17 A Or the amended application was released July 30th
18 or 31st?

19 Q That's correct.

20 A To my recollection, no.

21 Q All right. Do you recall which of your clients were
22 actually having a problem? I don't want to know the names of
23 them, but do you recall which ones of your clients actually had
24 problems finding locations?

25 A Do I recall which clients of mine had problems

1 finding locations?

2 Q Yes. You mentioned in this document, a person who
3 has a lease or owns the property will not get more -- you're
4 talking about not get more points. Then at the bottom you
5 indicate there seems to be some inconsistency in the
6 application. And then on the second page, you indicate
7 something regarding the lease and the property owners. So I'm
8 assuming -- I took from this, generally, that there may have
9 been an issue providing plans or providing -- securing a
10 location.

11 Did you have clients that had problems either
12 providing plans or securing locations?

13 A No. My email was to confirm my understanding of the
14 regulations.

15 Q Okay. Even after the application had been amended;
16 is that correct? Or revised?

17 A Yes. This was after the application had been
18 revised.

19 Q In addition to this email, did you have a
20 conversation with him, Mr. Pupo that is?

21 A When?

22 Q After you sent this email on August 23rd, 2018.

23 A Do you mean about that email or about any topic in
24 general?

25 Q Any other issues with the application.

1 A To my recollection, I did not discuss any other
2 issues or request confirmation of understanding related to the
3 application.

4 Q All right. Now, do you recall during this time
5 period ever discussing compliance with Mr. Pupo and whether or
6 not compliance would be afforded the graders? A compliance
7 history.

8 A Do I recall discussing -- I'm sorry. I struggled to
9 hear you. Can --

10 Q Yes. Did you ever have a conversation with Mr. Pupo
11 whether or not compliance history would be provided to the
12 graders?

13 A I do not recall any such conversation with Mr. Pupo.

14 Q So after you admitted to me during your deposition
15 that compliance was supposed to be considered, and I believe
16 you also admitted that compliance -- a compliance report was
17 not an area within the application itself, did you ever ask
18 Mr. Pupo how can compliance be considered if it's not within
19 the application itself?

20 MR. BICE: Objection --

21 MS. BROWN: Objection. Misstates the prior
22 testimony. Vague --

23 MR. BICE: -- to the form --

24 MS. BROWN: -- and ambiguous and compound.

25 MR. BICE: -- Your Honor. That's -- the entire

1 predicate is --

2 THE COURT: Overruled.

3 THE WITNESS: No.

4 BY MR. PARKER:

5 Q Do you recall asking -- strike that.

6 Were hand sinks, to your knowledge, a necessary
7 component of a floor plan or a construction plan for purposes
8 of the application?

9 A I wouldn't say it was a necessary part. I would say
10 that there are regulations that require hand washing sinks.

11 MR. PARKER: All right. I know Exhibit 1588 has been
12 referred to, Your Honor. I do not know whether or not
13 page 7 --

14 THE CLERK: All of it is admitted.

15 MR. PARKER: Has been -- the whole thing has been
16 admitted?

17 THE COURT: We only admit the whole thing or none.

18 MR. PARKER: Thank you.

19 So, Shane, can you bring up 1588, page 7.

20 MR. PRINCE: Again, that's in and its entirety.

21 BY MR. PARKER:

22 Q Now, you had a conversation, I believe with
23 Mr. Gentile regarding the hand sink. Do you remember that?

24 A Yes. I had a client that I was working on behalf of
25 that had a plan of correction that submitted that related to

1 sinks, and I had that. We went through that.

2 Q All right. My question is not as related to that
3 particular client. My question is geared towards your
4 understanding of whether or not hand sinks was a necessary
5 component of a floor plan or a construction plan for purposes
6 of the application process?

7 MR. PRINCE: I guess I'm going to lodge an objection
8 as to using this document -- this is actually not with
9 Mr. Pupo. It was with someone else.

10 MR. PARKER: Your Honor, it's an admitted exhibit.

11 THE COURT: That's right. You can use it.

12 MR. PRINCE: And that's accurate. But his question,
13 it lacks foundation as it relates to her --

14 THE COURT: Overruled.

15 BY MR. PARKER:

16 Q Ms. Connor, you can go ahead.

17 A If your question was did I believe hand washing sinks
18 were required on the construction plans for the application,
19 the answer is, no, I did not think that was a requirement. Or
20 I guess I didn't give a lot of thought to hand washing sinks as
21 on the construction plans.

22 Q And so is it fair to say you don't know whether or
23 not your clients' floor plans included a hand washing sink?

24 A I -- I do not -- I could not tell you today and do
25 not recall if hand washing sinks were included.

1 Q If hand washing sinks are a necessary part of the
2 floor plan or construction plan, that would be again a part of
3 the nonidentified section of the grading; is that correct?

4 A Assuming -- yes. If hand washing sinks were
5 required, the construction plans were part of the nonidentified
6 section.

7 Q Now, do you recall as soon as -- do you recall when
8 the regulations passed?

9 A Which regulations?

10 Q The regulations related to recreational marijuana.

11 A Which ones? Emergency, temporary or --

12 Q No. The permanent ones?

13 A I believe the permanent passed -- I don't recall
14 specifically, no.

15 Q All right. Can we look at Exhibit --

16 MR. PARKER: Exhibit 1590, Dulce, in?

17 THE CLERK: I'm sorry. Which exhibit?

18 MR. PARKER: 1590, 1-5-9-0.

19 THE CLERK: That's proposed.

20 MR. PARKER: Any objection?

21 (Pause in the proceedings.)

22 THE COURT: So I'm guessing from the responses they
23 have a problem because it's the entire extraction report.

24 MR. PARKER: It is. I didn't want to --

25 THE COURT: You got to break it down.

1 MR. PARKER: Unless they have no objection to the
2 report coming in.

3 THE COURT: That is true. Unless they have no
4 objection.

5 MR. PARKER: All right.

6 THE COURT: I'm waiting. Mr. Shevorski is still
7 looking. Mr. Bice is still looking.

8 MR. BICE: Well, Your Honor, my problem is, is that
9 it is an entire 255-page extraction report with a lot of
10 statements from a lot of different people in there. If it were
11 just my client, that might be one thing. So as of right now, I
12 have to object because of that.

13 I would be happy to look at it tonight.

14 MR. PARKER: That's fine.

15 MR. BICE: And if he could point to me the specific
16 pages he wants --

17 MR. PARKER: 150.

18 MR. BICE: -- that would be even more helpful.

19 MR. PARKER: Page 150.

20 MR. BICE: I'm sorry. 150?

21 MR. PARKER: Yep. 150.

22 MR. BICE: Okay.

23 THE COURT: So --

24 MR. PARKER: And 150 and 153.

25 MR. BICE: Okay.

1 THE COURT: So with that, we're going to break for
2 the day.

3 And I'm going to give counsel a piece of advice:
4 Smaller exhibits are better than bigger exhibits. The reason
5 smaller exhibits are better is we don't have as many issues
6 with the electronic admission. Because if there's one page out
7 of a 50-page exhibit that doesn't get admitted, none of it gets
8 admitted. And you've got to get a new device and bring it to
9 me with the other pages. So I would encourage you to look at
10 your exhibits and not try and give us ones that are 18,000
11 pages or so where there may be one that's a problem.

12 MS. BROWN: Your Honor.

13 THE COURT: Yes.

14 MS. BROWN: May my client book a flight tomorrow
15 afternoon at 1:00 p.m.? As I understand, there's another
16 witness going in the afternoon, just so she doesn't have a huge
17 gap.

18 THE COURT: Well, we haven't confirmed that he's
19 going to be here at 1:00. That is the plan. That's our hope.
20 But as you saw this morning, things go wrong. So I think
21 1:00 is going to be tough to make, personally.

22 MS. BROWN: Okay.

23 THE COURT: Mr. Parker, I'm going to keep you --

24 MS. BROWN: Your Honor.

25 THE COURT: -- on a short lease.

1 MR. PARKER: No worries.

2 MS. BROWN: Your Honor.

3 THE COURT: So you're going to have to get it over
4 with.

5 MR. PARKER: No worries.

6 THE COURT: You're starting at 8:30. Be here on
7 time. Be ready to go.

8 MR. PARKER: Will do.

9 THE COURT: Make sure somebody helps you with all
10 your boxes.

11 MR. PARKER: Well, I'm going to leave -- I asked
12 Mr. Ramsey if I could leave some of these here.

13 THE COURT: Mr. Ramsey is going to tell you that
14 nobody will steal your paper.

15 MR. PARKER: Okay. Good.

16 MS. BROWN: Your Honor, may my client book a
17 7:00 p.m. flight?

18 THE COURT: Absolutely.

19 MS. BROWN: Thank you very much.

20 THE WITNESS: Thank you, Your Honor.

21 THE COURT: So, Mr. Parker, how much longer have you
22 got?

23 MR. PARKER: Your Honor, my plan is to be done with
24 the witness by -- between 10:00 and 10:30 should be --

25 THE COURT: Okay. And then I've got about an hour

1 and a half of other people.

2 MR. BICE: An hour and a half of what, Your Honor?

3 THE COURT: An hour and a half to a little longer
4 from the rest of you guys.

5 MR. BICE: Oh, yes.

6 THE COURT: When I was counting up time.

7 MR. PRINCE: Yes.

8 MR. BICE: Yes.

9 MR. PRINCE: Yes.

10 THE COURT: I'm not saying that that's accurate or
11 not. But that was about what I got to.

12 (Proceedings recessed for the evening 4:44 p.m.)
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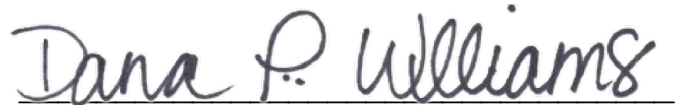
CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

DANA L. WILLIAMS
LAS VEGAS, NEVADA 89183

A handwritten signature in dark ink, reading "Dana L. Williams", is written over a horizontal line.

DANA L. WILLIAMS, TRANSCRIBER

07/21/2020

DATE

<p>BY MR. BULT: [8] 208/11 209/2 210/5 210/20 212/1 212/24 213/10 216/8</p> <p>BY MR. GENTILE: [127] 6/15 17/7 17/24 20/8 22/3 23/24 24/19 25/16 28/15 31/17 33/1 34/6 34/15 35/14 39/5 42/18 43/17 45/2 46/16 49/11 51/21 54/22 56/4 57/12 58/14 59/21 61/11 61/17 63/21 64/18 65/23 70/16 72/5 77/3 77/23 82/19 84/11 86/9 89/9 91/11 92/10 94/13 97/17 98/4 99/21 100/6 100/13 101/1 101/9 101/18 102/1 102/13 103/17 103/22 106/21 108/18 112/21 113/12 113/15 114/3 118/2 119/19 120/7 121/2 121/14 123/12 124/8 125/12 126/12 126/24 127/19 129/3 129/15 129/20 130/21 134/18 135/6 135/14 135/18 136/7 137/3 137/18 139/23 141/14 141/19 142/2 142/16 143/8 144/22 145/3 146/11 147/23 148/5 151/7 152/13 154/2 154/19 155/11 160/13 160/21 161/7 162/6 162/20 163/22 165/4 166/6 168/9 169/9 170/1 170/7 170/11 171/7 171/10 171/23 172/14 173/1 173/8 173/20 174/24 177/14 180/24 181/17 182/1 184/3 187/18 203/10 206/5</p> <p>BY MR. 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A P P E A R A N C E S

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SIGAL CHATTAH, ESQ.
PETER S. CHRISTIANSEN, ESQ.
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ROSS J. MILLER, ESQ.
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JORDAN T. SMITH, ESQ.
RICHARD D. WILLIAMSON, ESQ.

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1 **LAS VEGAS, CLARK COUNTY, NEVADA, JULY 23, 2020, 8:29 A.M.**

2 * * * * *

3 THE COURT: Can somebody give me an update on what we
4 are doing about Proposed Exhibit 1680, and if we are breaking
5 it down to parts, identify for me the parts that have numbers.

6 Who's the person in charge?

7 Can you tell me about 1680, Mr. Rulis?

8 MR. SMITH: I'll take a shot at it, Your Honor.

9 THE COURT: All right. Mr. Smith is going to step in
10 and bat cleanup for you, Mr. Rulis, since your --

11 MR. SMITH: I don't think this is Mr. Rulis's mess
12 actually. So 1680, unlike some of the exhibits we've been
13 dealing with where it's one PDF consisting of multiple
14 unrelated documents, 1680 appears to be about 1300 or so, 1380
15 separate PDFs that have been marked as simply one exhibit.

16 It took us about five hours, I think, Brian, to
17 download all of it yesterday. It took me about equally as long
18 to go through it all, but it seems to be just a conglomeration
19 of everything that was in any file of QuantumMark. Some of it
20 dating -- predating the actual regulations in 2014. Some of it
21 having to do with documents from Alaska, Oregon, Arizona,
22 Colorado and maybe a couple other states.

23 As Mr. Parker demonstrated yesterday, they do have
24 the ability -- the plaintiffs do have the ability to call out
25 certain sections of the various PDFs to mark it, and I think

1 that's probably the more appropriate way to go at it instead of
2 marking 1380 separate PDFs as simply one exhibit and admitting
3 it all in mass.

4 THE COURT: So what's the plan?

5 MR. SMITH: That will -- I'll leave it up to the
6 plaintiffs. I mean, we have an objection obviously; I mean, it
7 contains hearsay.

8 THE COURT: Pull your mask back up.

9 MR. SMITH: Sorry.

10 THE COURT: It's okay.

11 MR. SMITH: It contains hearsay, foundation,
12 relevance, I mean, there's -- there are tons of objections to
13 each 1300 PDFs. So I'll leave it to the plaintiffs to decide.
14 I would recommend that they just call out the various PDFs
15 within that exhibit if they actually want to use, like
16 Mr. Parker attempted to do, and we can address it that way
17 instead of admitting you know, 28,000 pages encompassing 1300
18 separate PDFs.

19 THE COURT: Mr. Parker, Mr. Rulis, Mr. Kemp.

20 MR. PARKER: Your Honor, I actually went through
21 every page of those 26,000 pages of documents. The documents
22 were responsive to the subpoena; they are relevant. I will
23 touch upon some of the comments made by Mr. Smith. The
24 information regarding Colorado, Arizona, Washington, those are
25 all used by QuantumMark because those states had already had a

1 process in place.

2 THE COURT: Well, but I'm not talking about
3 admissibility.

4 MR. PARKER: Okay. Good enough.

5 THE COURT: I am not dealing with admissibility at
6 this moment. I am dealing with how is the Proposed
7 Exhibit 1680 being handled. Is it being handled as a really
8 big file?

9 MR. PARKER: Yes.

10 THE COURT: Or is it being handled as parts?

11 MR. PARKER: One big file.

12 THE COURT: Okay. So you're going to have a real
13 problem because I'm going to sustain some of the hearsay
14 objections on it.

15 MR. PARKER: That's fine.

16 THE COURT: So you probably don't want it to be a
17 real big file because if it is, and I sustain a hearsay
18 objection on one page, the document doesn't come in.

19 MR. PARKER: So then what I will do, given the
20 Court's inclination, there are portions that I wanted to use
21 yesterday -- only two portions, and there may be smaller
22 portions, and what I've asked Shane to do is to create a single
23 exhibit for that portion.

24 THE COURT: Okay.

25 MR. PARKER: So then we can deal with it like that.

1 For example, the timeline, which is a one-page document. So we
2 can deal with it individually which I would agree with
3 Mr. Smith, it's probably easier to deal with one item at a time
4 because then the Court can determine whether or not that item
5 would be subject to any of the objections made by Mr. Smith or
6 anyone else here.

7 THE COURT: Because some of them aren't truly
8 business records is the problem. They're out of the file, but
9 they're not truly business records.

10 MR. PARKER: We'll go with that, Your Honor.

11 THE COURT: Okay.

12 MR. PARKER: Thank you.

13 THE COURT: So what are you going to do? Are you
14 going to create --

15 MR. PARKER: We'll do them as separate files, and I
16 only have two that I wanted to get into with Mr. Gilbert
17 yesterday. So it should be pretty easy.

18 THE COURT: Are the two you wanted to use with
19 Mr. Gilbert yesterday on a drive that has now been reviewed by
20 Nick?

21 MR. PARKER: By Nick? No, by Shane, but I can give
22 it to Nick.

23 THE COURT: Shane has to give it to Nick.

24 MR. PARKER: I will have that done.

25 THE COURT: Has Shane given it to you already, Nick?

1 UNIDENTIFIED SPEAKER: If he has I don't remember who
2 [indiscernible].

3 UNIDENTIFIED SPEAKER: I'm not sure which document
4 he's referring to --

5 THE COURT: All right. You need to go talk to Shane.

6 MR. PARKER: I'll just give it to him.

7 Will do, Your Honor.

8 THE COURT: Item Number 2, Mr. Graf.

9 MR. GRAF: I just want to make sure that Dulce got
10 the corrections.

11 THE COURT: Mr. Kemp.

12 MR. KEMP: Well, Your Honor, I had a minor witness
13 adjustment. We had previously discussed having Florence
14 Jameson here on Tuesday. I'm advised that she has patient
15 problems on that specific day. So I'm working with Mr. Kahn on
16 an alternative date if necessary.

17 And then I am going to call Mr. Robert Fry, Monday,
18 and I don't have a firm time yet, but he's a 45 minute witness.
19 So I'm trying to work with him on either afternoon or morning.

20 THE COURT: Okay. Did everybody hear what Mr. Kemp
21 said? No.

22 UNIDENTIFIED SPEAKER: No.

23 THE COURT: So we have an issue with Dr. Jameson.
24 She had some patient treatment issues. Mr. Kemp is working
25 with her schedule. And the other one is Robert Fry, who is a

1 45 minute witness who Mr. Kemp is working with his schedule as
2 well.

3 MR. KEMP: For Monday.

4 THE COURT: For Monday. Those are your two
5 announcements.

6 So who is the witness on Monday then?

7 MR. KEMP: Your Honor, I just -- that's my only
8 contribution. I haven't --

9 THE COURT: Well, no. I have a team over here.

10 Mr. Gentile, who's the witness on Monday you think?

11 MR. GENTILE: Well, Plan B is Jorge Pupo.

12 THE COURT: Okay. Has somebody told Ms. Welch?

13 UNIDENTIFIED SPEAKER: Ms. Welch, are you on the
14 phone?

15 THE COURT: Maybe somebody could email Ms. Welch and
16 tell her.

17 MR. GENTILE: I did last night.

18 THE COURT: Thank you, Mr. Gentile, for being on top
19 of that.

20 MR. GENTILE: I did. I texted her last night. I
21 asked her to be -- to have her here Friday, and she said she
22 wasn't available; they have a new baby in their family. And
23 a -- but she said she could be here Monday morning with him.

24 THE COURT: Okay. All right. Any other housekeeping
25 matters before I have Mr. Gilbert resworn?

1 Mr. Graf?

2 MR. GRAF: Your Honor, and I guess the first today is
3 Mr. Gilbert and then Mr. Black will be here at 1:30.

4 THE COURT: Okay. So if Mr. Gilbert gets done we're
5 going to take a long lunch? Is that what you're telling me?

6 MR. GRAF: I would request that, yes, Your Honor.

7 THE COURT: Okay.

8 MS. LEVIN: Your Honor, if -- we were asked by
9 Mr. Gentile to have Mr. Hernandez come here at 10:00.

10 MR. GRAF: And that's what I thought was going to
11 happen, Your Honor.

12 THE COURT: So how -- we're going to finish
13 Mr. Gilbert in an hour and a half?

14 MR. GENTILE: Yes.

15 THE COURT: Then we're going to have Mr. Hernandez,
16 and then were we're going to start Mr. Black at 1:00-ish.

17 MR. BICE: Okay. And who is after Mr. Black?

18 THE COURT: Are we finishing Mr. Hernandez or going
19 to Ms. Cronkhite?

20 MR. GENTILE: We'd be finishing Mr. Hernandez.

21 THE COURT: Okay. Or the backup witness was then
22 Ms. Cronkrite.

23 MR. BICE: Okay.

24 THE COURT: That was the announcement yesterday.

25 MR. BICE: Thank you.

1 THE COURT: Mr. Dzarnoski.

2 MR. DZARNOSKI: Yes. Good morning, Your Honor. Last
3 night you had -- we broke with a discussion about a proposed
4 stipulation regarding the administrative records you had asked
5 me -- or you kindly had given me the evening to consult with my
6 team.

7 We choose not to stipulate to any extension of time
8 regarding the filing of the briefs and believe that the State's
9 clock is ticking for 30 days to respond to our opening brief
10 which was filed yesterday.

11 THE COURT: Okay.

12 MR. BICE: Your Honor, one additional point then
13 since we kind of know today's schedule; who are the witnesses
14 tomorrow?

15 THE COURT: Mr. Gentile?

16 MS. LEVIN: Well, yeah. Mr. Gentile asked us to make
17 Ky Plaskon available so we -- I believe that his travel plans
18 have been confirmed and that he can be available Friday.

19 THE COURT: All right. Thank you.

20 MR. BICE: And he will go all day?

21 THE COURT: I don't know.

22 MR. GENTILE: I don't think we're going to be
23 finished with Karalin Cronkhite today, that's for sure. And so
24 I anticipate that we will finish with her tomorrow and then
25 segue into Mr. Plaskon. Again, I don't have anybody after

1 Mr. Plaskon, because I really do believe that we will take the
2 whole day between Karalin Cronkhite and Mr. Plaskon. I can't
3 envision with the way this has been moving that it wouldn't go
4 that way.

5 THE COURT: Well, with masks it takes longer; we knew
6 that. We may not have known how much longer it was going to
7 take, but we knew it was going to be a longer process.

8 MR. GENTILE: Right. All I can say is that if we do
9 finish with Mr. Plaskon, you know, I asked for Mr. Pupo, he
10 can't do it, and frankly, I suppose that we've got something
11 that we could --

12 THE COURT: It's okay. We'll just -- if it's late in
13 the afternoon, we'll break.

14 MR. GENTILE: Okay. Thank you.

15 THE COURT: If it's 10:00 o'clock in the morning,
16 I'll give you a hard time.

17 MR. GENTILE: That's not going to happen.

18 THE COURT: Okay. So you want Mr. Plaskon to be on a
19 plane tomorrow afternoon?

20 MS. LEVIN: Yes, Your Honor, because Mr.-- okay.

21 THE COURT: I'll let you and Mr. Gentile talk about
22 whether we suspend Ms. Cronkhite and start Mr. Plaskon as soon
23 as he gets here. I'll let you guys talk about it. If you're
24 unable to make your decision, you'll tell me, and I'll decide
25 for you.

1 MS. LEVIN: Yeah, I offered Mr. Gentile to have
2 Mr. Plaskon available on Monday, but he preferred to start with
3 Ms. Cronkhite and then interrupt and have Mr. Plaskon. I just
4 want to make sure that he catches his flight tomorrow.

5 THE COURT: What is the evening flight?

6 MS. LEVIN: His evening flight is, I believe, is
7 7:30.

8 THE COURT: Okay.

9 MS. LEVIN: But he has --

10 THE COURT: We're close enough to the airport, that
11 shouldn't be a problem.

12 Okay. Is there anything else?

13 Yes, Dulce. Dulce has an issue with exhibits.

14 THE CLERK: 2049, Mr. Parker, your requisition
15 reports. You were going to call that out.

16 MR. PARKER: I'm sorry, Your Honor, [indiscernible].

17 THE CLERK: 2049, the requisition reports that were
18 admitted yesterday from 2049, were you going to call that out
19 and mark it as an exhibit?

20 THE COURT: It's supposed to be. Remember how we
21 talked about that yesterday; we were going to redact some
22 information; there's four pages were going to be an exhibit.

23 MR. PARKER: Can you say that one more time --

24 THE CLERK: [Indiscernible] give those to Shane the
25 four requisition reports from 2049.

1 MR. PARKER: Yes.

2 THE CLERK: That we talked about yesterday.

3 MR. PARKER: Yes.

4 THE CLERK: Because those -- only those were
5 admitted. So we can --

6 MR. PARKER: Right. He's got -- Shane has those
7 requisitions. He's redacted them. I believe he has them ready
8 today.

9 THE CLERK: Okay.

10 MR. PARKER: So he can submit those.

11 THE CLERK: Okay. And I have already forgotten who
12 moved these into evidence. They were admitted, but these need
13 redacted versions, 1052.

14 MR. PARKER: 1052.

15 THE CLERK: Which was Mr. Gilbert's extraction
16 report, and 1589 which were texts between Mr. Yemenidjian and
17 Mr. Pupo, just for the phone numbers.

18 MR. PARKER: Okay.

19 THE COURT: Anything else?

20 So, Counsel, I want you to bear the laboring more
21 rather than me or Dulce of letting us know if there is an
22 exhibit that has already been admitted that you believe needs
23 to be replaced with a redacted version. If that is the case,
24 you will need to tell us, work with the counsel who offered the
25 document to obtain the redactions that are agreeable to

1 everyone. If there is a dispute, I will be happy to resolve it
2 for you.

3 If you are producing documents -- or moving exhibits
4 to be admitted, please note whether redactions need to be made
5 so we can address it at the time it is admitted so Dulce can
6 keep a running list, to try to keep on you guys on it. Because
7 I can't bear the burden of knowing what needs to be redacted
8 and doesn't. I'm not nearly as familiar with the exhibits as
9 you are because I was not involved in the discovery process.

10 Anything else before I bring Mr. Gilbert in.

11 UNIDENTIFIED SPEAKER: You have the time, Your Honor?

12 THE COURT: I do have to break at 11:45 for a hearing
13 on the CW Nevada receivership. I understand the cannabis
14 compliance board had a meeting.

15 MR. SHEVORSKI: Do you need me to listen in?

16 THE COURT: What?

17 MR. SHEVORSKI: Do you need me to listen in?

18 THE COURT: You're welcome to listen in. I did see
19 the stip and order with the State; it was filed.

20 MR. SHEVORSKI: Okay.

21 THE COURT: What do you have?

22 MR. PARKER: Your Honor, you indicated a willingness
23 to allow a break at 10:25 for my hearing in front of Judge
24 Jones.

25 THE COURT: I did say you could go attend that by

1 phone.

2 MR. PARKER: Thank you, Your Honor.

3 THE COURT: Hopefully, we will be done with
4 Mr. Gilbert. He'll be walking out, and the next witness will
5 be walking in, and you'll be a few minutes late as I swear the
6 witness in and do the preliminaries.

7 MR. PARKER: Sounds good, Your Honor.

8 THE COURT: All right. If you can stand up so we can
9 swear you in. I'm sorry about the delay.

10 (Witness sworn in)

11 **STEVE GILBERT**

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

14 THE CLERK: Please be seated. Please state and spell
15 your name for the record.

16 THE WITNESS: Steve Gilbert. S-t-e-v-e
17 G-i-l-b-e-r-t.

18 THE COURT: And yesterday, Mr. Parker, you told me
19 you had about 10 minutes.

20 MR. PARKER: Your Honor, in fact, I said seven and
21 you gave me 10 and I appreciate it.

22 THE COURT: I did.

23 MR. PARKER: I don't think I'll need it, but I
24 appreciate the three minute buffer.

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CROSS-EXAMINATION

BY MR. PARKER:

Q Good morning, Mr. Gilbert, how are you?

A Good morning. I'm fine; thank you.

Q Good. Mr. Gilbert, I have an email I want to discuss with you. It appears to be an email, and it deals with the scoring deadlines. It's Exhibit 2098. It was taken from a larger set of exhibits which was 1691. The Bate number is DOT051208.

THE CLERK: Proposed.

(Pause in the proceedings.)

MR. BICE: I'll let the State speak to their objections, but we will have objections, Your Honor.

MS. LEVIN: Your Honor, this is -- this is part of an exhibit that we've been provided with that says, intentionally left blank. We haven't seen this before so we would need to evaluate this and -- we -- we object to this now.

THE COURT: Makes it hard to meet your 10 minutes when you don't tell them about the exhibit ahead of time, Mr. Parker.

MR. PARKER: Your Honor, this is a D.O.T document.

THE COURT: It's okay. And give them a minute to took look at it.

MR. PARKER: That's fine.

THE COURT: If they had only produced 5 or 10

1 documents I would give them a hard time, but given the
2 thousands of documents that have been produced I'm not going
3 to.

4 MR. PARKER: No worries, Your Honor.

5 THE COURT: What, Mr. Bice?

6 MR. BICE: Your Honor, our objection is, is that this
7 is two pages out of -- and the pages 86 and 87, something like
8 that. Again, this is multi -- another one of these thousand
9 plus page exhibits that they just threw a bunch of documents
10 together and called it an exhibit, and now they're taking out
11 two of them. We don't have the remainder of the exhibit
12 because they never --

13 THE COURT: Why don't you have the remainder?

14 MR. BICE: What's that?

15 THE COURT: Why don't you have the remainder?

16 MR. BICE: Because they never deposited it with the
17 Court or with us. They just said --

18 THE COURT: Well, depositing it with me doesn't mean
19 you don't have it. You got it in the litigation process part
20 of discovery.

21 MR. BICE: Yes. Yes.

22 THE COURT: Okay.

23 MR. BICE: Yes, in the discovery.

24 THE COURT: So I have no problem with people breaking
25 down exhibits given our electronic exhibit protocol just like I

1 would in the trial, but if we had paper again and we'd mark it
2 A.

3 MR. BICE: Sure. It's going to take me --

4 THE COURT: But I have instructed them to break down
5 the big exhibits because of the rest, the big exhibit won't get
6 admitted if there's a problem on a single page.

7 MR. BICE: Right.

8 THE COURT: But you're saying you have an issue
9 because you can't right now look at the entire document. So
10 why can't you look at the entire document? You guys have more
11 information on those drives than anybody I know.

12 MS. LEVIN: Your Honor, I --

13 THE COURT: Hold on, please, let me finish with
14 Mr. Bice.

15 MR. BICE: We're going to look in the depository and
16 see if we can find it, Your Honor.

17 THE COURT: Okay.

18 MR. BICE: Because it's -- their description of it is
19 D.O.T 16.1 disclosures. It doesn't have --

20 MR. SMITH: Yeah. Bates range, Your Honor,
21 [indiscernible] D.O.T 1 through D.O.T 5700 [indiscernible].

22 THE COURT: Yeah, that's not a good exhibit
23 designation. But at least you have the D.O.T 16.1 productions
24 because you are part of litigation the whole time.

25 Ms. Levin, you had something out you want to tell me?

1 MS. LEVIN: No.

2 THE COURT: Mr. Gilbert, really wants to see how this
3 10 minutes works.

4 MS. LEVIN: Well, the problem is, of course, is we
5 don't see -- there is no context here.

6 MR. BICE: They -- they --

7 THE COURT: Hold on, Mr. Bice, I'm talking to
8 Ms. Levin right now.

9 MR. BICE: Okay.

10 MS. LEVIN: There's no context given. There's two
11 dates, and it looks like there's maybe something cut off on the
12 top so we don't see the context of this whole exhibit --

13 THE COURT: So are you saying there's more of an
14 email string there that you are concerned about?

15 MS. LEVIN: Yes. Correct, Your Honor.

16 THE COURT: Okay.

17 MS. LEVIN: You can see on the top it says subject --

18 THE COURT: It's all right. Mr. Parker, they would
19 like to see the rest of that email string. Can you tell them
20 where it is?

21 MR. PARKER: Your Honor, I would --

22 THE COURT: And it may be in one of those books in
23 the boxes.

24 MR. PARKER: No. It is not, Your Honor.

25 THE COURT: Darn.

1 MR. PARKER: I reviewed all the documents; I assumed
2 that everyone else did the same. I pulled it because I didn't
3 need all of those pages. There -- it's a document produced by
4 the D.O.T. It's among several other documents that deal with
5 scoring not with addition or subtraction because I know the
6 Court doesn't want to get involved in that.

7 THE COURT: Let me cut to the chase. Is the email
8 before it sequentially numbered before it in the Bates
9 numbering or is it not there?

10 MR. PARKER: I don't recall, Your Honor. I think
11 when the D.O.T gave us the documents, it was just a whole bunch
12 of documents. And we pulled this out of those documents.

13 THE COURT: No, that -- my question is really easy.
14 Usually when we have an email string, it's sequentially
15 numbered from the most recent email to the earliest email,
16 usually, not always. Sometimes people don't give us the whole
17 emails, and then we have to, you know, follow up.

18 MR. PARKER: It's taken, Your Honor, this is actually
19 taken from a calendaring event. So I wouldn't -- I shouldn't
20 say it's an email. It's a calendaring event that the D.O.T
21 had.

22 THE COURT: The Outlook calendar for the D.O.T.

23 MR. PARKER: Exactly. So, for example, it tells you
24 the date and what was done on that day, and then it goes to the
25 next date. So the date that I'm talking about deals with

1 November --

2 THE COURT: So it's not an email; it's a calendaring?

3 MR. PARKER: That's all it is.

4 THE COURT: Okay. Never mind. Sorry. It looked to
5 me like when I saw it on the screen that it was an email.

6 MR. PARKER: No. It's just a calendaring, Your
7 Honor.

8 THE COURT: Okay. Ms. Levin, anything else?

9 MS. LEVIN: Yes. There's just -- there's no date on
10 top so we don't know what date we're talking about. It starts
11 with subject and location. You can see by other
12 [indiscernible] has subject and location, but they have the
13 time and there's no -- so there's no context or date provided
14 for -- for the top calendar.

15 THE COURT: All right. Since this was a document
16 that was produced by D.O.T and the form it was produced I am
17 going to allow Mr. Parker to use it. Counsel may, of course,
18 supplement the record and seek to admit an additional exhibit
19 that provides additional information surrounding the calendar
20 entry, whether it is the day before, the day after, an hour
21 after, whenever it appears in the calendar. So it will be
22 admitted.

23 (Exhibit Number(s) 2098 admitted.)

24 THE COURT: Mr. Parker, you may continue.

25 MR. PARKER: Thank you so much, Your Honor.

1 THE COURT: If it was an email I'd be giving you a
2 harder time.

3 MR. PARKER: No worries, Your Honor.

4 Your Honor, this is Exhibit 2098 that the Court just
5 admitted.

6 BY MR. PARKER:

7 Q The top of the page, Mr. Gilbert, says subject
8 scoring deadlines; do you see that?

9 A Yes.

10 Q Was it custom and practice within the D.O.T.'s office
11 on or about November 14th, 2018, to have meetings to get
12 updates on what was going on with the scoring or the grading?

13 A Yes.

14 Q All right. And have you seen this document before or
15 one similar to it?

16 A Yes.

17 Q All right. Your -- typically, who would arrange for
18 these meetings?

19 A We didn't have a lot of meetings to be honest, but it
20 would have been myself, maybe Ky Plaskon.

21 Q And looking at this it says, call us in Steve's
22 office, please. Would the meetings typically take place in
23 your office?

24 A Yeah. And then we'd have folks call in.

25 Q All right. So either by phone or people in personal

1 attendance would be in your office discussing the status of the
2 scoring or of the level of completion of the grading; is that
3 correct?

4 A I'm sorry, can you repeat that question.

5 Q Yes. I didn't want to say you were discussing the
6 scoring, but in terms of the level or completion of the
7 grading?

8 A Yeah, the progress, making sure we're complying with
9 the 90 days.

10 Q All right. And that was an issue in terms of getting
11 all of the results and then the approval and rejection letters
12 done by December 5th; is that correct?

13 A Yes.

14 Q All right. And as a result, you would get updates
15 from where the graders were, and then you would have a meeting
16 to discuss that with your team; is that correct?

17 A Not necessarily. We didn't have those throughout the
18 process. We just -- we received daily updates on our --
19 updates periodically on the progress to complete within the 90
20 days.

21 Q All right. And so if we look at paragraph 1 at the
22 top of the page, right below it says, See you at 3:45. I'm
23 assuming that meant the meeting started at 3:45 in your office;
24 is that correct?

25 A Yes.

1 Q All right. Was that a typical time for the meetings?

2 A No.

3 Q There was no typical time; is that correct?

4 A No.

5 Q All right. Good enough. And then it says complete
6 thorough audit of application; what does that mean?

7 A That's auditing of the scores to make sure that the
8 scores that the evaluators put on their scores sheets match
9 what was put in that log.

10 Q Okay. So that's just a data input verification; is
11 that correct?

12 A Correct.

13 Q And then Item 1A says, What is involved in a thorough
14 audit? What audit are you referring to?

15 A The one from Number 1.

16 Q All right. And again that's just data verifications;
17 correct?

18 A Correct.

19 Q Two -- paragraph 2 says, Complete ranking
20 spreadsheet; who was in charge of that?

21 A The contractors were compiling that for presentation
22 to us.

23 Q Good enough. This says this will be done this
24 morning and sent to you by Diane. Was the ranking spreadsheet
25 being sent to you, Mr. Gilbert, or someone else?

1 A I don't know what that refers to.

2 Q Yes, sir. Paragraph 3 says, Ownership spreadsheet
3 completed by close of business 11/13. Do you know who was
4 performing the ownership spreadsheet?

5 A That would have been Jeannine Sherrick-Warner.

6 Q Okay. Which is reflected in 3A; is that correct?

7 A Yes.

8 Q Now, what information was provided to Jeannine Warner
9 so that she could perform the owner spreadsheet?

10 A She -- well she compared the -- what was presented in
11 the application on the ownership listing to what the department
12 had on record for the entity.

13 Q And if those -- if the information in the application
14 did not match the information that the D.O.T. had, what was she
15 to do?

16 A She would then go to see if there was a transfer of
17 interest that was already submitted to the Department which the
18 Department hadn't acted upon yet.

19 Q And it appears that you were giving her two days from
20 this date to check all backgrounds; is that correct?

21 A That's incorrect.

22 Q Okay. Explain -- it says here, If I don't have this
23 list until close of business 11/13, that leaves us only two
24 days to check all backgrounds.

25 A So the backgrounds -- the backgrounds were checked

1 throughout the whole process. We have a pretty good idea at
2 the Department who has been background checked. The owners,
3 officers and board members that are listed that have ownership
4 percentage always maintain an agent card. So we're just
5 checking the agent card portal for an up-to-date background
6 check as well as an agent card.

7 Q And who was performing the background check?

8 A The Department of Public Safety performs those.

9 Q I'm sorry. Say that again.

10 A The Nevada Department of Public Safety.

11 Q And do you know who at the Nevada Department of
12 Public Safety was doing it?

13 A I'm sorry?

14 Q Do you know who was doing it?

15 A Their central repository.

16 Q Okay. No particular name that you can think of?

17 A Nevada database -- well, they run the State
18 background check, and then they submit it to the FBI for the
19 FBI background check.

20 Q All right. And you said, To be completed by November
21 15th. These will be the Priority 1s the contractors will
22 help with. So which applications or backgrounds became
23 priority Number 1?

24 A I'm sorry. I didn't catch that.

25 Q The last sentence under paragraph 4 talks with --

1 talks about pull all CHOWs; do you see that? The first
2 sentence says, Pull all CHOWs that are needed to be completed
3 so application owner list matches; you see that?

4 A Yes.

5 Q Okay. Who was informed -- who was in charge of doing
6 that?

7 A Jeannine.

8 Q Okay. So she was doing the ownership spreadsheet,
9 and she was reviewing the CHOWs; is that correct?

10 A She was reviewing the CHOWs to match -- to see if
11 they match the ownership listed in the application.

12 Q Okay. So we had the CHOWs that she was using. We
13 have the application and then she has whatever other
14 information the D.O.T. has with regards to ownership; is that
15 correct?

16 A Yes.

17 Q All right. So was she checking just ownership by
18 using that -- those three forms of information, or was she also
19 checking lists of officers and board members?

20 A I'm not sure I understand the question.

21 Q Did she check to determine if the officers listed on
22 the applications matched the officers that you were aware of
23 based upon the information already held with the D.O.T.?

24 A Yes.

25 Q Was she also checking for board members?

1 A Yes.

2 Q All right. And she was using the information from
3 the application, information within the D.O.T. and checking
4 CHOWs on that as well; is that correct?

5 A Correct.

6 Q All right. Now, is it fair to say that unless the
7 applicant identified all of the owners, all of the officers and
8 all of the board members, you could not do background checks on
9 those you were not aware of; is that correct?

10 A Yes.

11 Q All right. So if an applicant had someone that
12 financed part of their operation and they became a board
13 member, but never listed, you would not have done a background
14 check on that board member; is that correct?

15 A That's correct. We relied on the information
16 submitted on the application.

17 Q All right. And there's a penalty for not providing
18 that information; is that correct?

19 A Not in the application process, but not complying
20 with the regulations.

21 Q Sure. So if you found out later that an applicant
22 failed to list a board member or failed to list an owner, what
23 is the penalty for that?

24 A I'm not -- off the top of my head, I don't know what
25 the penalty would be. It would be probably elevated up to the

1 executive Level 4, you know, investigation.

2 Q And who would be the executive level?

3 A Well, at that time it would have been Mr. Pupo and
4 then, you know, staff probably assisting with what they find.

5 Q Isn't it true that the regulation says if you submit
6 false information that's grounds for denying an application or
7 revoking a current application -- a current license?

8 A Yes.

9 Q All right. It says next under 4a, it says, If the
10 CHOWs aren't completed until close of business 11/15 and I
11 don't have the names ahead of time, I can't make my deadline in
12 Number 3 below; you see that?

13 A Yes.

14 Q Was that your concern or was that someone else's
15 concerned?

16 A I don't recall.

17 Q Were you the point man in making sure that all of the
18 applications were graded and that you had scores inputted so
19 that Mr. Pupo can make his final determinations?

20 A Yes.

21 Q So would this list that we have here, would that be
22 your mandate to your staff or those working with you?

23 A Yes.

24 Q All right. Number 5 says, Verify all owners have
25 completed background check. Take the ownership spreadsheet and

1 create a background check one; do you see that?

2 A Yes.

3 Q Now, this paragraph does not differentiate between
4 public companies, nonpublic companies, shareholders versus
5 non-shareholders. Is it my -- is it correct to say,
6 Mr. Gilbert, that if there's an owner that had an interest in a
7 applicant, you wanted that ap -- you wanted that owner
8 background checked?

9 A We background check the owners, officers, and board
10 members that are listed in the application.

11 Q Thank you. And then it says, Take ownership
12 spreadsheet and create a background check one. What does that
13 mean?

14 A I'm not sure. I don't recall what that means.

15 Q Okay. If any of you need help with Excel, please ask
16 me. Is that you, you were offering to help others?

17 A Yes.

18 Q Good enough. Diane and Jeannine, I need the
19 ownership spreadsheet ASAP in order to complete this.

20 THE COURT: Are we speaking to somebody else's
21 witness client rep? Mr. Prince?

22 MR. PRINCE: Okay. I was just asking her to help me.

23 THE COURT: Were you asking Ms. Cronkhite questions?
24 You should tell Mr. Shevorski and Ms. Levin you're going to do
25 that.

1 MR. PRINCE: No worries. I will.

2 THE COURT: Sorry.

3 MR. PARKER: I appreciate that, Your Honor.

4 THE COURT: Mr. Shevorski is the one who needs to
5 appreciate it.

6 MR. SHEVORSKI: Yes.

7 THE COURT: Okay. Keep going.

8 MR. PARKER: Thank you.

9 THE COURT: Sorry for the interruption, Mr. Parker.

10 MR. PARKER: No worries, Your Honor. Thank you.

11 BY MR. PARKER:

12 Q Is that Diana O'Connor?

13 A Yes.

14 Q All right. And was she assisting Jeannine?

15 A She assisted in the background checks.

16 Q And what's Diana O'Connor's position?

17 A She's a program officer three.

18 Q Number 6 says, Begin to prep approval and denial
19 letters; do you see that?

20 A Yes.

21 Q Now, did you actually prepare the form approval and
22 denial letters?

23 A I don't believe I did. I don't -- it wasn't me that
24 drafted them.

25 Q In terms of attendees we have Mr. Plaskon, Jeannine

1 Sherrick-Warner, yourself, Diana O'Connor, Marilyn Gray and
2 Karalin Cronkhite; is that correct?

3 A Yes.

4 Q All right. So let's go to the second page, and this
5 is November 14th, 2018, okay. And again at the top we have
6 Routine Inspection, that's the subject. And then below that we
7 have a spreadsheet, I'm sorry, you have a time 9:05, and then
8 right after that you have a time 11:00 a.m. to 11:30 a.m.; do
9 you see that?

10 A Yes.

11 Q And that's the discussion I want -- that's what I
12 want to discuss with you. It says spreadsheet talk. Now, is
13 it your understanding that these are the spreadsheets that are
14 referred to in the previous day which would be November 13th?

15 A I'm sorry. Can you repeat the question.

16 Q Do you believe that these spreadsheets that you're
17 going to talk about, which is the subject of the 11:00 o'clock
18 meeting, relates to the spreadsheets that are referenced on
19 that November 13th meeting that occurred at roughly 3:45?

20 MS. LEVIN: Objection. Foundation.

21 THE COURT: Overruled.

22 THE WITNESS: I don't -- I don't recall if it's those
23 spreadsheets, per se.

24 BY MR. PARKER:

25 Q All right. It appears that this conversation is

1 taking place via Mr. Plaskon's office; is that correct?

2 A Yes.

3 Q And it says here, We will look at the score sheets
4 and hear from Steve what he needs.

5 Based upon that sentence, Mr. Gilbert, do you now
6 believe that this is a recap or further discussion from the day
7 before?

8 A I believe this was for prepping to make sure that we
9 had everything that we needed to get the approval and denial
10 letters out on December 5th.

11 Q Good enough. And it says Danette and Margene will be
12 involved in this. Those are the graders that we talked about
13 yesterday; is that correct?

14 A Yes.

15 Q All right. The non-ID contractors believe they will
16 be finished by noon. Do you recall them actually being
17 finished by then, Mr. Gilbert?

18 A I don't recall.

19 Q It says here, We will spend the rest of the day
20 auditing the spreadsheet to ensure it is ready to begin
21 manipulating according to Steve's needs. Do you see that?

22 A Yes.

23 Q Now, why would you be manipulating the spreadsheet
24 according to your needs?

25 UNIDENTIFIED SPEAKER: Objection.

1 THE COURT: Overruled.

2 THE WITNESS: And again, I don't recall what
3 spreadsheet -- we were planning -- because we needed to mail
4 merge all of the approval and denial letters. So I believe
5 we're getting ready to prep that spreadsheet so we could
6 populate the information off the spreadsheet into the denial
7 and approval letters.

8 BY MR. PARKER:

9 Q Now, yesterday when we broke for the day, you told me
10 that other than the input of the information --

11 UNIDENTIFIED SPEAKER: [Indiscernible.]

12 THE COURT: Find Nick. Thank you again.

13 BY MR. PARKER:

14 Q -- other than simply accepting the scores that there
15 was nothing further that you had to do with those scores, so
16 why would they indicate that, we will spend the rest of the day
17 auditing the spreadsheet to insure that it is ready to begin
18 manipulating according to Steve's needs.

19 What needs would you have that would require
20 manipulation on your part?

21 A Again, I don't recall what the spreadsheet was, but
22 it was -- it wasn't for to file a score spreadsheet; I know
23 that.

24 Q You just don't remember what your needs were and how
25 you were going to manipulate the spreadsheet; is that correct?

1 A I'm sorry, can you repeat that.

2 Q You simply do not remember --

3 THE COURT: Can you explain what mail merge is? I
4 don't think he understands what mail merge is.

5 THE WITNESS: Okay.

6 BY MR. PARKER:

7 Q I didn't --

8 A So we took all the client contacts and all the
9 information for all the applications and then prepared to
10 generate approval and denial letters based on a mail merge. So
11 we merged the information from the spreadsheet into a Word
12 document, which created the letter that we sent out on December
13 5th.

14 Q Okay.

15 A And Dannette and Margene were involved in that
16 process because they were familiar with the spreadsheets and
17 also the mail merge process into a Word document.

18 Q And, Mr. Gilbert, it doesn't say -- mention anything
19 here about a mail merge or Diane O'Connor or Jeannine assisting
20 you. It says, To ensure it is ready to begin manipulating
21 according to Steve's needs.

22 So my question to you is, sitting here today you
23 don't recall what your needs were, and you don't recall what
24 manipulation you performed; is that correct?

25 MS. LEVIN: Objection. Asked and answered.

1 THE COURT: Overruled.

2 THE WITNESS: No, that's -- that's incorrect.

3 BY MR. PARKER:

4 Q All right. And you -- are you telling me that
5 Jeannine Warrick (sic) and Diane O'Connor simply couldn't
6 figure out where to send the letters?

7 A Well, we had 462 letters to send out.

8 Q Right.

9 A So it was -- it was decided, you know, that it's much
10 more manageable and time -- you know, it's much easier to do a
11 mail merge from a spreadsheet than it is to type each letter by
12 hand and more accurate.

13 THE COURT: But only if you understand how to do a
14 mail merge. Otherwise, it fails utterly and you can never get
15 it back.

16 MR. PARKER: Thank you, Your Honor.

17 BY MR. PARKER:

18 Q Mr. Gilbert, of all the things that you were
19 responsible for, it's your best recollection that your needs,
20 as we've -- as mentioned in this document only refers to
21 getting the right recipients' names correct; that's it?

22 A I believe so, yes. Yes.

23 Q Why did you -- why would you have to manipulate that
24 to simply have the recipient addresses and names?

25 A We had to take the information that was compiled in

1 the log. We had to separate out those that were awarded, a
2 conditional versus those that were not awarded a conditional
3 and -- and prepare that spreadsheet for a mail merge.

4 Q When was that done, Mr. Gilbert?

5 A Leading -- the days leading up to December 5th.

6 Q Now, Mr. Gilbert, yesterday I asked you about good
7 standing, and it was unfortunately the documents I was
8 referring to was a document from the QuantumMark documents, and
9 so I pulled a portion, which is a relatively short document --
10 it was 10 pages long -- dealing with the issues and questions
11 for consideration from the QuantumMark records.

12 MR. PARKER: And I'd move to get Exhibit 2132 in,
13 Your Honor.

14 THE COURT: Any objection to 2132?

15 The record will reflect that we just can't get away
16 from paper.

17 MR. PARKER: We cannot, Your Honor.

18 THE COURT: You all can't. I'm doing better.

19 (Pause in the proceedings.)

20 MS. LEVIN: Your Honor, I don't know if this witness
21 is familiar with this document. If there's a foundation for
22 him to testify about. I've never seen this. I don't know
23 where it comes from. So that will be our objection.

24 THE COURT: Mr. Parker, could you lay some
25 foundation.

1 MR. PARKER: Certainly, Your Honor.

2 BY MR. PARKER:

3 Q Mr. Gilbert, you were a part of the working group
4 that dealt with the application process; is that correct?

5 A Yes.

6 Q All right. And we discussed yesterday so I thought
7 the foundation was made yesterday that in terms of topics,
8 issues and questions for consideration, those were discussed in
9 your working group?

10 A I'm sorry?

11 Q Yes. Topics, issues and questions for consideration
12 were a part of the items discussed during your working group
13 related to the application process?

14 A Yes.

15 MR. PARKER: Your Honor, we discussed this yesterday.
16 We just didn't put the document in.

17 THE COURT: Is this a page out of the report in the
18 minutes or something?

19 MR. PARKER: It is. It is a page from the
20 QuantumMark documents that reflects the meeting of the working
21 group to discuss these topics.

22 THE COURT: That doesn't necessarily mean it's a
23 foundation. That may be somebody's notes.

24 MR. PARKER: No, no.

25 THE COURT: Is that the actual summary of the meeting

1 that was provided by the State that was posted.

2 MR. PARKER: Yes. This is actually what QuantumMark
3 provided to the State.

4 THE COURT: No. That's not what I asked. The State
5 posted the summary of the meetings; right?

6 MR. PARKER: Yes.

7 THE COURT: And the testimony from the QuantumMark
8 people was that the State prepared the information and posted
9 it.

10 MR. PARKER: The State prepared -- yes, that's true.

11 THE COURT: And that QuantumMark sent their notes to
12 the State, and then the State did whatever they did to create
13 what got posted.

14 MR. PARKER: Correct.

15 THE COURT: So we're missing a step.

16 MR. PARKER: We're not missing the information
17 between QuantumMark and the State.

18 THE COURT: I understand you have QuantumMark's notes
19 in your hand so that's not the foundation for this witness. If
20 it was the information that was posted by the State, you and I
21 would be having a different discussion.

22 These are QuantumMark's notes; right? That's my
23 recollection from the testimony --

24 MR. PARKER: No, Your Honor, I believe these are the
25 agenda items for the working group, the working groups meetings

1 were agendized; these are those.

2 THE COURT: Is that the posted agenda?

3 MR. PARKER: The agenda is not with it. The actual
4 item to be discussed --

5 THE COURT: I understand what you're saying,
6 Mr. Parker. You and I are having a disconnect.

7 MR. PARKER: Okay. Go right ahead, Your Honor.

8 THE COURT: The State actually took the information
9 from QuantumMark, according to testimony of Ms. Jessee, and
10 then did something with it and then posted it. Whether it was
11 the agenda or the summary minutes or the summary of the
12 meeting.

13 MR. PARKER: Right. I didn't -- I'm not asking for
14 the notes at this point. This is simply the actual agendized
15 information.

16 THE COURT: Oh. My question is, is that the agenda
17 that was posted?

18 MR. PARKER: Yeah. This would be attached to the
19 agenda. I just didn't bring the agenda. That's my point. You
20 asked if this was the agenda, this is the item.

21 THE COURT: So --

22 MR. PARKER: I took Ms. Kelly Jessee's deposition.

23 THE COURT: Right. So is that the notes Ms. Jessee
24 took at the meeting?

25 MR. PARKER: No, this is the agenda ahead of the

1 notes. The notes would reflect the minutes of the meeting.
2 I'm not asking for the minutes of the meeting to be --

3 THE COURT: Is that the agenda that was posted?

4 MR. PARKER: Yes. This would be a part of the agenda
5 that was posted; that's correct.

6 THE COURT: Okay. Mr. Bice doesn't agree with you.

7 MR. BICE: What evidence is there of that? He's
8 taking a document out of 20 some thousand and he said --

9 THE COURT: 28,000, Mr. Bice.

10 MR. PARKER: 26.

11 THE COURT: 26. Yeah. So, Mr. Parker, I need either
12 the page that it's allegedly attached to that says, see
13 Exhibit 1, or the agenda says see Exhibit 1 for the points
14 which will then link us up to what was posted by the State, or
15 I need the actual document that was posted by the State.

16 MR. PARKER: Good enough. So let me finish with
17 this, Mr. Gilbert.

18 BY MR. PARKER:

19 Q Your recollection in terms of good standing, and I
20 asked you about this yesterday. I want to see if we can close
21 the loop on this. Do you recall the working group ever coming
22 to a final determination or a definition of good standing?

23 A No, I don't recall.

24 Q Okay. And in terms of practice within your
25 Department, your Department never came up with a definition --

1 a written definition of good standing; is that correct?

2 A I believe that DPBH did.

3 Q Okay. I'm asking about the Department of Taxation.
4 Did the Department of Taxation ever come up with a written
5 definition of good standing?

6 A Not that I can recall.

7 MR. PARKER: Perfect. Thank you very much, Your
8 Honor.

9 THE COURT: Thank you.

10 Does anyone else have any additional questions for
11 Mr. Gilbert?

12 On the plaintiff side, Ms. Levin?

13 Mr. Dzarnoski, did you? You weren't moving very
14 quick.

15 UNIDENTIFIED SPEAKER: You already asked me.

16 THE COURT: Do you have any more, Mr. Dzarnoski?

17 MR. DZARNOSKI: For redirect. And if we're on
18 redirect, yes.

19 THE COURT: We're not. Okay. Ms. Levin.

20 CROSS-EXAMINATION

21 BY MS. LEVIN:

22 Q Mr. Gilbert, I just have some follow-up questions on
23 some of the questions that Mr. Parker asked you yesterday. So
24 I want to touch on a few subjects.

25 You were asked by Mr. Parker yesterday that --

1 whether the graders who were hired for the 2018 recreational
2 application process had any experience in marijuana; do you
3 recall that question?

4 A Yes.

5 Q Why did the Department not hire graders with
6 experience in marijuana?

7 A The decision was made not to hire contractors with
8 marijuana experience just to, to make sure that the process was
9 impartial, and they didn't have any ties or connections to the
10 industry that would potentially, you know, jeopardize the
11 integrity of the process.

12 Q Can you explain that a little further, what do you
13 mean by the integrity of the process and the risk that the
14 Department was concerned about?

15 A Well, any ability for the industry to contact the
16 evaluators was taken very seriously. So it was -- it was
17 decided that anybody with marijuana or medical marijuana
18 experience at the time could potentially, you know, have worked
19 for the industry or wants to work for the industry, and that's
20 why we targeted or looked for people that were in a position
21 where they were either retired, didn't have aspirations maybe
22 to work for the industry. They wanted, you know, just some
23 retirement work, and we were fortunate enough to find some
24 pretty good individuals with good experience.

25 Q And the Department of Taxation's employees such as

1 yourself and, at that time, such as yourself and Mr. Hernandez
2 and Ms. Cronkhite, if you were to grade the applications, you
3 were -- am I right that you're working on a pretty much
4 day-to-day basis with the licensees that were also applicants
5 in 2018?

6 A Yes.

7 Q Now, the graders you told me that they did not have
8 the experience, but what did the Department do to educate the
9 graders on the marijuana industry?

10 A We had a two-week training period, and within that
11 two-week training period we laid the foundation for what the
12 medical marijuana industry was or was at the time, where
13 recreational marijuana was at the time, what transpired between
14 July of 2017 to where they were in 2018.

15 We went over the regulations and the statutes a lot.
16 They had quizzes on the regs. They asked questions about the
17 regs. They took the sections that were appropriate to the
18 application process and studied those very hard. So they were
19 able to understand what was required of not only the
20 application process, but what is required of the industry as a
21 whole that the Department regulates.

22 Q And so did you -- the training on the regulations,
23 did I understand that there were several quizzes that they had
24 to do and after reviewing the regulations?

25 A Yes.

1 Q Mr. Parker talked about the decision to hire contract
2 workers as opposed to inside D.O.T. personnel, and also Judge
3 Gonzalez, she asked you about whether -- why they used inside
4 employees, so to speak, for the White Pine County application
5 and why not do the same process in 2018. So with that
6 background, I want to ask you the -- for the White Pine
7 application, how many licenses were at stake?

8 A Only one.

9 Q And that was an application process for a single
10 jurisdiction or in this case a single town; correct?

11 A Correct.

12 Q And the 2018 application process for the recreational
13 marijuana, am I right that that was a State process for
14 multiple jurisdictions?

15 A Yes.

16 Q How many licenses were at issue in the 2018
17 recreational process?

18 A I'm sorry. Can you repeat that.

19 Q How many licenses were available for the 2018
20 recreational retail marijuana process?

21 A 64.

22 Q And this was not the first time that contract workers
23 were used in an application process; correct?

24 A Can you repeat that, sorry.

25 Q Yes. What did the -- what did the Department -- the

1 Health Department for DPBS; correct?

2 A Yes.

3 Q What did the DPBS do in the 2014 medical marijuana
4 application process in terms of scoring? Who did they -- did
5 they use DPBS workers or outside workers?

6 A They used contractors.

7 Q And, okay. So they also -- in 2014 they also used
8 just like in 2018, they used outside workers; correct?

9 A Yes.

10 MS. LEVIN: Brian, can I have Exhibit 1001.

11 BY MS. LEVIN:

12 Q Mr. Gilbert, do you recognize this document?

13 MS. LEVIN: Brian, if you can scroll up on the top.

14 THE WITNESS: Yes.

15 BY MS. LEVIN:

16 Q And what is it?

17 A These are the scores and ranks from the 2014
18 application process.

19 Q Okay. And if you scroll down to Clark County --
20 well, you can see Clark County, Henderson, you see LivFree;
21 it's listed there. Do you see that?

22 A Yes.

23 Q Is -- so it looks like LivFree obtained a medical
24 marijuana license in 2015?

25 A Yes.

1 Q Now, did LivFree ever complain about the hiring of
2 outside contractors in 2015?

3 A Not that I can recall, no.

4 MS. LEVIN: Can you scroll down to further, Brian, to
5 Clark County Las Vegas.

6 BY MS. LEVIN:

7 Q Do you see who was ranked Number 1 and Number 2?

8 A Yes, I do.

9 Q Who was ranked Number 1 in Clark County Las Vegas?

10 A Nevada Wellness Center.

11 Q Okay. And who was ranked Number 2?

12 A MediFarm LLC.

13 Q Okay. Now, those two entities, do you recall them
14 ever complaining in 2015 about that the DPBS hiring outside
15 contractors?

16 A No, I don't recall that.

17 Q You were asked by Mr. Parker yesterday about the
18 qualifications of the graders?

19 A Yes.

20 Q Do recall that? There was a job description in some
21 of the materials that you were shown. There were job
22 descriptions for the various graders; do you remember that?

23 A Yes, I do.

24 Q Now, did you write those job descriptions?

25 A No, I didn't.

1 Q Would that be HR, or do you know who wrote those?

2 A It was Marilyn Gray, I think, the administrative
3 assistant.

4 Q And, Mr. Gilbert, in your time with the Department
5 and before that was DPBH, how many times have you been in a
6 position where you had to hire employees?

7 A A lot. Upwards probably of a hundred.

8 Q I couldn't hear it. What?

9 A Upwards of maybe 50 to 100.

10 Q Okay. And do the people who apply always perfectly
11 fit the job description?

12 A No.

13 Q And would you agree that sometimes these applicants,
14 they can what they lack in education sometimes they can make up
15 with other qualifications; would that be fair to say?

16 A Yes.

17 Q And in this case do you -- do you believe that the
18 people who were hired to be graders had the necessary
19 experience to make up for whatever they may have lacked in
20 terms of education or other qualifications?

21 A Yes.

22 Q Can you explain that with respect to Mr. Elloyan?

23 A Mr. Elloyan?

24 Q Yes.

25 A Yes. Mr. Elloyan, represented himself as somebody

1 that had the ability with the experience that he's had, and we
2 had good evidence that that experience that he represented and
3 presented to us because he had worked for health for his entire
4 career.

5 And coming from health, I'm familiar and also Kara is
6 very familiar with what environmental health specialists do.
7 They go out and they inspect food establishments. They do plan
8 reviews. They know about the health and safety of
9 establishments, which is very important on the nonidentified
10 side.

11 So just knowing what an environmental health
12 specialist does and has done throughout the years was very
13 beneficial, and additionally, he was a registered environmental
14 health specialist, which isn't an easy certification to get.
15 You have to have the proper experience, education or the
16 combination of the two in order to even be considered to take
17 the exam.

18 Q Okay. And do you recall the number of years of
19 experience that he had in, and I believe if I'm correct, that
20 he had experience in reviewing building plans; is that correct?

21 A Yes.

22 Q Do you remember the amount of years he had -- the
23 number of years?

24 A I don't recall. I know that it was numerous years.

25 Q Can you explain -- same question with respect to

1 Lemons -- Duane Lemons? It appeared that Mr. Parker had some
2 concerns as to whether he was qualified enough to do this work.
3 Did you share those concerns?

4 A No, I didn't. He was actually ideal for that -- for
5 that -- for one of those three-person teams.

6 Q Can you explain that to the Court when you say ideal.

7 A Just being able to have somebody on that side that
8 had numerous years of experience looking at building plans,
9 looking at floor plans, understanding fire and safety because a
10 lot of concerns on the nonidentified side is to making sure
11 that they have their -- their facility laid out properly to --
12 to address everything that the regulations require. So, for
13 example, fire access, you know, walk through, making sure that
14 they have enough space based on the amount of projected
15 customers they may have one day or during one day. So, yeah,
16 his experience was ideal.

17 Q And same question with Ms. Kluever. I believe that
18 Mr. Parker was concerned about her qualifications as well.
19 What do you know about her that made you believe that she was
20 qualified to do the job that she was hired to do.

21 A For Dannette -- for Dannette it was really her State
22 work history and just knowing how she progressed through the
23 State system. She started at a lower level and worked her way
24 all the way up to deputy administrator, and just my experience
25 and other -- other people at the Department of Taxation know

1 what that means to be able to -- to do that.

2 You get a lot of experience from personnel. You get
3 a lot of experience in budget building. You get a lot of
4 experience in taking the regulations in the statutes and
5 applying them to the working -- the working day and being able
6 to regulate industries. She was -- she's done that for many
7 years. And when I first talked to her she -- I could tell that
8 she was a very self-starter and very organized and would be --
9 would be an extremely benefit -- an extreme benefit to the team
10 just because of her organizational skills.

11 Q And in addition to the resumes and the -- that they
12 submitted and the interview, did you also rely on prior job
13 evaluations that -- that were provided for them?

14 A No.

15 Q Okay. You were asked about the 2014 question and
16 answer list that was established for that process; do you
17 recall that?

18 A Yes.

19 Q Can you tell the Court again in 2014 the -- what kind
20 of licenses could be applied for in terms of medical marijuana?

21 A It was all four of the categories, production,
22 cultivation, dispensary and laboratory.

23 Q Okay. And so that was -- was that the very first
24 time that the -- in Nevada that you could apply for a medical
25 marijuana license?

1 A Yes.

2 Q And so that was an entire new process; correct?

3 A Yes.

4 Q And so the DPBA -- BS established a question and
5 answer system, and that was -- was not available for all
6 licensed applicants for whatever category they were applying
7 for?

8 A Yes.

9 Q Now, the applicants in 2018, when they applied for
10 the recreational license that's at issue in this case, am I
11 right that all the applicants in 2018 had already applied in
12 2014 for one type of license or another?

13 A Yes.

14 Q Okay. So and you, I believe you earlier testified
15 that the only two -- there were two areas in the ranking
16 factors that changed between 2018 and 2014; am I right?

17 A Yes.

18 Q And what were those two again?

19 A Addressing the needs of the patient and diversity was
20 added to the recreational.

21 Q So in other words, the -- the ranking factors that
22 were new in 2014, many of them were the same in 2018; correct,
23 the vast majority of them?

24 A Yes.

25 Q So would it be fair to say that the vast majority of

1 questions that the people may have had in 2008 -- '14 were
2 answered in 2014; correct?

3 A Yes.

4 Q Was there a -- was there a regulation that precluded
5 any applicant from applying for a license in 2018 if the
6 applicant had a statement of deficiency in its history?

7 A No.

8 Q I believe that Mr. Parker was a little concerned with
9 a calendar entry that you were just shown on Exhibit 2098, I
10 believe, and so let me ask you directly. Did you put in a
11 calendar entry announcing that you were going to manipulate the
12 scores?

13 A No.

14 Q Did you manipulate the scores?

15 A No, I did not.

16 Q Did you have -- did you or anyone else in the
17 Department have any input or did anything to change the scores
18 that the graders gave the applicants?

19 A No.

20 MS. LEVIN: Okay. That's my questions. Thank you,
21 Your Honor.

22 THE COURT: Thank you.

23 Mr. Bice. Mr. Prince.

24 MR. BICE: Yes, just a few.

25 Mr. Prince is going to go first, Your Honor.

CONTINUED CROSS-EXAMINATION

BY MR. PRINCE:

Q Mr. Gilbert, good morning, sir.

A Good morning.

Q Nice to see you. You're going to be out of here shortly. I want to talk about your interaction with people in the industry. Okay?

A Okay.

Q You've obviously been involved in the medical marijuana industry since 2014; right?

A Yes.

Q And then now after recreational became legal in 2017, recreation; correct?

A Yes.

Q And you know under the Department's regulations that there is a designated point of contact for each licensee in any subgroup of whatever in the industry; correct?

A Correct.

Q And so is it fair to say that point of contact or representatives of licensees, they communicate with people within the Department all the time?

A Yes.

Q So it's not just Amanda Connor. You deal with points of contact for many licensees; correct?

A Yes. Hundreds.

1 Q Hundreds. And some of them are owners, officers or
2 an employee of a licensee; correct?

3 A Correct.

4 Q And some points of contact are lawyers like
5 Ms. Connor; correct?

6 A Yes.

7 Q So Ms. Connor is not the only lawyer who's regularly
8 dealing with matters before the Department of Taxation
9 regarding marijuana, is she?

10 A Correct.

11 Q All right. Now, dealing with the applications, is it
12 fair to say that the State in 2018 modeled the application for
13 the recreational licenses to be awarded based upon the medical
14 applications from 2014?

15 A Yes.

16 Q And one of the reasons for doing that is because,
17 number one, the State was familiar with that application and
18 wanted to use a familiar or similar process; correct?

19 A Yes.

20 Q And you were on the working group, the regulatory and
21 application process working group with, among others, Mr. John
22 Ritter; correct?

23 A Yes.

24 Q And while the applications are similar, they're not
25 quite identical, though; right?

1 A Correct.

2 Q Right. And you wanted to use a similar scoring
3 methodology that had worked well from 2014 again in 2018. Is
4 that a fair statement, Mr. Gilbert?

5 A Yes.

6 Q And you wanted to use an application that licensees
7 who applied in 2014 or were familiar, they would also be
8 familiar with how to fill the application out completely and
9 fairly. Is that also fair to say?

10 A Yes.

11 Q All right. And so when these applications in 2018
12 came around, these licensees, they were already known to the
13 Department because only a current licensee could make an
14 application in 2018; correct?

15 A Yes.

16 Q So is it also fair to say that the Department was
17 familiar with the licensees and they were familiar with the
18 ownership structure in 2018?

19 A Yes.

20 Q Right, because the Department has to approve any
21 changes of ownership of any size; right?

22 A Yes.

23 Q So when the applications come in, when you were
24 talking earlier about that all you determined was, hey, are
25 they in good standing or not, you already knew whether they

1 were or they weren't; right? That's one way to determine
2 completeness if they were a qualified application going
3 forward. Fair to say?

4 A Yes.

5 Q All right. And I want to talk a moment about
6 compliance and that's this. The Department already knows kind
7 of retrospectively or past compliance history matters for each
8 licensee; correct?

9 A Yes.

10 Q You weren't asking the evaluators or the graders to
11 look at past compliance history related matters because the
12 Department has already handled those matters; right?

13 A Yes.

14 Q But you were asking the evaluators to examine
15 compliance prospectively; fair to say?

16 A I'm sorry. Can you repeat that.

17 Q You were asking the evaluators, the graders, to
18 examine compliance more from a prospective approach rather than
19 what people have done in the past with statements of
20 deficiency, things like that?

21 A Yes.

22 Q So compliance -- is it fair to say compliance is
23 built into the application itself in the way of what is your
24 operating procedures, what is our operating plan, including how
25 to prevent sales to minors, a double check, et cetera; right?

1 A Yeah. Yes.

2 Q That's one of the ways that evaluators could address
3 compliance prospectively based upon the level of detail of
4 their operating plan, operating procedures, policies, those
5 types of things?

6 A Yes.

7 Q And that's how you trained them; correct?

8 A Yes.

9 Q Very good. And with respect -- just going back to
10 what Ms. Levin's comments were about the Ely application
11 process from June of 2018.

12 A Yes.

13 Q The records show -- I could show you the exhibit but
14 I think it's easy -- there was only six applicants. Okay?

15 A Yes.

16 Q That's something that the Department could have
17 handled internally; right?

18 A Yes.

19 Q I mean, obviously when the Department was going to
20 receive the September 2018 applications, that was going to be
21 very competitive and you knew you were going to have hundreds
22 of applications; right?

23 A Yes.

24 MR. PARKER: Your Honor.

25 THE COURT: Yes?

1 MR. PARKER: Mr. Prince is aligned with the -- with
2 the State and he's leading this witness -- [inaudible].

3 THE COURT: I'm letting him lead because I want to
4 get the witness out of here and get to the next witness. I
5 want to get out of this room someday.

6 MR. PARKER: The Court recognizes he's leading?

7 THE COURT: Absolutely I --

8 MR. PRINCE: Well, I'm -- it's cross-examination, so,
9 yeah, I'm leading.

10 THE COURT: He is leading.

11 MR. PRINCE: Okay.

12 THE COURT: I'm watching him lead so hopefully that
13 it will get done quicker. But as we all know, it comes out
14 much more credible when the witness speaks the words as opposed
15 to counsel. But that's something for me to weigh ultimately.
16 Keep going, Mr. Prince.

17 MR. PARKER: Thank you, Your Honor.

18 MR. PRINCE: Okay. All right.

19 BY MR. PRINCE:

20 Q Why was it easier -- well, let me go back. I'm going
21 to lead on this point. Because of the number of applications
22 in September of 2018, you were going to receive hundreds, all
23 the applications had to be reviewed and evaluated and scored
24 within 90 days; right?

25 A Yes.

1 MR. PARKER: Again, Your Honor, at least start with
2 what, when, where --

3 THE COURT: Overruled.

4 Mr. Parker, I overruled your objection.

5 MR. PARKER: No worries.

6 BY MR. PRINCE:

7 Q Now, with regard to the evaluators, as I understand
8 you were their point of contact; is that right?

9 A One of them.

10 Q One of them. Okay. Were they kept segregated from
11 other members of the Department of Taxation to prevent any
12 cross-talk, learning information that could impact their
13 evaluations?

14 A Yes.

15 Q Okay. Why was that done?

16 A That was done just to keep them segregated. Number
17 one, away from all the entire Taxation office, as well as
18 staff. They were segregated in separate offices. So you had
19 the identified in one office, the nonidentified in another
20 office. And then there was another office for the
21 administrative assistants to log the scores and stuff like
22 that.

23 It was -- and the nonidentified and the identified
24 can't cross paths. They can't talk, they can't communicate to
25 each other, just to keep the integrity of the process and the

1 impartiality.

2 Q Okay. Now, in the working groups, did you become --
3 for the Task Force I'm talking about, did you also work with
4 Mr. Ritter?

5 A Some, yes.

6 Q Okay. And he was very close to that process, to your
7 recollection, of developing the 2018 recreational regulations?

8 A I don't recall how much he was involved.

9 Q Very good. Did the Department want the evaluators to
10 have contact with like inspectors or auditors that would go out
11 into the field and inspect and audit the various licensees?

12 A Can you repeat that?

13 Q Sure. Were the inspectors -- excuse me. The
14 evaluators or the graders, were they allowed to have contact
15 with inspectors or auditors who would go out in the field and
16 inspect facilities and deal with licensees day to day?

17 A Just during training, the ones that were
18 participating in the training. Just those.

19 Q Sure. Were the evaluators allowed to go ask
20 questions of the inspectors or auditors about any particular
21 licensee or anything like that? They weren't allowed to do
22 that; right?

23 A No.

24 Q By design; right?

25 A Correct.

1 MR. PRINCE: Okay. Brendan, let's bring up Slide
2 Number 173 and then we're going to go to 175 thereafter.

3 BY MR. PRINCE:

4 Q Okay. This is testimony from Mr. Ritter, one of the
5 plaintiffs in this case, and he was talking about not getting
6 a license and he said,

7 After the licenses were awarded, we had
8 two inspectors come by our cultivation
9 facility. They asked us whether or not -- or
10 how many licenses we had gotten. We said
11 none.

12 They said, well, we can't believe that.
13 You guys are always operating right. We
14 don't have any problems with you.

15 And we said -- meaning TGIG -- I hope
16 you told the Department that; you told the
17 scorers that.

18 And they said we don't -- we have had no
19 contact whatsoever with the scorers. They
20 never asked us for any kind of feedback.

21 I'm going to go to one other -- read one other
22 section and then I'm going to ask you a question.

23 MR. PRINCE: Go to slide 175, Brendan.

24 BY MR. PRINCE:

25 Q And the question was, Should Mr. Pupo have gone back

1 and told the graders to give TGIG a higher score?

2 And he said, Oh, absolutely not. But what I would
3 expect is that the scorers would have at least interviewed the
4 inspectors that inspect the applicant's facility and looked at
5 the applicant's track record regulatorily because that's what
6 this whole thing was all about.

7 Do you see that?

8 A Yes.

9 Q That's exactly what should have not happened; right?

10 A Yes.

11 Q And was that by design within the Department to
12 prevent any type of influence by someone like Mr. Ritter, who
13 is now wanting the graders to go out and actually speak to
14 inspectors who had come to his facilities and he's made friends
15 with or relationships with?

16 A Yes.

17 Q Okay. With regard to location, do you recall that
18 out of the working group the goal of the working group on the
19 Task Force, the recommendation was that an applicant would be
20 scored based upon their own merit without regard to location?

21 A Yes.

22 Q And when it came to the application process, since
23 you've confirmed multiple times that location was not scored;
24 correct?

25 A Correct.

1 Q Therefore, as long as you had a physical address,
2 everybody was on a level playing field when it came to physical
3 address; correct? No one got any more points, no one got any
4 less points because it wasn't evaluated?

5 A Correct.

6 Q Okay. Would you agree that most of the applicants in
7 2018, given their licensure, had to be a cultivator, a
8 producer, a distributor or a dispensary, they had an existing
9 relationship with the Department?

10 A Yes.

11 Q And if they wanted information, they know how to ask
12 questions or go get it since they are already being regulated
13 and have contact with the Department?

14 A Yes.

15 MR. PRINCE: Just looking at my notes, Your Honor.
16 I'm almost done.

17 BY MR. PRINCE:

18 Q With regard to the Ely application or the White Pine
19 County in June of 2018, do you recall participating in a score
20 review meeting on September 12th, 2018 with my client, Thrive,
21 which would have been Amanda Connor, Mitch Britten and Phillip
22 Peckman? Do you remember either physically being there or
23 being on a call?

24 A I don't recall.

25 Q After the White Pine County application, did the

1 applicants, each of them, have the opportunity to come in for a
2 score review to learn their scores in each particular category,
3 as well as the average?

4 A I believe they did, yes.

5 Q Did you ever take tours at the TGIG -- either
6 dispensary or their facilities?

7 A Yes.

8 Q How many times?

9 A Maybe -- I think I've been to the dispensary once
10 years ago and then probably the same with the cultivation and
11 production when they first opened the medical.

12 Q Okay. To your knowledge, did anybody from the
13 Department ever take people on tours of the TGIG facilities to
14 educate them, to show them, you know, what an operation should
15 look like or how it should work?

16 A Not -- I don't know.

17 Q You don't know. Okay.

18 MR. PRINCE: Your Honor, thank you. I don't have any
19 additional questions.

20 THE COURT: Mr. Bice. Can you please put us on mute
21 on the phone?

22 MR. BICE: Brian, pull up Exhibit 1008. It's already
23 into evidence.

24 (Pause in the proceedings)

25 / / /

CONTINUED CROSS-EXAMINATION

BY MR. BICE:

Q So good morning again, Mr. Gilbert.

A Good morning.

Q All right. So I'm showing you -- Mr. Parker I believe yesterday showed you this exhibit and I want to just ask you a few questions about it. Mr. Gilbert, are you an attorney?

A No, I'm not.

Q Do you know the difference between what's called a C Corporation and an LLC?

A Yes.

Q Okay. Well, are you aware that C Corporations under Nevada law must have a board of directors of at least one person?

A Yes.

Q Did you know that?

A Through -- yeah, just through --

Q Okay.

A Yes.

Q Did you also know that C Corporations are required to have a certain number of minimal officers? Did you know that?

A No.

Q Okay. So let me -- let's look at the language that you've got in here. Okay? The merit criteria is whether, The

1 owners, officers or board members have experience operating
2 another kind of business that has given them experience.

3 Do you see that?

4 A Yes.

5 Q Okay. And over on the evaluation elements it says,
6 Organizational chart showing all owners, officers and board
7 members. Right?

8 A Yes.

9 Q Okay. And the reason you want disclosure, you want
10 to know who all the owners, officers and board members are, is
11 because you want to know everybody that either owns this thing
12 or operates it; right?

13 A Yes.

14 Q Okay. That's the whole point here. You want to know
15 basically who management is and who the ownership is. Fair?

16 A Yes.

17 Q Okay. So I want to give you a hypothetical here. So
18 I've got a C Corporation, all right. I'll call it ABC C
19 Corporation. If I have a president and then I have an
20 executive vice president of finance and I have an executive
21 vice president of sales and I have an executive vice president
22 of human resources, on the application I need to disclose all
23 those people to you; right?

24 A Yes.

25 Q Okay. Because they're actually the officers of the

1 company and they're the ones that are operating it; correct?

2 A Correct.

3 Q Okay. If I have an LLC, I could choose to have no
4 officers. Did you know that?

5 A Yes.

6 Q Okay. So let me give you an example. There's a
7 company -- have you ever heard the name Nevada Holistics
8 before?

9 A I've heard of it.

10 Q All right. Well, Nevada Holistics is an LLC, and
11 Nevada Holistics claims it doesn't have any officers. And
12 Nevada Holistics testified in its deposition -- so you just
13 have to take this from me, and I'll present that evidence later
14 when you're not here -- that they actually don't even manage
15 their own dispensary.

16 They have a contract with a company out of Denver,
17 and they have a general manager, okay. And they claim that
18 general manager didn't have to be disclosed on the application
19 because he's not an officer of an LLC. But they also admitted
20 that if it was a C Corporation they would have had to have
21 disclosed him because he would in fact be the chief operating
22 officer.

23 Does that circumvent what you're trying to accomplish
24 when somebody does that?

25 A I believe it does.

1 Q Okay. So if somebody wanted to submit a
2 comprehensive application, even if they're an LLC, they would
3 actually go about designating the people that are --

4 Remember those silos I just gave you, executive VP of
5 finance, executive VP of sales, executive VP of HR?

6 A Yes.

7 Q So if you had an LLC, you would actually expect them
8 to disclose those same people to you; would you not?

9 A Yes.

10 Q Because you would want to know who they are; right?

11 A Yes.

12 Q And, in fact, in the application process the whole
13 point was you wanted to make sure that their experience was
14 counted; right?

15 A Yes.

16 Q Okay. So you would expect, then, if somebody wanted
17 to submit a fulsome and comprehensive application to the State
18 that they would actually appoint as -- even an LLC would
19 appoint as officers the people that are filling those roles
20 that I just described; would you not?

21 A Yes, and identify key personnel.

22 Q That's right. So now let's go to -- let's go to --
23 Mr. Parker used the term good standing with you earlier.

24 MR. BICE: Brian, if we'd go to Exhibit 1516 and go
25 to page 99 of that exhibit.

1 BY MR. BICE:

2 Q All right. This is a Notice of Imposition of Civil
3 Penalty that's already in evidence, sir, against TGIG, LLC, no
4 less. TGIG, LLC, paid a civil penalty.

5 Was that entity in good standing even though it was
6 assessed a fine?

7 A Yes, it was.

8 Q Okay. And that entity, TGIG, was entitled to -- if
9 TGIG wanted to dispute this, they could have requested a
10 hearing; correct?

11 A Yes.

12 Q And there's a due process if somebody wants to
13 contest any form of statement of deficiency or they want to
14 contest a fine. There's a process to do that; correct?

15 A Yes, there is.

16 Q Okay. Now, if somebody came in to the court -- let's
17 just say hypothetically some guy came in to the court, and he
18 said that he had zero deficiencies, zero over all the years,
19 even since the imposition or the creation of the medical
20 program. What do you think the odds are that that statement
21 could be true?

22 A Not very good.

23 Q Okay. Because there are statements of deficiencies
24 that are imposed almost every inspection; correct?

25 A Yes. That's our job.

1 Q Okay. Well, what if I told you that the guy who told
2 that to the Court was a guy by the name of Frank Hawkins? You
3 know that name, don't you?

4 A Yes, I do.

5 MR. PARKER: Object to the form, Your Honor.

6 THE COURT: Overruled.

7 BY MR. BICE:

8 Q In fact, you know that name pretty well today, don't
9 you?

10 A Yes.

11 Q Okay. And, in fact, the State has already filed a
12 complaint against Mr. Hawkins for 195 unlawful sales just
13 recently; right?

14 MR. PARKER: Your Honor, I need to object for the
15 record to that one. The other ones were kind of benign, but
16 that one requires further [inaudible].

17 THE COURT: So you objected. The objection is
18 overruled.

19 MR. PARKER: Your Honor, we object. The information
20 he's speaking of has nothing to do with this case --

21 THE COURT: Mr. Parker, it's okay.

22 MR. PARKER: -- and something he's talking about came
23 this -- two months.

24 THE COURT: Okay.

25 MR. PARKER: All right.

1 THE COURT: So I know that there are cases where it
2 takes two years for the complaint and disciplinary action to be
3 filed by the Department. So believe me, I am aware of what it
4 takes for the Department to move through the process.

5 MR. PARKER: And you're aware that this deals with a
6 COVID issue --

7 THE COURT: Overruled.

8 MR. PARKER: -- that he's bringing up?

9 THE COURT: Overruled.

10 MR. PARKER: Good enough, Your Honor.

11 THE COURT: Okay.

12 BY MR. BICE:

13 Q Now, just because the State has filed a complaint
14 against Mr. Hawkins and his company doesn't mean they're
15 guilty; right?

16 A Correct.

17 Q They're in good standing, aren't they?

18 A Yes.

19 Q And they're in good standing today, notwithstanding
20 the State's allegations against them; correct?

21 A Yes.

22 Q And if Mr. Hawkins or his company wants to dispute
23 it, they're going to be entitled to due process; correct?

24 A Correct.

25 Q And they could even seek judicial review of the

1 hearing officer; correct?

2 A Yes.

3 Q So they're in good standing as long as -- they're in
4 good standing as long as they resolve that complaint with the
5 State; correct?

6 A Yes.

7 Q And they will not be out of good standing until the
8 State seeks some sort of additional action that they fail to
9 comply with; correct?

10 A That's correct.

11 MR. BICE: Thank you very much, sir.

12 THE COURT: Mr. Koch. Mr. Bice, can you wipe down
13 while Mr. Koch -- well, no, he's already on his way.

14 MR. KOCH: I'll take it.

15 CONTINUED CROSS-EXAMINATION

16 BY MR. KOCH:

17 Q All right. Mr. Gilbert, a few follow up. There has
18 been a lot of talk about the completeness of the applications.
19 You remember Mr. Parker asked you quite a few questions about
20 that topic?

21 A Yes. Yes.

22 Q Discussing that. And my understanding of your
23 testimony was the completeness related to whether each section
24 of the application was submitted at the time it was submitted;
25 is that right?

1 A Yes.

2 Q And if there were like one box somewhere on the
3 application that was not filled out, did the Department just
4 not grade that application?

5 A No, it was graded.

6 Q For example, if an applicant left out part of its
7 financial plan, didn't put everything in the financial plan
8 that needed to be there, was that application still graded?

9 A Yes, it was.

10 Q And the fact that something may not have been there,
11 would that have had an impact on the score, perhaps?

12 A Yes.

13 Q But the application itself was not just tossed into
14 the shredder or something like that; is that right?

15 A Correct.

16 MR. KOCH: If you'd pull up Exhibit 1142, Brian.

17 BY MR. KOCH:

18 Q And, 1142, I think you talked about this earlier. Is
19 this --

20 THE CLERK: Proposed.

21 THE COURT: So this is a proposed exhibit. Any
22 objection?

23 MR. PARKER: No objection, Your Honor.

24 THE COURT: It will be admitted.

25 (Exhibit Number(s) 1142 admitted.)

1 BY MR. KOCH:

2 Q Exhibit 1142, can you tell us what this document is,
3 Mr. Gilbert? If you know.

4 A It looks like the log and tracking of the intake.

5 Q Okay. So the intake log to make sure that when an
6 application came in it had what needed to be there?

7 A Yes.

8 Q And this looks like it applies for, if we go full
9 pages --

10 MR. KOCH: Keep on that page, though, Brian.

11 BY MR. KOCH:

12 Q Each applicant was assigned an RD number that we've
13 talked about; is that right?

14 A Yes.

15 Q So I'll just ask you a few questions about some of
16 the content. The very first applicant there is Blossom Group.
17 I'm not sure if they're part of this proceeding at all, but on
18 the address, the very first line there it says, TBD. Do you
19 see that?

20 A Yes.

21 Q Okay. So Blossom Group put a TBD down for their
22 address. Do you know if Blossom Group was scored?

23 A I don't know. I'd have to -- I assume they are
24 because I do remember a 210.

25 Q All right. And then if we look more toward the right

1 in that same section, or actually there's a purple column top
2 there. It says, Diane completes, I think. Do you see that?

3 A Yes.

4 Q Okay. So another D.O.T. employee was going to
5 complete this section; is that right?

6 A Yeah. I'd have to look at it for -- yeah, that's
7 when they deliver them to the evaluators.

8 Q All right. And that first column there says,
9 Ownership Confirmed. Do you see that?

10 A Yes.

11 Q What was that referring to?

12 A That's where Jeannine would verify the ownership
13 listed in the application matched what was on record at the
14 Department.

15 Q Okay. And so if we look at the bottom of that page,
16 there is a GreenLeaf Farms Holdings, several entries for that
17 entity. And on that Ownership Confirmed column it says, CHOW
18 does not match app. Do you know what that means?

19 A Just that the change of ownership that was in the
20 Department at that time didn't match what they listed.

21 Q Okay. And was that a problem?

22 A It could have been. I don't know what -- I'm not
23 familiar with this particular one.

24 Q Okay. Above that is Nevada Organic Remedies, which
25 is my client. And what does it say under Ownership Confirmed

1 for Nevada Organic Remedies?

2 A It says, Yes, per Jeannine.

3 Q Okay. And do you know what that refers to?

4 A That she verified it matched.

5 Q And that would have been a match with what was in the
6 Department's record with the ownership that was listed in the
7 application; is that right?

8 A Yes.

9 Q And the ownership the Department had on record, had
10 the Department already approved that ownership list?

11 A Yeah. Jeannine would go back to the most recent
12 approval.

13 Q Okay. And we're going to come back to this exhibit
14 in a second.

15 MR. KOCH: Brian, if we could put up Exhibit 3193,
16 please. Exhibit 3193 is a letter from the Department of
17 Taxation dated August 20th, 2018. And if we go to the bottom
18 of that letter -- can you show the signature line, Brian?

19 BY MR. KOCH:

20 Q That was a letter that you sent on behalf of the
21 Department of Taxation at about that time; is that right?

22 A Yes.

23 Q And can you tell us what this letter is? If we can
24 go back to the top.

25 A It's the approval for the CHOW for the cultivation,

1 dispensary, production and distribution.

2 Q Okay. And so this is the CHOW that NOR submitted at
3 about this time or sometime prior to August 20th, 2018; is that
4 right?

5 A Yes.

6 Q And so the Department, by August 20th of 2018, had
7 reviewed the information submitted. You sent back this letter
8 and NOR presumably received that and its ownership was approved
9 at least for purposes of the Department of Taxation; is that
10 right?

11 A Yes.

12 Q Did -- or do you recall whether you had any follow-up
13 questions, you personally, for Ms. Connor or anyone at Nevada
14 Organic Remedies at the time you sent this letter out?

15 A I don't recall any.

16 Q Prior to this, if Nevada Organic Remedies sent in
17 their ownership transfer request, what had to come as part of
18 that request, generally? What needed to be there?

19 A The transfer of interest form requires the form to be
20 submitted and also showing the prior ownership and then the
21 subsequent ownership. And then there's a section there where
22 every owner, officer and board member that's losing interest
23 has to acknowledge to the fact that the transfer of interest
24 they're aware of.

25 And then management agreements, sales agreements and

1 then supporting documentation. And then there's taxation forms
2 that are required for administrative stuff.

3 Q All right. And that is actually a process that you
4 were personally involved with, those ownership requests?

5 A I just -- I manage the person that processes them.

6 Q Okay. And sending out these approval letters, that
7 was something that you had responsibility for at the Department
8 at that time?

9 A Yes.

10 Q Very good. And so if there was more information that
11 you felt that the Department needed in order to determine
12 whether to approve that ownership transfer, would you ask for
13 it?

14 A Yes.

15 Q And I guess my question is just because somebody
16 sends something in and says we're transferring ownership, the
17 Department just doesn't put a stamp on it, they actually review
18 the information, follow up with questions and make sure that
19 they're satisfied at that time prior to sending out a letter
20 like this; is that right?

21 A Yeah. There's quite a bit of back and forth going
22 with every transfer.

23 Q Okay. And here -- actually, let's go back to the
24 prior exhibit, 1142, if we can for a minute. And on 1142 we
25 talked about that ownership list there. And I just want to

1 talk about location just for a minute more because I know
2 Mr. Parker had quite a few questions for you on that subject.
3 There were quite a few applicants, actually, that had something
4 like TBD on their address; isn't that right?

5 A I believe so. I haven't looked at them all.

6 MR. KOCH: Okay. Can we put 1142 back up, Brian.

7 BY MR. KOCH:

8 Q Okay. If we go to page 4 of that exhibit, 1142-4.
9 On the bottom of that page is MM Development, which is one of
10 the plaintiffs in this case. And it looks like they have some
11 addresses listed there and then some that say, To Be
12 Determined. And you didn't have a problem with that, did you?

13 A No, I didn't.

14 Q Did anyone at the Department that you're aware of
15 raise any objection to the listing of To Be Determined for
16 those applications?

17 A No.

18 Q Was that application scored and considered for
19 purposes of ranking?

20 A Yes.

21 Q All right. Let's go to page 6. And on page 6 we
22 have, about two-thirds of the way down, Serenity Wellness. Do
23 you see that?

24 A Yes.

25 Q Okay. And Serenity Wellness was a plaintiff in this

1 case, I think until they decided to dismiss themselves from the
2 case. And they also listed To Be Determined. Same question.
3 That was fine, they were scored, ranked, the full process.
4 Just because they had To Be Determined did not mean their
5 application was incomplete; is that right?

6 A Yes.

7 Q Very good. And one more, if we could, on page 14 of
8 that same exhibit. On the top there, there's a Clark Natural
9 Medicine Solutions -- Medicinal Solutions. Do you see that?

10 A Yes, I do.

11 Q Okay. And it looks like they listed the same address
12 in North Las Vegas for every one of their applications. Is
13 there a problem with that?

14 A No, there is not.

15 Q Okay. It's in red. And do you know if there was any
16 follow-up on that, that question?

17 A I don't know what the red is for.

18 Q What about the people below there, though?
19 There's -- if we look, GreenMart, that's one of the applicants
20 here, To Be Determined for Pahrump. We see that. No problem
21 with that; right?

22 A Uh-huh. Yes.

23 Q What about the ones for Nye Natural Medicinal
24 Solutions where it says, No Attachment A? Is that an issue?

25 A It could be.

1 Q The entire attachment is missing from the
2 application. Would you believe that that application would be
3 complete?

4 A I forget what Attachment A is for, but I'd have to
5 look at it. Potentially.

6 Q Okay. All right, I won't belabor every one in there,
7 but suffice to say some applicants had a specific address, some
8 had TBD, and no applicant was given more points or less points
9 based upon the address that was listed there; is that right?

10 A That's correct.

11 Q On that subject of location, there were some
12 questions about community. Was there any definition of what
13 the community was for purposes of community impact?

14 A No.

15 Q Did the Department conduct any sort of a demographic
16 survey to decide whether a particular zip code, whether a
17 particular neighborhood had certain characteristics that would
18 make an establishment going into that spot much more valuable
19 or scored more highly?

20 A No.

21 Q Mr. Parker asked you about the tool which talked
22 about impact on neighbors. Remember that set of questions?

23 A Yes.

24 Q Was there a definition of what a neighbor was?

25 A No.

1 Q Did the Department take the graders out and go on a
2 field trip to each address listed there and start knocking on
3 the neighboring store and ask what they thought the impact of
4 having a marijuana store next door would be on them?

5 A No.

6 Q Do you believe that type of process could have been
7 completed within 90 days if that sort of a field trip process
8 were undertaken?

9 A No.

10 Q And did any applicant complain that somehow their
11 store would have a different affect on the neighbors and they
12 should be scored more highly but that was not taken into
13 consideration as part of this process?

14 A Not that I recall.

15 Q Okay. The topic of ownership we've talked about a
16 little bit.

17 MR. KOCH: Can I put up NAC453.250? Put that up on
18 the screen here.

19 BY MR. KOCH:

20 Q So this is one of the regulations that relates to the
21 marijuana industry; correct?

22 A Yes.

23 Q And it's titled, Designations of persons responsible
24 for providing information, signing documents and ensuring
25 certain actions are taken. Are you familiar with this section,

1 generally?

2 A Yes, generally.

3 Q All right. And the subject or the section I want to
4 just ask you about is Section 2. It says,

5 For purposes of this chapter and Chapter
6 453D of NRS, the following persons must
7 comply with the provisions governing owners,
8 officers and board members of a marijuana
9 establishment.

10 You've read that before; right?

11 A Yes.

12 Q And my company is a limited liability company and my
13 question is about subsection (c), which is, If a limited
14 liability company is applying for a license for a marijuana
15 establishment, the members of the limited liability company
16 would be the entities that would be referred to here; is that
17 right?

18 A Yes.

19 Q And so the members of the LLC would be the ones that
20 would need to be listed or considered for purposes of this
21 consideration in this regulation; is that right?

22 A Yes, that's correct.

23 Q All right. And when I looked at -- if we could go
24 back to 3193, that ownership approval letter that you sent out.
25 Now, we have 95 percent of Nevada Organic Remedies is held by

1 GGB, LLC. So if GGB Nevada, LLC was a 95 percent member of the
2 company, they would have to be listed there; right?

3 A Yes.

4 Q Okay. And let's go down to the bottom of that page,
5 page 2. There's five more individuals or entities listed
6 there, starting with Andrew Jolley, and all of those interests,
7 if they're members of the company they would need to be listed
8 there as part of the ownership transfer; correct?

9 A Yes.

10 Q Even Mr. Peterson, who owns .10 percent, he was
11 listed there as part of the ownership transfer; right?

12 A Yes. It needs to add to 100 percent.

13 Q All right. And so 100 percent, based upon the
14 information that you reviewed, of the owners of Nevada Organic
15 Remedies were provided and listed in the letter that you sent
16 out here; is that right?

17 A Yes.

18 MR. KOCH: And let's go to Exhibit 3199, please.

19 BY MR. KOCH:

20 Q 3199 is a list of -- that comes from the Department's
21 website. You've seen this before?

22 A Yes, I have.

23 Q Is this a spreadsheet that the Department keeps?

24 A I'm sorry. Can you repeat that.

25 Q Is this a spreadsheet that the Department keeps?

1 A Yes.

2 Q Okay. And this is actually a way that the Department
3 keeps track of owners, officers and board members of each
4 marijuana establishment; is that right?

5 A Yes, in response to SB32.

6 MR. KOCH: Okay. And Brian has already jumped ahead
7 for me there. That's page 109; is that right? Page 109.

8 BY MR. KOCH:

9 Q Okay. Once again I just want to ask you, Nevada
10 Organic Remedies on page 109, RD218 is the applicant number
11 there, for Nevada Organic Remedies it looks like there's six
12 owners listed there, if you look at the top section. Is that
13 right?

14 A Yes.

15 Q Okay. So the State currently -- and this is as of
16 May 2019, had those same six owners --

17 MR. KOCH: Oh, thanks, Brian. We only had five
18 there.

19 BY MR. KOCH:

20 Q Those same six owners in May 2019 as were listed in
21 your August 2018 approval letter; is that right?

22 A I'd have to compare the two, but it looks like it,
23 yes.

24 Q Okay. There was a lot of questions about public
25 companies potentially having an ownership interest in the

1 applicant. Is there any prohibition that you're aware of under
2 the law of a public company having an ownership interest?

3 A Not that I'm aware of.

4 Q In fact, there are several marijuana establishments
5 that are operating today that are either owned by in whole or
6 in part a public company. Are you aware of that?

7 A Yes.

8 Q And some of those establishments, in fact, are some
9 of the most successful establishments as far as sales. Are you
10 aware of that?

11 A I've never looked at it, but, yes.

12 Q Okay. And there was some talk the plaintiffs have
13 raised the issue of companies being infiltrated by cartels or
14 ownership in that way. Are you aware of any public companies
15 that have had any cartel ownership problems that have come to
16 light for you?

17 A No.

18 Q Have there been any public companies that you have
19 removed owners from because they're a part of a cartel or
20 anything like that?

21 A No.

22 Q Okay. And also there's also an issue with -- the
23 plaintiffs have raised with respect to using marijuana
24 establishments for money laundering. Has that ever been an
25 issue that the Department -- it's come to the Department's

1 radar?

2 A Not that I'm aware of.

3 Q Do you know what money laundering is?

4 A Yes.

5 Q Okay. And illegal operations may use an
6 establishment or a business to put cash through so they can
7 kind of clean that money. Are you generally familiar with that
8 process?

9 A Yes.

10 Q How are marijuana establishments, retail marijuana
11 establishments regulated with respect to cash processing?

12 A I'm sorry?

13 Q The handling of cash, because cash is a big part of
14 marijuana --

15 A Right.

16 Q -- sales in Nevada; right?

17 A Right.

18 Q Is there any type of regulation that relates to the
19 handling or tracking of cash or sales that the Department is
20 aware of?

21 A No.

22 Q Okay. With respect to the actual inventory tracking,
23 how is that tracked?

24 A That's tracked through a state system called METRC.

25 Q Okay. And what does METRIC do?

1 A METRC tracks all products from the seed to the sale
2 through a unique identifying number and an RFID tag.

3 Q All right. And so inventory is tracked. Is it on a
4 daily basis? How often is it tracked?

5 A It's tracked, yeah, daily by the minute, all the way
6 to the point of sale. And then the point of sale is fed back
7 into METRC at the end of the day.

8 Q What's the purpose of METRC?

9 A To make sure that, number one, products aren't being
10 sold illegally or going out the back door or going to the black
11 market. And to make sure that products are tested and they
12 provide the correct labels that show that the product has been
13 tested, it's safe, and to make sure that the sales that they
14 generate through their POS system on a daily basis match the
15 inventory that they brought in to sell.

16 Q And the POS system, that's the Point of Sale?

17 A Yes. Point of Sale.

18 Q Right. So that METRC system tracks sales from the
19 POS system, tracks inventory, tracks essentially all of the
20 transactions that would go on at the establishments; is that
21 right?

22 A Yes. Wholesale and retail.

23 Q Okay. And so if someone were trying to manipulate
24 the sale of inventory or the reporting of those sales, the
25 amount of those sales, would that be, in your estimation, easy,

1 hard? How would that rank?

2 A It would be easy to do but hard when we find out.

3 Q Yeah, because you're constantly monitoring that METRC
4 system; right? If there's a discrepancy there, the Department
5 would find out about that?

6 A Correct.

7 Q And if there's a discrepancy there, that could result
8 in an enforcement action; is that right?

9 A Yes.

10 Q And it could be a deficiency or more, there could be
11 a suspension; couldn't there?

12 A Yes.

13 Q All right. And based upon the Department's review or
14 experience to this point in time, is the Department aware of
15 any money laundering activities that have come to light?

16 A Not that I'm aware of.

17 Q Finally, on this issue of partiality, you interacted
18 with the graders. Did you interact with the graders during the
19 time that they were actually conducting the scoring process?

20 A Some.

21 Q And in that time, did the scorers ever come to you
22 and ask you what the score should be for a particular part of
23 an application?

24 A No.

25 Q Did they ever bring the actual piece of an

1 application to you and say, you know, what do you think about
2 this, how should we interpret this, anything like that?

3 A No, they didn't.

4 Q Did you ever give any instruction to any scorer to
5 change any score?

6 A No.

7 Q Did you ever given any instruction to any scorer with
8 respect to a particular applicant to say grade them a little
9 bit easier, grade them a little bit harder, anything like that?

10 A No.

11 Q Did you ever or were you aware of any bonus points
12 being given because someone went on a tour of a facility at
13 some point in time, anything like that?

14 A No.

15 Q How about any bonus points being given because a
16 company is very profitable?

17 A No.

18 Q Now, taxes were considered, though; right?

19 A Yes.

20 Q And so taxes would be considered in that context.
21 But beyond that, simply because somebody is making a lot of
22 money, it doesn't mean they get a license; is that right?

23 A That's correct.

24 Q With respect to your observation, were all of the
25 applicants and the applications submitted handled and reviewed

1 and scored and ranked in the same way?

2 A Yes.

3 Q And was there any favorable or unfavorable treatment
4 given to any of the applicants, based upon your observation and
5 experience?

6 A No.

7 MR. KOCH: Thank you very much. No further
8 questions.

9 THE COURT: While you're disinfecting, I'm going to
10 ask a question that relates to something you did. On the CHOW
11 that you approved for Nevada Organic Remedies there is an
12 entity listed that is Xanthic.

13 THE WITNESS: Yes.

14 THE COURT: And under Xanthic it includes the
15 officers and the board members, but it does not identify any
16 owners. Can you tell me why the Department did not do an
17 investigation into the ownership of Xanthic?

18 THE WITNESS: The ownership --

19 THE COURT: And if you want the exhibit back, it's
20 3193, Brian. He's on it. There he goes. So Xanthic is there.
21 The board members are listed on the bottom of the first page.
22 And if you go to the second page on the top, it lists the
23 officers.

24 THE WITNESS: Uh-huh.

25 THE COURT: But it lists no owners. So can you

1 identify for me why the Department did not investigate the
2 owners of Xanthic before approving the CHOW?

3 MR. PARKER: Your Honor, do you mean by investigate,
4 background?

5 THE COURT: Anything.

6 MR. PARKER: Okay.

7 THE COURT: I'm not saying investigate includes
8 anything. I'm just asking.

9 MR. PARKER: Good enough.

10 THE WITNESS: Your Honor, I would have to look at the
11 ownership transfer that was submitted to see what was submitted
12 under GGB Nevada. But on publicly traded companies if they're
13 held by the shareholders, we generally just request that the
14 percentage of the share, what's held by the shareholders is
15 submitted to us, not individuals on the shareholder list.

16 THE COURT: And did you make that request in this
17 case?

18 THE WITNESS: I don't recall.

19 THE COURT: And who told you that that was the way
20 you were going to handle publicly-traded companies?

21 THE WITNESS: It was done in the medical marijuana
22 program and then carried over to the Department of Taxation.

23 THE COURT: And who made that decision at the
24 Health -- Public Behavior Health?

25 THE WITNESS: If I recall, it was the deputy attorney

1 general handling DPBH's matters.

2 THE COURT: And who -- what was the last name of that
3 deputy attorney general?

4 THE WITNESS: Anderson.

5 THE COURT: Okay. Thank you.

6 BY MR. KOCH:

7 Q I have a follow-up question on that. The ownership
8 of the applicant was checked; is that right?

9 A I'm sorry?

10 Q The ownership of the applicant was checked; is that
11 right?

12 A Yes.

13 Q Okay. And the applicant would be the entity that
14 would actually be receiving the license; is that right?

15 A Yes. The entity that the license is issued to.

16 Q Right. And in this case if Nevada Organic Remedies
17 is the applicant and the entity that the license was issued to,
18 it would be the ownership of Nevada Organic Remedies, LLC that
19 would be checked; correct?

20 A Yes.

21 MR. KOCH: All right, very good. Thank you. I did
22 already wipe it down.

23 THE COURT: Thank you. Mr. Rose.

24 MR. PARKER: Your Honor.

25 THE COURT: No. I'm on Mr. Rose.

1 MR. PARKER: Okay. No, I've got --

2 THE COURT: You go do your thing.

3 MR. PARKER: Okay. Thank you.

4 THE COURT: I'm going to break after I finish with
5 the intervenors, but I'm on Mr. Rose, who I think is near the
6 last.

7 MR. ROSE: And I'll be brief, Your Honor. Thank you.

8 CROSS-EXAMINATION

9 BY MR. ROSE:

10 Q Mr. Gilbert, my name is Chris Rose.

11 THE COURT: Your ten minutes will be less than
12 Mr. Parker's ten minutes?

13 MR. ROSE: That's right.

14 THE COURT: Okay.

15 MR. ROSE: That's right. I'm always less than
16 Mr. Parker's ten minutes.

17 BY MR. ROSE:

18 Q Mr. Gilbert, my name is Chris Rose. I represent
19 Wellness Connection of Nevada. I just have a few follow-up
20 questions for you. First, to follow up some of the questions
21 that Mr. Koch just asked you about whether you ever told a
22 grader how to grade a particular part of the application or how
23 to score the application. Do you remember that just a moment
24 ago?

25 A Yes.

1 Q And whether you had any influence on how a grader
2 scored an application. And your answer to all of those
3 questions was no; correct?

4 A Yes.

5 Q And I want to ask you, are you aware of anyone from
6 the State going to a grader and telling them how to do their
7 job, how to score a particular part of an application during
8 the process where the graders were reviewing and scoring the
9 applications?

10 A No.

11 Q That never happened?

12 A No.

13 Q All right. Just to back up a little bit. The
14 process in 2014 for the medical marijuana applications,
15 Ms. Levin already asked you and we know from your testimony
16 that the State used outside contract graders in 2014, just the
17 same as it did for this process in 2018; correct?

18 A Yes.

19 Q And I just want to ask you, to your knowledge did any
20 of those graders, those outside contractors in the 2014
21 process, did they have experience in the marijuana industry?

22 A No.

23 Q That was no?

24 A Yes.

25 Q Okay.

1 A Yes. No.

2 Q And Ms. Levin asked you about whether certain
3 applicants in the 2014 process had complained, but I want to
4 broaden that a little bit. Are you aware of any applicant in
5 the 2014 medical marijuana process that filed a lawsuit or
6 otherwise complained because a board was -- or outside
7 contractors were used in 2014 to grade the applications?

8 A I don't recall any lawsuits being filed for that.

9 Q And are you aware of any applicant in the 2014
10 process that filed a lawsuit or complained in any way because
11 the graders of those applications in 2014 did not have any
12 marijuana experience?

13 A No.

14 Q Now, you testified that the hiring of independent
15 outside graders was part of the process to be impartial;
16 correct?

17 A Yes.

18 Q And that was required by statute?

19 A Yes.

20 Q And it sounds like you and everyone at the State took
21 that charge seriously; right?

22 A Yes.

23 Q Now, there were some questions by Mr. Parker about
24 whether anyone from the Department of Transportation (sic) went
25 back and double checked or questioned or looked at the grade or

1 the scores that were given by the graders in the 2018 process.
2 Do you remember that question?

3 A Yeah. Not the Department of Transportation.

4 Q I'm sorry?

5 A You said the Department of Transportation.

6 Q Oh, okay.

7 A Taxation.

8 Q Department of Taxation. So if I'm not mistaken, the
9 Department of Taxation did not have anyone go back and double
10 check or second guess the scores that the graders give because
11 that would have been inconsistent with what the Department of
12 Taxation viewed as its obligation to be impartial. Is that a
13 fair statement?

14 A Yes.

15 Q In fact, you explained that in your deposition,
16 didn't you?

17 A Yes.

18 THE COURT: Remember, I wasn't at the depo.

19 MR. ROSE: Understood, Your Honor.

20 THE COURT: Okay.

21 BY MR. ROSE:

22 Q In fact, would it be fair to say that after the
23 graders did their job and scored the applications, it would
24 defeat the purpose of having an outside, independent contractor
25 score the applications if the Department of Transportation were

1 to go back --

2 THE COURT: Taxation.

3 BY MR. ROSE:

4 Q -- Department of Taxation were to go back and to
5 second guess or rescore what those graders did? Would that be
6 fair? Would you agree with that?

7 A Yes.

8 MR. ROSE: Thank you.

9 THE COURT: Any other intervenors have questions of
10 Mr. Gilbert?

11 Then we're going to take a short break for Mr. Parker
12 to finish his court appearance in front of Judge Jones and you
13 all to go to the restroom.

14 Mr. Gilbert, I understand there is a brief redirect
15 that Mr. Dzarnoski has, and Mr. Parker may have a brief
16 redirect as well, and then we'll get you on your way.

17 THE WITNESS: Thank you, Your Honor.

18 (Proceedings recessed at 10:28 a.m. until 10:45 a.m.)

19 THE COURT: All right. Mr. Gilbert, we were waiting
20 for Mr. Parker to get off a conference call with a Judge, but
21 it looks like she has other cases on, and I'm not going to wait
22 for an hour.

23 So, Mr. Dzarnoski, would you like to ask any
24 additional questions?

25 MR. DZARNOSKI: Yes, Your Honor.

1 THE COURT: Go on.

2 REDIRECT EXAMINATION

3 BY MR. DZARNOSKI:

4 Q Mr. Gilbert, can you hear me okay?

5 A Yes.

6 Q Thank you. I'd like to start where Mr. Bice left off
7 on his questioning of the -- boy. Slipped right in my mouth --
8 questioning of you.

9 And that is do you recall he talked to you about the
10 fact that it would be very unlikely for any applicant to have
11 zero deficiencies in connection with their compliance record in
12 the State of Nevada? Do you recall him asking you that?

13 A Yes.

14 Q And your answer was it would be highly unlikely;
15 correct?

16 A Yes.

17 Q And that's because -- and, in fact, his client, which
18 is Essence Henderson and Essence Tropicana and Integral
19 Associates, you're aware that they had at least three instances
20 of selling product to minors out of their retail store
21 operations; correct?

22 A I'm not sure of the number, but I'm aware of they've
23 had one.

24 Q You're aware that they had the problems and that the
25 Department of Taxation reviewed those problems with them;

1 correct?

2 A What specific problems?

3 Q Selling to minors?

4 A Yes.

5 Q And those were noted as deficiencies; correct?

6 A I'd have to go back and look. If it was noted as a
7 deficiency or the plan of correction was accepted.

8 Q All right. But in any case, the sale of product to
9 minors would be viewed as noncompliance with the regulations
10 and the statute; correct?

11 MS. LEVIN: Objection. Calls for a legal opinion.

12 THE COURT: Overruled.

13 THE WITNESS: Yes.

14 BY MR. DZARNOSKI:

15 Q Now, you recall Mr. Bice asked you numerous times
16 about rankings that Integral had achieved and obtained in
17 certain jurisdictions in California; correct?

18 A Yes.

19 Q And one of the jurisdictions that he told you ranked
20 Number 1 in Pasadena -- or I'm sorry. One of the applications
21 was a ranking ostensibly for Number 1 in Pasadena. Do you
22 remember that?

23 A Perhaps, yes.

24 Q Do you remember his question?

25 A I remember that -- yes, I do.

1 Q Okay. Were you aware that in the applications
2 submitted to Pasadena, Integral Associates touted its
3 compliance with Nevada law in multiple occasions and in
4 multiple spots in that allegation stated, quote, "The company
5 holds a 100 percent compliance record from Nevada state
6 regulatory agency," end quote?

7 Were you aware that Essence, Integral in its
8 applications in Pasadena was touting a 100 percent compliance
9 record from Nevada state regulatory agencies?

10 A No, I wasn't.

11 Q And if, in fact, what I am telling you is true, that
12 such representations are contained in the Pasadena application,
13 that would be at best misleading; correct?

14 MR. BICE: Objection to the form.

15 THE COURT: Overruled.

16 THE WITNESS: I know that they didn't have a
17 100 percent compliance rate. Perhaps it would be misleading.
18 BY MR. DZARNOSKI:

19 Q Well, they -- we just talked about you'll concede
20 they did not have a hundred percent compliance record in
21 Nevada; correct?

22 MR. BICE: Objection to the form.

23 THE COURT: Overruled.

24 THE WITNESS: They've had SODs issued. So they've
25 had deficiencies in the past.

1 BY MR. DZARNOSKI:

2 Q Are you aware in your position at the Department of
3 Taxation whether or not during the time period January 1, 2019
4 to the present, did anyone connected with the Pasadena --
5 employed by the City of Pasadena contact the Department of
6 Taxation to ask them to verify the compliance record of
7 Integral in the State of Nevada?

8 A They didn't contact me.

9 Q Because of your position with the State of Nevada
10 Department of Taxation, had Pasadena City contacted the
11 Department of Taxation to try to verify claims of compliance
12 contained in the application in Pasadena, wouldn't you have
13 been made aware of it?

14 A Yes. It probably would have come across my desk.

15 Q And other than you, who else is it likely would have
16 been contacted in order to provide information regarding the
17 compliance record of Nevada to the City of Pasadena?

18 A Some of those requests go through the public
19 information officer at the Department of Taxation.

20 Q And who would that have been?

21 A What was the time frame?

22 Q January 1, 2019, to the present.

23 A There's been a couple different PIO's in that
24 position. Stephanie Klapstein was I think there in the
25 beginning of January or beginning of 2019 maybe. And then

1 Eden -- Eden [phonetic] I forget her last name.

2 Q As the enforcement chief for the marijuana division,
3 would Mr. Hernandez have been advised of such an inquiry?

4 A I'm not sure if he would have seen it or not.

5 Q Would the deputy director have been advised of such
6 an inquiry?

7 A Yes.

8 Q To your knowledge, has Integral Associates consented
9 to or authorized at any time the Department of Taxation to
10 release compliance information to jurisdictions in California
11 regarding their compliance history?

12 A I'm sorry. Can you complete repeat the question,
13 sir.

14 Q Are you aware of Integral Associates or any of the
15 Essence entities authorizing or consenting to the Department of
16 Taxation's release of compliance record to jurisdictions in
17 California?

18 A I'm not aware of any.

19 Q And if such consent or authorization had been given,
20 is it likely that you would have been advised of that?

21 A Likely, yes.

22 Q And is it likely that Mr. Hernandez would have been
23 advised of that?

24 A Probably not.

25 Q Is it likely that whoever was the deputy director

1 would have been advised of that?

2 A Yes.

3 Q As to the applications that Mr. Bice referenced in
4 Culver City and/or other jurisdictions in California, do you
5 have any idea whether or not Integral Associates in those
6 applications touted a 100 percent compliance record from Nevada
7 state regulatory agency in their applications?

8 A No.

9 Q With respect to Pasadena, are you aware that the
10 application for a permit that was submitted by Integral was
11 initially denied by the planning commission?

12 A No.

13 Q Are you aware that in order to obtain their permit in
14 Pasadena the City Council of Pasadena needed to vote to
15 overturn the decision of the planning commission?

16 A I didn't -- I wasn't aware.

17 Q Are you aware that Councilman John Kennedy, Pasadena
18 City Councilman John Kennedy, who did not recuse himself from
19 the vote, had previously asked for and received from Integral
20 \$8,800 to fund his 2018 annual holiday party?

21 A I wasn't aware of that.

22 Q To be very fair, I want to preface my next question
23 by saying the attorney that I am mentioning in my next question
24 is not Amanda Connor, nor is it any attorney associated with
25 Integral who has appeared in these proceedings.

1 Are you aware, sir, that the Integral attorney who
2 represented Integral in connection with their license
3 application in Pasadena coordinated the payments between
4 Integral and the Councilman by making --

5 THE COURT: So, Mr. Dzarnoski, why do I care?

6 MR. DZARNOSKI: I'm sorry?

7 THE COURT: Why do I care?

8 MR. DZARNOSKI: Because the implication that has been
9 made, and I'm sure will be argued by Mr. Bice is that they
10 obtained these rankings in these other jurisdictions, and that
11 just shows how wonderful Essence is and how wonderful Integral
12 is, and they're going to ask you to draw the inference that the
13 rankings --

14 THE COURT: So how about we skip to another issue?

15 MR. DZARNOSKI: I'm sorry?

16 THE COURT: Why don't we skip to another issue.
17 Because if you were going to make that argument on how bad they
18 were, you established it. You've made an issue. Mr. Bice will
19 have to deal with it if he decides it's important. I don't
20 care.

21 MR. DZARNOSKI: Okay. Well, Judge, the only thing I
22 care about is things that you care about. So I will move on.

23 THE COURT: Okay. Thanks.

24 BY MR. DZARNOSKI:

25 Q Mr. Bice asked you in his examination of you of the

1 reasons why it was important for the State to know the owners
2 and those with financial interests in the applicants. Do you
3 recall that line of questioning?

4 MR. BICE: Objection to the form.

5 THE COURT: Overruled.

6 THE WITNESS: Yes.

7 BY MR. DZARNOSKI:

8 Q And is it not true that the State's interest is to
9 know who everyone who has a financial interest in a licensee
10 and who receives a distribution of money from marijuana
11 operations?

12 A Yes.

13 Q And it is true, is it not, that a person who holds a
14 profit sharing interest in an applicant should also be
15 disclosed in the application for the September 2018 time frame?

16 A If that individual is an owner, officer or board
17 member.

18 Q So a profit sharing interest should be disclosed; is
19 that correct?

20 A If that individual is an owner, officer, or board
21 member.

22 Q Okay. And in Essence's or Integral's applications in
23 the State of Nevada, they did not in fact disclose that
24 Jennifer Wilcox, who they had also disclosed as an officer,
25 held a profit sharing interest in the company; correct?

1 MR. BICE: Objection to the form. Foundation.

2 THE COURT: Overruled.

3 THE WITNESS: I'm not sure. I don't know. I'd have
4 to look.

5 BY MR. DZARNOSKI:

6 Q With regard to interest that may be held in trust,
7 sir, is it important to the State of Nevada to know how the
8 money that the trust gets from the marijuana operations is
9 distributed?

10 A I'm sorry. Can you repeat that.

11 Q If a trust is an owner of one of the applicants or
12 licensees, is it not important that the Department know who in
13 the trust is to receive the financial benefits from the
14 marijuana operations?

15 A Yes.

16 MR. BICE: Objection to the form.

17 THE COURT: Overruled.

18 THE WITNESS: Yes.

19 BY MR. DZARNOSKI:

20 Q And the only way the Department would know who gets
21 the distribution of funds for marijuana operations if an owner
22 is owned by a trust is if the Department is given the trust
23 documents; isn't that correct?

24 A Yes.

25 Q And in the case of Integral and the Essence

1 applications, do you require -- do you recall whether or not
2 Essence submitted the trust documentation for the Yemenidjian
3 Living Trust to the Department for review?

4 A I don't recall.

5 Q Absent the trust documents for the Yemenidjian Living
6 Trust, the Department does not know who is the beneficiary who
7 is receiving the financial distributions from that trust; is
8 that correct?

9 MS. LEVIN: Objection --

10 MR. BICE: Objection to the form. Foundation.

11 THE COURT: Overruled.

12 MS. LEVIN: Objection. Vague.

13 THE COURT: You can answer if you can.

14 THE WITNESS: That I don't know if the Department has
15 knowledge of that or not.

16 BY MR. DZARNOSKI:

17 Q I said if they didn't have the trust documents, they
18 wouldn't know the answer to that; correct?

19 A Correct.

20 Q Are you aware that one of the owners of Integral is a
21 trust named the Brian Greenspun Separate Property Trust?

22 MR. BICE: Objection to the form.

23 THE COURT: Overruled.

24 THE WITNESS: Perhaps, yes. I've seen it on the
25 ownership listing.

1 BY MR. DZARNOSKI:

2 Q Okay. And were any documents, trust documents,
3 submitted to the Department of Taxation for the Department of
4 Taxation to determine who was the recipient of distributions
5 from the Brian Greenspun Separate Property Trust?

6 A I'm not sure.

7 Q In answer to some questions, I think it was of
8 Mr. Koch, he asked you questions about money laundering; right?

9 A Yes.

10 Q And he asked you if you knew the identity of any drug
11 cartels or people involved in the drug business who could
12 receive money from marijuana operations; right?

13 A Yes.

14 Q All right. And your answer was no; right?

15 A Yes.

16 Q Okay. But your answer of no, is qualified in its
17 entirety from the fact that you, nor the Department knew who
18 the actual ultimate recipients of distributions from marijuana
19 operations were with respect to the trusts; right?

20 A I'm sorry. Can you repeat that.

21 A Your "no" answer to the question of whether you knew
22 whether or not any drug cartels were getting any money from
23 marijuana operations, your answer was no; right?

24 A Right. Yes.

25 Q But your no is qualified by the fact that neither you

1 nor the Department knew with respect to the trusts of Integral
2 who the ultimate recipients of the money would be; right?

3 A And again. I'm not sure we don't know what -- if we
4 got the trust documents, I don't know if those were reviewed.

5 Q I'm sorry. I can't hear you.

6 A I don't know if those trust documents were reviewed.

7 Q Okay. You don't know if they were submitted?

8 A I don't.

9 Q Is that what you're saying?

10 A I don't know.

11 MR. DZARNOSKI: Okay. Would you put up 3193, please.

12 BY MR. DZARNOSKI:

13 Q Do you recall that the Judge asked you a few
14 questions regarding 3193?

15 A Yes.

16 MR. DZARNOSKI: And if we could highlight the area
17 dealing with GGB Nevada, LLC.

18 BY MR. DZARNOSKI:

19 Q Now, according to that document, 95 percent of the
20 applicant or the licensee is owned by GGB Nevada, LLC; correct?

21 A Yes.

22 Q And I am correct, am I not, that at least this
23 document does not show who owns GGB Nevada, LLC; correct?

24 A Correct.

25 Q Nor does it list the shareholders or owners of

1 Xanthic Biopharma, Inc.; correct?

2 A I'm sorry. Can you repeat that question.

3 Q Nor does it disclose the shareholders of Xanthic
4 Biopharma, Inc.; correct?

5 A Can you scroll down.

6 No, it does not.

7 Q And the Department of Taxation, when it granted, or
8 ultimately granted the license for this applicant in the
9 September time period did not know who the shareholders and
10 owners of Xanthic were; correct?

11 MS. LEVIN: Objection. Foundation.

12 THE COURT: Overruled.

13 THE WITNESS: We did know the board members and the
14 officers.

15 BY MR. DZARNOSKI:

16 Q But you didn't know who owned it; right?

17 A No.

18 Q So you don't know whether members of drug cartels
19 owned part or all of Xanthic Biopharma, Inc.; correct?

20 A No.

21 Q Is that a, no, I'm not correct; or, no, you didn't
22 know?

23 A I'm sorry. Repeat the question, please.

24 Q You didn't -- the Department of Taxation did not know
25 who the owners of Xanthic Biopharma were at the time of the

1 application grant; correct?

2 A I'd have to look at -- I'd have to look at the
3 ownership transfer paperwork before I can answer that question
4 to see what information was provided on Xanthic.

5 Q Well, okay. I'll leave the answer right there.

6 MR. DZARNOSKI: Could you put up Exhibit 84, please.

7 BY MR. DZARNOSKI:

8 Q In my examination of you, sir, I referenced without
9 admitting the exhibit or putting the exhibit up a list that was
10 compiled by the State of Nevada Department of Taxation that
11 showed the scores that were given per jurisdiction by the
12 graders; correct?

13 A Yes.

14 Q And then one of opposing counsel, I don't know which
15 one, introduced this exhibit and asked you more questions.

16 My question right now is for clarification. If you
17 look, the first page is fine. The third column over going all
18 the way down says score.

19 THE COURT: That's the fourth column over.

20 MR. DZARNOSKI: I'm sorry?

21 THE COURT: That's the fourth column over.

22 MR. DZARNOSKI: You are correct.

23 BY MR. DZARNOSKI:

24 Q Fourth column over it says score; right?

25 A Yes.

1 Q Okay. I just want to verify now that we have the
2 exhibit in front of us that this score is entirely 100 percent
3 the product of the scorers grading the applications; correct?

4 A Yes.

5 Q And that no part of that score has been adjusted for
6 any issues relating to actual historical compliance?

7 A Correct.

8 Q Now, from this list, we know some things with
9 certainty, I think, and I'm going to ask you about them.
10 First, everyone that is listed on Exhibit 84 had filed an
11 application in the September 2018 application period; correct?

12 A Yes.

13 Q And we know for certain that everyone who's listed
14 there paid their application fee; correct?

15 A Yes.

16 Q And we know for certain that each applicant that is
17 listed there had previously been issued a license for a medical
18 marijuana establishment in the state of Nevada; correct?

19 A Yes.

20 Q And we know that every one of those applications --
21 applicants were actually in business with active operations;
22 correct?

23 MR. BICE: Objection to the form. Foundation.

24 THE COURT: Overruled.

25 THE WITNESS: I might have to go back and look. I

1 don't know if there was any provisionals that were in there.
2 So.

3 BY MR. DZARNOSKI:

4 Q Okay. But we know that none of the applicants that
5 are on that list had their licenses suspended or revoked as of
6 the date of filing their application and as of the date of the
7 license grants; correct?

8 A That's correct based on the analysis we did.

9 MR. DZARNOSKI: That's all I've got, Your Honor.

10 THE COURT: Can someone go see in the hallway if
11 Mr. Parker is still there.

12 Do any other plaintiffs have any questions to ask at
13 this point?

14 I think he was all the way down by the vending
15 machines, Mr. Bice.

16 MR. BICE: Yeah.

17 THE COURT: Any other plaintiffs have any questions
18 for the witness?

19 Ms. Levin, any follow-up? One?

20 MS. LEVIN: One or two.

21 THE COURT: Come on. Let's do you, and then --

22 (Pause in the proceedings.)

23 MS. LEVIN: You want me to go ahead or wait?

24 THE COURT: Yeah. Please.

25 MS. LEVIN: Go ahead?

1 THE COURT: Yes, please.

2 MR. PRINCE: I'll cover for Mr. Bice.

3 THE COURT: Mr. Smith is there. So I'm not worried.

4 RECROSS-EXAMINATION

5 BY MS. LEVIN:

6 Q Mr. Gilbert, you were asked about the -- some of the
7 sales to minors and the self-reporting in terms of compliance.
8 Do you recall those questions of Mr. Dzarnoski?

9 A Yes.

10 Q Is it often, and if you know, tell me or not, but is
11 it often that licensees self-report the sales to minors?

12 A We've had quite a few of them, or we've had some.

13 Q And if, for example, some of these applicants, such
14 as the plaintiffs, if they do not have on their records sales
15 to a minor, does it mean that they never occurred?

16 A No. No, they could have occurred.

17 Q They still could occur; right?

18 A Right.

19 Q It's possible that they just didn't report them;
20 right?

21 A Correct.

22 Q Or discover them?

23 A Right.

24 Q Are you aware that MediFarm, who is a client of
25 Mr. Dzarnoski had at least two sales to a minor?

1 A I've learned of that, yes.

2 Q And if MediFarm did not self-report those sales, is
3 that the type of behavior that the Department of Taxation wants
4 to promote?

5 A No, it's not.

6 Q The Department would not consider the failure to
7 report self -- sales to a minor to be compliant behavior;
8 correct?

9 A Correct.

10 Q You were asked about trusts and in the terms of
11 ownership questions. Do you remember that?

12 A Yes.

13 Q But you are not a trust and estate attorney, are you?

14 A No, I'm not.

15 MS. LEVIN: Okay. Nothing further, Your Honor.

16 THE COURT: Anyone else?

17 MR. BICE: Yes, Your Honor. I just have the two
18 quick ones. And Mr. Parker is currently arguing his motion.
19 So he shouldn't be very much longer, and he says he has about
20 six minutes is all he needs with the witness.

21 THE COURT: Well, Judge Jones took him --

22 MR. BICE: Well, I will refrain from saying that
23 that's a Teddy Parker six minutes. But that's --

24 THE COURT: Yeah. At least you didn't say it was a
25 Steve Peek six minutes.

1 MR. BICE: Brian, would you pull up Exhibit 3510 real
2 quick.

3 It's already in evidence.

4 RECROSS-EXAMINATION

5 BY MR. BICE:

6 Q So, Mr. Gilbert, do you see this letter?

7 A Yes.

8 Q Do you see ownership change?

9 A Yes.

10 Q And who signed it?

11 A I did.

12 Q So you were actually the one that approved, if you go
13 and you see the Yemenidjian Family Trust is the owner?

14 A I can't see it.

15 MR. BICE: Brian, can you zoom out.

16 BY MR. BICE:

17 Q Do you see the Yemenidjian Living Trust?

18 A Yes, I do.

19 Q Alejandro Yemenidjian, 25 percent?

20 A Yes.

21 Q So you actually had whatever information you needed
22 to confirm that ownership structure you had; right?

23 A Yes.

24 Q And you approved it; correct?

25 A Yes, I did.

1 Q And you didn't ask them for any additional
2 information; correct?

3 A I don't believe so, no.

4 Q And you didn't tell them that they needed to give you
5 anything in addition to what they had already provided and you
6 already reviewed and approved?

7 A Correct.

8 Q And this was the same ownership structure that
9 applied for the licenses in 2018; is it not?

10 A That I'd have to look at, but it looks -- it looks
11 the same.

12 Q Well, let me put it to you this way. You would've
13 compared the ownership structure that was on file and approved
14 by the State to the applications; correct?

15 A Oh, yes. I understand.

16 Q Okay. So if there was a -- if this ownership
17 structure hadn't been approved, and it wasn't consistent with
18 the application, you would have known it; correct?

19 A Yes.

20 MR. BICE: Thank you.

21 THE COURT: Mr. Koch.

22 RECROSS-EXAMINATION

23 BY MR. KOCH:

24 Q Mr. Gilbert, just a couple of questions.
25 Mr. Dzarnoski asked you about this -- the knowledge about

1 Xanthic. Mr. Dzarnoski, one of his client is MediFarm. Are
2 you aware that MediFarm has 125 million shares outstanding?

3 A I'm not aware of that.

4 Q Are you aware of that?

5 A I'm not aware of that -- that's not something --

6 Q All right. Have you done a background check of
7 MediFarm's 125 million shares -- oh, I'm sorry 185, actually?
8 185 million. Have you background check of those 185 million
9 shares?

10 A I'm sorry. Repeat that.

11 Q Has the Department done a background check of
12 MediFarm's 185 million shares and who they're owned by and held
13 by?

14 A No.

15 Q Okay. And MediFarm today is operating a marijuana
16 establishment; are you aware of that?

17 A I believe they're operating.

18 Q Okay. And Serenity, Serenity also is a client of
19 Mr. Dzarnoski's up until they decided to drop out of the case.
20 They're the ones with 125 million shares. Do you know has the
21 Department done background checks on 125 million shares and who
22 they're owned by?

23 A No.

24 Q All right. And the same for MM Development and the
25 other -- of the other plaintiffs who are publicly traded, the

1 Department has not done background checks on any of those
2 shareholders of publicly traded companies other than to the
3 extent they were disclosed as greater than 5 percent; correct?

4 A Correct.

5 MR. KOCH: All right. Thank you. No further
6 questions.

7 THE COURT: Anybody else before we sit here and
8 twiddle our thumbs waiting for Judge Jones to finish with
9 Mr. Parker?

10 (No audible response.)

11 THE COURT: We'll be patient for a few minutes.

12 MR. BICE: Can I excuse myself, Your Honor?

13 THE COURT: You can.

14 MS. LEVIN: Your Honor, Damon Hernandez is here.
15 He's been here since 10:00 o'clock or before that. Should I --
16 what should I tell him?

17 THE COURT: That we'll be ready for him in 10 minutes
18 or so.

19 MS. LEVIN: Okay. Thank you.

20 (Pause in the proceedings.)

21 MR. GENTILE: Your Honor.

22 THE COURT: Yes.

23 MR. GENTILE: I know we're standing down, but I have
24 something I have to tell the Court.

25 THE COURT: Okay.

1 MR. GENTILE: And to say it nice.

2 THE COURT: Mr. Gentile has an announcement for us or
3 a disclosure.

4 MR. GENTILE: At 9:57 a.m., I got a text message from
5 Paola Armeni.

6 MR. PRINCE: Who?

7 MR. GENTILE: My partner Paola Armeni.

8 THE COURT: Uh-huh.

9 MR. GENTILE: Who is the member in charge of our
10 office here. It reads as follows:

11 All, we interviewed a new attorney on
12 Monday morning in the large conference room.
13 We were on the side of the table furthest
14 from the TV. I received a message last night
15 that he tested positive for COVID. We have
16 been cleaning the conference room after every
17 visit but wanted to let you know.

18 Now, the reason I bring that up -- well, there's
19 really a couple of reasons. And I'm not going to identify who
20 the attorney is.

21 THE COURT: Absolutely not.

22 MR. GENTILE: But he happens to be a judicial law
23 clerk. So something happened here that might affect a lot more
24 than just the people in this room.

25 The reason I bring it up is because for the last two

1 weeks that room has been occupied by my trial team every night
2 after Court. It's where -- it's our war room essentially. We
3 have been eating in that room. We have definitely been
4 utilizing that side of the table.

5 I just bring it up. I don't have anything to
6 suggest, but I think it was incumbent upon me to advise the
7 Court of that.

8 THE COURT: Let me ask a couple of follow-up
9 questions, and I know you're probably only giving me
10 information from the email you got, but the individual who was
11 interviewed, you were -- your office was notified they tested
12 positive.

13 A Last night.

14 Q Okay. So you had used the room before being notified
15 that that individual tested positive?

16 MR. GENTILE: Oh, yeah. Every -- I mean --

17 THE COURT: Okay, wait. Let me finish.

18 MR. GENTILE: All right.

19 THE COURT: Your office procedures are to do your
20 best to clean the room every time it's used and somebody
21 changes hands?

22 MR. GENTILE: Well, there's -- there's one problem
23 with that.

24 THE COURT: I'm listening.

25 MR. GENTILE: By the time we're finished, it's

1 9:00 or 10:00 o'clock most of the time. And, frankly, I cannot
2 tell the Court that that room was cleaned when we leave it.

3 THE COURT: Okay. But you're cleaning it before you
4 get in, or it's being cleaned before you get in?

5 MR. GENTILE: I am under the impression that my
6 receptionist it is her task to see to it that -- because we
7 don't get there until after 5:00 obviously.

8 THE COURT: Right. Because we're here.

9 MR. GENTILE: All right. But, I mean, I'm -- I don't
10 know -- I mean, I can inquire into that. I certainly can do
11 that, but I could not say to the Court -- I mean, I assume it's
12 being done. It's our protocol, but I can't tell you that it's
13 being done.

14 THE COURT: I know. I understand. I appreciate the
15 information. If something happens or anyone develops any
16 symptoms, we need to immediately let each other know. So if
17 it's one of us in the room who actually develop symptoms, we
18 need to do a different process than if people are reporting
19 more remote potential exposures.

20 MR. GENTILE: Well, I'll give you an example. Last
21 night when we were working, I don't know if Mr. Dzarnoski even
22 heard what I just announced, but he was sitting right in that
23 spot.

24 MR. DZARNOSKI: Thanks, Dominic.

25 THE COURT: Okay. Thank you for sharing that

1 information. I'm really sorry to hear that.

2 MR. DZARNOSKI: Me too, Your Honor.

3 THE COURT: And the problem is that the policy at the
4 courthouse is that we will not be notified of a positive test
5 unless it is someone we had direct contact with because of
6 HIPPA issues. If we are notified that we had direct contact,
7 we then follow certain processes. But unless we have direct
8 contact, we don't get notified.

9 MR. GENTILE: I will contact the candidate and ask
10 him to advise his Judge.

11 THE COURT: Well, I'm certain that that will happen
12 because that's the protocol.

13 MR. GENTILE: I don't know that he's done it, but I
14 will see to it that we make that contact.

15 THE COURT: Yeah. Okay.

16 MR. BICE: So, Your Honor, Mr. Parker is still on the
17 phone. He is currently arguing on the phone. I gave him the
18 wrap up sign, and obviously I don't think --

19 THE COURT: He can't control Judge Jones.

20 MR. BICE: Yes. He has no control over it.

21 THE COURT: Yeah. None of us have any control over
22 another Judge. I didn't have any control when I was the chief.
23 So why should I have any control now?

24 (Pause in the proceedings.)

25 THE COURT: So you all probably know that I have an

1 11:45 conference call on my receivership case involving CW
2 Nevada at which time I'll be informed officially that the
3 Cannabis Compliance Board approved the settlement yesterday as
4 well as a couple of other announcements and motions they have.
5 So if anybody wants to remain in the room because you care,
6 you're welcome to.

7 At 11:42, if Mr. Parker is not here, I am going to
8 let the witness go and tell Mr. Parker we're really sorry, but
9 he lost his opportunity because he had to cover a hearing with
10 Judge Jones. So that is my plan. Okay.

11 MR. BICE: So we can sit in the courtroom and find
12 out how many licenses are going to be for sale?

13 THE COURT: Based upon what was filed with the Court
14 yesterday, it did not appear any of them were dispensary
15 licenses that were returned to the State. There were
16 production, manufacturing and cultivation licenses that were
17 returned to the State. But it's a public filing. So if
18 anybody wants to look at it -- there's a stipulation between
19 who [indiscernible].

20 (Pause in the proceedings.)

21 THE COURT: Because my life is never not complicated.
22 But as you know, the dispensary licenses are for
23 sale, Mr. Bice; right? The receiver is selling the licenses.
24 You know that; right?

25 MR. BICE: Yeah.

1 THE COURT: Okay. Because I made them notice all of
2 you guys.

3 MR. BICE: At auction.

4 THE COURT: At some auction some day soon hopefully.
5 We'll see who signed it on behalf of the State.

6 (Pause in the proceedings.)

7 THE COURT: So on behalf of the State, it was signed
8 by Executive Director Klimas as well as Deputy Attorney General
9 Balducci. And Justice Douglas signed it as the chair of the
10 Cannabis Compliance Board. And that case number for anybody
11 who really cares, it's really hard to find things in is
12 A755479.

13 (Proceedings recessed at 11:36 a.m. until 12:55 p.m.)

14 MS. LEVIN: Your Honor, Mr. Hernandez is ready to go.
15 He's been ready to go for a few hours now. And so...

16 And also, Mr. Plaskon, who Mr. Gentile asked me to
17 fly him down on Friday, he's booked his flights. He's ready to
18 go Friday morning. And then he would fly back in the
19 afternoon. But I hear that plans are changing all the time,
20 and I need to know because out of courtesy for witnesses
21 especially those traveling from Carson City, what the plans
22 are. Because --

23 THE COURT: So let me see if I can get --

24 Mr. Kemp, Mr. Parker, Mr. Gentile.

25 MR. GENTILE: Yes, Your Honor.

1 THE COURT: Hold on. And, Mr. Bult.

2 Is our plan for today to go to Mr. Black next?

3 MR. GENTILE: Yes, Your Honor.

4 THE COURT: And then are we sending Mr. Hernandez
5 away?

6 MR. GENTILE: I don't know.

7 MR. KEMP: I don't think Mr. Black will be that long,
8 Your Honor.

9 THE COURT: How long do you think Mr. Black's going
10 to be?

11 MR. KEMP: Mr. Christiansen is doing [indiscernible].
12 And I would guess an hour and a half on that.

13 THE COURT: Okay.

14 MR. GENTILE: That's kind of what I estimated. So
15 I'm thinking -- here's --

16 THE COURT: So --

17 MR. GENTILE: Can I -- let me --

18 THE COURT: We have to finish Mr. Plaskon tomorrow;
19 right?

20 MR. GENTILE: Well, here's my thinking. What we may
21 be able to do -- because Mr. Plaskon has kids, I'm told, and
22 he's basically got to take care of those kids and --

23 THE COURT: No kidding.

24 MR. GENTILE: -- believe me, I have sensitivity to
25 that.

1 THE COURT: Yeah.

2 MR. GENTILE: So what we could do is we could go with
3 Mr. Black today, start with Mr. Hernandez after Mr. Black. Mr.
4 Hernandez will not be completed today. We could take him
5 tomorrow morning and then transition to Kara Cronkhite. And
6 Mr. Plaskon can stay home with his kids and come down Monday.
7 And I'm willing to do that.

8 Now, I -- but I'm also willing to call Mr. Plaskon
9 tomorrow if that has to be. If --

10 THE COURT: So how long is Mr. Plaskon going to take?

11 MR. GENTILE: According to Mr. Miller, what did he
12 say, three hours? Mr. Miller said he thought three hours.

13 THE COURT: So that's probably five. I'm sorry, the
14 way we've been going, it's just -- the masks make it really
15 hard.

16 MR. GENTILE: The masks are part of that.

17 THE COURT: It's not as bad as video in masks, but
18 it's not good. So you want to do Mr. Plaskon tomorrow or do
19 you want to push him off till next week?

20 MS. LEVIN: Well, Your Honor, he's now made travel
21 arrangements. And as it is, I was told he has to come, you'd
22 better call him now, he needs to be here on Friday. So I did.
23 And he has made those plans now.

24 THE COURT: Okay.

25 MS. LEVIN: And it's very hard --

1 THE COURT: So we'll take him in the morning first
2 thing.

3 MR. GENTILE: Whatever --

4 THE COURT: And then we'll get him done.

5 MS. LEVIN: I mean, it's -- I don't mind what they
6 want to do, but they need to be clear. We could have discussed
7 this over lunch.

8 THE COURT: Well, I sure wish we could be clear.

9 MS. LEVIN: Nobody told me.

10 THE COURT: But the problem with trials is it never
11 works out the way you plan.

12 MR. GENTILE: Candidly, I mean, it would seem to me
13 we ought to let Mr. Plaskon make that decision. We have the
14 other witnesses here. And if Mr. Plaskon would prefer to be
15 home with his children instead of having to provide for child
16 care, I think we ought to accommodate him if we can. If we
17 can't, if he'd rather be here, that's fine with me.

18 MS. LEVIN: Your Honor, I'm happy to call him.

19 THE COURT: Okay.

20 MS. LEVIN: And I --

21 THE COURT: If he wants to reschedule and not come
22 this -- tomorrow, but come next week, we can work that out.

23 MS. LEVIN: But -- yeah.

24 THE COURT: Will you let us know?

25 MS. LEVIN: I will. I mean, I could have called him

1 before, but, you know, it's -- if it's better for him, I
2 understand that everything is set and he's already changed
3 everything around. Had I known this, actually --

4 THE COURT: I have no idea what's happening.

5 MS. LEVIN: I know.

6 THE COURT: Okay. So --

7 MS. LEVIN: So do you want me to call?

8 THE COURT: And will you let Mr. Hernandez know that
9 if he wants to go somewhere for an hour and a half and then
10 come back, he's welcome to do so.

11 MS. LEVIN: Okay. So should I tell him 2:30 then?

12 THE COURT: 2:30, 2:45.

13 MS. LEVIN: Okay. Thank you.

14 THE COURT: And find out what Mr. Plaskon would like
15 to do.

16 MS. LEVIN: Yes.

17 THE COURT: And then we'll plan. Yes, Mr. Graf?

18 MR. GRAF: Randy is here.

19 THE COURT: I know. We're going to start him and
20 we're going to get him done. I've been told it's an hour and a
21 half.

22 MR. GRAF: Okay.

23 THE COURT: Which is why I just sent Mr. Hernandez
24 away for an hour and a half.

25 MR. GRAF: Okay.

1 THE COURT: So as soon as I get all the lawyers back
2 in, we'll start with Mr. Black.

3 MR. GRAF: Can I have him come in and have a seat?

4 THE COURT: You can. You might want to see if he
5 needs a water or anything, or does he have his own beverage?

6 MR. GRAF: I have water.

7 THE COURT: Okay.

8 Pause in proceedings.)

9 THE COURT: Mr. Black, I'm going to tell you that it
10 is really hard to hear through the masks.

11 MR. BLACK: Okay.

12 THE COURT: So when the lawyers are talking to you
13 and you can't hear them or you don't understand them, just tell
14 them to repeat it. They're going to do the best they can. It
15 has not gone smoothly.

16 MR. BLACK: Okay.

17 THE COURT: But it has nothing to do with your
18 hearing. It has to do with the mask. And they'll probably ask
19 you to repeat several times, because the mask will make it not
20 as clear.

21 MR. BLACK: Okay.

22 THE COURT: Okay?

23 MR. BLACK: Thank you.

24 THE COURT: Uh-huh.

25 MR. GRAF: Your Honor?

1 THE COURT: What?

2 MR. GRAF: Could we have Mr. Black step out for a
3 second? Because I want to address one of the exhibits.

4 THE COURT: Mr. Black, I'm going to let you step out
5 for the second. If you'll go past the magnetometer.

6 MR. BLACK: Past the what?

7 THE COURT: Past that thing that buzzes when you walk
8 by it.

9 MR. BLACK: Oh, go past it?

10 THE COURT: Yeah, go past it.

11 MR. BLACK: Yes, Your Honor.

12 THE COURT: Thanks. Good luck. All right. What?

13 MR. GRAF: Your Honor, Mr. Christiansen has an
14 exhibit that he wants to use with the witness that has not been
15 admitted. We have an objection to it. And I'd rather argue it
16 here now --

17 THE COURT: That's fine, tell me.

18 MR. GRAF: -- than have issues --

19 THE COURT: I'm listening.

20 MR. GRAF: So the exhibit is 108600018. This is the
21 list that we've always objected to that there is no foundation
22 for this.

23 THE COURT: What list?

24 MR. GRAF: I'll leave it at that. No, it's a list of
25 owners, officers, and directors that was on the State's website

1 that still lists our --

2 THE COURT: It's already been admitted.

3 MR. GRAF: I don't --

4 THE COURT: Yeah, the list of officers and directors
5 is -- for all of them, has been admitted.

6 MR. GRAF: 1086, exhibit?

7 THE COURT: We've been going through it all day.

8 MR. GRAF: Not -- I don't think this version.

9 THE COURT: We did it with Mr. -- the witness who
10 just left, we went over the list that had all of the officers
11 and directors. Mr. Koch had it and he was going through the
12 whole list with him.

13 MR. GRAF: 1086.

14 MR. KOCH: 3199.

15 MR. GRAF: Yeah, not 1086, Your Honor.

16 THE COURT: But it's the same list, isn't it?

17 MR. GRAF: It is not the same list.

18 THE COURT: Okay.

19 MR. GRAF: It's materially different, and that's why
20 I'm objecting to it. This list contains [indiscernible], Your
21 Honor, that's why we're objecting.

22 MR. PARKER: I think the Court's right, it is 3199.
23 If you bring it back up, I wrote the note down that came in
24 right before 250 as --

25 MR. GRAF: I'm talking about the exhibit that --

1 THE COURT: Well, let's use --

2 MR. GRAF: -- Mr. Christiansen gave me that I'm
3 objecting to is used.

4 THE COURT: Well, can somebody look at 3199 and the
5 exhibit that Mr. Christiansen wants to use and make a
6 determination if they're the same. Because 3199's in, we went
7 through it with the witness who was here before. And we've
8 gone through it with other witnesses. And it's okay.

9 MR. BICE: Your Honor, I think 3199 was -- is dated
10 May or I believe it's May of 2019.

11 THE COURT: Is the one that was released after --

12 MR. GRAF: This is --

13 MR. BICE: May 1st --

14 MR. PARKER: May 1st.

15 THE COURT: It was the one that was released after
16 the SB32?

17 MR. PARKER: Yes, exactly.

18 THE COURT: When I was allowed to know who was
19 involved?

20 MR. BICE: Right. But the point -- Your Honor, the
21 point being, I think, this is where --

22 MR. GRAF: And this is an inaccurate list, Your
23 Honor. Because --

24 THE COURT: Well, it may just be an older version,
25 Mr. Graf.

1 MR. GRAF: No, it's dated May 1st, 2019, at the top.

2 THE COURT: Okay. Well, let's look at the one that's
3 admitted and compare the two and see what the problem is.

4 MR. GRAF: And I guess, Your Honor, I'll make an
5 offer of proof also.

6 THE COURT: Not yet.

7 MR. GRAF: An unadmitted exhibit --

8 THE COURT: No, they're back there.

9 MR. GRAF: I guess so.

10 THE COURT: I need everybody. They're doing the
11 homework I gave them. Let them finish.

12 MR. CHRISTIANSEN: Your Honor, it is a revised
13 version of 1086. This 3199, Bates stamp 18.

14 Shane, can you pull that one up? 3199, Bates stamp
15 18.

16 THE COURT: Thank you.

17 MR. CHRISTIANSEN: That is -- that has been admitted
18 and I'll use that in place.

19 THE COURT: Perfect. So you were successful. We're
20 going to use 3199, which is the admitted one.

21 MR. GRAF: And I just want to put an objection on the
22 record, Your Honor.

23 THE COURT: It's an admitted exhibit. You don't get
24 to object anymore.

25 MR. GRAF: Well, I objected before, so I want to make

1 sure that --

2 THE COURT: You don't get to object anymore. I
3 already admitted it.

4 MR. GRAF: Your Honor, it's an inaccurate document,
5 because the CHOW that was issued to Clear River approving the
6 change of ownership is dated April 19th, 2019.

7 THE COURT: But you didn't get it, remember? Because
8 we had to have --

9 MR. GRAF: I know.

10 THE COURT: -- motion practice and then I changed my
11 mind to go --

12 MR. GRAF: If the people up north are reading this --

13 THE COURT: Yeah.

14 MR. GRAF: -- I want to make sure that they
15 understand. That's why I'm putting that on the record. And
16 it's Proposed Exhibit 4771, I believe.

17 THE COURT: Okay. Bye.

18 MR. GRAF: Thank you.

19 THE COURT: All right. Can Mr. Black come back in
20 now?

21 MR. CHRISTIANSEN: Yes, Your Honor.

22 MR. GRAF: Yes, Your Honor.

23 THE COURT: All right. If you could get our witness
24 so that we can get him out of here and then get Mr. Hernandez.

25 You're going to move that again, huh? I do the same

1 thing but they'd yell at me.

2 MS. LEVIN: I can't see.

3 THE COURT: For those of us who are height
4 challenged, it's hard to look through things, because we can
5 never look over them, we have to look through them. And
6 they're not invisible.

7 **RANDY BLACK**

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

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

12 THE WITNESS: My name is Randy Black, Sr.

13 THE COURT: And, sir, as I told you, it's a little
14 hard to hear behind the mask, so do your best to keep your
15 voice up.

16 And I know that counsel are going to do the same
17 thing.

18 THE WITNESS: Can everybody hear me?

19 THE COURT: Wow, you're louder than I am. Mr.
20 Christiansen, you're up.

21 MR. CHRISTIANSEN: May I proceed, Your Honor?

22 THE COURT: You may.

23 DIRECT EXAMINATION

24 BY MR. CHRISTIANSEN:

25 Q Good afternoon, Mr. Black. My name's Pete

1 Christiansen and I represent Qualcan in this pending matter.

2 You're here on behalf of Clear River; is that right, sir?

3 A Correct, yes.

4 Q And in this matter, as a 30(b)(6) witness for Clear
5 River, back Saturday, June the 27th, at 9:15, do you remember
6 giving a deposition?

7 A Yes, sir.

8 Q And do you remember in that deposition getting the
9 oath, the same oath you just took here in court today?

10 A Yes, sir.

11 Q And do you remember -- I think Mr. Parker --
12 somewhere -- was the gentleman that took your deposition and he
13 asked you if you understood you had an obligation to tell the
14 truth, you responded yes, you did understand that, fair?

15 A Yes, sir.

16 Q In your deposition, sir, well, when you concluded
17 your deposition, you had an opportunity to review it and make
18 some changes; is that right, Mr. Black?

19 A Correct, sir.

20 Q And the change -- you made one change by my count; is
21 that right?

22 A Correct, sir.

23 Q And in your deposition --

24 MR. CHRISTIANSEN: Shane, go to page 107, please.

25 Q You were asked --

1 IT TECHNICIAN: [Indiscernible.]

2 MR. CHRISTIANSEN: It's okay. Text is fine. Print,
3 I'm sorry.

4 BY MR. CHRISTIANSEN:

5 Q Can you see that all right, Mr. Black, or is that --

6 A Yes.

7 Q Okay. At page 80 -- I'm sorry, 107 --

8 MR. CHRISTIANSEN: You there, Shane?

9 BY MR. CHRISTIANSEN:

10 Q All right. You there? The question is posed to you,
11 Sir, and that same time, in terms of when you created a board,
12 when you added your daughter and then Mr. -- it says Lenny Ray.
13 I think it's meant to say Flintie Ray -- and the Hooks, would
14 that have also been in preparation for the White Pine County
15 application?

16 And your answer was, Yes.

17 Did I get that correct?

18 A No.

19 Q Let me ask it -- did I read the question and answer
20 in the deposition correctly?

21 A Yes.

22 MR. GRAF: Your Honor --

23 BY MR. CHRISTIANSEN:

24 Q And then in fairness to you, Mr. Black, when you
25 reviewed --

1 THE COURT: We're going to the --

2 MR. GRAF: [Indiscernible.]

3 THE COURT: We're going to the change sheet now.

4 MR. GRAF: Okay. That's what I wanted to know.

5 THE COURT: He's got it in his hand; right? Look at
6 it.

7 MR. GRAF: Got it. Thank you, Your Honor.

8 BY MR. CHRISTIANSEN:

9 Q Did you answer me, Mr. Black? I'm sorry. Did you
10 say -- I read that, sir, question and answer correctly from the
11 deposition?

12 A I don't know.

13 Q Okay. What I just read that was in the deposition, I
14 read accurately, fair?

15 A Correct.

16 Q Then you had a chance to review your deposition --

17 MR. CHRISTIANSEN: And, Shane, will you pull up the
18 change sheet, please. And --

19 THE COURT: And, Mr. Black, if you need him to blow
20 anything up that shows up on the screen, you just let him know.
21 Because sometimes it'll be really, really small print.

22 THE WITNESS: It's fine. Thank you.

23 THE COURT: This isn't, but --

24 THE WITNESS: Thank you, Your Honor.

25 BY MR. CHRISTIANSEN:

1 Q Can you see that change sheet, Mr. Black, in front of
2 you?

3 A Yes.

4 Q Is that your handwriting, sir?

5 A Yes.

6 Q And if I read your handwriting right, and tell me if
7 I don't, it says that you change line 7 to, No, I thought about
8 putting Kevin Hooks and Amy on a board while I did the White
9 Pine application, but I didn't create a board or make the
10 application.

11 A That's correct.

12 Q Okay. So when you were talking to Mr. Parker on June
13 the 27th, you were of the belief that you had put the Hooks and
14 Ms. Black, your daughter, on the board, as well as Mr.
15 Williams, back before the White Pine application in 2014, and
16 then when you, upon reflection, on your change sheet, you
17 corrected that and said you didn't even create a board before
18 the White Pine application that you ultimately didn't submit
19 anyway?

20 A You asked two questions, I think, counselor.

21 Q Okay.

22 A And first --

23 THE COURT: That was a -- you can answer.

24 THE WITNESS: Can I just answer the question?

25 BY MR. CHRISTIANSEN:

1 Q Sure. That would make it quicker.

2 A I believe that's Mr. Parker sitting right there, I've
3 never met him. Is that him?

4 Q It is Mr. Parker.

5 A Mr. Parker is a very, very talented lawyer. I'm a
6 stupid tenth-grader from tenth grade from Kingman, Arizona.
7 And he asked that question, in my opinion, the way that one
8 would ask a question of, When did you stop beating your wife?
9 I didn't understand the question. And I only realized after I
10 reviewed my transcript that I had made an incorrect answer
11 there.

12 The answer to that question, I don't even remember
13 how it was written, is, No, I did not appoint the Hooks to any
14 board. But further, I never completed or did a White Pine
15 application. So it's like -- it's crazy.

16 Q Okay. I'm looking again, sir, just at your change
17 sheet in the reason section. I'm sorry, I'm looking behind
18 you, Mr. Black, because it's on the wall, as well, sir.

19 A I got it right here.

20 Q I apologize for not looking at you.

21 A No worries.

22 Q It says at the very end there, But I didn't create a
23 board or make the application.

24 You just told me you didn't even make the application
25 in Ely or White Pine County back in 2014, fair?

1 A Not '14.

2 MR. GRAF: Objection, Your Honor. Misstates the
3 evidence.

4 THE WITNESS: It's not '14.

5 THE COURT: Overruled.

6 BY MR. CHRISTIANSEN:

7 Q '14 or '15.

8 A See, you're just like he is --

9 MR. GRAF: No.

10 THE WITNESS: Get the information right, ask me the
11 right question. I'll answer it. I'm trying to give you the
12 right answer. No, I did not put Amy Hooks or Kevin Hooks on
13 the board at that time.

14 BY MR. CHRISTIANSEN:

15 Q In fact --

16 MR. GRAF: Your Honor, what -- I guess, objection.
17 Vague as to time. I think the White Pine application was in
18 the summer of 2018.

19 THE COURT: Okay.

20 MR. GRAF: It's '18, 1-8.

21 THE COURT: Got it.

22 MR. GRAF: Thank you.

23 MR. CHRISTIANSEN: Thank you, Mr. Graf.

24 BY MR. CHRISTIANSEN:

25 Q You did not submit an application for the medical

1 marijuana in White Pine County in 2018, correct?

2 A Did not, correct?

3 Q Did not. And you also did not create a board for the
4 submission, because you didn't submit anything, you didn't
5 create a board at that time either; that's what your change
6 sheet says; right?

7 A That's correct.

8 Q Okay. So in June of 2018, Clear River was owned 100
9 percent by Randy Black?

10 A It still is.

11 Q Is that yes?

12 A Yes.

13 Q And there was no board of directors, correct?

14 A Correct.

15 Q Okay. And that's in June of '18, so you and I are
16 sticking with the timeframe; right?

17 A Correct.

18 Q Okay. In approaching, sir, the recreational
19 dispensary application, which was submitted in September of
20 '18, you knew that diversity was going to be scored; did you
21 not?

22 A Yes.

23 Q Okay. And you told Mr. Parker that in your
24 deposition at page 102; you remember telling Mr. Parker that in
25 your deposition?

1 A Yes.

2 Q Very good.

3 MR. CHRISTIANSEN: And, Shane, would you pull up the
4 NAC, please, 453D.312.

5 Mr. Graf, do you want to look?

6 MR. GRAF: Sure.

7 BY MR. CHRISTIANSEN:

8 Q And, Mr. Black, at the time you submitted your
9 application, I believe you probably were aware that you had to
10 submit completes -- you couldn't submit false or misleading
11 information to the Department, fair?

12 A Correct.

13 Q All right. And I pulled the statute up and I'll just
14 show you subsection 3, if Shane will highlight that.
15 Specifically says in the regulations that that's not allowed.
16 That's grounds for denial at issuance or renewal of a license,
17 is false or misleading information.

18 A Correct.

19 Q All right. And your application was submitted in
20 September of 2018, Mr. Black, for the recreational marijuana
21 dispensaries?

22 A I believe that's the date, yes.

23 Q And at the time your application was submitted, isn't
24 it true that Mr. Arbelaez and Mr. Kocer, through a company
25 called Arbko, still owned 8 percent of Clear River?

1 A No.

2 Q Okay. I'll show you, I think it's been entered as
3 3199.

4 MR. CHRISTIANSEN: Bates stamped 8, Shane. Bates
5 stamped -- I'm sorry, 18, not 8.

6 Q Sir, this is a document from the State of Nevada, and
7 it's dated, as you can see there up on the top, May 1st, 2019;
8 do you see that, sir?

9 A Yes.

10 MR. GRAF: And, Your Honor, we object to this
11 document and the information that it's depicting as being
12 inaccurate.

13 THE COURT: And I previously admitted the document.
14 I understand your objection. It's overruled.

15 MR. GRAF: Okay.

16 BY MR. CHRISTIANSEN:

17 Q And if you look down, it says, CO, it looks like 097,
18 and that's Clear River?

19 MR. CHRISTIANSEN: Go up a little bit, Shane. Right
20 there.

21 Q And do you see the name, Nathan Arbelaez [sic], next
22 to that?

23 MR. CHRISTIANSEN: Shane, if you'd highlight it for
24 Mr. Black, please.

25 Q Do you see that, Mr. Black?

1 A I do.

2 Q And do you see that the State of Nevada holds him out
3 as an owner, just to the right there?

4 A They were wrong.

5 Q My question to you, sir, is do you see that in May of
6 2019, the State considered and listed Nathan Arbelaez as an
7 owner of Clear River?

8 A They were wrong.

9 Q Okay. I understand that's your contention, Mr.
10 Black. Will you agree with me that that's what the document
11 says?

12 A No.

13 Q Okay. And how about Mr. Kocer, were they wrong about
14 him as well?

15 A Yes.

16 Q Because it also lists him as an owner, does it not?

17 A Yes.

18 Q And the State's wrong about that, as well?

19 A This document is incorrect, yes.

20 Q Okay. And I think it even goes down to list them as
21 directors, as well. And are you telling me they're not
22 directors, either?

23 A Had nothing to do with my company, sir.

24 Q And to give the judge some background, and she has
25 some, we listened to Mr. Arbelaez --

1 MR. CHRISTIANSEN: Seems like a year ago, but I think
2 it was just last week, Your Honor.

3 Q -- in a deposition --

4 THE COURT: Friday.

5 MR. CHRISTIANSEN: Just this week?

6 THE COURT: Last Friday.

7 BY MR. CHRISTIANSEN:

8 Q Friday. Last Friday. And he and you had a
9 relationship early on in the marijuana business after, I think,
10 your deposition reads that Mr. Randy Black, Jr., introduced you
11 or got you thinking about doing a marijuana business in 2014;
12 is that a fair statement?

13 A Yes.

14 Q And, initially, that was going to be with Mr.
15 Marnell, Anthony Marnell III, and some others, fair?

16 A Correct.

17 Q And, initially, just initially, you were a 10 percent
18 holder in the Clear River entity?

19 A Depends on which initially.

20 Q Before the Gaming Commission told Mr. Marnell and
21 others that persons with gaming licenses can't be involved in
22 the marijuana business.

23 A No.

24 Q Okay. Well, what was your percentage before that
25 announcement?

1 A 100.

2 Q Okay. When did you go from a minority to 100, sir?

3 A No, I never was -- at that particular time, I owned
4 100 percent.

5 Q Okay. At some point did you own less than 100
6 percent when you were in business with Mr. Marnell?

7 A No.

8 Q You always owned 100 percent?

9 A Yes.

10 Q Okay. There was a time when Gaming announced the
11 gaming holders -- license holders couldn't be involved in the
12 marijuana business, fair?

13 A Correct.

14 Q Mr. Marnell and others divested themselves of their
15 interests in the business with you, fair?

16 A Correct.

17 Q And before they did that, they had signed a
18 consulting agreement with Arbko, correct?

19 A Correct.

20 Q And Mr. Marnell is your friend?

21 A Yes, he is.

22 Q Was then and is now?

23 A Yes, he is.

24 Q Sir, doesn't both me, but the judge has already
25 yelled at me once for your mask, so we all got to keep them up,

1 as big a nightmare --

2 A I already got it up. Sorry.

3 Q -- as it is.

4 A Just taking a glass of water. Thank you.

5 Q I got it yesterday, so don't worry --

6 A Thank you, sir.

7 Q -- from about 60 yards, she found me.

8 THE COURT: He got it from where he was sitting in
9 the back.

10 Keep going, Mr. Christiansen.

11 MR. CHRISTIANSEN: Yes, Your Honor.

12 BY MR. CHRISTIANSEN:

13 Q And, Mr. Black, Anthony Marnell III was your friend
14 back when you guys were starting or thinking about starting
15 Clear River and he's still your friend today, fair?

16 A Correct.

17 Q And Anthony Marnell III entered into an agreement
18 with Arbko, correct?

19 A Correct.

20 Q And Arbko provided information that was used in the
21 application for the medical marijuana licenses that Clear River
22 obtained in 2014 or '15, correct?

23 A Some.

24 Q Okay. You later came to have a dispute with Arbko
25 and I think you said went in a new direction with new lawyers

1 and sued Arbko or got rid of them?

2 A Correct.

3 Q All right. And there was an ensuing piece of
4 litigation, fair?

5 A Correct.

6 Q That matter was settled, fair?

7 A Correct.

8 Q And as part of that settlement, you agreed to pay a
9 sum of money, I don't want to know what it is, fair?

10 A Correct.

11 Q And Arbko held, while you paid that sum of money,
12 their 8 percent interest in the entity, Clear River, until that
13 sum of money was paid, correct?

14 A Yes.

15 Q Okay. That's -- the last sum of money was paid, was
16 it not, December of 2108?

17 A I don't know.

18 Q Well, the applications that you submitted on behalf
19 of Clear River were done in September of 2018, fair?

20 A I don't know for sure.

21 Q I'm sure Mr. Graf will correct me if I say that's an
22 inaccurate statement, but the applications were due in
23 September of 2018. Okay?

24 A Correct.

25 Q All right. And your last payment to Arbko was not

1 due until December of 2018, correct?

2 A Counselor, I'm a real estate guy. If I made a deal
3 with you, and I was supposed -- and we settled; right? We
4 settled the whole agreement, in the settlement agreement it
5 says he can't -- he doesn't own anything. All he gets is the
6 money. I made a deal with him just like your house and all
7 these Mercedes parked in the parking lot. They probably have
8 liens on them.

9 So I made a settlement. I told them I would pay
10 them. As far as I was concerned -- am concerned, and it turned
11 out exactly that way, they never did -- don't own. I paid them
12 off, they're gone. They were never my partners. They didn't
13 perform, they didn't do anything, correct? That's what I did.

14 Q Okay. Mr. Black, you just got done telling me that
15 Arbko had an 8 percent interest in Clear River and so they were
16 paid off?

17 A I never said that. No, I never said that.

18 Q Okay. You didn't pay them off until December of
19 2018, correct?

20 A There's 800 lawyers in here. I made a settlement
21 with these people. Once you make a settlement, aren't you
22 settled?

23 Q Sir, I have to ask you questions, unfortunately, and
24 you have -- you can't ask me questions. That's just sort of
25 the rules of the --

1 A Why is that?

2 THE COURT: Well, you can ask him questions. He just
3 doesn't have to answer them.

4 THE WITNESS: I mean --

5 THE COURT: All right.

6 UNIDENTIFIED SPEAKER: [Indiscernible] questions,
7 Your Honor.

8 THE COURT: Come on, Mr. Christiansen.

9 THE WITNESS: My position is no, they never owned
10 anything, they did not do what they were contracted to do. I
11 sued them, they sued me back, we settled, they were gone.
12 That's it.

13 BY MR. CHRISTIANSEN:

14 Q Okay. Can we agree that you didn't make the last
15 payment to Arbko till after you submitted Clear River's
16 application --

17 A I don't know when I made the last payment.

18 Q Sir, you've got to let me finish. Can we agree that
19 you didn't make the last payment to Arbko until December
20 of '18, three months after you submitted in September of '18,
21 the application for recreational marijuana on behalf of Clear
22 River?

23 A I made almost all of them until then. What's that --
24 that's crazy.

25 Q I'm sorry, sir, I just didn't hear you. I apologize.

1 A I said I made all of the payments. I don't know what
2 date the last one was made, but there was payments made on down
3 the line just like mortgage payments, just like settlement
4 payments. I made the payments. I don't know exactly when I
5 made them.

6 Q Fair enough. So you have no reason to disagree with
7 Mr. Arbelaez's deposition and trial testimony that the last
8 payment was made in December of 2018, because you just don't
9 know?

10 A I don't know.

11 Q You do know you submitted your application in -- to
12 the State in September of 2018 on behalf of Clear River,
13 correct?

14 A Is that the date we agreed on?

15 Q That is? Mr. Graf will tell you that's the correct
16 date in that month.

17 MR. CHRISTIANSEN: Fair?

18 MR. GRAF: No. What's the question?

19 THE COURT: Date of the application.

20 BY MR. CHRISTIANSEN:

21 Q Date of the application. September of 2018, can we
22 agree on that?

23 MR. GRAF: The last day was September 20th, 2018.

24 BY MR. CHRISTIANSEN:

25 Q He is correct.

1 A Okay. I'll agree with that.

2 Q Okay. And if you didn't pay them till December, then
3 they still owned 8 percent in September, correct?

4 A No.

5 MR. GRAF: Objection, Your Honor. Calls for a legal
6 conclusion. And asked and answered.

7 THE COURT: Overruled.

8 THE WITNESS: No, they did not.

9 THE COURT: They allege they --

10 THE WITNESS: No.

11 BY MR. CHRISTIANSEN:

12 Q All right.

13 A They did not.

14 Q Sir, you told me that you -- Mr. Marnell is your
15 friend, correct? Right?

16 A Yes.

17 Q Trustworthy, correct?

18 A Super guy.

19 Q Okay. You know he signed an affidavit in support of
20 Arbko's position in the litigation between you and Arbko;
21 right?

22 MR. GRAF: Objection, Your Honor. I don't know what
23 purpose --

24 THE COURT: On what basis? There was an affidavit.
25 I may not admit it in this case, but there was an affidavit and

1 it was filed. I'm not going to go into the contents right now.

2 MR. GRAF: Well, I want to voice my objection, Your
3 Honor.

4 THE COURT: We're not there yet.

5 MR. GRAF: Because there is no proper foundation in
6 some exhibit in this case.

7 THE COURT: I'm not there yet.

8 MR. GRAF: Thank you, Your Honor.

9 THE COURT: Keep going, Mr. Christiansen.

10 MR. CHRISTIANSEN: Thank you, Your Honor.

11 BY MR. CHRISTIANSEN:

12 Q You in that litigation were represented by Black &
13 Lobello, fair?

14 A Yes.

15 Q Arbko was represented by Jeff Sylvester and Sylvester
16 & Polednak? I may have butchered that name.

17 THE COURT: That's correct. Polednak.

18 BY MR. CHRISTIANSEN:

19 Q Does that sound right?

20 A Yes.

21 Q And Mr. Marnell, on Sylvester and Polednak's
22 letterhead, signed an affidavit in support of Arbko and against
23 you in that litigation, correct?

24 A I don't know.

25 Q He acknowledged they owned 8 percent.

1 THE COURT: You can't go into the --

2 MR. GRAF: Yeah.

3 THE COURT: You can't go into the substance. It's
4 not admitted.

5 MR. CHRISTIANSEN: Okay.

6 BY MR. CHRISTIANSEN:

7 Q You -- have you ever seen the affidavit of Mr.
8 Marnell?

9 A No.

10 Q Have you ever talked to Mr. Marnell about whether, in
11 fact, Arbko owned 8 percent of Clear River?

12 A No.

13 Q All right. Can we agree, Mr. Black, that if Arbko
14 owned 8 percent of Clear River, because they hadn't received
15 their final payment in September of 2018, that Arbko was not
16 contained in the application for recreational marijuana
17 submitted by yourself?

18 MR. GRAF: Objection. Compound. Calls for a legal
19 conclusion. Misstates the evidence.

20 THE COURT: Overruled.

21 You can answer. He is essentially asking if Arbko
22 was included in the application.

23 THE WITNESS: No.

24 BY MR. CHRISTIANSEN:

25 Q Let's talk, sir, if you don't mind, a bit about how

1 Clear River got started. That was -- I'll let you tell me the
2 date so I don't get it wrong, in about '14-ish? 2014?

3 A I got no idea.

4 Q Okay. And in 2014, in order to start the business,
5 when you took it over, running it all yourself, Mr. Black, you
6 had to get some financing, fair?

7 A No, that's not the correct chain of events, but --

8 Q Okay. Is --

9 A I --

10 Q Isn't it true you got a \$6 million line of credit
11 from Mr. Hooks?

12 A Yes.

13 Q Okay. Mr. Hooks testified here a few days ago, I
14 can't remember which day. And he told the Court that he
15 provided an initial \$6 million line of credit to you for the
16 medical dispensary application and business that was done in
17 '14 or '15; does that sound right?

18 A I don't know when it was done, but he did supply a
19 letter of credit, yes.

20 Q And you -- is it your recollection, as it was his,
21 that you borrowed money on occasion as the business needed it
22 and paid money back, with interest, to Mr. Hooks, over the
23 ensuing years after the initial borrow?

24 A Yes.

25 Q And then in 2018, Mr. Black, the -- your -- you

1 needed to show financial wherewithal in the recreational
2 marijuana applications, fair?

3 A Yes.

4 Q Okay. And you had gone through in '14 and '15, or
5 maybe even the years before, with the financial turmoil of the
6 recession, a business-back bankruptcy for Black Gaming, fair?

7 A Yes.

8 Q Personal?

9 A Yes.

10 Q And the loan, Mr. Hooks told all of us that he, gave
11 you the \$6 million line of credit, was not secured with
12 anything?

13 A That's correct.

14 Q No personal guarantee?

15 A No.

16 Q No security in the business?

17 A No.

18 Q No security in the buildings?

19 A No.

20 Q No security in the dirt -- or the ground, the real
21 estate, sir?

22 A We didn't own any real estate.

23 Q Say it one more time, Mr. Black.

24 A We did not own any real estate.

25 Q Thank you, sir. Appreciate you speaking up.

1 A No worries.

2 Q And in the year 2018, as you were preparing to do
3 your recreational applications, which were due, as Mr. Graf has
4 stated, in September the 20th of 2018, you went back to Mr.
5 Hooks for an extension on the line of credit, correct?

6 A Correct.

7 MR. CHRISTIANSEN: Shane, will you pull up 1621,
8 please? Bates 00106.

9 MR. GRAF: Thank you.

10 MR. CHRISTIANSEN: You're welcome.

11 MR. GRAF: Is that admitted?

12 MR. CHRISTIANSEN: Yes, sir. It was admitted with
13 Mr. Hooks.

14 MR. GRAF: Okay.

15 MR. CHRISTIANSEN: That was -- the one I used was the
16 only one that [indiscernible] what I'm using.

17 THE COURT: Can you guys on the phone put us on mute,
18 please.

19 BY MR. CHRISTIANSEN:

20 Q Mr. Black, this is the letter that Mr. Hooks told us
21 he prepared himself at his home office on or around the date of
22 8/25, August 25th, 2018, and it's addressed to you, Clear River
23 LLC, and it's got a [indiscernible] address; you familiar with
24 this letter?

25 A Yes, sir.

1 Q And the first sentence -- it's been admitted into
2 evidence -- the first sentence says, Please accept this letter
3 as our approval on the increase and extension of your existing
4 line of credit, provide your select --

5 You're selected -- I think that should be you are,
6 says your, Y-O-U-R.

7 -- selected for specific and appropriate licensure
8 for locations listed below.

9 Did I read that correctly, sir.

10 A Yes.

11 Q And so what Mr. Hooks told us is that at the time he
12 made this extension of the line of credit, that the initial \$6
13 million line of credit hadn't been paid completely off; is that
14 consistent with your recollection?

15 MR. GRAF: Objection, Your Honor. Misstates the
16 testimony and the evidence.

17 THE COURT: Overruled.

18 MR. GRAF: Okay.

19 THE COURT: You can answer, and explain if you need
20 to.

21 BY MR. CHRISTIANSEN:

22 Q Is that consistent with your recollection, sir?

23 A Can you repeat the question?

24 Q Sure. At the time you received Exhibit -- the letter
25 that's up on -- in front of you, Mr. Black, August the 25th,

1 2018, isn't it true you had not paid off in its entirety the
2 original \$6 million line of credit?

3 A I don't know.

4 Q Okay. Would you disagree with Mr. Hooks if that's
5 what he told us?

6 MR. GRAF: No. Objection, Your Honor. That not what
7 Mr. Hooks testified to.

8 THE COURT: It's overruled. It's overruled, Mr.
9 Graf.

10 MR. GRAF: Thank you, Your Honor.

11 THE WITNESS: What's the question again?

12 BY MR. CHRISTIANSEN:

13 Q Sure. If Mr. Hooks told us that, would you have a
14 reason to disagree with him?

15 MR. GRAF: Same objection, Your Honor.

16 THE COURT: Overruled.

17 MR. GRAF: Thank you.

18 THE WITNESS: Told me what?

19 BY MR. CHRISTIANSEN:

20 Q Told us that you hadn't paid the original line of
21 credit off when he gave you this extension.

22 A Is that really the question you're asking me? If the
23 current line of credit was still ongoing?

24 Q Sir --

25 A It says right here, Approval and extension on an

1 increase.

2 Q So in other words --

3 A What are you asking me?

4 Q I'm asking you very specifically, sir, isn't it true
5 the first \$6 million that you had borrowed had not been
6 completely paid off? I mean, that's what the -- it seems to --

7 A I don't know. I don't know at this point in time.
8 I'd have to go back and look at the records. I don't have any
9 idea.

10 Q Okay. Then my question was do you have any reason to
11 disagree with Mr. Hooks asserting that he hadn't been
12 completely paid off when he extended this to you?

13 A I don't know what he told you.

14 Q Okay. Fair enough. And this letter to you, sir,
15 reflects that a conditional loan conditioned on future events.
16 In other words, you had to get licenses for him to give you the
17 loan; right?

18 MR. GRAF: No. Objection, Your Honor. Misstates the
19 document.

20 THE COURT: Overruled.

21 THE WITNESS: It says -- yeah, I mean, I didn't get a
22 \$12 million line of credit just to go to France. I had to get
23 licenses to get it.

24 BY MR. CHRISTIANSEN:

25 Q So it was conditioned on a future event, fair? You

1 had to get licenses to get the money?

2 A Only that, yes.

3 Q And the amounts you were --

4 MR. CHRISTIANSEN: See the sentence down at the
5 bottom there, Shane? If you could highlight it?

6 Q The amounts will, of course, vary, based on which
7 licenses you receive.

8 A Correct.

9 Q That's your understanding, as well?

10 A Correct.

11 Q And above there are five entries, Warm Springs, 95
12 Craig Road, St. Rose, additional cash flow shortfall, and Craig
13 Road location. And they have specific numbers attached with
14 each one, fair?

15 A Correct.

16 Q And that was the license -- am I correct that, for
17 example, Mr. Black, in the Warm Springs location, if you were
18 to obtain that license, Mr. Hooks was willing to loan you up to
19 \$2,253,000?

20 A Plus the difference between that amount and whatever
21 else we got, yes.

22 Q Fair enough. And, sir, can you see --

23 MR. CHRISTIANSEN: Shane, now, please, 1621103.

24 Q When --

25 MR. CHRISTIANSEN: It's this one.

1 Q Sir, when you submitted your application for Clear --
2 Clear River submitted its application, I'll try to be
3 technically accurate, in September of 2018, for the
4 recreational marijuana dispensary licenses, Clear River
5 represented that Clear River had an asset in excess of \$12
6 million, correct?

7 MR. GRAF: No. Objection, Your Honor. That
8 misstates the document.

9 THE COURT: Overruled.
10 BY MR. CHRISTIANSEN:

11 Q Is that right, Mr. Black?

12 A When we submitted the application to the State, we
13 said we had the funds, yes.

14 Q Okay. That's not true, is it, Mr. Black?

15 A Absolutely, it's true.

16 Q Sir, we just went through the document. The funds
17 were Mr. Hooks's or KAJ Real Estate Investments, not Clear
18 River's; correct?

19 A Excuse me?

20 Q Sir, we just went through the 8/25/2018 KAJ Real
21 Estate Investment's letter to you; right?

22 A Correct.

23 Q That letter reflects, does it not, that the money was
24 Mr. Hooks's or his entity, KAJ Real Investment, Inc.; correct?

25 A Yes.

1 Q Right. Clear River told the State of Nevada it had
2 \$12 million, when, in fact, it did not; correct?

3 MR. GRAF: Objection. Misstates the application,
4 Your Honor.

5 THE COURT: Overruled.

6 THE WITNESS: We had cash or cash equivalence.
7 That's what this is.

8 BY MR. CHRISTIANSEN:

9 Q Sir, you couldn't have had the cash when you did the
10 application, because you didn't get the cash until you got the
11 licenses, true?

12 A No. We had our own cash already. We could get the
13 cash off of this letter of credit whenever we wanted it, as
14 long as we had a license.

15 Q Sir, you just got done -- as long as you had a
16 license?

17 A Yes.

18 Q Right? So you agree with me, in September, when you
19 submitted your application, you didn't have any of the money on
20 exhibit --

21 A No, we had a line of credit.

22 THE COURT: Okay. Mr. Black, you've got to let him
23 finish. Otherwise, my record gets really screwed up.

24 THE WITNESS: I'm sorry. Sorry, sorry.

25 THE COURT: It's okay. Finish up.