

IN THE SUPREME COURT OF THE
STATE OF NEVADA

ROWEN SEIBEL, MOTI PARTNERS,
LLC; MOTI PARTNERS 16, LLC; LLTQ
ENTERPRISES, LLC; LLTQ
ENTERPRISES 16, LLC; TPOV
ENTERPRISES, LLC; TPOV
ENTERPRISES 16, LLC; FERG, LLC;
FERG 16, LLC; CRAIG GREEN;
R SQUARED GLOBAL SOLUTIONS,
LLC, Derivatively on Behalf of DNT
ACQUISITION, LLC; and GR BURGR,
LLC,

Appellants,

vs.

DESERT PALACE, INC.; PARIS LAS
VEGAS OPERATING COMPANY, LLC;
PHWLTV, LLC; and BOARDWALK
REGENCY CORPORATION,

Respondents.

Supreme Court Case No. 86462

District Court Case No. A-17-751759-B
Consolidated with District Court Case
No. A-17-760537-B

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Clerk of Supreme Court

**APPENDIX OF EXHIBITS TO
DOCKETING STATEMENT, CIVIL
APPEALS**

VOLUME 2 OF 2

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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 18th day of May, 2023, service of the foregoing was made by mandatory electronic service through the Nevada Supreme Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

JAMES J. PISANELLI

DEBRA L. SPINELLI

M. MAGALI MERCERA

PISANELLI BICE PLLC

400 South 7th Street, Suite
300

Las Vegas, NV 89101

Email: JJP@pisanellibice.com

DLS@pisanellibice.com

MMM@pisanellibice.com

Attorneys for Respondents, Desert Palace, Inc.;

Paris Las Vegas Operating Company, LLC;

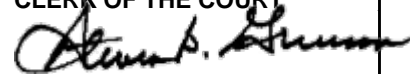
PHWLTV, LLC; and Boardwalk Regency

Corporation

/s/ Samantha Kishi

Employee of BAILEY ♦ KENNEDY

TAB 15



James J. Pisanelli, Esq., Bar No. 4027
jjp@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
dls@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittnie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
JZeiger@kirkland.com
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
WArnault@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: 312.862.2000

Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759

Dept. No.: XVI

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF ORDER
GRANTING CAESARS' MOTION FOR
LEAVE TO FILE FIRST AMENDED
COMPLAINT**

PLEASE TAKE NOTICE that an Order Granting Caesars' Motion for Leave to File First Amended Complaint was entered in the above-captioned matter on March 10, 2020, a true and correct copy of which is attached hereto.

DATED this 11th day of March 2020.

PISANELLI BICE PLLC

By: 

James J. Pisanelli, Esq., #4027
Debra L. Spinelli, Esq., #9695
M. Magali Mercera, Esq., #11742
Brittnie T. Watkins, Esq., #13612
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Jeffrey J. Zeiger, P.C., Esq.
(admitted *pro hac vice*)
William E. Arnault, IV, Esq.
(admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 11th day of March 2020, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER GRANTING CAESARS' MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT** to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.
Stephanie J. Glantz, Esq.
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302

*Attorneys for Rowen Seibel, DNT Acquisition LLC,
Moti Partners, LLC, Moti Partner 16s, LLC,
LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC,
TPOV Enterprises, LLC, TPOV Enterprises 16, LLC,
FERG, LLC, and FERG 16, LLC*

John D. Tennert, Esq.
FENNEMORE CRAIG, P.C.
300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Gordon Ramsay

Alan Lebensfeld, Esq.
Lawrence J. Sharon, Esq.
LEBENSFELD SHARON &
SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

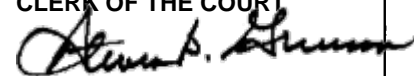
*Attorneys for Plaintiff in Intervention
The Original Homestead Restaurant, Inc.*

VIA U.S. MAIL (pleading only)
Kurt Heyman, Esq.
HEYMAN ENERIO GATTUSO &
HIRZEL LLP
300 Delaware Ave., Suite 200
Wilmington, DE 19801

Trustee for GR Burgr LLC



An employee of PISANELLI BICE PLLC



James J. Pisanelli, Esq., Bar No. 4027
jip@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
dls@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittanie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: 312.862.2000

Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual and citizen of
New York, derivatively on behalf of Real Party
in Interest GR BURGR LLC, a Delaware
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PHWLTV, LLC, a Nevada limited liability
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DOES I through X; ROE CORPORATIONS I
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Defendants,

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GR BURGR LLC, a Delaware limited liability
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AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

ORDER GRANTING CAESARS'
MOTION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT

Date of Hearing: February 12, 2020

Time of Hearing: 9:00 a.m.

PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC") and collectively with Caesars Palace, Paris, and Planet Hollywood, "Caesars") Motion for Leave to File First Amended Complaint (the "Motion to Amend") came before the Court for hearing on February 12, 2020, at 9:00 a.m. James J. Pisanelli, Esq., M. Magali Mercera, Esq., and Brittanie Watkins, Esq. of the law firm PISANELLI BICE PLLC, appeared on behalf of Caesars. David Carroll, Esq. of the law firm RICE REUTHER SULLIVAN & CARROLL, LLP, and Daniel Brooks, Esq., of the law firm SCAROLA ZUBATOV appeared on behalf of Rowen Seibel ("Seibel"), TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), and MOTI Partners 16, LLC ("MOTI 16") (collectively the "Seibel Parties"). Allen Wilt, Esq., of the law firm FENNEMORE CRAIG, appeared on behalf of Gordon Ramsay.

The Court having considered the Motion to Amend and the opposition thereto, as well as argument of counsel presented at the hearing, and good cause appearing therefor,

THE COURT FINDS THAT, under Nevada law, "[t]he court should freely give leave [to amend] when justice so requires." NRCP 15(a)(2). However, "[w]here a scheduling order has been entered, the lenient standard under Rule 15(a), which provides leave to amend 'shall be freely given,' must be balanced against the requirement under Rule 16(b) that the Court's scheduling order 'shall not be modified except upon a showing of good cause.'" *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 285, 357 P.3d 966, 971 (Nev. App. 2015) (quoting *Grochowski v. Phoenix Constr.*, 318 F.3d 80, 86 (2d Cir. 2003)).

THE COURT FURTHER FINDS THAT, "[i]n determining whether 'good cause' exists under Rule 16(b), the basic inquiry for the trial court is whether the filing deadline cannot reasonably be met despite the diligence of the party seeking the amendment." *Id.* at 286-87, 357 P.3d at 971 (citations omitted). Accordingly, the court must weigh the following factors: "(1) the explanation for the untimely conduct, (2) the importance of the requested untimely action, (3) the

1 potential prejudice in allowing the untimely conduct, and (4) the availability of a continuance to
2 cure such prejudice." *Id.* at 287, 357 P.3d 971-72.

3 THE COURT FURTHER FINDS THAT, the deadline to amend pleadings in this action
4 was February 4, 2019. Accordingly, Caesars had to demonstrate that good cause exists to allow
5 the amendment of their complaint after the deadline had expired.

6 THE COURT FURTHER FINDS THAT, Caesars has met its burden and demonstrated
7 that good cause exists to permit amendment of their complaint. Specifically, under the *Nutton*
8 factors, Caesars demonstrated good cause because depositions had to be taken in order to
9 understand the documents produced by the parties. There is no potential prejudice in allowing the
10 amendment as trial in this matter is currently scheduled to commence on November 9, 2020, and
11 the amendment does not appear to impact the trial date. In light of the trial date, there is no need
12 to address the availability of a continuance at this time.

13 ///

14 ///

1 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motion to
2 Amend is GRANTED.

3 IT IS SO ORDERED.

4 DATED this 9th day of March 2020.

5
6 
7 THE HONORABLE TIMOTHY C. WILLIAMS
EIGHTH JUDICIAL DISTRICT COURT 

8 Respectfully submitted by:

9 DATED March 10, 2020

10 PISANELLI BICE PLLC

11 By: 

12 James J. Pisanelli, Esq., Bar No. 4027
13 Debra L. Spinelli, Esq., Bar No. 9695
14 M. Magali Mercera, Esq., Bar No. 11742
15 Brittanie T. Watkins, Esq., Bar No. 13612
400 South 7th Street, Suite 300
Las Vegas, NV 89101

16 and

17 Jeffrey J. Zeiger, P.C., Esq.
(admitted *pro hac vice*)
18 William E. Arnault, IV, Esq.
(admitted *pro hac vice*)
19 KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

20 *Attorneys for Plaintiffs Desert Palace, Inc.; Paris Las Vegas Operating*
21 *Company, LLC; PHWLTV, LLC; and Boardwalk Regency*
22 *Corporation d/b/a Caesars Atlantic City*
23
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Approved as to form and content by:

DATED March 6, 2020

FENNEMORE CRAIG, P.C.

By: /s/ John Tennert
John Tennert, Esq. (SBN 11728)
300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Gordon Ramsay

Approved as to form and content by:

DATED March 6, 2020

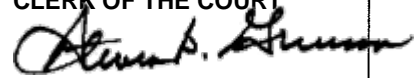
BAILEY ♦ KENNEDY

By: /s/ Joshua P. Gilmore
John R. Bailey (SBN 0137)
Dennis L. Kennedy (SBN 1462)
Joshua P. Gilmore (SBN 11576)
Paul C. Williams (SBN 12524)
Stephanie J. Glantz (SBN 14878)

8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

*Attorneys for Rowen Seibel; LLTQ
Enterprises, LLC; LLTQ Enterprises 16, LLC;
FERG, LLC; FERG 16, LLC; MOTI Partners,
LLC; MOTI Partners 16, LLC; TPOV
Enterprises, LLC; and TPOV Enterprises 16,
LLC*

TAB 16



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittnie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: 312.862.2000

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual and citizen of
New York, derivatively on behalf of Real Party
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v.

PHWLTV, LLC, a Nevada limited liability
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DOES I through X; ROE CORPORATIONS I
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

FIRST AMENDED COMPLAINT

**(Exempt from Arbitration –
Declaratory Relief Requested)**

///

Desert Palace Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), PHWLTV, LLC ("Planet Hollywood") and Boardwalk Regency Corporation d/b/a Caesars Atlantic City ("CAC," and collectively with Caesars Palace, Paris, and Planet Hollywood, "Plaintiffs" or "Caesars") bring this Complaint against Rowen Seibel, Craig Green, LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC (collectively, with LLTQ Enterprises, LLC, "LLTQ"), FERG, LLC, FERG 16, LLC (collectively, with FERG, LLC, "FERG"), Moti Partners, LLC, Moti Partners 16, LLC (collectively, with Moti Partners, LLC, "MOTI"), TPOV Enterprises, LLC, TPOV Enterprises 16, LLC (collectively, with TPOV Enterprises, LLC, "TPOV"), DNT Acquisition, LLC ("DNT"), and GR Burgr, LLC ("GRB," and collectively with LLTQ, FERG, MOTI, TPOV, and DNT, the "Seibel-Affiliated Entities") seeking declaratory relief as a result of Mr. Seibel's criminal activities and Defendants' failure to disclose those criminal activities to the Plaintiffs. Further, Caesars seeks damages relating to Mr. Seibel's and Mr. Green's conspiracy to obtain illegal kickbacks from vendors providing product to Caesars.

Caesars alleges as follows:

PRELIMINARY STATEMENT

1. Since 2009, Caesars has entered into six agreements with entities owned by, managed by, and/or affiliated with Rowen Seibel relating to the operation of restaurants at Caesars' casinos (the "Seibel Agreements"). Because of the highly-regulated nature of Caesars' business, each of these agreements contained representations, warranties, and conditions to ensure that Caesars was not entering into a business relationship that would jeopardize its good standing with gaming regulators. To further ensure that Caesars was not doing business with an "Unsuitable Person," Caesars also requested and received "Business Information Forms" from Mr. Seibel at the outset of the MOTI and DNT business relationships in which he represented that he had not been a party to a felony in the last ten years and there was nothing "that would prevent him from being licensed by a gaming authority." Although the agreements required Mr. Seibel and the Seibel-Affiliated Entities to update those disclosures to the extent they subsequently became inaccurate, neither Mr. Seibel nor the Seibel-Affiliates Entities ever did so.

2. Unbeknownst to Caesars, when the parties entered into each of the agreements, Mr. Seibel was engaged in criminal conduct that rendered him "Unsuitable" under the terms of each agreement. In 2004, Mr. Seibel began using foreign bank accounts to defraud the IRS. In 2009, when Mr. Seibel was assuring Caesars that he had not been a party to a felony and there was nothing "that would prevent him from being licensed by a gaming authority," he was submitting false documentation to the IRS regarding his use of foreign bank accounts.

3. In April 2016, Mr. Seibel was charged with defrauding the IRS. Rather than contest the charges against him, Mr. Seibel pleaded guilty to one count of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212, a Class E Felony, and subsequently served time in a federal penitentiary for his crime.

4. Mr. Seibel, however, never informed Caesars that he was engaged in criminal activities. Nor did he disclose to Caesars that he had lied to the United States government, was under investigation by the United States government, or that he had pleaded guilty to a felony.

5. Instead, Caesars only learned about Mr. Seibel's felony conviction from press reports four months after he pleaded guilty. Upon learning of Mr. Seibel's felony conviction, Caesars exercised its contractual right to terminate its agreements with the Seibel-Affiliated Entities. Indeed, the parties to the Seibel Agreements expressly agreed that Caesars in its "sole and exclusive judgment" could terminate the agreements if it determined that Mr. Seibel and/or the Seibel-Affiliated Entities were "Unsuitable Persons" as defined in the agreements. The parties likewise expressly agreed that Caesars' decision to terminate the agreements would "not be subject to dispute by [the Seibel-Affiliated Entities]." Caesars determined that Mr. Seibel's conduct and felony conviction rendered him an "Unsuitable Person" as defined in the agreements. Therefore, Caesars exercised its "sole and exclusive judgment" and terminated the Seibel Agreements on or around September 2, 2016.

6. Nevertheless, Defendants are now claiming that Caesars wrongfully terminated those agreements and either have initiated or indicated that they intend to initiate legal proceedings relating to the termination of the agreements. Because there is an actual dispute among the parties,

1 Caesars brings this action for a declaratory judgment confirming that it was proper, in its sole and
2 exclusive judgment, to terminate each of the agreements with the Seibel-Affiliated Entities.

3 7. In addition, Caesars seeks a declaratory judgment that it has no current or future
4 obligations to Defendants. Certain defendants are seeking monetary relief from Caesars in three
5 different courts across the country related to the Seibel Agreements and have threatened to attempt
6 to force Caesars to include Mr. Seibel in other restaurant opportunities. Simply put, Caesars is not
7 required under the Seibel Agreements or otherwise to do business with a convicted felon. Indeed,
8 Mr. Seibel and the Seibel-Affiliated Entities concealed material facts from Caesars that they had a
9 duty to disclose regarding Mr. Seibel's wrongdoings. Mr. Seibel concealed these wrongdoings from
10 Caesars to avoid the termination of the Seibel Agreements. Had Caesars been aware of Mr. Seibel's
11 wrongdoings when the relationship first began, it would not have entered into the Seibel
12 Agreements. And, if Mr. Seibel had properly disclosed his wrongdoings, Caesars would not have
13 continued doing business with Mr. Seibel and would have terminated its relationship with
14 Mr. Seibel and his companies. Because Mr. Seibel and the Seibel-Affiliated Entities fraudulently
15 induced Caesars to enter into the Seibel Agreements and breached the Seibel Agreements by failing
16 to disclose material facts regarding Mr. Seibel's wrongdoings, Caesars owes no current or future
17 obligations to Defendants.

18 8. Caesars therefore brings this action to obtain declarations that it properly terminated
19 its agreements with the Seibel-Affiliated Entities and does not owe any current or future obligations
20 to Defendants.

21 9. Additionally, during discovery in this litigation Caesars has uncovered evidence
22 demonstrating that Mr. Seibel, Mr. Green, and others were engaged in a scheme of commercial
23 bribery to obtain illegal kickbacks from Caesars' vendors.

24 10. In particular, Mr. Seibel received thousands of dollars from Caesars' vendors based
25 on total goods sold to Caesars without Caesars' knowledge. Upon information and believe, Mr.
26 Green, also received sums from Caesars' vendors based on total goods sold to Caesars without
27 Caesars' knowledge. Mr. Seibel and Mr. Green scheme was shrouded in secrecy and threats to
28 further their improper gains.

11. Accordingly, Caesars also brings claims of civil conspiracy, breach of the implied covenant of good faith and fair dealing, unjust enrichment, and intentional interference with contractual relations against Mr. Seibel and Mr. Green personally.

PARTIES, JURISDICTION, AND VENUE

12. Plaintiff Desert Palace, Inc. is a Nevada corporation that operates the Caesars Palace casino. Desert Palace Inc.'s principal place of business is 3570 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

13. Plaintiff Paris Las Vegas Operating Co., LLC is a Nevada limited liability company that operates the Paris Las Vegas Hotel and Casino. Paris Las Vegas Operating Co., LLC's principal place of business is 3655 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

14. Plaintiff PHWLTV, LLC is a Nevada limited liability company that operates the Planet Hollywood Las Vegas Resort and Casino. PHWLTV, LLC's principal place of business is 3667 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

15. Plaintiff Boardwalk Regency Corporation d/b/a Caesars Atlantic City LLC is a Delaware limited liability company that operates the Caesars Atlantic City Hotel and Casino. Caesars Atlantic City's principal place of business is 2100 Pacific Avenue, Atlantic City, New Jersey 08401.

16. Defendant Rowen Seibel currently resides at 200 Central Park South, Unit 19E, New York, New York 10019. Mr. Seibel regularly travels to and conducts business in Nevada, and owns real estate in Nevada. Mr. Seibel also filed a lawsuit in the district court of Clark County, Nevada, purportedly derivatively on behalf of GRB, that relates to certain of the issues set forth in this Complaint and remains pending. Case No. A-17-751759-B.

17. Defendant Craig Green currently resides at 320 East 54th Street, Apartment 3A, New York, New York 10022. Mr. Green regularly travels to and conducts business in Nevada. Mr. Green has been the manager of Defendants TPOV, TPOV 16, LLTQ, LLTQ 16, FERG, FERG 16, MOTI, and MOTI 16 since April 2016. Prior to April 2016, Mr. Green acted actively performed services on behalf of the Seibel-Affiliated Entities.

1 18. Defendant Moti Partners, LLC is a New York limited liability company located at
2 200 Central Park South, New York, New York 10019. In March 2009, Caesars Palace and
3 MOTI Partners, LLC entered into a Development, Operation, and License Agreement
4 (the "MOTI Agreement"). The MOTI Agreement relates to the design, development, construction,
5 and operation of the Serendipity restaurant in Las Vegas. The negotiations of the MOTI Agreement
6 occurred primarily in Nevada. The MOTI Agreement also was signed by the parties in Nevada,
7 and Mr. Seibel signed the MOTI Agreement on behalf of MOTI. The MOTI Agreement further
8 provided that "[t]he laws of the State of Nevada applicable to agreements made in that State shall
9 govern the validity, construction, performance and effect of [the MOTI Agreement]." The
10 MOTI Agreement likewise required (i) MOTI to provide "Development Services" during meetings
11 that "shall take place primarily in Las Vegas;" (ii) MOTI to provide "Menu Development Services"
12 during meetings that "shall take place primarily in Las Vegas;" and (iii) Mr. Seibel to provide
13 "Marketing Consulting Services" during meetings that "shall take place primarily in Las Vegas."

14 19. Defendant Moti Partners 16, LLC is a Delaware limited liability company. In
15 April 2016, Mr. Seibel informed Caesars Palace that the MOTI Agreement would purportedly be
16 assigned to Moti Partners 16, LLC. Caesars Palace disputes the propriety of this assignment.

17 20. Defendant DNT Acquisition, LLC is a Delaware limited liability company located
18 at 200 Central Park South, 19th Floor, New York, New York 10019. In June 2011, Caesars Palace
19 and DNT entered into a Development, Operation, and License Agreement among
20 DNT Acquisition, LLC, The Original Homestead Restaurant, Inc., and Desert Palace, Inc.
21 ("DNT Agreement"). The DNT Agreement relates to the design, development, construction, and
22 operation of an Old Homestead restaurant in Las Vegas. The negotiations of the DNT Agreement
23 occurred in Nevada and the agreement was signed by the parties in Nevada. Mr. Seibel signed the
24 DNT Agreement on behalf of DNT. The DNT Agreement also provided that "[t]he laws of the
25 State of Nevada applicable to agreements made in that State shall govern the validity, construction,
26 performance, and effect of this Agreement." The DNT Agreement further required (i) DNT to
27 provide "Restaurant Development Services" that "shall take place in Las Vegas;" (ii) Mr. Seibel to
28

1 visit the restaurant one time each quarter for two consecutive nights; and (iii) Mr. Seibel to
2 participate in marketing consultations and meetings that "shall take place in Las Vegas."

3 21. Defendant TPOV Enterprises, LLC is a New York limited liability company located
4 at 200 Central Park South, New York, NY 10019. In November 2011, Paris and TPOV entered
5 into a Development and Operation Agreement between TPOV Enterprises, LLC and
6 Paris Las Vegas Operating Company, LLC ("TPOV Agreement"). The TPOV Agreement relates
7 to the design, development, construction, and operation of the Gordon Ramsay Steak restaurant in
8 Las Vegas. The negotiations of the TPOV Agreement occurred in Nevada and the agreement was
9 signed by the parties in Nevada. Mr. Seibel signed the TPOV Agreement on behalf of TPOV. The
10 TPOV Agreement also provided that "[t]he laws of the State of Nevada applicable to agreements
11 made in that State shall govern the validity, construction, performance and effect of this
12 Agreement." The TPOV Agreement further required (i) TPOV to provide "Restaurant
13 Development Services" during meetings that "shall take place in Las Vegas, Nevada;"
14 (ii) Mr. Seibel to visit and attend the restaurant one time each quarter for five consecutive nights;
15 and (iii) Mr. Seibel to provide operational consulting and advice and attend meetings "with respect
16 to same [that] shall take place in Las Vegas, Nevada."

17 22. Defendant TPOV Enterprises 16, LLC is a Delaware limited liability company. In
18 April 2016, Mr. Seibel informed Paris that the TPOV Agreement would purportedly be assigned to
19 TPOV Enterprises 16, LLC. Paris disputes the propriety of this assignment.

20 23. Defendant LLTQ Enterprises, LLC is a Delaware limited liability company located
21 at 200 Central Park South, New York, New York 10019. In April 2012, Caesars Palace and LLTQ
22 entered into a Development and Operation Agreement between LLTQ Enterprises, LLC and
23 Desert Palace, Inc. ("LLTQ Agreement"). The LLTQ Agreement relates to the design,
24 development, construction, and operation of the Gordon Ramsay Pub restaurant in Las Vegas. The
25 negotiations of the LLTQ Agreement primarily occurred in Nevada and the agreement was signed
26 by the parties in Nevada. Mr. Seibel signed the LLTQ Agreement on behalf of LLTQ. The LLTQ
27 Agreement also provided that "[t]he laws of the State of Nevada applicable to agreements made in
28 that State shall govern the validity, construction, performance and effect of this Agreement." The

1 LLTQ Agreement further required (i) LLTQ to provide "Restaurant Development Services" during
2 meetings that "shall take place in Las Vegas, Nevada;" (ii) Mr. Seibel to visit and attend the
3 restaurant one time each quarter for five consecutive nights; and (iii) Mr. Seibel to provide
4 operational consulting and advice and "meetings with respect to same [that] shall take place in
5 Las Vegas, Nevada."

6 24. Defendant LLTQ Enterprises 16, LLC is a Delaware limited liability company. In
7 April 2016, Mr. Seibel informed Caesars Palace that the LLTQ Agreement would purportedly be
8 assigned to LLTQ Enterprises 16, LLC. Caesars Palace disputes the propriety of this assignment.

9 25. Defendant GR Burgr, LLC is a Delaware limited liability company located at
10 200 Central Park South, 19th Floor, New York, New York 10019. In December 2012,
11 Planet Hollywood and GRB entered into a Development, Operation and License Agreement
12 Among Gordon Ramsay, GR Burgr, LLC and PHW Manager, LLC on behalf of
13 PHW Las Vegas, LLC DBA Planet Hollywood ("GRB Agreement"). The GRB Agreement relates
14 to the design, development, construction, and operation of the BURGR Gordon Ramsay restaurant
15 in Las Vegas. The negotiations of the GRB Agreement primarily occurred in Nevada and the
16 agreement was signed by the parties in Nevada. Mr. Seibel signed the GRB Agreement on behalf
17 of GRB. The GRB Agreement also provided that "[t]he laws of the State of Nevada applicable to
18 agreements made in that State shall govern the validity, construction, performance and effect of this
19 Agreement." The GRB Agreement further required GRB to provide "Restaurant Development
20 Services," and meetings with respect to same, that "shall take place in Las Vegas, Nevada." Caesars
21 is naming GRB as a defendant to the extent of Mr. Seibel's involvement with that entity.

22 26. Defendant FERG, LLC is a Delaware limited liability company located at
23 200 Central Park South, New York, New York 10019. In May 2014, CAC and FERG entered into
24 a Consulting Agreement between FERG, LLC and Boardwalk Regency Corporation DBA Caesars
25 Atlantic City ("FERG Agreement"). The FERG Agreement relates to the design, development,
26 construction, and operation of the Gordon Ramsay Pub and Grill restaurant. The negotiations of
27 the FERG Agreement primarily occurred in Nevada and the agreement was signed by the parties in
28 Nevada. Mr. Seibel signed the FERG Agreement on behalf of FERG.

28. Clark County, Nevada is a proper venue because the agreements, acts, events, occurrences, decisions, transactions, and/or omissions giving rise to this lawsuit occurred or were performed in Clark County, Nevada.

A. The Business Relationship Between Caesars and Mr. Seibel.

29. Caesars' relationship with Mr. Seibel began in 2009 when the parties commenced negotiations for an agreement relating to the Serendipity 3 restaurant in Las Vegas. At the time, Mr. Seibel was a restaurateur responsible for the Serendipity restaurant in New York City and was looking to partner with Caesars on a similar concept at its Caesars Palace casino.

30. Caesars holds gaming licenses and therefore is subject to rigorous regulation in multiple jurisdictions. For example, one of those jurisdictions, Nevada, requires its licensees to police themselves and their affiliates to ensure unwavering compliance with gaming regulations. As part of its compliance program, Caesars conducts suitability investigations of potential vendors that meet certain criteria as outlined in its compliance program, and requires various disclosures by vendors meeting such criteria to ensure that the entities with which it does business are suitable. Thus, in connection with the initial discussions between the parties, Caesars required Mr. Seibel to complete a "Business Information Form." On that form, Mr. Seibel represented that he had not been a party to a felony in the last ten years and there was nothing "that would prevent [him] from being licensed by a gaming authority." In reliance on those representations (among other things), Caesars Palace and MOTI entered into the MOTI Agreement.

31. The MOTI Agreement also contained a number of representations relating to the conduct of the parties and their disclosure obligations.

32. As far as conduct, MOTI represented that "it shall conduct all of its obligations hereunder in accordance with the highest standards of honesty, integrity, quality and courtesy so as

1 to maintain and enhance the reputation and goodwill of Caesars, the Marks, the Hotel Casino, and
2 the Restaurant and at all times in keeping with and not inconsistent with or detrimental to the
3 operation of an exclusive, first-class resort hotel and casino and an exclusive, first-class restaurant."

4 33. With respect to disclosure, MOTI agreed that it would "provide to Caesars written
5 disclosure regarding MOTI and all of their respective key employees, agents, representatives,
6 management personnel, lenders, or any financial participants (collectively, the "Associated
7 Parties")" And, "[t]o the extent that any prior disclosure becomes inaccurate, MOTI shall,
8 within five (5) calendar days from that event, update the prior disclosure without Caesars making
9 any further request."

10 34. The prior written disclosures referenced in the MOTI Agreement included and were
11 intended to include the information that Mr. Seibel provided in the MOTI Business Information
12 Form. Accordingly, MOTI was obligated to update the Business Information Form in accordance
13 with the provisions in the MOTI Agreement.

14 35. The MOTI Agreement provided Caesars with the ability to terminate the
15 MOTI Agreement in its discretion if it determined that (i) MOTI was not complying with its
16 disclosure obligations or (ii) MOTI or an Associated Party was engaged in any activity or
17 relationship that jeopardized the privileged licenses held by Caesars. Specifically, the MOTI
18 Agreement stated:

19 If MOTI fails to satisfy or fails to cause the Associated Parties to satisfy [the
20 disclosure] requirement, if Caesars or any of Caesars' affiliates are directed to cease
21 business with MOTI or any Associated Party by the Gaming Authorities, or if Caesars
22 shall determine, in Caesars' sole and exclusive judgment, that MOTI or any
23 Associated Party is or may engage in any activity or relationship that could or does
24 jeopardize any of the privileged licenses held by Caesars or any Caesars' Affiliate,
25 then (a) MOTI shall terminate any relationship with the Associated Party who is the
26 source of such issue, (b) MOTI shall cease the activity or relationship creating the
27 issue to Caesars' satisfaction, in Caesars' sole judgment, or (c) if such activity or
28 relationship is not subject to cure as set forth in the foregoing clauses (a) and (b), as
determined by Caesars in its sole discretion, Caesars shall, without prejudice to any
other rights or remedies of Caesars including at law or in equity, terminate this
Agreement and its relationship with MOTI. In the event MOTI does not comply with
any of the foregoing, such noncompliance may be deemed, in Caesars' sole
discretion, as a default hereunder. MOTI further acknowledges that Caesars shall
have the absolute right, without any obligation [to initiate arbitration], to terminate
this Agreement in the event any Gaming Authority require Caesars to do so.

1 36. Finally, MOTI represented that, "[a]s of the Effective date [of the agreement], no
2 representation or warranty made herein by [MOTI] contains any untrue statement of a material fact,
3 or omits to state a material fact necessary to make such statements not misleading."

4 37. Significantly, the disclosure obligations under the MOTI Agreement were not
5 limited to the corporate entity MOTI. Instead, MOTI's obligations—both with respect to conduct
6 and disclosure—applied to "Associated Parties" of MOTI, which included all of MOTI's key
7 employees, agents, representatives, and financial participants. As the member-manager of MOTI
8 and the individual who signed the MOTI Agreement, Mr. Seibel was an "Associated Party" of
9 MOTI. Thus, Mr. Seibel had an ongoing obligation to conduct himself with the highest standards
10 of honesty, integrity, quality, and courtesy. And MOTI had an ongoing obligation to disclose any
11 information regarding Mr. Seibel that jeopardized any of the privileged licenses held by Caesars.

12 38. The initial disclosures that MOTI and Mr. Seibel provided were false when made.
13 And, despite the obligations set out in the MOTI Agreement, neither Mr. Seibel nor MOTI ever
14 provided Caesars with an updated Business Information Form or any other supplemental disclosure.
15 Nor did they otherwise provide updated disclosures regarding Mr. Seibel's criminal activities, his
16 investigation by the IRS, his guilty plea, his felony conviction, or his incarceration.

17 39. Over the next five years, Caesars and Mr. Seibel entered into five more agreements
18 with entities owned and managed by Mr. Seibel. With respect to each of these agreements, Caesars
19 relied upon the MOTI Business Information Form and the ongoing obligations of MOTI and
20 Mr. Seibel to update that disclosure when and if necessary.

21 **(b) The DNT Agreement.**

22 40. Like the MOTI Agreement, the DNT Agreement related to Caesars' efforts to
23 introduce a New York City restaurant—Old Homestead—at its Caesars Palace property. Unlike
24 the MOTI Agreement, however, the DNT Agreement involved a third-party unrelated to Mr. Seibel
25 (The Original Homestead Restaurant, Inc.; collectively, with DNT, the "DNT Parties"). As part of
26 the DNT Agreement, the Old Homestead Restaurant, Inc. licensed its intellectual property to
27 Caesars Palace (the "Old Homestead Marks").
28

1 41. In connection with the discussions between DNT and Caesars Palace, Caesars
2 required Mr. Seibel to complete another "Business Information Form" in 2011. On that form,
3 Mr. Seibel represented that he had not been a party to a felony in the last ten years and there was
4 nothing "that would prevent [him] from being licensed by a gaming authority." In reliance on those
5 representations (among other things), Caesars Palace and DNT entered into the DNT Agreement.

6 42. The DNT Agreement contained a number of representations relating to the conduct
7 of the parties and their disclosure obligations.

8 43. First, the DNT Parties represented in the DNT Agreement that "they shall, and they
9 shall cause their Affiliates to, conduct themselves in accordance with the highest standards of
10 honesty, integrity, quality and courtesy so as to maintain and enhance the reputation and goodwill
11 of Caesars, the Old Homestead Marks, the Old Homestead Materials, the Old Homestead System,
12 the Caesars Palace and the Restaurant and at all times in keeping with and not inconsistent with or
13 detrimental to the operation of an exclusive, first-class resort hotel and casino and an exclusive,
14 first-class restaurant." The DNT Parties further agreed that they would "use commercially
15 reasonable efforts to continuously monitor the performance of each of its and its Affiliates'
16 respective agents, employees, servants, contractors and licensees and shall ensure the foregoing
17 standards are consistently maintained by all of them." Finally, the DNT Agreement provided that
18 "[a]ny failure by the DNT Parties, their affiliates or any of their respective agents, employees,
19 servants, contractors or licensees to maintain the standards described [above] shall, in addition to
20 any other rights or remedies Caesars may have, give Caesars the right to terminate [the DNT
21 Agreement] in its sole and absolute discretion."

22 44. Second, the DNT Parties agreed that they would "provide to Caesars written
23 disclosure regarding the DNT Associates . . . , " which included Mr. Seibel. And, "[t]o the extent
24 that any prior disclosure becomes inaccurate, the DNT Parties shall, within ten (10) calendar days
25 from the event, update the prior disclosure without Caesars making any further request."

26 45. The DNT Agreement provided Caesars with the ability to terminate the DNT
27 Agreement in its discretion if it determined that (i) DNT was not complying with its disclosure
28

obligations, or (ii) DNT or an Associated Party was an "Unsuitable Person." Specifically, the DNT Agreement provided:

If any DNT Associate fails to satisfy or [sic] such requirement, if Caesars or any of Caesars' affiliates are directed to cease business with any DNT Associate by any Gaming Authority, or if Caesars shall determine, in Caesars' sole and exclusive judgment, that any DNT Associate is an Unsuitable Person, whether as a result of DNT Change of Control or otherwise, then, immediately following notice by Caesars to DNT, (a) the DNT Parties shall terminate any relationship with the Person who is the source of such issue, (b) the DNT Parties shall cease the activity or relationship creating the issue to Caesars' satisfaction, in Caesars' sole judgment, or (c) if such activity or relationship is not subject to cure as set forth in the foregoing clauses (a) and (b), as determined by Caesars in its sole discretion, Caesars shall, without prejudice to any other rights or remedies of Caesars including at law or in equity, have the right to terminate this Agreement and its relationship with the DNT Parties. The DNT Parties further acknowledges [sic] that Caesars shall have the absolute right to terminate this Agreement in the event any Gaming Authority requires Caesars or one of its Affiliates to do so. Any termination by Caesars pursuant to this [section] shall not be subject to dispute by the DNT Parties and shall not be the subject of any [arbitration proceeding].

46. Under the DNT Agreement, an "Unsuitable Person" was defined as follows:

Any Person (a) whose association with Caesars could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain, any registration, application or license or any other rights or entitlements held or required to be held by Caesars or any of its Affiliates under any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol, (b) whose association or relationship with Caesars or its Affiliates could be anticipated to violate any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol to which Caesars or its Affiliates are subject, (c) who is or might be engaged or about to be engaged in any activity which could adversely impact the business or reputation of Caesars or its Affiliates, or (d) who is required to be licensed, registered, qualified or found suitable under any United States, state, local, or foreign laws, rules or regulations relating to gaming or the sale of alcohol under which Caesars or any of its Affiliates is licensed, registered, qualified or found suitable, and such Person is not or does not remain so licensed, registered, qualified or found suitable.

47. Finally, DNT represented that, "[a]s of the Effective date [of the agreement], no representation or warranty made herein by [DNT] contains any untrue statement of a material fact, or omits to state a material fact necessary to make such statements not misleading."

48. As with the MOTI Agreement, the disclosure obligations under the DNT Agreement were not limited to the corporate entity DNT. Instead, DNT's obligations—both with respect to conduct and disclosure—applied to "DNT Associates," which included persons controlling DNT. Mr. Seibel, as the member-manager of DNT and the individual who signed the DNT Agreement, was a "DNT Associate." Thus, Mr. Seibel had an ongoing obligation to conduct himself with the

1 highest standards of honesty, integrity, quality, and courtesy. And DNT had an ongoing obligation
2 to disclose any information regarding Mr. Seibel that would render him an Unsuitable Person.

3 49. The initial disclosures that DNT and Mr. Seibel provided were false when made.
4 And, despite the obligations set out in the DNT Agreement, neither Mr. Seibel nor DNT ever
5 provided Caesars with an updated Business Information Form or any other supplemental disclosure.
6 Nor did they otherwise provide updated disclosures regarding Mr. Seibel's criminal activities, his
7 investigation by the IRS, his guilty plea, his conviction, or his incarceration.

8 (c) *The TPOV Agreement.*

9 50. The TPOV Agreement related to Paris' plans to partner with celebrity chef Gordon
10 Ramsay to design and develop a restaurant in the Paris casino known as "Gordon Ramsay Steak."
11 The TPOV Agreement set forth the obligations of TPOV and Mr. Seibel to assist with the design,
12 development, construction, and operation of Gordon Ramsay Steak.

13 51. The TPOV Agreement contained a number of representations relating to the conduct
14 of the parties and their disclosure obligations.

15 52. First, TPOV represented that "it shall and it shall cause its Affiliates to conduct
16 themselves in accordance with the highest standards of honesty, integrity, quality and courtesy so
17 as to maintain and enhance the reputation and goodwill of Paris, the Paris Las Vegas and the
18 Restaurant and at all times in keeping with and not inconsistent with or detrimental to the operation
19 of an exclusive, first-class resort hotel and casino and an exclusive, first-class restaurant." TPOV
20 further agreed that it would "use commercially reasonable efforts to continuously monitor the
21 performance of each of its and its Affiliates' respective agents, employees, servants, contractors and
22 licensees and shall ensure the foregoing standards are consistently maintained by all of them."

23 53. Second, TPOV agreed that it would "provide to Paris written disclosure regarding
24 the TPOV Associates . . . , " which included Mr. Seibel. And, "[t]o the extent that any prior
25 disclosure becomes inaccurate, TPOV shall, within ten (10) calendar days from the event, update
26 the prior disclosure without Paris making any further request."

27 54. The TPOV Agreement provided Paris with the ability to terminate the TPOV
28 Agreement in its discretion if it determined that (i) TPOV was not complying with its disclosure

obligations, or (ii) TPOV or an Associated Party was an "Unsuitable Person." Specifically, the TPOV Agreement provided:

If any TPOV Associate fails to satisfy or [sic] such requirement, if Paris or any of Paris' Affiliates are directed to cease business with any TPOV Associate by any Gaming Authority, or if Paris shall determine, in Paris' sole and exclusive judgment, that any TPOV Associate is an Unsuitable Person, whether as a result of a TPOV Change of Control or otherwise, then (a) TPOV shall terminate any relationship with the Person who is the source of such issue, (b) TPOV shall cease the activity or relationship creating the issue to Paris' satisfaction, in Paris' sole judgment, or (c) if such activity or relationship is not subject to cure as set forth in the foregoing clauses (a) and (b), as determined by Paris in its sole discretion, Paris shall, without prejudice to any other rights or remedies of Paris including at law or in equity, have the right to terminate this Agreement and its relationship with TPOV. TPOV further acknowledges that Paris shall have the right to terminate this Agreement in the event any Gaming Authority requires Paris or one of its Affiliates to do so. Any termination by Paris pursuant to this [section] shall not be subject to dispute by TPOV and shall not be the subject of any proceeding [in arbitration].

55. Under the TPOV Agreement, an "Unsuitable Person" was defined as follows:

Any Person (a) whose association with Paris or its Affiliates could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain, any registration, application or license or any other rights or entitlements held or required to be held by Paris or any of its Affiliates under any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol, (b) whose association or relationship with Paris or its Affiliates could be anticipated to violate any United States, state, local or foreign laws, rules or regulations relating to gaming or the sale of alcohol to which Paris or its Affiliates are subject, (c) who is or might be engaged or about to be engaged in any activity which could adversely impact the business or reputation of Paris or its Affiliates, or (d) who is required to be licensed, registered, qualified or found suitable under any United States, state, local, or foreign laws, rules or regulations relating to gaming or the sale of alcohol under which Paris or any of its Affiliates is licensed, registered, qualified or found suitable, and such Person is not or does not remain so licensed, registered, qualified or found suitable.

56. Finally, TPOV represented that, "[a]s of the Effective date [of the agreement], no representation or warranty made herein by [TPOV] contains any untrue statement of a material fact, or omits to state a material fact necessary to make such statements not misleading."

57. The disclosure and conduct obligations under the TPOV Agreement were not limited to the corporate entity TPOV. Instead, TPOV's obligations—both with respect to conduct and disclosure—included TPOV's "Associates" and "Affiliates." TPOV's Affiliates included persons controlling TPOV. The TPOV Agreement specifically stated that "with respect to TPOV, the term 'Affiliate' shall include Rowen Seibel and each Affiliate of Rowen Seibel." TPOV's Associates included its directors, employees, and representatives. Mr. Seibel, as the member-manager of

1 TPOV and the individual who signed the TPOV Agreement, was both a TPOV Affiliate and TPOV
2 Associate. Thus, Mr. Seibel had an ongoing obligation to conduct himself with the highest
3 standards of honesty, integrity, quality, and courtesy. And TPOV had an ongoing obligation to
4 disclose any information regarding Mr. Seibel that would render him an Unsuitable Person.

5 58. Because Mr. Seibel was specifically included as a TPOV Associate, Paris relied
6 upon his previous representations in the MOTI and DNT Business Information Forms that he had
7 not been a party to a felony in the past ten years and there was nothing in his past that would prevent
8 him from being licensed by a gaming authority. Thus, the disclosures contained in the Business
9 Information Forms constituted prior written disclosures referenced in the TPOV Agreement that
10 needed to be updated to the extent they were no longer accurate.

11 59. The initial disclosures that TPOV provided were false when made. And, despite the
12 obligations set out in the TPOV Agreement, neither Mr. Seibel nor TPOV ever provided Caesars
13 with an updated Business Information Form or any other supplemental disclosure. Nor did TPOV
14 otherwise provide updated disclosures regarding Mr. Seibel's criminal activities, his investigation
15 by the IRS, his guilty plea, his felony conviction, or his incarceration.

16 (d) *The LLTQ Agreement.*

17 60. The LLTQ Agreement related to Caesars Palace's plans to partner with celebrity chef
18 Gordon Ramsay to license intellectual property that would be used in connection with a restaurant
19 in the Caesars Palace casino known as the Gordon Ramsay Pub. The LLTQ Agreement set forth
20 the obligations of LLTQ and Mr. Seibel to assist with the design, development, construction, and
21 operation of the Gordon Ramsay Pub.

22 61. The LLTQ Agreement contained a number of representations relating to the conduct
23 of the parties and their disclosure obligations.

24 62. First, LLTQ represented that "it shall and it shall cause its Affiliates to conduct
25 themselves in accordance with the highest standards of honesty, integrity, quality and courtesy so
26 as to maintain and enhance the reputation and goodwill of Caesars, the Caesars Palace Las Vegas
27 and the Restaurant and at all times in keeping with and not inconsistent with or detrimental to the
28 operation of an exclusive, first-class resort hotel and casino and an exclusive, first-class restaurant."

1 LLTQ further agreed that it would "use commercially reasonable efforts to continuously monitor
2 the performance of each of its and its Affiliates' respective agents, employees, servants, contractors
3 and licensees and shall ensure the foregoing standards are consistently maintained by all of them."

4 63. Second, LLTQ agreed that it would "provide to Caesars written disclosure regarding
5 the LLTQ Associates . . . ," which included Mr. Seibel. And, "[t]o the extent that any prior
6 disclosure becomes inaccurate, LLTQ shall, within ten (10) calendar days from the event, update
7 the prior disclosure without Caesars making any further request."

8 64. The LLTQ Agreement provided Caesars Palace with the ability to terminate the
9 LLTQ Agreement in its discretion if it determined that (i) LLTQ was not complying with its
10 disclosure obligations or (ii) LLTQ or an Associated Party was an "Unsuitable Person."
11 Specifically, the LLTQ Agreement provided:

12 If any LLTQ Associate fails to satisfy or [sic] such requirement, if Caesars or any of
13 Caesars' Affiliates are directed to cease business with any LLTQ Associate by any
14 Gaming Authority, or if Caesars shall determine, in Caesars' sole and exclusive
15 judgment, that any LLTQ Associate is an Unsuitable Person, whether as a result of a
16 LLTQ Change of Control or otherwise, then (a) LLTQ shall terminate any
17 relationship with the Person who is the source of such issue, (b) LLTQ shall cease
18 the activity or relationship creating the issue to Caesars' satisfaction, in Caesars' sole
19 judgment, or (c) if such activity or relationship is not subject to cure as set forth in
20 the foregoing clauses (a) and (b), as determined by Caesars in its sole discretion,
21 Caesars shall, without prejudice to any other rights or remedies of Caesars including
22 at law or in equity, have the right to terminate this Agreement and its relationship
23 with LLTQ. LLTQ further acknowledges that Caesars shall have the right to
24 terminate this Agreement in the event any Gaming Authority requires Caesars or one
25 of its Affiliates to do so. Any termination by Caesars pursuant to this [section] shall
26 not be subject to dispute by LLTQ and shall not be the subject of any proceeding [in
27 arbitration].

21 65. Under the LLTQ Agreement, an "Unsuitable Person" was defined as follows:

22 Any Person (a) whose association with Caesars or its Affiliates could be anticipated
23 to result in a disciplinary action relating to, or the loss of, inability to reinstate or
24 failure to obtain, any registration, application or license or any other rights or
25 entitlements held or required to be held by Caesars or any of its Affiliates under any
26 United States, state, local or foreign laws, rules or regulations relating to gaming or
27 the sale of alcohol, (b) whose association or relationship with Caesars or its Affiliates
28 could be anticipated to violate any United States, state, local or foreign laws, rules or
regulations relating to gaming or the sale of alcohol to which Caesars or its Affiliates
are subject, (c) who is or might be engaged or about to be engaged in any activity
which could adversely impact the business or reputation of Caesars or its Affiliates,
or (d) who is required to be licensed, registered, qualified or found suitable under any
United States, state, local, or foreign laws, rules or regulations relating to gaming or
the sale of alcohol under which Caesars or any of its Affiliates is licensed, registered,

1 qualified or found suitable, and such Person is not or does not remain so licensed,
2 registered, qualified or found suitable.

3 66. Finally, LLTQ represented that, "[a]s of the Effective date [of the agreement], no
4 representation or warranty made herein by [LLTQ] contains any untrue statement of a material fact,
5 or omits to state a material fact necessary to make such statements not misleading."

6 67. The disclosure and conduct obligations under the LLTQ Agreement were not limited
7 to the corporate entity LLTQ. Instead, LLTQ's obligations—both with respect to conduct and
8 disclosure—included LLTQ's "Associates" and "Affiliates." LLTQ's Affiliates included persons
9 controlling LLTQ. The LLTQ Agreement specifically stated that "with respect to LLTQ, the term
10 'Affiliate' shall include Rowen Seibel and each Affiliate of Rowen Seibel." LLTQ's Associates
11 included its directors, employees, and representatives. Mr. Seibel, as the member-manager of
12 LLTQ and the individual who signed the LLTQ Agreement, was both an LLTQ Affiliate and
13 Associate. Thus, Mr. Seibel had an ongoing obligation to conduct himself with the highest
14 standards of honesty, integrity, quality, and courtesy. And LLTQ had an ongoing obligation to
15 disclose any information regarding Mr. Seibel that would render him an Unsuitable Person.

16 68. Because Mr. Seibel was specifically included as an LLTQ Associate, Caesars relied
17 upon his previous representations in the MOTI and DNT Business Information Forms that he had
18 not been a party to a felony in the past ten years and there was nothing in his past that would prevent
19 him from being licensed by a gaming authority. Thus, the disclosures contained in the Business
20 Information Forms constituted the prior written disclosures referenced in the LLTQ Agreement.

21 69. The initial disclosures that LLTQ provided were false when made. And, despite the
22 obligations set out in the LLTQ Agreement, neither Mr. Seibel nor LLTQ ever provided Caesars
23 with an updated Business Information Form or any other supplemental disclosure. Nor did LLTQ
24 otherwise provide updated disclosures regarding Mr. Seibel's criminal activities, his investigation
25 by the IRS, his guilty plea, his felony conviction, or his incarceration.

26 70. In addition, Section 13.22 of the LLTQ Agreement ("Section 13.22") contains the
27 following provision:

28 If Caesars elects under this Agreement to pursue any venture similar to (i) the
Restaurant (i.e., any venture generally in the nature of a pub, bar, café or tavern) or

(ii) the "Restaurant" as defined in the [TPOV Agreement] (i.e., any venture generally in the nature of a steak restaurant, fine dining steakhouse or chop house), Caesars and LLTQ shall, or shall cause an Affiliate to, execute a development and operation agreement on the same terms and conditions as this Agreement, subject only to revisions proposed by Caesars or its Affiliate as are necessary to reflect the difference in location between the Restaurant and such other venture (including, for the avoidance of doubt, the Baseline Amount, permitted Operating Expenses and necessary Project Costs).

71. Caesars has taken the position that this provision, which has been characterized as a restrictive covenant, is unenforceable as a matter of law because (a) the LLTQ Agreement was properly terminated; (b) Caesars is prohibited from entering into a business relationship with LLTQ or Mr. Seibel given that LLTQ and Mr. Seibel are Unsuitable Persons; and (c) Section 13.22 is vague, ambiguous, indefinite, and overly broad. In contrast, LLTQ has asserted that it is enforceable and should apply to any future ventures in any location between Caesars and Gordon Ramsay.

(e) The GR Burgr Agreement.

72. The GRB Agreement related to Planet Hollywood's plans to design, develop, and operate a restaurant in the Planet Hollywood casino known as "BURGR Gordon Ramsay." As such, the GRB Agreement set forth the obligations of GRB to license certain intellectual property to Planet Hollywood and assist with the design, development, construction, and operation of the BURGR Gordon Ramsay Restaurant.

73. The GRB Agreement contained a number of representations relating to the conduct of the parties and their disclosure obligations.

74. First, GRB represented that "it shall and it shall cause its Affiliates to conduct themselves in accordance with the highest standards of honesty, integrity, quality and courtesy so as to maintain and enhance the reputation and goodwill of PH, the GRB Marks, PH and the Restaurant and at all times in keeping with and not inconsistent with or detrimental to the operation of an exclusive, first-class resort hotel and casino and an exclusive, first-class restaurant." GRB further agreed that it would "use commercially reasonable efforts to continuously monitor the performance of each of its and its Affiliates' respective agents, employees, servants, contractors and licensees and shall ensure the foregoing standards are consistently maintained by all of them. Any

1 failure by GRB or any of its respective Affiliates or any of their respective agents, employees,
2 servants, contractors or licensees to maintain the standards described in this [section] shall, in
3 addition to any other rights or remedies PH have, give PH the right to terminate this Agreement . . .
4 in its sole and absolute discretion."

5 75. Second, GRB further agreed that it would "provide or cause to be provided to PH
6 written disclosure regarding its GR Associates . . .," which included Mr. Seibel. And, "[t]o the
7 extent that any prior disclosure becomes inaccurate, GRB shall, within ten (10) calendar days from
8 the event, update the prior disclosure without PH making any further request."

9 76. The GRB Agreement provided Planet Hollywood with the ability to terminate the
10 GRB Agreement in its discretion if it determined that (i) GRB was not complying with its disclosure
11 obligations, or (ii) GRB or an Associated Party was an "Unsuitable Person." Specifically, the GRB
12 Agreement provided:

13 If any GRB Associate fails to satisfy any such requirement, if PH or any of PH's
14 Affiliates are directed to cease business with any GRB Associate by any Gaming
15 Authority, or if PH shall determine, in PH's sole and exclusive judgment, that any
16 GRB Associate is an Unsuitable Person, then immediately following notice by PH to
17 Gordon Ramsay and GRB, (a) Gordon Ramsay and/or GRB shall terminate any
18 relationship with the Person who is the source of such issue, (b) Gordon Ramsay
19 and/or GRB shall cease the activity or relationship creating the issue to PH's
20 satisfaction, in PH's sole judgment, or (c) if such activity or relationship is not subject
21 to cure as set forth in the foregoing clauses (a) and (b), as determined by PH in its
22 sole discretion, PH shall, without prejudice to any other rights or remedies of Caesars
23 including at law or in equity, have the right to terminate this Agreement and its
24 relationship with Gordon Ramsay and GRB. Each of Gordon Ramsay and GRB
25 further acknowledges that PH shall have the absolute right to terminate this
26 Agreement in the event any Gaming Authority requires PH or one of its Affiliates to
27 do so. Any termination by PH pursuant to this [section] shall not be subject to dispute
28 by Gordon Ramsay or GRB and shall not be the subject of any proceeding [in
arbitration].

22 77. Under the GRB Agreement, an "Unsuitable Person" was defined as follows:

23 Any Person (a) whose association with PH or its Affiliates could be anticipated to
24 result in a disciplinary action relating to, or the loss of, inability to reinstate or failure
25 to obtain, any registration, application or license or any other rights or entitlements
26 held or required to be held by PH or any of its Affiliates under any United States,
27 state, local or foreign laws, rules or regulations relating to gaming or the sale of
28 alcohol, (b) whose association or relationship with PH or its Affiliates could be
anticipated to violate any United States, state, local or foreign laws, rules or
regulations relating to gaming or the sale of alcohol to which PH or its Affiliates are
subject, (c) who is or might be engaged or about to be engaged in any activity which
could adversely impact the business or reputation of PH or its Affiliates, or (d) who
is required to be licensed, registered, qualified or found suitable under any United
States, state, local, or foreign laws, rules or regulations relating to gaming or the sale

1 of alcohol under which PH or any of its Affiliates is licensed, registered, qualified or
2 found suitable, and such Person is not or does not remain so licensed, registered,
qualified or found suitable.

3 78. Finally, GRB represented that, "[a]s of the Effective date [of the agreement], no
4 representation or warranty made herein by [GRB] contains any untrue statement of a material fact,
5 or omits to state a material fact necessary to make such statements not misleading."

6 79. The disclosure and conduct obligations under the GRB Agreement were not limited
7 to the corporate entity GRB. Instead, GRB's obligations—both with respect to conduct and
8 disclosure—included GRB's "Associates" and "Affiliates." GRB's Affiliates included persons
9 controlling GRB and GRB's Associates included its directors, employees, and representatives.
10 Mr. Seibel, as the member-manager of GRB and the individual who signed the GRB Agreement,
11 was both a GRB Affiliate and Associate. Thus, Mr. Seibel had an ongoing obligation to conduct
12 himself with the highest standards of honesty, integrity, quality, and courtesy. And GRB had an
13 ongoing obligation to disclose any information regarding Mr. Seibel that would render him an
14 Unsuitable Person.

15 80. Because Mr. Seibel was specifically included as a GRB Associate, Caesars relied
16 upon his previous representations in the MOTI and DNT Business Information Forms that he had
17 not been a party to a felony in the past ten years and there was nothing in his past that would prevent
18 him from being licensed by a gaming authority. Thus, the disclosures contained in the Business
19 Information Forms constituted the prior written disclosures referenced in the GRB Agreement.

20 81. The initial disclosures that GRB provided were false when made. And, despite the
21 obligations set out in the GRB Agreement, neither Mr. Seibel nor GRB ever provided Caesars with
22 an updated Business Information Form or any other supplemental disclosure. Nor did GRB
23 otherwise provide updated disclosures regarding Mr. Seibel's illegal activities, his criminal
24 investigation by the IRS, his guilty plea, his felony conviction, or his incarceration.

25 *(f) The FERG Agreement*

26 82. As with the LLTQ Agreement, the FERG Agreement related to CAC's plans to
27 partner with Mr. Ramsay to license intellectual property that would be used in connection with a
28 restaurant in the CAC casino known as "Gordon Ramsay Pub and Grill." The FERG Agreement

1 set forth the obligations of FERG and Mr. Seibel to assist with the design, development,
2 construction, and operation of the Gordon Ramsay Pub and Grill.

3 83. The FERG Agreement contained a number of representations relating to the conduct
4 of the parties and their disclosure obligations.

5 84. First, FERG represented in the FERG Agreement that "it shall and it shall cause its
6 Affiliates to conduct themselves in accordance with the highest standards of honesty, integrity,
7 quality and courtesy so as to maintain and enhance the reputation and goodwill of the CAC Marks
8 and materials, the GR Marks, CAC, and the Restaurant and at all times in keeping with and not
9 inconsistent with or detrimental to the operation of an exclusive, first-class resort hotel and casino
10 and an exclusive, first-class restaurant." FERG further agreed that it would "use commercially
11 reasonable efforts to continuously monitor the performance of each of its and its Affiliates'
12 respective agents, employees, servants, contractors and licensees and shall ensure the foregoing
13 standards are consistently maintained by all of them."

14 85. Second, FERG agreed that it would "provide to CAC written disclosure regarding
15 the FERG Associates . . . , " which included Mr. Seibel. And, "[t]o the extent that any prior
16 disclosure becomes inaccurate, FERG shall, within ten (10) calendar days from the event, update
17 the prior disclosure without CAC making any further request."

18 86. The FERG Agreement provided CAC with the ability to terminate the
19 FERG Agreement in its discretion if it determined that (i) FERG was not complying with its
20 disclosure obligations, or (ii) FERG or an Associated Party was an "Unsuitable Person."
21 Specifically, the FERG Agreement provided:

22 If any FERG Associate fails to satisfy or [sic] such requirement, if CAC or any of
23 CAC's Affiliates are directed to cease business with any FERG Associate by any
24 Gaming Authority, or if CAC shall determine, in CAC's sole and exclusive judgment,
25 that any FERG Associate is an Unsuitable Person, whether as a result of a FERG
26 Change of Control or otherwise, then (a) FERG shall terminate any relationship with
27 the Person who is the source of such issue, (b) FERG shall cease the activity or
28 relationship creating the issue to CAC's satisfaction, in CAC's sole judgment, or (c) if
such activity or relationship is not subject to cure as set forth in the foregoing clauses
(a) and (b), as determined by CAC in its sole discretion, CAC shall, without prejudice
to any other rights or remedies of CAC including at law or in equity, have the right
to terminate this Agreement and its relationship with FERG. FERG further
acknowledges that CAC shall have the right to terminate this Agreement in the event
any Gaming Authority requires CAC or one of its Affiliates to do so. Any

1 termination by CAC pursuant to this [section] shall not be subject to dispute by FERG
2 and shall not be the subject of any proceeding [in arbitration].

3 87. Under the FERG Agreement, an "Unsuitable Person" was defined as follows:

4 Any Person (a) whose association with CAC or its Affiliates could be anticipated to
5 result in a disciplinary action relating to, or the loss of, inability to reinstate or failure
6 to obtain, any registration, application or license or any other rights or entitlements
7 held or required to be held by CAC or any of its Affiliates under any United States,
8 state, local or foreign laws, rules or regulations relating to gaming or the sale of
9 alcohol, (b) whose association or relationship with CAC or its Affiliates could be
10 anticipated to violate any United States, state, local or foreign laws, rules or
11 regulations relating to gaming or the sale of alcohol to which CAC or its Affiliates
are subject, (c) who is or might be engaged or about to be engaged in any activity
which could adversely impact the business or reputation of CAC or its Affiliates, or
(d) who is required to be licensed, registered, qualified or found suitable under any
United States, state, local, or foreign laws, rules or regulations relating to gaming or
the sale of alcohol under which CAC or any of its Affiliates is licensed, registered,
qualified or found suitable, and such Person is not or does not remain so licensed,
registered, qualified or found suitable.

12 88. Finally, FERG represented that, "[a]s of the Effective date [of the agreement], no
13 representation or warranty made herein by [FERG] contains any untrue statement of a material fact,
14 or omits to state a material fact necessary to make such statements not misleading."

15 89. The disclosure and conduct obligations under the FERG Agreement were not limited
16 to the corporate entity FERG. Instead, FERG's obligations—both with respect to conduct and
17 disclosure—included FERG's "Associates" and "Affiliates." FERG's Affiliates included persons
18 controlling FERG. The FERG Agreement specifically stated that "with respect to FERG, the term
19 'Affiliate' shall include Rowen Seibel and each Affiliate of Rowen Seibel." FERG's Associates
20 included its directors, employees, and representatives. Mr. Seibel, as the member-manager of
21 FERG and the individual who signed the FERG Agreement, was both a FERG Affiliate and
22 Associate. Thus, Mr. Seibel had an ongoing obligation to conduct himself with the highest
23 standards of honesty, integrity, quality, and courtesy. And FERG had an ongoing obligation to
24 disclose any information regarding Mr. Seibel that would render him an Unsuitable Person.

25 90. Because Mr. Seibel was specifically included as a FERG Associate, Caesars relied
26 upon his previous representations in the MOTI and DNT Business Information Forms that he had
27 not been a party to a felony in the last ten years and there was nothing in his past that would prevent
28

1 him from being licensed by a gaming authority. Thus, the disclosures contained in the Business
2 Information Forms constituted the prior written disclosures referenced in the FERG Agreement.

3 91. The initial disclosures that FERG provided were false when made. And, despite the
4 obligations set out in the FERG Agreement, neither Mr. Seibel nor FERG ever provided Caesars
5 with an updated Business Information Form or any other supplemental disclosure. Nor did FERG
6 otherwise provide updated disclosures regarding Mr. Seibel's criminal activities, his investigation
7 by the IRS, his guilty plea, his felony conviction, or his incarceration.

8 92. In addition, Section 4.1 of the FERG Agreement ("Section 4.1") states: "In the event
9 a new agreement is executed between CAC and/or its Affiliate and Gordon Ramsay and/or his
10 Affiliate relative to the Restaurant or Restaurant Premises, this Agreement shall be in effect and
11 binding on the parties during the term hereof."

12 93. Caesars contends that this provision, which has been characterized as a restrictive
13 covenant, is unenforceable as a matter of law because (a) the FERG Agreement was properly
14 terminated; (b) Caesars is prohibited from entering into a business relationship with FERG or
15 Mr. Seibel given that FERG and Mr. Seibel are Unsuitable Persons; and (c) Section 4.1 is vague,
16 ambiguous, indefinite, and overly broad. In contrast, FERG has asserted that this provision is
17 enforceable and should apply to any future ventures between CAC and Gordon Ramsay.

18 **B. The Activities of Mr. Seibel and the Seibel-Affiliated Entities Rendered Him**
19 **Unsuitable Under the Seibel Agreements.**

20 94. Approximately five years before completing the MOTI Business Information Form
21 and entering into the MOTI Agreement, Mr. Seibel was engaged in activities of the type that would
22 have rendered him unsuitable under the Seibel Agreements. And, despite his obligations to do so,
23 Mr. Seibel and the Seibel-Affiliated Entities never disclosed Mr. Seibel's illegal activities to
24 Caesars.

25 ***(a) Mr. Seibel set up numbered UBS accounts in Switzerland and concealed***
26 ***them from the United States government.***

27 95. From approximately March 3, 2004 through 2008, Mr. Seibel maintained an account
28 at Union Bank of Switzerland ("UBS").

1 96. In 2004, Mr. Seibel and his mother traveled to UBS' offices in Switzerland. While
2 in Switzerland, Mr. Seibel opened and became the beneficiary and account holder of a UBS bank
3 account that was not titled in his own name. Instead, the account was identified in internal bank
4 records with the phrase "CQUE" and a unique account number (the "Numbered UBS Account").

5 97. At the same time, Mr. Seibel executed a UBS Telefax Agreement that allowed him
6 to have regular communication with UBS via facsimile. Mr. Seibel also executed forms
7 acknowledging that he was a United States citizen subject to United States taxation, and that he was
8 the beneficial owner of the assets and income associated with the Numbered UBS Account.

9 98. In exchange for the payment of an additional fee to UBS, Mr. Seibel authorized and
10 directed UBS to retain all account correspondence so that no bank statements or other
11 correspondence related to the Numbered UBS Account would be mailed to him in the United States.

12 99. Mr. Seibel caused his Numbered UBS Account to be opened in 2004 with a
13 \$25,000 cash deposit made by his mother. Between 2004 and 2005, Mr. Seibel's mother deposited
14 cash and checks totaling approximately \$1,000,000 into Mr. Seibel's account, bringing to
15 \$1,011,279 the total deposits made into Mr. Seibel's Numbered UBS Account.

16 100. UBS bank records demonstrate that Mr. Seibel and not his mother was the individual
17 who actively monitored and approved the selection and investment of the assets maintained in the
18 Numbered UBS Account. Mr. Seibel's trading in the account resulted in a substantial amount of
19 income in the form of capital gains, dividends, and interest. By 2008, the account had a balance of
20 approximately \$1,300,200.

21 ***(b) In 2008, Mr. Seibel closed his UBS account and opened a new account.***

22 101. On or about May 30, 2008, Mr. Seibel traveled back to Switzerland and informed
23 UBS personnel that he wanted to close his Numbered UBS Account. Mr. Seibel explained he was
24 concerned about the existence of the account given recent press reports. Those press reports had
25 revealed various investigations commenced by United States law enforcement of UBS's role in
26 helping United States citizens evade federal income taxes by, among other things, using undeclared
27 foreign bank accounts at UBS.
28

1 102. In late May 2008, Mr. Seibel traveled to Switzerland to close out his Numbered UBS
2 Account. Prior to doing so, he created a Panamanian shell company called Mirza International
3 ("Mirza"). Mr. Seibel was the beneficial owner of the shell company. In addition, Mr. Seibel
4 opened another offshore account at a different Swiss bank, Banque J. Safra. This time, however,
5 he opened the account in the name of the newly created Mirza International instead of his own
6 name.

7 (c) *Mr. Seibel filed incomplete and inaccurate tax returns.*

8 103. On or about October 10, 2008, Mr. Seibel filed with the IRS a Form 1040 for
9 calendar year 2007. United States citizens and residents are obligated, on their Form 1040, to report
10 their income from any source, regardless of whether the source is inside or outside the United States.
11 Taxpayers who have a financial interest in, or signature authority over, a financial account in a
12 foreign country over a threshold amount also are required to file with the IRS a Report of Foreign
13 Bank and Financial Accounts, Form TD F 90-22.1 ("FBAR").

14 104. On his return, which Mr. Seibel signed under penalty of perjury, he omitted reporting
15 any dividend, interest, and other income received by him in one or more bank, securities, and other
16 financial accounts at UBS. Mr. Seibel also failed to report on Schedule B of his 2007 Form 1040
17 that he had an interest in or a signature authority over a financial account in a foreign country.
18 Moreover, because of his authority over the Numbered UBS Account, Mr. Seibel was required to
19 file a FBAR for calendar year 2007. He failed to do so.

20 105. On or about April 15, 2009, Mr. Seibel submitted his IRS Form 1040 for calendar
21 year 2008. On that return, Mr. Seibel omitted the dividend, interest, and other income received by
22 him in one or more bank, securities, and other financial accounts at UBS. Moreover, Mr. Seibel
23 falsely claimed that he did not have an interest in or signature authority or control over a financial
24 account in a foreign country. In addition, because of his authority over the Numbered UBS
25 Account, Mr. Seibel was required to file a FBAR for calendar year 2008. He failed to do so.

26 (d) *Mr. Seibel provided false application to voluntary disclosure program.*

27 106. In March 2009, the IRS began the Voluntary Disclosure Program to provide an
28 opportunity for U.S. taxpayers, not already under investigation by the IRS, to avoid criminal

1 prosecution by disclosing their previously undeclared offshore accounts and paying tax and
2 penalties on the income earned in those accounts.

3 107. On or about October 15, 2009, Mr. Seibel signed and caused to be submitted to the
4 IRS an application to the Voluntary Disclosure Program (the "Application"). The Application,
5 drafted by Mr. Seibel's mother's attorney, stated that Mr. Seibel had been unaware, during the years
6 2004 and 2005, that his mother had made deposits into the Numbered UBS Account for Mr. Seibel's
7 benefit. It also stated Mr. Seibel had been unaware, until he made inquiries of UBS in 2009, of the
8 status of his account at UBS and had in fact over time reached "the conclusion that deposits [into
9 his Numbered UBS Account] had been stolen or otherwise disappeared."

10 108. These statements were false. As set forth above, Mr. Seibel was (i) at all times
11 knowledgeable about the Numbered UBS Account and had taken a role in the oversight of, and
12 transactions in, that account, and (ii) was aware as to the disposition of the funds from that account,
13 as Mr. Seibel traveled to Switzerland the year before to effect the closing of the Numbered UBS
14 Account and transfer of its funds into another foreign bank account at a different Swiss bank. Thus,
15 when Mr. Seibel signed and submitted the Application, he was lying to the United States
16 government.

17 109. At some point, the United States government began to investigate Mr. Seibel for his
18 criminal activities. On April 18, 2016, the United States Attorney filed an information charging
19 Mr. Seibel with corrupt endeavor to obstruct and impede the due administration of the Internal
20 Revenue Laws, 26 U.S.C. § 7212(a). That same day, Mr. Seibel pleaded guilty to one count of a
21 corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws,
22 26 U.S.C. § 7212, a Class E Felony. Mr. Seibel stated that he was "pleading guilty because [he
23 was] in fact guilty," and admitted that on his IRS Form 1040 for the year 2008, he "corruptly
24 answer[ed] the question 'no' when [he] knew that answer was incorrect." Mr. Seibel's guilty plea
25 was the result of criminal conduct that began prior to Caesars entering into the Seibel Agreements.

26 110. On August 19, 2016, Mr. Seibel appeared at his sentencing hearing where he was
27 sentenced to 30 days in prison, six months of home confinement, and 300 hours of community
28 service.

111. Mr. Seibel, however, did not notify Caesars of his guilty plea. But he certainly understood that it would result in the termination of his relationship with Caesars. In an attempt to avoid these consequences of his impending felony conviction, Mr. Seibel informed Caesars on April 8, 2016—ten days before entering his guilty plea—that he was (i) transferring all of the membership interests of the Seibel-Affiliated Entities that he previously owned to two individuals that would be trustees of a trust he had created; (ii) naming other individuals as the managers of the Seibel-Affiliated Entities; (iii) assigning the agreements to new entities that had been created (*i.e.*, LLTQ 16, FERG Enterprises 16, TPOV 16, and MOTI Partners 16, LLC); and (iv) delegating all of his duties under the LLTQ, FERG, TPOV, and MOTI Agreements to J. Jeffrey Frederick ("Mr. Frederick"). Mr. Seibel did not disclose that he decided to perform these purported assignments, transfers, and delegations because of his impending felony conviction. Mr. Seibel also transferred the interests and duties relating to the Seibel-Affiliated Entities to his family and close friends—like Mr. Frederick—and thus remained associated with the Seibel-Affiliated Entities.

C. Caesars Exercises Its Sole Discretion to Terminate the Agreements with the Seibel-Affiliated Entities.

112. Despite the obligations of Mr. Seibel and the Seibel-Affiliated Entities to inform Caesars of Mr. Seibel's felony conviction and update the relevant disclosures, they never did so. Instead, Caesars only learned of Mr. Seibel's felony conviction from press reports in August 2016. When Caesars became aware of Mr. Seibel's felony conviction, it promptly terminated all of its agreements with the Seibel-Affiliated Entities.

(a) *Termination of the MOTI Agreement.*

113. On September 2, 2016, counsel for Caesars Palace sent MOTI a letter terminating the MOTI Agreement. Caesars explained the grounds for termination in its letter:

Pursuant to Section 9.2 of the Agreement, MOTI has acknowledged and agrees that Caesars and/or its affiliates conduct business that are or may be subject to and exist because of privileged licenses issued by governmental authorities. Additionally, Section 9.2 provides that if Caesars determines, in its sole and absolute judgment, that (a) any MOTI Associate is an Unsuitable Person and (b) such relationship is not subject to cure, Caesars shall have the right to terminate the Agreement.

Caesars is aware that Rowen Seibel, who is a MOTI Associate under the Agreement, has recently pleaded guilty to a one-count criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) (corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws), a Class E Felony. Such felony conviction renders Rowen Seibel an Unsuitable Person.

Therefore, Caesars has determined that the nature of Rowen Seibel's actions and his relationship to MOTI are not capable of being cured. Accordingly, Caesars is exercising its rights under Section 9.2 of the Agreement and is terminating the Agreement effective immediately.

(b) Termination of the DNT Agreement.

114. On September 2, 2016, counsel for Caesars Palace sent DNT a letter terminating the DNT agreement. Caesars explained the grounds for termination in its letter:

Pursuant to Section 11.2 of the Agreement, the DNT Parties have acknowledged and agree that Caesars and/or its affiliates conduct business that are or may be subject to and exist because of privileged licenses issued by governmental authorities. Additionally, Section 11.2 provides that Caesars determines, in its sole and absolute judgment, that any DNT Associate is an Unsuitable Person, the DNT Parties shall cease activity or relationship creating the issue.

Caesars is aware that Rowen Seibel, who is a DNT Associate under the Agreement, has recently pleaded guilty to a one-count criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) (corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws), a Class E Felony. Such felony conviction renders Rowen Seibel an Unsuitable Person.

Therefore, the DNT Parties shall, within 10 business days of receipt of this letter, terminate any relationship with Mr. Seibel and provide Caesars with written evidence of such terminated relationship. If the DNT Parties fails to terminate the relationship with Mr. Seibel, Caesars will be required to terminate the agreement pursuant to section 4.2.3 of the Agreement.

115. In response to this letter, DNT failed to provide Caesars with sufficient evidence demonstrating that it had terminated its relationship with Mr. Seibel. Though Mr. Seibel had purportedly assigned his rights and interests in DNT and the DNT Agreement, Caesars determined, in its sole discretion—as it was entitled to do under the DNT Agreement—that DNT's relationship was not subject to cure given Mr. Seibel's continued relationship with the principals and representatives of DNT. As a result, the DNT Agreement was terminated.

(c) Termination of the TPOV Agreement.

116. On September 2, 2016, counsel for Caesars Palace sent TPOV a letter terminating the TPOV agreement. Caesars explained the grounds for termination in its letter:

Pursuant to Section 10.2 of the Agreement, TPOV has acknowledged and agrees that Caesars and/or its affiliates conduct business that are or may be subject to and exist because of privileged licenses issued by governmental authorities. Additionally, Section 10.2 provides that if Caesars determines, in its sole and absolute judgment, that (a) any TPOV Associate is an Unsuitable Person and (b) such relationship is not subject to cure, Caesars shall have the right to terminate the Agreement.

Caesars is aware that Rowen Seibel, who is a TPOV Associate under the Agreement, has recently pleaded guilty to a one-count criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) (corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws), a Class E Felony. Such felony conviction renders Rowen Seibel an Unsuitable Person.

Therefore, Caesars has determined that the nature of Rowen Seibel's actions and his relationship to TPOV are not capable of being cured. Accordingly, Caesars is exercising its rights under Section 4.2.5 of the Agreement and is terminating the Agreement effective immediately.

(d) Termination of the LLTQ Agreement.

117. On September 2, 2016, counsel for Caesars Palace sent LLTQ a letter terminating the LLTQ agreement. Caesars explained the grounds for termination in its letter:

Pursuant to Section 10.2 of the Agreement, LLTQ has acknowledged and agrees that Caesars and/or its affiliates conduct business that are or may be subject to and exist because of privileged licenses issued by governmental authorities. Additionally, Section 10.2 provides that if Caesars determines, in its sole and absolute judgment, that (a) any LLTQ Associate is an Unsuitable Person and (b) such relationship is not subject to cure, Caesars shall have the right to terminate the Agreement.

Caesars is aware that Rowen Seibel, who is a LLTQ Associate under the Agreement, has recently pleaded guilty to a one-count criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) (corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws), a Class E Felony. Such felony conviction renders Rowen Seibel an Unsuitable Person.

Therefore, Caesars has determined that the nature of Rowen Seibel's actions and his relationship to LLTQ are not capable of being cured. Accordingly, Caesars is exercising its rights under Section 4.2.5 of the Agreement and is terminating the Agreement effective immediately.

(e) Termination of the GRB Agreement.

118. On September 2, 2016, counsel for Caesars Palace sent GRB a letter terminating the GRB Agreement. Caesars explained the grounds for termination in its letter:

Pursuant to Section 11.2 of the Agreement, GRB has acknowledged and agrees that Caesars and/or its affiliates conduct business that are or may be subject to and exist because of privileged licenses issued by governmental authorities. Additionally, Section 11.2 provides that if Caesars determines, in its sole and absolute judgment,

1 that any GRB Associate is an Unsuitable Person, GRB shall cease the activity or
2 relationship creating the issue.

3 Caesars is aware that Rowen Seibel, who is a GR Associate under the Agreement,
4 has recently pleaded guilty to a one-count criminal information charging him with
5 impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212)
(corrupt endeavor to obstruct and impede the due administration of the Internal
6 Revenue Laws), a Class E Felony. Such felony conviction renders Rowen Seibel an
7 Unsuitable Person.

8 Therefore, GRB shall, within 10 business days of the receipt of this letter, terminate
9 any relationship with Mr. Seibel and provide Caesars with written evidence of such
10 terminated relationship. If GRB fails to terminate the relationship with Mr. Seibel,
11 Caesars will be required to terminate the Agreement pursuant to Section 4.2.5 of the
12 Agreement.

13 119. In response to this letter, GRB failed to provide Caesars with sufficient evidence
14 demonstrating that it had terminated its relationship with Mr. Seibel. Though Mr. Seibel had
15 purportedly assigned his rights and interests in GRB and the GRB Agreement, Caesars determined,
16 in its sole discretion—as it was entitled to do under the GRB Agreement—that GRB's relationship
17 was not subject to cure given Mr. Seibel's continued relationship with the principals and
18 representatives of GRB. Mr. Seibel's partner in GRB similarly informed Caesars that GRB could
19 not adequately disassociate itself with Mr. Seibel. As a result, the GRB Agreement was terminated.

20 *(f) Termination of the FERG Agreement.*

21 120. On September 2, 2016, counsel for Caesars Palace sent FERG a letter terminating
22 the FERG agreement. Caesars explained the grounds for termination in its letter:

23 Pursuant to Section 11.2 of the Agreement, FERG has acknowledged and agrees that
24 Caesars and/or its affiliates conduct business that are or may be subject to and exist
25 because of privileged licenses issued by governmental authorities. Additionally,
26 Section 11.2 provides that if Caesars determines, in its sole and absolute judgment,
27 that (a) any FERG Associate is an Unsuitable Person and (b) such relationship is not
28 subject to cure, Caesars shall have the right to terminate the Agreement.

Caesars is aware that Rowen Seibel, who is a FERG Associate under the Agreement,
has recently pleaded guilty to a one-count criminal information charging him with
impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212)
(corrupt endeavor to obstruct and impede the due administration of the Internal
Revenue Laws), a Class E Felony. Such felony conviction renders Rowen Seibel an
Unsuitable Person.

Therefore, Caesars has determined that the nature of Rowen Seibel's actions and his
relationship to FERG are not capable of being cured. Accordingly, Caesars is
exercising its rights under Section 4.2(e) of the Agreement and is terminating the
Agreement effective immediately.

(g) *The Seibel-Affiliated Entities dispute the propriety of the termination of their agreements with Caesars,*

121. After receiving the termination notices on September 2, 2016, counsel for the Defendants sent Caesars several letters disputing the propriety of the terminations. According to the Seibel-Affiliated Entities, Mr. Seibel no longer had any relationship with the Seibel-Affiliated Entities and thus Caesars' termination of the agreements was improper.

122. In response, counsel for Caesars explained that the Seibel-Affiliated Entities' relationship with Mr. Seibel was still unacceptable given the relationships of the assignees (like Mr. Frederick) to Mr. Seibel:

We note that the proposed assignee [of the agreements] and its Associates have direct or indirect relationships with Rowen Seibel. Based on the Company's experiences with the Nevada Gaming Control Board and other gaming regulatory authorities which regulate the Company and its affiliates (collectively, "Gaming Regulatory Authorities"), the Company believes that such relationships with Mr. Seibel would be unacceptable to the Gaming Regulatory Authorities. Further the Company believes that a commercial relationship with the proposed assignee and its Associates, because of their relationships with Mr. Seibel, would also be unacceptable to the Gaming Regulatory Authorities. Lastly, we note that Mr. Seibel failed, through the applicable entity, to affirmatively update prior disclosures to the Company, which updated disclosure is required and bears directly on his suitability.

Based on the foregoing, the Company reasonably believes the commercial relationship with the proposed assignee and its Associates would result in a disciplinary action by one or more of the Gaming Regulatory Authorities, which could jeopardize the Company's privileged licenses. Therefore, the Company has determined that the proposed assignee and its Affiliates are Unsuitable Persons.

Pursuant to the Letter Agreement, dated May 16, 2014, (i) the Company is not satisfied, in its sole reasonable discretion, that the proposed assignee and its Associates are not Unsuitable Persons and (ii) the Compliance Committee has not approved the proposed assignee and its Associates.

D. Legal Proceedings Involving Caesars and the Defendants.

(a) *Contested matters involving Caesars Palace, CAC, LLTQ, FERG, and MOTI.*

123. In January 2015, Caesars Entertainment Operating Company, Inc. and a number of its subsidiaries and affiliates (including Caesars Palace and CAC) filed for bankruptcy protection under Chapter 11 in the United States Bankruptcy Court, Northern District of Illinois, Eastern

1 Division. As part of that bankruptcy, Caesars Palace, CAC, FERG, LLTQ, and MOTI are involved
2 in several contested matters.

3 124. First, Caesars Palace filed a motion to reject the LLTQ and FERG Agreements.
4 Caesars Palace concluded that the costs of these two agreements outweighed any potential benefits
5 that Caesars Palace could realize by continuing to perform under the agreements. LLTQ and FERG
6 objected to Caesars Palace's motion to reject the LLTQ and FERG Agreements on the grounds that,
7 inter alia, (i) the LLTQ and FERG Agreements are integrated with the separate agreements that
8 Caesars Palace entered into with Gordon Ramsay, and (ii) Sections 13.22 and 4.1 are enforceable
9 restrictive covenants that prevent the rejection of the LLTQ and FERG agreements.

10 125. Second, LLTQ and FERG filed a motion for the payment of administrative expenses
11 relating to payments purportedly owed to LLTQ and FERG for operation of the relevant restaurants
12 after Caesars Palace filed for bankruptcy. Caesars Palace objected to this motion on the grounds
13 that LLTQ and FERG have not provided any post-petition benefit to Caesars Palace. Indeed, LLTQ
14 and FERG did not provide Caesars Palace with any services after Caesars Palace filed for
15 bankruptcy.

16 126. Third, MOTI filed a motion for the payment of administrative expenses relating to
17 Caesars Palace's use of MOTI's intellectual property during the wind-down period following the
18 termination of the MOTI Agreement. Caesars Palace objected to this motion on the grounds that
19 MOTI is not entitled to an administrative expense where, as here, the MOTI Agreement was
20 terminated because MOTI was, and is, an "Unsuitable Person."

21 127. In connection with these three motions, the parties have conducted discovery on a
22 number of issues, including the suitability of LLTQ, FERG, and Mr. Seibel. And, as a defense to
23 LLTQ and FERG's motion for the payment of administrative defenses, Caesars Palace and CAC
24 have raised LLTQ and FERG's failure to disclose Mr. Seibel's criminal activities. Caesars Palace
25 and CAC contend that LLTQ and FERG's failure to do so constitutes fraudulent inducement and
26 breaches the LLTQ and FERG Agreements.

27 128. The contested matters in the bankruptcy court do not, however, directly implicate
28 Caesars' decision to terminate its agreements with the Seibel-Affiliated Entities. Instead, counsel

1 for LLTQ and FERG have stated in filings in the bankruptcy court that they intend to challenge the
2 propriety of the termination of the relevant agreements but do not believe that issue should be heard
3 by the bankruptcy court:

- 4 • "[T]he [Debtors'] fraudulent inducement claim, like the issue of whether the
5 Termination [of the LLTQ and FERG Agreements] was proper in the first instance,
6 is not presently before [the bankruptcy court] and should be resolved in separate
7 proceedings (likely in state court or federal district court)."
- 8 • "[LLTQ and FERG] will challenge the propriety of the purported termination
9 of the [LLTQ and FERG Agreements] in the appropriate venue, likely outside of the
10 Chapter 11 cases."

11 **(b) Litigation involving GRB and Planet Hollywood.**

12 129. On January 11, 2017, Mr. Seibel, purportedly derivatively on behalf of GRB, filed
13 a complaint in the United States District Court for the District of Nevada naming Planet Hollywood
14 as a defendant. Mr. Seibel also filed a motion for a preliminary injunction enjoining
15 Planet Hollywood from (i) terminating the GRB Agreement or, alternatively, (ii) utilizing GRB's
16 intellectual property and operating a restaurant in the premises for the GR Burgr restaurant. This
17 action was dismissed from the federal court on jurisdictional grounds, and Mr. Seibel re-filed a
18 similar complaint and motion for preliminary injunction in the Eighth Judicial District Court in
19 Clark County, Nevada, Case No. A-17-751759 (Hon. Joe Hardy). The state court complaint
20 included counts for (i) breach of contract arising out of the termination of the GRB Agreement;
21 (ii) breach of the implied covenant of good faith and fair dealing relating to the termination of the
22 GRB Agreement on suitability grounds; (iii) unjust enrichment relating to Planet Hollywood's use
23 of GRB's intellectual property; (iv) civil conspiracy relating to the circumstances surrounding the
24 termination of the GRB Agreement; (v) specific performance requiring Planet Hollywood to pay
25 GRB; and (vi) declaratory relief establishing, inter alia, that Planet Hollywood must stop using the
26 GR intellectual property and compensate GR for the period of time it utilized GRB's intellectual
27 property.

28 130. The Court denied Mr. Seibel's motion for a preliminary injunction on the grounds
that Mr. Seibel did not demonstrate irreparable harm, likelihood of success on the merits, balance
of hardships, or that public policy weighed in his favor.

1 131. Planet Hollywood moved to dismiss Mr. Seibel's claims for breach of contract,
2 breach of the implied covenant of good faith and fair dealing, unjust enrichment, civil conspiracy,
3 and declaratory relief. The Court granted in part and denied in part Planet Hollywood's motion.
4 Specifically, the Court granted Planet Hollywood's motion to dismiss Mr. Seibel's breach of
5 contract claim to the extent it was based on Caesars allegedly receiving money that should have
6 been paid to GRB under the GRB Agreement, Caesars' failure to provide GRB with an opportunity
7 to cure its association with any unsuitable persons, and Caesars' efforts to open a rebranded
8 restaurant with Gordon Ramsay. Mr. Seibel subsequently filed an amended complaint, reasserting
9 some of the same causes of action and adding further allegations. On July 21, 2017,
10 Planet Hollywood answered the amended complaint and asserted a counterclaim for fraudulent
11 concealment against Mr. Seibel individually.

12 (c) *Nevada Federal District Court litigation involving TPOV and Paris.*

13 132. On February 3, 2017, TPOV Enterprises 16, LLC filed a complaint in the
14 United States District Court for the District of Nevada against Paris,
15 Case No. 2:17-cv-00346-JCM-VCF. TPOV Enterprises 16, LLC alleges, inter alia, that (i) Paris
16 breached the TPOV Agreement by, inter alia, refusing to continue to pay TPOV 16 and terminating
17 the TPOV Agreement; (ii) Paris breached the implied covenant of good faith and fair dealing by,
18 inter alia, disputing the validity of the assignment of the TPOV Agreement and claiming that TPOV
19 is an Unsuitable Person; (iii) Paris has been unjustly enriched by its failure to pay TPOV 16 in
20 accordance with the TPOV Agreement; and (iv) it is entitled to a declaration that the assignment of
21 the TPOV Agreement from TPOV to TPOV 16 was valid and TPOV 16 is not associated with an
22 Unsuitable Person.

23 133. Paris moved to dismiss TPOV 16's claims based on subject matter jurisdiction and
24 failure to state a claim upon which relief could be granted. The District Court (Judge Mahan)
25 granted the motion in part, and denied it in part, dismissing TPOV 16's claim for unjust enrichment.
26 On July 21, 2017, Paris answered the complaint, and asserted counterclaims for breach of contract,
27 breach of the implied covenant, fraudulent concealment, civil conspiracy, and declaratory relief
28 against TPOV, TPOV 16, and Mr. Seibel personally.

1 **E. Mr. Seibel, Mr. Green, and the Seibel-Affiliated Entities Were Engaged in a**
2 **Kickback Scheme.**

3 134. In discovery in this litigation, Mr. Seibel and the Seibel-Affiliated Entities produced
4 documents demonstrating that he, Mr. Green, and various Seibel-Affiliated Entities solicited and
5 accepted payments from Caesars' vendors for products those vendors sold to Caesars. Specifically,
6 Mr. Green, Mr. Seibel, and the Seibel-Affiliated Entities on one hand and certain Caesars vendors
7 on the other, including, but not limited to Innis & Gunn and Pat LaFrieda Meat Purveyors
8 ("LaFrieda") entered into an agreement whereby Innis & Gunn and LaFrieda would pay a
9 percentage to Mr. Green, Mr. Seibel, and/or the Seibel-Affiliated Entities for product Caesars
10 purchased for the various restaurants.

11 135. This scheme was entered into with Innis & Gunn and LaFrieda without Caesars'
12 knowledge.

13 136. The structure of the scheme was such that the Seibel-Affiliated Entities would
14 receive a kickback from vendors based on the volume of goods sold to Caesars.

15 137. The kickbacks were set-up to be paid to other entities owned by Mr. Seibel
16 including, but not limited to, BR 23 Venture, LLC and Future Star Hospitality Consulting, LLC.

17 138. In exchange for the kickbacks, Mr. Green, acting on behalf of Mr. Seibel, promised
18 the vendors that they would become "preferred vendors." If vendors were unwilling to pay the
19 kickbacks, Mr. Green would threaten to pull the vendors' products from the Caesars' restaurants.

20 139. In particular, acting on behalf of Mr. Seibel, Mr. Green coerced a representative of
21 Innis & Gunn to establish a 15% retroactive kickback on each keg of beer sold to certain Caesars'
22 restaurants.

23 140. After advocating to Caesars for the use of LaFrieda as a vendor, Mr. Seibel admitted
24 to secretly receiving a percentage, approximately 5%, of LaFrieda's sales to Caesars' restaurants.

25 141. Caesars was unaware of, never consented to, and never would have consented to,
26 this scheme. Further, Caesars never received any amount of the money paid to Mr. Seibel or his
27 entities.
28

143. Mr. Green was also involved in the secret and wrongful solicitation of kickbacks from Newcastle Brown Ale ("Newcastle"), proposing to grow Newcastle within the Caesars restaurants in exchange for a 15% kickback of the total order. Unbeknownst to Caesars, Mr. Green directed agents to threaten to pull product if the vendors were not willing to pay the kickback.

144. These and other acts by Mr. Seibel, Mr. Green, and the Seibel-Affiliated Entities representatives demonstrate a conspiratorial scheme to engage in commercial bribery for the benefit of Defendants and to the detriment of Caesars.

**(Declaratory Judgment Against All Defendants Declaring That
Caesars Properly Terminated All of the Seibel Agreements)**

145. Caesars hereby repeats and re-alleges each of the above paragraphs as though fully set forth herein.

146. NRS 30.040(1) provides that "[a]ny person interested under [a written contract] or whose rights, status or other legal relations are affected by a [contract] may have determined any question of construction or validity arising under the [contract] and obtain a declaration of rights, status or other legal relations thereunder."

147. The parties dispute whether Caesars properly terminated the Seibel Agreements. Thus, there is a justiciable controversy ripe for adjudication among the parties.

148. Caesars properly exercised its sole and absolute discretion to terminate the Seibel Agreements after it determined Mr. Seibel and the Seibel-Affiliated Entities were unsuitable under the Seibel Agreements given Mr. Seibel's felony conviction and his criminal activities that led to his conviction. Caesars also properly exercised its sole and absolute discretion to terminate the Seibel Agreements in light of the Seibel-Affiliated Entities' failure to disclose Mr. Seibel's felony

conviction and his criminal activities that led to his conviction. Caesars therefore seeks a declaration that the Seibel Agreements were properly terminated.

149. Caesars further requests any additional relief authorized by the law, the Seibel Agreements or found fair, equitable, just, or proper by the Court, including but not limited to attorneys' fees, costs, and interest under NRS 30.120 or any other law or agreement allowing the same.

COUNT II

(Declaratory Judgment Against All Defendants Declaring That Caesars Does Not Have Any Current or Future Obligations to Defendants Under the Seibel Agreements)

150. Caesars hereby repeats and re-alleges each of the above paragraphs as though fully set forth herein.

151. NRS 30.040(1) provides that "[a]ny person interested under [a written contract] or whose rights, status or other legal relations are affected by a [contract] may have determined any question of construction or validity arising under the [contract] and obtain a declaration of rights, status or other legal relations thereunder."

152. The parties dispute whether Caesars has any current or future financial obligations or commitments to Mr. Seibel or the Seibel-Affiliated Entities. Thus, there is a justiciable controversy ripe for adjudication among the parties.

153. Caesars does not have any current or future financial obligations or commitments to Mr. Seibel or the Seibel-Affiliated Entities for at least three reasons.

154. First, the express language of the Seibel Agreements states that Caesars has no future obligations to the Seibel-Affiliated Entities where, as here, termination is based on suitability or non-disclosure grounds. For example, the MOTI Agreement provides that "[a]ny termination by Caesars under [the suitability and disclosure provision] shall terminate the obligations of each Party to this Agreement" Similarly, all of the Seibel Agreements state that termination based on unsuitability grounds under the agreements has "immediate effect" and alleviates the parties of any future obligations.

1 155. Second, Mr. Seibel and the Seibel-Affiliated Entities fraudulently induced Caesars
2 to enter into the Seibel Agreements when they failed to disclose Mr. Seibel's illegal activities.
3 Mr. Seibel and the Seibel-Affiliated Entities all represented—through the MOTI and DNT Business
4 Information Forms—that he had not been a party to any felony in the past ten years and there was
5 nothing in Mr. Seibel's past that would prevent him from being licensed by a gaming authority.
6 Although Caesars had the right to request information from each entity to satisfy itself that
7 Mr. Seibel was suitable from a regulatory perspective, it had received such assurances in the
8 Business Information Forms with respect to the MOTI Agreement and DNT Agreement. To the
9 extent the MOTI and DNT suitability disclosures became inaccurate, they had to be updated without
10 Caesars making a request. Caesars therefore reasonably relied on Mr. Seibel's prior representations
11 to satisfy itself that Mr. Seibel remained a suitable person when entering into the TPOV Agreement,
12 LLTQ Agreement, GRB Agreement, and FERG Agreement.

13 156. Caesars reasonably relied on Defendants' representations when deciding to enter into
14 each agreement with the Seibel-Affiliated Entities. Specifically, Caesars relied on the following
15 representations:

- 16 • The MOTI and DNT Business Information Forms;
- 17 • Sections 8.1, 9.1, and 9.2 of the MOTI Agreement;
- 18 • Sections 10.2, 11.1, and 11.2 of the DNT Agreement;
- 19 • Sections 9.2, 10.1, and 10.2 of the TPOV Agreement;
- 20 • Sections 9.2, 10.1, and 10.2 of the LLTQ Agreement;
- 21 • Sections 10.3, 11.1, and 11.2 of the GRB Agreement; and
- 22 • Sections 10.2, 11.1, and 11.2 of the FERG Agreement.

23 157. Mr. Seibel and the Seibel-Affiliated Entities knew that these representations were
24 false when made. The fraudulent inducement of Mr. Seibel and the Seibel-Affiliated Entities
25 permits Caesars to rescind the Seibel Agreements and thereby avoid future obligations to Mr. Seibel
26 or the Seibel-Affiliated Entities.

27 158. Third, the Seibel-Affiliated Entities repeatedly breached the Seibel Agreements
28 when they failed to update their prior disclosures to reflect Mr. Seibel's illegal activities. Because

1 the Seibel-Affiliated Entities breached the Seibel Agreements, Caesars is no longer required to
2 perform under the Seibel Agreement.

3 159. Caesars therefore seeks a declaration that Caesars does not have any current or future
4 financial obligations or commitments to Mr. Seibel or the Seibel-Affiliated Entities.

5 160. Caesars further requests any additional relief authorized by the law, the Seibel
6 Agreements or found fair, equitable, just, or proper by the Court, including but not limited to
7 attorneys' fees, costs, and interest under NRS 30.120 or any other law or agreement allowing the
8 same.

9 **COUNT III**

10 **(Declaratory Judgment Against All Defendants Declaring that the Seibel Agreements Do** 11 **Not Prohibit or Limit Existing or Future Restaurant Ventures Between Caesars and** 12 **Gordon Ramsay)**

13 161. Caesars hereby repeats and re-alleges each of the above paragraphs as though fully
14 set forth herein.

15 162. NRS 30.040(1) provides that "[a]ny person interested under [a written contract] or
16 whose rights, status or other legal relations are affected by a [contract] may have determined any
17 question of construction or validity arising under the [contract] and obtain a declaration of rights,
18 status or other legal relations thereunder."

19 163. The parties dispute whether section 13.22 of the LLTQ Agreement and Section 4.1
20 of the FERG Agreement are enforceable and require Caesars to include Mr. Seibel, LLTQ, and/or
21 FERG in current or future ventures between Caesars and Mr. Ramsay. Thus, there is a justiciable
22 controversy ripe for adjudication among the parties.

23 164. Section 13.22 of the LLTQ Agreement is unenforceable as a matter of law because
24 (a) the LLTQ Agreement was properly terminated; (b) Caesars is prohibited from entering into a
25 business relationship with LLTQ or Mr. Seibel given that LLTQ and Mr. Seibel are Unsuitable
26 Persons; and (c) Section 13.22 is overly broad, indefinite, vague, and ambiguous.

27 165. Section 13.22 is overly broad and indefinite because it does not contain any
28 geographic or temporal limitations. For example, by its terms, the restrictive covenant in
Section 13.22 could apply to future ventures between any Caesars affiliate and Mr. Ramsay located

1 anywhere in world. It could also apply to future ventures between any Caesars affiliate and
2 Mr. Ramsay entered into 40 years after LLTQ and Caesars Palace entered into the LLTQ
3 Agreement. Under Nevada law, the lack of any geographic or temporal restrictions render the
4 restrictive covenant in Section 13.22 unenforceable.

5 166. Section 13.22 is vague and ambiguous because it does not clearly specify which
6 future ventures are subject to the restrictive covenant contained therein. On the one hand,
7 Section 13.22 broadly states that ventures "generally in the nature of" pubs, bars, cafes, taverns,
8 steak restaurants, fine dining steakhouses, and chophouses are encompassed by the restrictive
9 covenant. On the other hand, Section 13.22 is seemingly limited to ventures that Caesars elects to
10 pursue "under the [LLTQ Agreement]," which relates only to the Gordon Ramsay Pub.

11 167. Section 4.1 of the FERG Agreement is unenforceable as a matter of law because
12 (a) the FERG Agreement was properly terminated; (b) Caesars is prohibited from entering into a
13 business relationship with FERG or Mr. Seibel given that FERG and Mr. Seibel are Unsuitable
14 Persons; and (c) Section 4.1 is overly broad, indefinite, vague, and ambiguous.

15 168. Section 4.1 is overly broad, indefinite, vague, and ambiguous because it does not
16 contain any temporal limitations. For example, by its terms, Section 4.1 could apply to any future
17 ventures entered into between CAC and an affiliate at any point in time. In addition, Section 4.1 is
18 not limited to CAC but includes all of CAC's affiliates. Section 4.1 also is not limited to specific
19 types of restaurants but includes any agreement that merely relates to the premises where the current
20 restaurant is located. Finally, Section 4.1 is vague and ambiguous because it is unclear how the
21 FERG Agreement could "be in effect and binding on the parties" if a "new agreement is executed"
22 between the parties—i.e., it is not clear how both agreements could simultaneously be in effect,
23 what the terms of the agreements would be, how the new agreement would be negotiated, and which
24 terms would govern the parties' relationship.

25 169. Caesars therefore seeks a declaration that section 13.22 of the LLTQ Agreement and
26 Section 4.1 of the FERG Agreement are unenforceable and Caesars does not have any current or
27 future obligations pursuant to those provisions or otherwise that would prohibit or limit existing or
28 future restaurant ventures between Caesars and Gordon Ramsay.

1 170. Caesars further requests any additional relief authorized by the law, the Seibel
2 Agreements or found fair, equitable, just, or proper by the Court, including but not limited to
3 attorneys' fees, costs, and interest under NRS 30.120 or any other law or agreement allowing the
4 same.

5 **COUNT IV**
6 **(Civil Conspiracy Against Mr. Seibel and Mr. Green)**

7 171. Caesars hereby repeats, realleges, and incorporates all of the allegations contained
8 in the preceding Paragraphs as though fully set forth herein.

9 172. Mr. Seibel and Mr. Green knowingly acted in concert with vendors, including, but
10 not limited to, intending to accomplish an unlawful objective for the purpose of harming Caesars.

11 173. Specifically, Mr. Seibel and Mr. Green conspired to engage in commercial bribery
12 and extortion to obtain kickbacks from Caesars' vendors, for the purpose of interfering with the
13 Agreements at an economic loss to Caesars and for Defendants' own benefit.

14 174. Mr. Seibel and Mr. Green understood that the benefit would adversely influence the
15 vendors' conduct as it relates to Caesars' commercial affairs.

16 175. As a direct and proximate result of Mr. Seibel's and Mr. Green's acts and omissions,
17 Caesars has suffered and will continue to suffer damages in an amount to be proven at trial, but in
18 any event in excess of \$15,000.00.

19 176. As a result of Mr. Seibel's and Mr. Green's conduct, Caesars has been forced to retain
20 the services of PISANELLI BICE PLLC to address the conduct complained of herein and is therefore
21 entitled to all of its attorneys' fees and costs associated with bringing this action.

22 **COUNT V**
23 **(Breaches of Implied Covenants of Good Faith and Fair Dealing Against MOTI, DNT,**
24 **TPOV, LLTQ, GR BURGR, and FERG)**

25 177. Caesars hereby repeats and re-alleges each of the above Paragraphs as though fully
26 set forth herein.

27 178. The MOTI, DNT, TPOV, LLTQ, GR BURGR, and FERG Agreements constituted
28 valid, binding, and enforceable contracts between Defendants and Caesars.

1 179. In Nevada, every contract contains an implied covenant of good faith and fair
2 dealing, which prohibits a party from deliberately contravening the spirit and intent of the
3 agreement, and the parties are required to operate under that covenant.

4 180. Caesars is informed and believes, and thereon alleges, Defendants breached their
5 duty of good faith to Caesars by, among other things, wrongfully soliciting, coercing, agreeing to
6 accept, and accepting benefits from vendors based on the understanding that the benefit would
7 adversely influence Defendants' actions in relationship to Caesars' commercial affairs, including,
8 but not limited to, the Agreements between Caesars and Defendants.

9 181. Caesars had a justified expectation that Defendants would not accept, not solicit, nor
10 coerce kickbacks from vendors to the detriment of Caesars without Caesars' knowledge.

11 182. As a direct and proximate result of Defendants' breaches of the implied covenants
12 of good faith and fair dealing arising from the Agreements, Caesars has been damaged in an amount
13 in excess of \$15,000.00.

14 183. As a result of Defendants' conduct, Caesars has been forced to retain the services of
15 PISANELLI BICE PLLC to address the conduct complained of herein and is therefore entitled to all
16 of its attorneys' fees and costs associated with bringing this action.

17 **COUNT VI**

18 **(Unjust Enrichment Against Mr. Seibel & Mr. Green)**

19 184. Caesars hereby repeats, realleges, and incorporates all of the allegations contained
20 in the preceding Paragraphs as though fully set forth herein.

21 185. By contracting with certain vendors, Caesars unknowingly conferred benefits upon
22 Mr. Green and Mr. Seibel, including, but not limited to, establishing relationships from which they
23 received kickbacks based on the amount of goods sold to Caesars.

24 186. Mr. Green and Mr. Seibel accepted, appreciated, and retained those benefits.

25 187. Mr. Green and Mr. Seibel have not compensated Caesars for the benefits Caesars
26 conferred.

27 188. It would be unjust, unfair, and inequitable for Mr. Green and Mr. Seibel to be
28 permitted to retain the benefits of Caesars' relationships with vendors.

190. As a result of Defendants' conduct, Caesars has been forced to retain the services of PISANELLI BICE PLLC to address the conduct complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with bringing this action.

(Intentional Interference with Contractual Relations Against Rowen Seibel and Craig Green)

10 191. Caesars hereby repeats, realleges, and incorporates all of the allegations contained
11 in the preceding Paragraphs as though fully set forth herein.

12 192. The MOTI, DNT, TPOV, LLTQ, GR BURGR, and FERG Agreements were valid
13 and binding agreements between Caesars and Defendants, granting Caesars valuable rights,
14 including the right to share in all revenues arising from the various contracted restaurants.

15 193. Mr. Green and Mr. Seibel knew of the Agreements between Caesars and the
16 Defendants, and of the exclusive rights the Agreements granted to Caesars.

17 194. Mr. Green's and Mr. Seibel's actions were intended or designed to disrupt the
18 Agreements and Caesars' valuable rights under it, and caused an actual interference and disruption
19 of the Agreements.

20 195. Mr. Green's and Mr. Seibel's conduct is in no way privileged or justified.

196. Through their tortious conduct, the Mr. Green and Mr. Seibel disrupted performance of the Agreements and injured Caesars, including by diverting money and/or preventing Caesars from obtaining product at lesser costs to its detriment.

197. As a direct and proximate result of the acts and omissions of Mr. Green and Mr. Seibel, Caesars has suffered and will continue to suffer damages in an amount to be proven at trial, but in any event in excess of \$15,000.00.

(Fraudulent Concealment Against Rowen Seibel and Craig Green)

199. Caesars hereby repeats, realleges, and incorporates all of the allegations contained in the preceding Paragraphs as though fully set forth herein.

200. Mr. Seibel and Mr. Green concealed material facts from Caesars, including, but not limited to, that they were secretly and wrongfully soliciting and obtaining kickbacks from Caesars' vendors.

201. Mr. Seibel and Mr. Green had a duty to disclose these wrongdoings to Caesars.

202. Mr. Seibel and Mr. Green intentionally concealed these wrongdoings to adversely influence the vendors' conduct as it relates to Caesars' commercial affairs.

203. Caesars was unaware of Mr. Seibel's and Mr. Green's wrongful conduct until discovery in this litigation.

204. Had Caesars been aware of Mr. Seibel's and Mr. Green's conduct it would not have continued doing business with them or any of their affiliated entities.

205. As a direct and proximate result of Mr. Seibel's and Mr. Green's acts and omissions, Caesars has suffered and will continue to suffer damages in an amount to be proven at trial, but in any event in excess of \$15,000.00.

206. As a result of Mr. Green's and Mr. Seibel's conduct, Caesars has been forced to retain the services of PISANELLI BICE PLLC to address the conduct complained of herein and is therefore entitled to all of its attorneys' fees and costs associated with bringing this action.

WHEREFORE, Caesars respectfully prays for judgment as follows:

(a) That judgment be entered in favor of Plaintiffs and against Defendants on all of Plaintiffs' claims;

- (b) For an award of damages in an amount in excess of Fifteen Thousand Dollars (\$15,000.00), to be determined upon proof at trial, against Defendants;
- (c) For punitive damages in an amount to be determined at trial;
- (d) For an award of pre- and post-judgment interest until the judgment is paid in full;
- (e) Declaratory Relief as requested herein;
- (f) Equitable relief;
- (g) Reasonable attorneys' fees and costs; and
- (h) Any additional relief this Court may deem just and proper.

DATED this 11th day of March 2020.

PISANELLI BICE PLLC

By: 

James J. Pisanelli, Esq., Bar No. 4027
Debra L. Spinelli, Esq., Bar No. 9695
M. Magali Mercera, Esq. Bar No. 11742
Brittnie T. Watkins, Esq., Bar No. 13612
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

and

Jeffrey J. Zeiger, P.C., Esq. (*admitted pro hac vice*)
William E. Arnault, IV, Esq. (*admitted pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWL, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 11th day of March 2020, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **FIRST AMENDED COMPLAINT** to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.
Stephanie J. Glantz, Esq.
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302

*Attorneys for Rowen Seibel, Moti Partners,
LLC, Moti Partner 16, LLC, LLTQ Enterprises,
LLC, LLTQ Enterprises 16, LLC, TPOV
Enterprises, LLC, TPOV Enterprises 16, LLC,
FERG, LLC, and FERG 16, LLC*

John D. Tennert, Esq.
FENNEMORE CRAIG, P.C.
300 East 2nd Street, Suite 1510
Reno, NV 89501

Attorneys for Gordon Ramsay

Alan Lebensfeld, Esq.
Lawrence J. Sharon, Esq.
LEBENSFELD SHARON &
SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

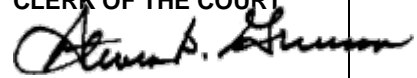
*Attorneys for Plaintiff in Intervention
The Original Homestead Restaurant, Inc.*

VIA U.S. MAIL (pleading only)
Kurt Heyman, Esq.
HEYMAN ENERIO GATTUSO &
HIRZEL LLP
300 Delaware Ave., Suite 200
Wilmington, DE 19801

Trustee for GR Burgr LLC


An employee of PISANELLI BICE PLLC

TAB 17



AACC (CIV)

JOHN R. BAILEY

Nevada Bar No. 0137

DENNIS L. KENNEDY

Nevada Bar No. 1462

JOSHUA P. GILMORE

Nevada Bar No. 11576

PAUL C. WILLIAMS

Nevada Bar No. 12524

STEPHANIE J. GLANTZ

Nevada Bar No. 14878

BAILEY ♦ KENNEDY

8984 Spanish Ridge Avenue

Las Vegas, Nevada 89148-1302

Telephone: 702.562.8820

Facsimile: 702.562.8821

JBailey@BaileyKennedy.com

DKennedy@BaileyKennedy.com

JGilmore@BaileyKennedy.com

PWilliams@BaileyKennedy.com

SGlantz@BaileyKennedy.com

*Attorneys for Rowen Seibel; Moti Partners, LLC; Moti Partners 16, LLC;
LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC; TPOV Enterprises, LLC;
TPOV Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; Craig Green;
and R Squared Global Solutions, LLC, Derivatively On Behalf of DNT
Acquisition, LLC*

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants,

And

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiffs.

AND ALL RELATED CLAIMS.

Case No. A-17-751759-B

Dept. No. XVI

Consolidated with A-17-760537-B

**THE DEVELOPMENT ENTITIES, ROWEN
SEIBEL, AND CRAIG GREEN'S ANSWER
TO CAESARS' FIRST AMENDED
COMPLAINT AND COUNTERCLAIMS**

JURY TRIAL DEMANDED

ANSWER

Moti Partners, LLC (“MOTI”); Moti Partners 16, LLC (“MOTI 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); R Squared Global Solutions, LLC (“RSG”), derivatively on behalf of DNT Acquisition LLC (“DNT”) (collectively, the “Development Entities”); Rowen Seibel (“Seibel”); and Craig Green (“Green”) hereby Answer the claims asserted by Desert Palace Inc. (“Caesars Palace”), Paris Las Vegas Operating Company, LLC (“Paris”), PHWLTV, LLC (“Planet Hollywood”), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC”) (collectively, “Caesars”) in their First Amended Complaint filed on March 11, 2020 (the “FAC”), as follows:

PRELIMINARY STATEMENT

1. Answering paragraph 1, the Development Entities, Seibel, and Green admit that Caesars entered into multiple agreements with entities previously owned by, managed by or affiliated with Seibel, and that Caesars requested and received “Business Information Forms” from Seibel at the outset of the MOTI and DNT business relationships. The Development Entities, Seibel, and Green further state that the agreements and “Business Information Forms” speak for themselves; to the extent that the allegations contradict or are inconsistent with the agreements or “Business Information Forms,” the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green deny any remaining allegations.

2. Answering paragraph 2, the Development Entities, Seibel, and Green deny the allegations.

3. Answering paragraph 3, the Development Entities, Seibel, and Green admit that on April 18, 2016, Seibel pled guilty to one count of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony, and served one month in prison. The Development Entities, Seibel, and Green deny any remaining allegations.

4. Answering paragraph 4, the Development Entities, Seibel, and Green deny the allegations.

1 5. Answering paragraph 5, the Development Entities, Seibel, and Green admit that
2 Caesars wrongfully terminated the agreements. The Development Entities, Seibel, and Green
3 further state that the agreements speak for themselves; to the extent that the allegations contradict or
4 are inconsistent with the agreements, the Development Entities, Seibel, and Green deny the
5 allegations. The Development Entities, Seibel, and Green further state that they are without
6 knowledge or information sufficient to form a belief as to the truth of the allegation that “Caesars
7 only learned about Mr. Seibel’s felony conviction from press reports four months after he pleaded
8 guilty.” The Development Entities, Seibel, and Green deny any remaining allegations.

9 6. Answering paragraph 6, the Development Entities, Seibel, and Green admit that
10 Caesars wrongfully terminated the agreements and that the Development Entities and Seibel have
11 initiated legal proceedings relating to the termination of the agreements. The Development Entities,
12 Seibel, and Green further state that paragraph 6 otherwise contains legal conclusions rather than
13 factual allegations, and, therefore, the rest of paragraph 6 requires no response; to the extent the
14 allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

15 7. Answering paragraph 7, the Development Entities, Seibel, and Green state that
16 paragraph 7 contains legal conclusions rather than factual allegations, and, therefore, requires no
17 response; to the extent the allegations require a response, the Development Entities, Seibel, and
18 Green deny the allegations.

19 8. Answering paragraph 8, the Development Entities, Seibel, and Green state that
20 paragraph 8 contains legal conclusions rather than factual allegations, and, therefore, requires no
21 response; to the extent the allegations require a response, the Development Entities, Seibel, and
22 Green deny the allegations.

23 9. Answering paragraph 9, the Development Entities, Seibel, and Green state that
24 paragraph 9 contains legal conclusions rather than factual allegations, and, therefore, requires no
25 response; to the extent the allegations require a response, the Development Entities, Seibel, and
26 Green deny the allegations.

27 10. Answering paragraph 10, the Development Entities, Seibel, and Green state that
28 paragraph 10 contains legal conclusions rather than factual allegations, and, therefore, requires no

1 response; to the extent the allegations require a response, the Development Entities, Seibel, and
2 Green deny the allegations.

3 11. Answering paragraph 11, the Development Entities, Seibel, and Green state that
4 paragraph 11 contains legal conclusions rather than factual allegations, and, therefore, requires no
5 response; to the extent the allegations require a response, the Development Entities, Seibel, and
6 Green deny the allegations.

7 **PARTIES, JURISDICTION, AND VENUE**

8 12. Answering paragraph 12, the Development Entities, Seibel, and Green state they are
9 without knowledge or information sufficient to form a belief as to the truth of the allegations.

10 13. Answering paragraph 13, the Development Entities, Seibel, and Green state they are
11 without knowledge or information sufficient to form a belief as to the truth of the allegations.

12 14. Answering paragraph 14, the Development Entities, Seibel, and Green state they are
13 without knowledge or information sufficient to form a belief as to the truth of the allegations.

14 15. Answering paragraph 15, the Development Entities, Seibel, and Green state they are
15 without knowledge or information sufficient to form a belief as to the truth of the allegations.

16 16. Answering paragraph 16, the Development Entities, Seibel, and Green deny that
17 Seibel regularly travels to and conducts business in Nevada. The Development Entities, Seibel, and
18 Green admit any remaining allegations.

19 17. Answering paragraph 17, the Development Entities, Seibel, and Green deny that
20 Green regularly travels to and conducts business in Nevada. The Development Entities, Seibel, and
21 Green admit any remaining allegations.

22 18. Answering paragraph 18, the Development Entities, Seibel, and Green admit that
23 MOTI is a New York limited liability company. The Development Entities, Seibel, and Green
24 further state that the MOTI Agreement speaks for itself; to the extent that the allegations contradict
25 or are inconsistent with the MOTI Agreement, the Development Entities, Seibel, and Green deny
26 the allegations. The Development Entities, Seibel, and Green deny any remaining allegations.

27 19. Answering paragraph 19, the Development Entities, Seibel, and Green admit that
28 MOTI 16 is a Delaware limited liability company and that the rights of MOTI under the MOTI

1 Agreement were assigned to MOTI 16. The Development Entities, Seibel, and Green further state
2 that the remaining allegations are legal conclusions rather than factual allegations, and, therefore,
3 require no response; to the extent the allegations require a response, the Development Entities,
4 Seibel, and Green deny the allegations.

5 20. Answering paragraph 20, the Development Entities, Seibel, and Green admit that
6 DNT is a Delaware limited liability company. The Development Entities, Seibel, and Green further
7 state that the DNT Agreement speaks for itself; to the extent that the allegations contradict or are
8 inconsistent with the DNT Agreement, the Development Entities, Seibel, and Green deny the
9 allegations. The Development Entities, Seibel, and Green deny any remaining allegations.

10 21. Answering paragraph 21 the Development Entities, Seibel, and Green admit that
11 TPOV is a New York limited liability company. The Development Entities, Seibel, and Green
12 further state that the TPOV Agreement speaks for itself; to the extent that the allegations contradict
13 or are inconsistent with the TPOV Agreement, the Development Entities, Seibel, and Green deny
14 the allegations. The Development Entities, Seibel, and Green deny any remaining allegations.

15 22. Answering paragraph 22, the Development Entities, Seibel, and Green admit that
16 TPOV 16 is a Delaware limited liability company and that the rights of TPOV under the TPOV
17 Agreement were assigned to TPOV 16. The Development Entities, Seibel, and Green further state
18 that the remaining allegations are legal conclusions rather than factual allegations, and, therefore,
19 require no response; to the extent the allegations require a response, the Development Entities,
20 Seibel, and Green deny the allegations.

21 23. Answering paragraph 23, the Development Entities, Seibel, and Green admit that
22 LLTQ is a Delaware limited liability company. The Development Entities, Seibel, and Green
23 further state that the LLTQ Agreement speaks for itself; to the extent that the allegations contradict
24 or are inconsistent with the LLTQ Agreement, the Development Entities, Seibel, and Green deny
25 the allegations. The Development Entities, Seibel, and Green deny any remaining allegations.

26 24. Answering paragraph 24, the Development Entities, Seibel, and Green admit that
27 LLTQ 16 is a Delaware limited liability company and that the rights of LLTQ under the LLTQ
28 Agreement were assigned to LLTQ 16. The Development Entities, Seibel, and Green further state

1 that the remaining allegations are legal conclusions rather than factual allegations, and, therefore,
2 require no response; to the extent the allegations require a response, the Development Entities,
3 Seibel, and Green deny the allegations.

4 25. Answering paragraph 25, the Development Entities, Seibel, and Green admit that GR
5 Burgr, LLC is a Delaware limited liability company. The Development Entities, Seibel, and Green
6 further state that the GRB Agreement speaks for itself; to the extent that the allegations contradict
7 or are inconsistent with the GRB Agreement, the Development Entities, Seibel, and Green deny the
8 allegations. The Development Entities, Seibel, and Green deny any remaining allegations.

9 26. Answering paragraph 26, the Development Entities, Seibel, and Green admit that
10 FERG is a Delaware limited liability company. The Development Entities, Seibel, and Green
11 further state that the FERG Agreement speaks for itself; to the extent that the allegations contradict
12 or are inconsistent with the FERG Agreement, the Development Entities, Seibel, and Green deny
13 the allegations. The Development Entities, Seibel, and Green deny any remaining allegations.

14 27. Answering paragraph 27, the Development Entities, Seibel, and Green admit that
15 FERG 16 is a Delaware limited liability company and that the rights of FERG under the FERG
16 Agreement were assigned to FERG 16. The Development Entities, Seibel, and Green further state
17 that the remaining allegations are legal conclusions rather than factual allegations, and, therefore,
18 require no response; to the extent the allegations require a response, the Development Entities,
19 Seibel, and Green deny the allegations.

20 28. Answering paragraph 28, the Development Entities, Seibel, and Green state that the
21 allegations are legal conclusions rather than factual allegations, and, therefore, require no response;
22 to the extent the allegations require a response, the Development Entities, Seibel, and Green deny
23 the allegations.

24 STATEMENT OF FACTS

25 A. The Business Relationship Between Caesars and Mr. Seibel.

26 (a) *The MOTI Agreement*

27 29. Answering paragraph 29, the Development Entities, Seibel, and Green admit that
28 Seibel is a restaurateur and that negotiations for a potential Serendipity restaurant at a Caesars

1 property began in or around 2009. The Development Entities, Seibel, and Green deny any
2 remaining allegations.

3 30. Answering paragraph 30, the Development Entities, Seibel, and Green admit that
4 Seibel completed a “Business Information Form” in or around 2009. The Development Entities,
5 Seibel, and Green further state that the “Business Information Form” speaks for itself; to the extent
6 that the allegations contradict or are inconsistent with the “Business Information Form,” the
7 Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel,
8 and Green state they are without knowledge or information sufficient to form a belief as to the truth
9 of the remaining allegations.

10 31. Answering paragraph 31, the Development Entities, Seibel, and Green state that the
11 MOTI Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
12 with the MOTI Agreement, the Development Entities, Seibel, and Green deny the allegations.

13 32. Answering paragraph 32, the Development Entities, Seibel, and Green state that the
14 MOTI Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
15 with the MOTI Agreement, the Development Entities, Seibel, and Green deny the allegations.

16 33. Answering paragraph 33, the Development Entities, Seibel, and Green state that the
17 MOTI Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
18 with the MOTI Agreement, the Development Entities, Seibel, and Green deny the allegations.

19 34. Answering paragraph 34, the Development Entities, Seibel, and Green state that
20 paragraph 34 contains legal conclusions rather than factual allegations, and, therefore, requires no
21 response; to the extent the allegations require a response, the Development Entities, Seibel, and
22 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
23 MOTI Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
24 with the MOTI Agreement, the Development Entities, Seibel, and Green deny the allegations.

25 35. Answering paragraph 35, the Development Entities, Seibel, and Green state that
26 paragraph 35 contains legal conclusions rather than factual allegations, and, therefore, requires no
27 response; to the extent the allegations require a response, the Development Entities, Seibel, and
28 Green deny the allegations. The Development Entities, Seibel, and Green further state that the

1 MOTI Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
2 with the MOTI Agreement, the Development Entities, Seibel, and Green deny the allegations.

3 36. Answering paragraph 36, the Development Entities, Seibel, and Green state that the
4 MOTI Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
5 with the MOTI Agreement, the Development Entities, Seibel, and Green deny the allegations.

6 37. Answering paragraph 37, the Development Entities, Seibel, and Green state that
7 paragraph 37 contains legal conclusions rather than factual allegations, and, therefore, requires no
8 response; to the extent the allegations require a response, the Development Entities, Seibel, and
9 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
10 MOTI Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
11 with the MOTI Agreement, the Development Entities, Seibel, and Green deny the allegations.

12 38. Answering paragraph 38, the Development Entities, Seibel, and Green state that
13 paragraph 38 contains legal conclusions rather than factual allegations, and, therefore, requires no
14 response; to the extent the allegations require a response, the Development Entities, Seibel, and
15 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
16 MOTI Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
17 with the MOTI Agreement, the Development Entities, Seibel, and Green deny the allegations.

18 39. Answering paragraph 39, the Development Entities, Seibel, and Green admit that
19 Caesars entered into five more agreements with entities owned and managed by Seibel. The
20 Development Entities, Seibel, and Green state that the remaining allegations contain legal
21 conclusions rather than factual allegations, and, therefore, require no response; to the extent the
22 allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

23 **(b) The DNT Agreement**

24 40. Answering paragraph 40, the Development Entities, Seibel, and Green state that the
25 DNT Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
26 with the DNT Agreement, the Development Entities, Seibel, and Green deny the allegations.

27 41. Answering paragraph 41, the Development Entities, Seibel, and Green admit that
28 Seibel completed a “Business Information Form” in or around 2011. The Development Entities,

1 Seibel, and Green further state that the “Business Information Form” speaks for itself; to the extent
2 that the allegations contradict or are inconsistent with the “Business Information Form,” the
3 Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel,
4 and Green state they are without knowledge or information sufficient to form a belief as to the truth
5 of the remaining allegations.

6 42. Answering paragraph 42, the Development Entities, Seibel, and Green state that the
7 DNT Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
8 with the DNT Agreement, the Development Entities, Seibel, and Green deny the allegations.

9 43. Answering paragraph 43, the Development Entities, Seibel, and Green state that the
10 DNT Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
11 with the DNT Agreement, the Development Entities, Seibel, and Green deny the allegations.

12 44. Answering paragraph 44, the Development Entities, Seibel, and Green state that the
13 DNT Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
14 with the DNT Agreement, the Development Entities, Seibel, and Green deny the allegations.

15 45. Answering paragraph 45, the Development Entities, Seibel, and Green state that
16 paragraph 45 contains legal conclusions rather than factual allegations, and, therefore, requires no
17 response; to the extent the allegations require a response, the Development Entities, Seibel, and
18 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
19 DNT Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
20 with the DNT Agreement, the Development Entities, Seibel, and Green deny the allegations

21 46. Answering paragraph 46, the Development Entities, Seibel, and Green state that the
22 DNT Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
23 with the DNT Agreement, the Development Entities, Seibel, and Green deny the allegations.

24 47. Answering paragraph 47, the Development Entities, Seibel, and Green state that the
25 DNT Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
26 with the DNT Agreement, the Development Entities, Seibel, and Green deny the allegations.

27 48. Answering paragraph 48, the Development Entities, Seibel, and Green state that
28 paragraph 48 contains legal conclusions rather than factual allegations, and, therefore, requires no

1 response; to the extent the allegations require a response, the Development Entities, Seibel, and
2 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
3 DNT Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
4 with the DNT Agreement, the Development Entities, Seibel, and Green deny the allegations

5 49. Answering paragraph 49, the Development Entities, Seibel, and Green state that
6 paragraph 49 contains legal conclusions rather than factual allegations, and, therefore, requires no
7 response; to the extent the allegations require a response, the Development Entities, Seibel, and
8 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
9 DNT Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
10 with the DNT Agreement, the Development Entities, Seibel, and Green deny the allegations.

11 (c) ***The TPOV Agreement***

12 50. Answering paragraph 50, the Development Entities, Seibel, and Green state that the
13 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
14 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

15 51. Answering paragraph 51, the Development Entities, Seibel, and Green state that the
16 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
17 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

18 52. Answering paragraph 52, the Development Entities, Seibel, and Green state that the
19 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
20 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

21 53. Answering paragraph 53, the Development Entities, Seibel, and Green state that the
22 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
23 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

24 54. Answering paragraph 54, the Development Entities, Seibel, and Green state that
25 paragraph 54 contains legal conclusions rather than factual allegations, and, therefore, requires no
26 response; to the extent the allegations require a response, the Development Entities, Seibel, and
27 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
28

1 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
2 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

3 55. Answering paragraph 55, the Development Entities, Seibel, and Green state that the
4 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
5 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

6 56. Answering paragraph 56, the Development Entities, Seibel, and Green state that the
7 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
8 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

9 57. Answering paragraph 57, the Development Entities, Seibel, and Green state that
10 paragraph 57 contains legal conclusions rather than factual allegations, and, therefore, requires no
11 response; to the extent the allegations require a response, the Development Entities, Seibel, and
12 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
13 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
14 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

15 58. Answering paragraph 58, the Development Entities, Seibel, and Green state that
16 paragraph 58 contains legal conclusions rather than factual allegations, and, therefore, requires no
17 response; to the extent the allegations require a response, the Development Entities, Seibel, and
18 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
19 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
20 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

21 59. Answering paragraph 59, the Development Entities, Seibel, and Green state that
22 paragraph 59 contains legal conclusions rather than factual allegations, and, therefore, requires no
23 response; to the extent the allegations require a response, the Development Entities, Seibel, and
24 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
25 TPOV Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
26 with the TPOV Agreement, the Development Entities, Seibel, and Green deny the allegations.

1 (d) *The LLTQ Agreement*

2 60. Answering paragraph 60, the Development Entities, Seibel, and Green state that the
3 LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
4 with the LLTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

5 61. Answering paragraph 61, the Development Entities, Seibel, and Green state that the
6 LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
7 with the LLTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

8 62. Answering paragraph 62, the Development Entities, Seibel, and Green state that the
9 LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
10 with the LLTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

11 63. Answering paragraph 63, the Development Entities, Seibel, and Green state that the
12 LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
13 with the LLTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

14 64. Answering paragraph 64, the Development Entities, Seibel, and Green state that
15 paragraph 64 contains legal conclusions rather than factual allegations, and, therefore, requires no
16 response; to the extent the allegations require a response, the Development Entities, Seibel, and
17 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
18 LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
19 with the LTTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

20 65. Answering paragraph 65, the Development Entities, Seibel, and Green state that the
21 LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
22 with the LLTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

23 66. Answering paragraph 66, the Development Entities, Seibel, and Green state that the
24 LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
25 with the LLTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

26 67. Answering paragraph 67, the Development Entities, Seibel, and Green state that
27 paragraph 67 contains legal conclusions rather than factual allegations, and, therefore, requires no
28 response; to the extent the allegations require a response, the Development Entities, Seibel, and

Green deny the allegations. The Development Entities, Seibel, and Green further state that the LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent with the LTTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

68. Answering paragraph 68, the Development Entities, Seibel, and Green state that paragraph 68 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent with the LTTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

69. Answering paragraph 69, the Development Entities, Seibel, and Green state that paragraph 69 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent with the LTTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

70. Answering paragraph 70, the Development Entities, Seibel, and Green state that the LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent with the LLTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

71. Answering paragraph 71, the Development Entities, Seibel, and Green state that paragraph 71 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the LLTQ Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent with the LTTQ Agreement, the Development Entities, Seibel, and Green deny the allegations.

(e) The GR Burgr Agreement

72. Answering paragraph 72, the Development Entities, Seibel, and Green state that the GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.

1 73. Answering paragraph 73, the Development Entities, Seibel, and Green state that the
2 GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
3 with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.

4 74. Answering paragraph 74, the Development Entities, Seibel, and Green state that the
5 GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
6 with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.

7 75. Answering paragraph 75, the Development Entities, Seibel, and Green state that the
8 GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
9 with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.

10 76. Answering paragraph 76, the Development Entities, Seibel, and Green state that
11 paragraph 76 contains legal conclusions rather than factual allegations, and, therefore, requires no
12 response; to the extent the allegations require a response, the Development Entities, Seibel, and
13 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
14 GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
15 with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.

16 77. Answering paragraph 77, the Development Entities, Seibel, and Green state that the
17 GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
18 with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.

19 78. Answering paragraph 78, the Development Entities, Seibel, and Green state that the
20 GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
21 with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.

22 79. Answering paragraph 79, the Development Entities, Seibel, and Green state that
23 paragraph 79 contains legal conclusions rather than factual allegations, and, therefore, requires no
24 response; to the extent the allegations require a response, the Development Entities, Seibel, and
25 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
26 GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
27 with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.
28

1 80. Answering paragraph 80, the Development Entities, Seibel, and Green state that
2 paragraph 80 contains legal conclusions rather than factual allegations, and, therefore, requires no
3 response; to the extent the allegations require a response, the Development Entities, Seibel, and
4 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
5 GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
6 with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.

7 81. Answering paragraph 81, the Development Entities, Seibel, and Green state that
8 paragraph 81 contains legal conclusions rather than factual allegations, and, therefore, requires no
9 response; to the extent the allegations require a response, the Development Entities, Seibel, and
10 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
11 GRB Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
12 with the GRB Agreement, the Development Entities, Seibel, and Green deny the allegations.

13 (f) ***The FERG Agreement***

14 82. Answering paragraph 82, the Development Entities, Seibel, and Green state that the
15 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
16 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

17 83. Answering paragraph 83, the Development Entities, Seibel, and Green state that the
18 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
19 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

20 84. Answering paragraph 84, the Development Entities, Seibel, and Green state that the
21 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
22 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

23 85. Answering paragraph 85, the Development Entities, Seibel, and Green state that the
24 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
25 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

26 86. Answering paragraph 86, the Development Entities, Seibel, and Green state that
27 paragraph 86 contains legal conclusions rather than factual allegations, and, therefore, requires no
28 response; to the extent the allegations require a response, the Development Entities, Seibel, and

1 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
2 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
3 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

4 87. Answering paragraph 87, the Development Entities, Seibel, and Green state that the
5 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
6 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

7 88. Answering paragraph 88, the Development Entities, Seibel, and Green state that the
8 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
9 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

10 89. Answering paragraph 89, the Development Entities, Seibel, and Green state that
11 paragraph 89 contains legal conclusions rather than factual allegations, and, therefore, requires no
12 response; to the extent the allegations require a response, the Development Entities, Seibel, and
13 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
14 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
15 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

16 90. Answering paragraph 90, the Development Entities, Seibel, and Green state that
17 paragraph 90 contains legal conclusions rather than factual allegations, and, therefore, requires no
18 response; to the extent the allegations require a response, the Development Entities, Seibel, and
19 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
20 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
21 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

22 91. Answering paragraph 91, the Development Entities, Seibel, and Green state that
23 paragraph 91 contains legal conclusions rather than factual allegations, and, therefore, requires no
24 response; to the extent the allegations require a response, the Development Entities, Seibel, and
25 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
26 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
27 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

28

1 92. Answering paragraph 92, the Development Entities, Seibel, and Green state that the
2 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
3 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

4 93. Answering paragraph 93, the Development Entities, Seibel, and Green state that
5 paragraph 93 contains legal conclusions rather than factual allegations, and, therefore, requires no
6 response; to the extent the allegations require a response, the Development Entities, Seibel, and
7 Green deny the allegations. The Development Entities, Seibel, and Green further state that the
8 FERG Agreement speaks for itself; to the extent that the allegations contradict or are inconsistent
9 with the FERG Agreement, the Development Entities, Seibel, and Green deny the allegations.

10 B. The Activities of Mr. Seibel and the Seibel-Affiliated Entities [Allegedly] Rendered
11 Him Unsuitable Under the Seibel Agreements.

12 94. Answering paragraph 94, the Development Entities, Seibel, and Green deny the
13 allegations.

14 (a) ***Mr. Seibel set up numbered UBS accounts in Switzerland and [allegedly]
15 concealed them from the United States government.***

16 95. Answering paragraph 95, the Development Entities, Seibel, and Green state that
17 paragraph 95 concerns matters that were the subject of Seibel's guilty plea to one count of a corrupt
18 endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26
19 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the full
20 and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny the
21 allegations contained in paragraph 95.

22 96. Answering paragraph 96, the Development Entities, Seibel, and Green state that
23 paragraph 96 concerns matters that were the subject of Seibel's guilty plea to one count of a corrupt
24 endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26
25 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the full
26 and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny the
27 allegations contained in paragraph 96.

1 97. Answering paragraph 97, the Development Entities, Seibel, and Green state that
2 paragraph 97 concerns matters that were the subject of Seibel’s guilty plea to one count of a corrupt
3 endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26
4 U.S.C. § 7212, and refer to Seibel’s guilty plea and related documents in that proceeding for the full
5 and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny the
6 allegations contained in paragraph 97.

7 98. Answering paragraph 98, the Development Entities, Seibel, and Green state that
8 paragraph 98 concerns matters that were the subject of Seibel’s guilty plea to one count of a corrupt
9 endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26
10 U.S.C. § 7212, and refer to Seibel’s guilty plea and related documents in that proceeding for the full
11 and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny the
12 allegations contained in paragraph 98.

13 99. Answering paragraph 99, the Development Entities, Seibel, and Green state that
14 paragraph 99 concerns matters that were the subject of Seibel’s guilty plea to one count of a corrupt
15 endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26
16 U.S.C. § 7212, and refer to Seibel’s guilty plea and related documents in that proceeding for the full
17 and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny the
18 allegations contained in paragraph 99.

19 100. Answering paragraph 100, the Development Entities, Seibel, and Green state that
20 paragraph 100 concerns matters that were the subject of Seibel’s guilty plea to one count of a
21 corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under
22 26 U.S.C. § 7212, and refer to Seibel’s guilty plea and related documents in that proceeding for the
23 full and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny
24 the allegations contained in paragraph 100.

25 (b) *In 2008, Mr. Seibel closed his UBS account and opened a new account.*

26 101. Answering paragraph 101, the Development Entities, Seibel, and Green state that
27 paragraph 101 concerns matters that were the subject of Seibel’s guilty plea to one count of a
28 corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under

1 26 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the
2 full and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny
3 the allegations contained in paragraph 101.

4 102. Answering paragraph 102, the Development Entities, Seibel, and Green state that
5 paragraph 102 concerns matters that were the subject of Seibel's guilty plea to one count of a
6 corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under
7 26 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the
8 full and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny
9 the allegations contained in paragraph 102.

10 (c) ***Mr. Seibel [allegedly] filed incomplete and inaccurate tax returns.***

11 103. Answering paragraph 103, the Development Entities, Seibel, and Green state that
12 paragraph 103 concerns matters that were the subject of Seibel's guilty plea to one count of a
13 corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under
14 26 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the
15 full and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny
16 the allegations contained in paragraph 103.

17 104. Answering paragraph 104, the Development Entities, Seibel, and Green state that
18 paragraph 104 concerns matters that were the subject of Seibel's guilty plea to one count of a
19 corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under
20 26 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the
21 full and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny
22 the allegations contained in paragraph 104.

23 105. Answering paragraph 105, the Development Entities, Seibel, and Green state that
24 paragraph 105 concerns matters that were the subject of Seibel's guilty plea to one count of a
25 corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under
26 26 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the
27 full and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny
28 the allegations contained in paragraph 105.

(d) *Mr. Seibel [allegedly] provided false application [sic] to voluntary disclosure program.*

106. Answering paragraph 106, the Development Entities, Seibel, and Green state that paragraph 106 concerns matters that were the subject of Seibel's guilty plea to one count of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the full and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny the allegations contained in paragraph 106.

107. Answering paragraph 107, the Development Entities, Seibel, and Green state that paragraph 107 concerns matters that were the subject of Seibel's guilty plea to one count of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the full and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny the allegations contained in paragraph 107.

108. Answering paragraph 108, the Development Entities, Seibel, and Green state that paragraph 108 concerns matters that were the subject of Seibel's guilty plea to one count of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, and refer to Seibel's guilty plea and related documents in that proceeding for the full and complete recitation of facts. The Development Entities, Seibel, and Green otherwise deny the allegations contained in paragraph 108.

109. Answering paragraph 109, the Development Entities, Seibel, and Green admit that on April 18, 2016, Seibel pled guilty to one count of a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws under 26 U.S.C. § 7212, which is a class E felony, and refer to the transcript from that plea for the full and complete contents of statements made by Seibel on that date. The Development Entities, Seibel, and Green deny any inconsistent or remaining allegations.

110. Answering paragraph 110, the Development Entities, Seibel, and Green admit the allegations.

111. Answering paragraph 111, the Development Entities, Seibel, and Green state that the April 8, 2016, letter speaks for itself; to the extent that the allegations contradict or are inconsistent with the April 8, 2016 letter, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green deny any remaining allegations.

C. Caesars [Wrongfully] Exercises Its Sole Discretion to Terminate the Agreements with the Seibel-Affiliated Entities.

112. Answering paragraph 112, the Development Entities, Seibel, and Green deny the allegations.

(a) Termination of the MOTI Agreement.

113. Answering paragraph 113, the Development Entities, Seibel, and Green state that paragraph 113 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the September 2, 2016, letter speaks for itself; to the extent that the allegations contradict or are inconsistent with the September 2, 2016, letter, the Development Entities, Seibel, and Green deny the allegations.

(b) Termination of the DNT Agreement.

114. Answering paragraph 114, the Development Entities, Seibel, and Green state that paragraph 114 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the September 2, 2016, letter speaks for itself; to the extent that the allegations contradict or are inconsistent with the September 2, 2016, letter, the Development Entities, Seibel, and Green deny the allegations.

115. Answering paragraph 115, the Development Entities, Seibel, and Green deny the allegations.

(c) *Termination of the TPOV Agreement.*

116. Answering paragraph 116, the Development Entities, Seibel, and Green state that paragraph 116 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the September 2, 2016, letter speaks for itself; to the extent that the allegations contradict or are inconsistent with the September 2, 2016, letter, the Development Entities, Seibel, and Green deny the allegations.

(d) *Termination of the LLTQ Agreement.*

117. Answering paragraph 117, the Development Entities, Seibel, and Green state that paragraph 117 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the September 2, 2016, letter speaks for itself; to the extent that the allegations contradict or are inconsistent with the September 2, 2016, letter, the Development Entities, Seibel, and Green deny the allegations.

(e) *Termination of the GRB Agreement.*

118. Answering paragraph 118, the Development Entities, Seibel, and Green state that paragraph 118 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the September 2, 2016, letter speaks for itself; to the extent that the allegations contradict or are inconsistent with the September 2, 2016, letter, the Development Entities, Seibel, and Green deny the allegations.

119. Answering paragraph 119, the Development Entities, Seibel, and Green deny the allegations.

(f) *Termination of the FERG Agreement.*

120. Answering paragraph 120, the Development Entities, Seibel, and Green state that paragraph 120 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the September 2, 2016, letter speaks for itself; to the extent that the allegations contradict or are inconsistent with the September 2, 2016, letter, the Development Entities, Seibel, and Green deny the allegations.

(g) *The Seibel-Affiliated Entities dispute the propriety of the termination of their agreements with Caesars.*

121. Answering paragraph 121, the Development Entities, Seibel, and Green state that the letters referenced in paragraph 121 speak for themselves; to the extent that the allegations contradict or are inconsistent with the letters, the Development Entities, Seibel, and Green deny the allegations.

122. Answering paragraph 122, the Development Entities, Seibel, and Green state that paragraph 122 contains legal conclusions rather than factual allegations, and, therefore, require no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations. The Development Entities, Seibel, and Green further state that the September 12, 2016, letter speaks for itself; to the extent that the allegations contradict or are inconsistent with the September 12, 2016, letter, the Development Entities, Seibel, and Green deny the allegations.

D. Legal Proceedings Involving Caesars and the Defendants.

(a) *Contested matters involving Caesars Palace, CAC, LLTQ, FERG, and MOTI.*

123. Answering paragraph 123, the Development Entities, Seibel, and Green state that the bankruptcy filings speak for themselves; to the extent that the allegations contradict or are inconsistent with the bankruptcy filings, the Development Entities, Seibel, and Green deny the allegations.

1 124. Answering paragraph 124, the Development Entities, Seibel, and Green state that the
2 bankruptcy filings speak for themselves; to the extent that the allegations contradict or are
3 inconsistent with the bankruptcy filings, the Development Entities, Seibel, and Green deny the
4 allegations.

5 125. Answering paragraph 125, the Development Entities, Seibel, and Green state that the
6 bankruptcy filings speak for themselves; to the extent that the allegations contradict or are
7 inconsistent with the bankruptcy filings, the Development Entities, Seibel, and Green deny the
8 allegations.

9 126. Answering paragraph 126, the Development Entities, Seibel, and Green state that the
10 bankruptcy filings speak for themselves; to the extent that the allegations contradict or are
11 inconsistent with the bankruptcy filings, the Development Entities, Seibel, and Green deny the
12 allegations.

13 127. Answering paragraph 127, the Development Entities, Seibel, and Green state that the
14 bankruptcy filings speak for themselves; to the extent that the allegations contradict or are
15 inconsistent with the bankruptcy filings, the Development Entities, Seibel, and Green deny the
16 allegations.

17 128. Answering paragraph 128, the Development Entities, Seibel, and Green state that the
18 bankruptcy filings speak for themselves; to the extent that the allegations contradict or are
19 inconsistent with the bankruptcy filings, the Development Entities, Seibel, and Green deny the
20 allegations.

21 **(b) Litigation involving GRB and Planet Hollywood.**

22 129. Answering paragraph 129, the Development Entities, Seibel, and Green state that the
23 filings speak for themselves; to the extent that the allegations contradict or are inconsistent with the
24 filings, the Development Entities, Seibel, and Green deny the allegations.

25 130. Answering paragraph 130, the Development Entities, Seibel, and Green state that the
26 court's order speaks for itself; to the extent that the allegations contradict or are inconsistent with
27 the court's order, the Development Entities, Seibel, and Green deny the allegations.
28

1 131. Answering paragraph 131, the Development Entities, Seibel, and Green state that the
2 filings speak for themselves; to the extent that the allegations contradict or are inconsistent with the
3 filings, the Development Entities, Seibel, and Green deny the allegations.

4 (c) *Nevada Federal District Court litigation involving TPOV and Paris.*

5 132. Answering paragraph 132, the Development Entities, Seibel, and Green state that the
6 filings speak for themselves; to the extent that the allegations contradict or are inconsistent with the
7 filings, the Development Entities, Seibel, and Green deny the allegations.

8 133. Answering paragraph 133, the Development Entities, Seibel, and Green state that the
9 filings speak for themselves; to the extent that the allegations contradict or are inconsistent with the
10 filings, the Development Entities, Seibel, and Green deny the allegations.

11 E. Mr. Seibel, Mr. Green, and the Seibel-Affiliated Entities Were [Allegedly] Engaged
12 in a Kickback [sic] Scheme.

13 134. Answering paragraph 134, the Development Entities, Seibel, and Green deny the
14 allegations.

15 135. Answering paragraph 135, the Development Entities, Seibel, and Green deny the
16 allegations.

17 136. Answering paragraph 136, the Development Entities, Seibel, and Green deny the
18 allegations.

19 137. Answering paragraph 137, the Development Entities, Seibel, and Green admit that
20 BR 23 Venture, LLC, and Future Star Hospitality Consulting, LLC, received payments from
21 vendors. The Development Entities, Seibel, and Green deny any remaining allegations.

22 138. Answering paragraph 138, the Development Entities, Seibel, and Green deny the
23 allegations.

24 139. Answering paragraph 139, the Development Entities, Seibel, and Green deny the
25 allegations.

26 140. Answering paragraph 140, the Development Entities, Seibel, and Green deny the
27 allegations.
28

1 141. Answering paragraph 141, the Development Entities, Seibel, and Green deny the
2 allegations.

3 142. Answering paragraph 142, the Development Entities, Seibel, and Green deny the
4 allegations.

5 143. Answering paragraph 143, the Development Entities, Seibel, and Green deny the
6 allegations.

7 144. Answering paragraph 144, the Development Entities, Seibel, and Green deny the
8 allegations.

9 **COUNT I**

10 **(Declaratory Judgment Against All Defendants Declaring That**

11 **Caesars Properly Terminated All of the Seibel Agreements)**

12 145. Answering paragraph 145, the Development Entities, Seibel, and Green repeat and
13 re-allege every response set forth above as if fully set forth herein.

14 146. Answering paragraph 146, the Development Entities, Seibel, and Green state that
15 NRS 30.040(1) speaks for itself; to the extent that the allegations contradict or are inconsistent with
16 NRS 30.040(1), the Development Entities, Seibel, and Green deny the allegations.

17 147. Answering paragraph 147, the Development Entities, Seibel, and Green admit that
18 the parties dispute whether Caesars properly terminated the agreements. The Development Entities,
19 Seibel, and Green state that the remaining allegations contain legal conclusions rather than factual
20 allegations, and, therefore, require no response; to the extent the allegations require a response, the
21 Development Entities, Seibel, and Green deny the allegations.

22 148. Answering paragraph 148, the Development Entities, Seibel, and Green state that
23 paragraph 148 contains legal conclusions rather than factual allegations, and, therefore, requires no
24 response; to the extent the allegations require a response, the Development Entities, Seibel, and
25 Green deny the allegations.

26 149. Answering paragraph 149, the Development Entities, Seibel, and Green state that
27 paragraph 149 contains legal conclusions rather than factual allegations, and, therefore, requires no
28

1 response; to the extent the allegations require a response, the Development Entities, Seibel, and
2 Green deny the allegations.

3 **COUNT II**

4 **(Declaratory Judgment Against All Defendants Declaring That Caesars Does Not Have**
5 **Any Current or Future Obligations to Defendants Under the Seibel Agreements)**

6 150. Answering paragraph 150, the Development Entities, Seibel, and Green repeat and
7 re-allege every response set forth above as if fully set forth herein.

8 151. Answering paragraph 151, the Development Entities, Seibel, and Green state that
9 NRS 30.040(1) speaks for itself; to the extent that the allegations contradict or are inconsistent with
10 NRS 30.040(1), the Development Entities, Seibel, and Green deny the allegations.

11 152. Answering paragraph 152, the Development Entities, Seibel, and Green admit that
12 the parties dispute whether Caesars owes any current or future financial obligations or
13 commitments to the Development Entities. The Development Entities, Seibel, and Green state that
14 the remaining allegations contain legal conclusions rather than factual allegations, and, therefore,
15 require no response; to the extent the allegations require a response, the Development Entities,
16 Seibel, and Green deny the allegations.

17 153. Answering paragraph 153, the Development Entities, Seibel, and Green state that
18 paragraph 153 contains legal conclusions rather than factual allegations, and, therefore, requires no
19 response; to the extent the allegations require a response, the Development Entities, Seibel, and
20 Green deny the allegations.

21 154. Answering paragraph 154, the Development Entities, Seibel, and Green state that
22 paragraph 154 contains legal conclusions rather than factual allegations, and, therefore, requires no
23 response; to the extent the allegations require a response, the Development Entities, Seibel, and
24 Green deny the allegations.

25 155. Answering paragraph 155, the Development Entities, Seibel, and Green state that
26 paragraph 155 contains legal conclusions rather than factual allegations, and, therefore, requires no
27 response; to the extent the allegations require a response, the Development Entities, Seibel, and
28 Green deny the allegations.

1 163. Answering paragraph 163, the Development Entities, Seibel, and Green admit that
2 the parties dispute whether Section 13.22 of the LLTQ Agreement and Section 4.1 of the FERG
3 Agreement are enforceable. The Development Entities, Seibel, and Green state that the remaining
4 allegations contain legal conclusions rather than factual allegations, and, therefore, require no
5 response; to the extent the allegations require a response, the Development Entities, Seibel, and
6 Green deny the allegations.

7 164. Answering paragraph 164, the Development Entities, Seibel, and Green state that
8 paragraph 164 contains legal conclusions rather than factual allegations, and, therefore, requires no
9 response; to the extent the allegations require a response, the Development Entities, Seibel, and
10 Green deny the allegations.

11 165. Answering paragraph 165, the Development Entities, Seibel, and Green state that
12 paragraph 165 contains legal conclusions rather than factual allegations, and, therefore, requires no
13 response; to the extent the allegations require a response, the Development Entities, Seibel, and
14 Green deny the allegations.

15 166. Answering paragraph 166, the Development Entities, Seibel, and Green state that
16 paragraph 166 contains legal conclusions rather than factual allegations, and, therefore, requires no
17 response; to the extent the allegations require a response, the Development Entities, Seibel, and
18 Green deny the allegations.

19 167. Answering paragraph 167, the Development Entities, Seibel, and Green state that
20 paragraph 167 contains legal conclusions rather than factual allegations, and, therefore, requires no
21 response; to the extent the allegations require a response, the Development Entities, Seibel, and
22 Green deny the allegations.

23 168. Answering paragraph 168, the Development Entities, Seibel, and Green state that
24 paragraph 168 contains legal conclusions rather than factual allegations, and, therefore, requires no
25 response; to the extent the allegations require a response, the Development Entities, Seibel, and
26 Green deny the allegations.

27 169. Answering paragraph 169, the Development Entities, Seibel, and Green state that
28 paragraph 169 contains legal conclusions rather than factual allegations, and, therefore, requires no

1 response; to the extent the allegations require a response, the Development Entities, Seibel, and
2 Green deny the allegations.

3 170. Answering paragraph 170, the Development Entities, Seibel, and Green state that
4 paragraph 170 contains legal conclusions rather than factual allegations, and, therefore, requires no
5 response; to the extent the allegations require a response, the Development Entities, Seibel, and
6 Green deny the allegations.

7 **COUNT IV**

8 **(Civil Conspiracy Against Mr. Seibel and Mr. Green)**

9 171. Answering paragraph 171, the Development Entities, Seibel, and Green repeat and
10 re-allege every response set forth above as if fully set forth herein.

11 172. Answering paragraph 172, the Development Entities, Seibel, and Green state that
12 paragraph 172 contains legal conclusions rather than factual allegations, and, therefore, requires no
13 response; to the extent the allegations require a response, the Development Entities, Seibel, and
14 Green deny the allegations.

15 173. Answering paragraph 173, the Development Entities, Seibel, and Green state that
16 paragraph 173 contains legal conclusions rather than factual allegations, and, therefore, requires no
17 response; to the extent the allegations require a response, the Development Entities, Seibel, and
18 Green deny the allegations.

19 174. Answering paragraph 174, the Development Entities, Seibel, and Green state that
20 paragraph 174 contains legal conclusions rather than factual allegations, and, therefore, requires no
21 response; to the extent the allegations require a response, the Development Entities, Seibel, and
22 Green deny the allegations.

23 175. Answering paragraph 175, the Development Entities, Seibel, and Green state that
24 paragraph 175 contains legal conclusions rather than factual allegations, and, therefore, requires no
25 response; to the extent the allegations require a response, the Development Entities, Seibel, and
26 Green deny the allegations.

27 176. Answering paragraph 176, the Development Entities, Seibel, and Green state that
28 paragraph 176 contains legal conclusions rather than factual allegations, and, therefore, requires no

1 response; to the extent the allegations require a response, the Development Entities, Seibel, and
2 Green deny the allegations.

3 **COUNT V**

4 **(Breaches of Implied Covenant of Good Faith and Fair Dealing**
5 **Against MOTI, DNT, TPOV, LLTQ, GR BURGR, and FERG)**

6 177. Answering paragraph 177, the Development Entities, Seibel, and Green repeat and
7 re-allege every response set forth above as if fully set forth herein.

8 178. Answering paragraph 178, the Development Entities, Seibel, and Green admit the
9 allegations.

10 179. Answering paragraph 179, the Development Entities, Seibel, and Green admit the
11 allegations.

12 180. Answering paragraph 180, the Development Entities, Seibel, and Green state that
13 paragraph 180 contains legal conclusions rather than factual allegations, and, therefore, requires no
14 response; to the extent the allegations require a response, the Development Entities, Seibel, and
15 Green deny the allegations.

16 181. Answering paragraph 181, the Development Entities, Seibel, and Green state that
17 paragraph 181 contains legal conclusions rather than factual allegations, and, therefore, requires no
18 response; to the extent the allegations require a response, the Development Entities, Seibel, and
19 Green deny the allegations.

20 182. Answering paragraph 182, the Development Entities, Seibel, and Green state that
21 paragraph 182 contains legal conclusions rather than factual allegations, and, therefore, requires no
22 response; to the extent the allegations require a response, the Development Entities, Seibel, and
23 Green deny the allegations.

24 183. Answering paragraph 183, the Development Entities, Seibel, and Green state that
25 paragraph 183 contains legal conclusions rather than factual allegations, and, therefore, requires no
26 response; to the extent the allegations require a response, the Development Entities, Seibel, and
27 Green deny the allegations.

COUNT VI

(Unjust Enrichment Against Mr. Seibel & Mr. Green)

184. Answering paragraph 184, the Development Entities, Seibel, and Green repeat and re-allege every response set forth above as if fully set forth herein.

185. Answering paragraph 185, the Development Entities, Seibel, and Green state that paragraph 185 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

186. Answering paragraph 186, the Development Entities, Seibel, and Green state that paragraph 186 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

187. Answering paragraph 187, the Development Entities, Seibel, and Green state that paragraph 187 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

188. Answering paragraph 188, the Development Entities, Seibel, and Green state that paragraph 188 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

189. Answering paragraph 189, the Development Entities, Seibel, and Green state that paragraph 189 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

190. Answering paragraph 190, the Development Entities, Seibel, and Green state that paragraph 190 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

COUNT VII

(Intentional Interference with Contractual Relations Against Rowen Seibel and Craig Green)

191. Answering paragraph 191, the Development Entities, Seibel, and Green repeat and re-allege every response set forth above as if fully set forth herein.

192. Answering paragraph 192, the Development Entities, Seibel, and Green admit that the MOTI, DNT, TPOV, LLTQ, GR BURGR, and FERG Agreements were valid and binding agreements between Caesars and the Development Entities. The Development Entities, Seibel, and Green state that the remaining allegations contain legal conclusions rather than factual allegations, and, therefore, require no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

193. Answering paragraph 193, the Development Entities, Seibel, and Green state that paragraph 193 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

194. Answering paragraph 194, the Development Entities, Seibel, and Green state that paragraph 194 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

195. Answering paragraph 195, the Development Entities, Seibel, and Green state that paragraph 195 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

196. Answering paragraph 196, the Development Entities, Seibel, and Green state that paragraph 196 contains legal conclusions rather than factual allegations, and, therefore, requires no response; to the extent the allegations require a response, the Development Entities, Seibel, and Green deny the allegations.

197. Answering paragraph 197, the Development Entities, Seibel, and Green state that paragraph 197 contains legal conclusions rather than factual allegations, and, therefore, requires no

1 response; to the extent the allegations require a response, the Development Entities, Seibel, and
2 Green deny the allegations.

3 198. Answering paragraph 198, the Development Entities, Seibel, and Green state that
4 paragraph 198 contains legal conclusions rather than factual allegations, and, therefore, requires no
5 response; to the extent the allegations require a response, the Development Entities, Seibel, and
6 Green deny the allegations.

7 **COUNT VIII**

8 **(Fraudulent Concealment Against Rowen Seibel and Craig Green)**

9 199. Answering paragraph 199, the Development Entities, Seibel, and Green repeat and
10 re-allege every response set forth above as if fully set forth herein.

11 200. Answering paragraph 200, the Development Entities, Seibel, and Green state that
12 paragraph 200 contains legal conclusions rather than factual allegations, and, therefore, requires no
13 response; to the extent the allegations require a response, the Development Entities, Seibel, and
14 Green deny the allegations.

15 201. Answering paragraph 201, the Development Entities, Seibel, and Green state that
16 paragraph 201 contains legal conclusions rather than factual allegations, and, therefore, requires no
17 response; to the extent the allegations require a response, the Development Entities, Seibel, and
18 Green deny the allegations.

19 202. Answering paragraph 202, the Development Entities, Seibel, and Green state that
20 paragraph 202 contains legal conclusions rather than factual allegations, and, therefore, requires no
21 response; to the extent the allegations require a response, the Development Entities, Seibel, and
22 Green deny the allegations.

23 203. Answering paragraph 203, the Development Entities, Seibel, and Green state that
24 paragraph 203 contains legal conclusions rather than factual allegations, and, therefore, requires no
25 response; to the extent the allegations require a response, the Development Entities, Seibel, and
26 Green deny the allegations.

27 204. Answering paragraph 204, the Development Entities, Seibel, and Green state that
28 paragraph 204 contains legal conclusions rather than factual allegations, and, therefore, requires no

1 response; to the extent the allegations require a response, the Development Entities, Seibel, and
2 Green deny the allegations.

3 205. Answering paragraph 205, the Development Entities, Seibel, and Green state that
4 paragraph 205 contains legal conclusions rather than factual allegations, and, therefore, requires no
5 response; to the extent the allegations require a response, the Development Entities, Seibel, and
6 Green deny the allegations.

7 206. Answering paragraph 206, the Development Entities, Seibel, and Green state that
8 paragraph 206 contains legal conclusions rather than factual allegations, and, therefore, requires no
9 response; to the extent the allegations require a response, the Development Entities, Seibel, and
10 Green deny the allegations

11 The Development Entities, Seibel, and Green deny each and every remaining allegation set
12 forth in Caesars' First Amended Complaint not expressly admitted above.

13 **AFFIRMATIVE DEFENSES**

14 And now, having answered Caesars' First Amended Complaint, the Development Entities,
15 Seibel, and Green set forth their affirmative defenses as follows:

16 **FIRST AFFIRMATIVE DEFENSE**

17 Caesars' First Amended Complaint fails to set forth facts sufficient to state a claim upon
18 which relief may be granted against the Development Entities, Seibel, and Green and further fails to
19 entitle Caesars to the relief sought, or to any relief whatsoever from the Development Entities,
20 Seibel, and Green.

21 **SECOND AFFIRMATIVE DEFENSE**

22 Caesars' claims are barred, in whole or in part, by the applicable statutes of limitation and/or
23 statutes of repose.

24 **THIRD AFFIRMATIVE DEFENSE**

25 Caesars' claims are barred, in whole or in part, by the equitable doctrines of laches, waiver,
26 estoppel, abandonment, unclean hands, acquiescence, and/or unjust enrichment.

FOURTH AFFIRMATIVE DEFENSE

Caesars' damages, if any, were proximately caused by the independent, intervening, and/or superseding acts of persons and/or entities other than the Development Entities, Seibel, and Green, for which the Development Entities, Seibel, and Green cannot be held responsible.

FIFTH AFFIRMATIVE DEFENSE

Caesars' claims against the Development Entities and Seibel are barred, in whole or in part, by Caesars' own material breaches of the Development Agreements.

SIXTH AFFIRMATIVE DEFENSE

Caesars' claims against the Development Entities and Seibel are barred, in whole or in part, by Caesars' own material breach of the implied covenants of good faith and fair dealing underlying the Development Agreements.

SEVENTH AFFIRMATIVE DEFENSE

Caesars' claims against the Development Entities, Seibel, and Green are barred, in whole or in part, by Caesars' own intentional and/or negligent conduct.

EIGHTH AFFIRMATIVE DEFENSE

Caesars' claims against the Development Entities, Seibel, and Green are barred, in whole or in part, because, at all times and places mentioned in the First Amended Complaint, the Development Entities, Seibel, and Green's actions were justified and/or privileged.

NINTH AFFIRMATIVE DEFENSE

Caesars' claims against the Development Entities, Seibel, and Green are barred, in whole or in part, by the failure to join necessary and indispensable parties.

TENTH AFFIRMATIVE DEFENSE

Caesars' claim for fraudulent concealment is barred because neither Seibel nor Green owed a duty to disclose to Caesars with regard to the subject matter of Caesars' claim for fraudulent concealment.

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ELEVENTH AFFIRMATIVE DEFENSE

Caesars' claims against the Development Entities, Seibel, and Green are barred, in whole or in part, because they have failed to plead fraud with specificity and/or particularity pursuant to Nevada Rule of Civil Procedure 9(b).

TWELFTH AFFIRMATIVE DEFENSE

Caesars' claims for punitive damages are in violation of constitutional guarantees of due process, equal protection, and/or the prohibition on excessive fines.

THIRTEENTH AFFIRMATIVE DEFENSE

The Development Entities, Seibel, and Green deny any liability for any award of punitive damages because under the current rules governing discovery and trial practices, current evidentiary rules, and current vague substantive standards, such an award would violate their rights under Article I, Sections 8, 9, and 10 of the United States Constitution, the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, and Article 1, Sections 6, 8, and 18 of the Nevada Constitution.

FOURTEENTH AFFIRMATIVE DEFENSE

Caesars' claims warrant dismissal under the first-to-file rule and due to forum shopping.

FIFTEENTH AFFIRMATIVE DEFENSE

Caesars' claims against the Development Entities, Seibel, and Green are barred, in whole or in part, because Caesars consented to the acts and omissions complained of.

SIXTEENTH AFFIRMATIVE DEFENSE

Caesars' claims have been waived, in whole or in part, as a result of the acts and the conduct of Caesars.

SEVENTEENTH AFFIRMATIVE DEFENSE

Caesars' claims are barred, in whole or in part, as a result of Caesars' decision to continue operating the restaurants underlying the Development Agreements.

EIGHTEENTH AFFIRMATIVE DEFENSE

The Development Entities expressly incorporate herein as affirmative defenses their allegations, claims, and defenses in: (a) *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating*

1 *Company, LLC*, Case No. 2:17-cv-00346-JCM-VCF, pending in the United States District Court for
2 the District of Nevada; and (b) *In re: Caesars Entertainment Operating Company, Inc., et. al.*, Case
3 No. 15-01145 (ABG), pending in the United States Bankruptcy Court for the Northern District of
4 Illinois (Eastern Division), and all related matters and proceedings.

5 **NINETEENTH AFFIRMATIVE DEFENSE**

6 Seibel expressly incorporates herein as affirmative defenses his allegations, claims, and
7 defenses in: (a) *TPOV Enterprises 16, LLC v. Paris Las Vegas Operating Company, LLC*, Case No.
8 2:17-cv-00346-JCM-VCF, pending in the United States District Court for the District of Nevada;
9 (b) *Seibel v. PHWLTV, LLC, et. al.*, Case No. A-17-751759-B, pending in the Eighth Judicial District
10 Court for the State of Nevada, County of Clark; and (c) *In re: Caesars Entertainment Operating*
11 *Company, Inc., et. al.*, Case No. 15-01145 (ABG), pending in the United States Bankruptcy Court
12 for the Northern District of Illinois (Eastern Division), and all related matters and proceedings.

13 **TWENTIETH AFFIRMATIVE DEFENSE**

14 Pursuant to the Nevada Rules of Civil Procedure, the Development Entities, Seibel, and
15 Green reserve the right to assert, and give notice that they intend to rely upon, any other affirmative
16 defenses that may become available or appear during discovery proceedings or otherwise in this
17 case, and reserve the right to amend their Answer to assert any such additional affirmative defenses.

18 WHEREFORE, the Development Entities, Seibel, and Green pray for judgment against
19 Caesars as follows:

- 20 1. That Caesars' claims for relief be dismissed with prejudice and that Caesars take
21 nothing thereby;
 - 22 2. For an award of reasonable attorney's fees and costs as provided by the
23 Development Agreements;
 - 24 3. For an award of reasonable attorney's fees and costs on any other grounds
25 authorized by law; and
 - 26 4. For such other and further relief as the Court deems just and proper.
- 27
28

COUNTERCLAIMS

Moti Partners, LLC (“MOTI”); Moti Partners 16, LLC (“MOTI 16”); LLTQ Enterprises, LLC (“LLTQ”); LLTQ Enterprises 16, LLC (“LLTQ 16”); TPOV Enterprises, LLC (“TPOV”); TPOV Enterprises 16, LLC (“TPOV 16”); FERG, LLC (“FERG”); FERG 16, LLC (“FERG 16”); and R Squared Global Solutions, LLC (“RSG”), derivatively on behalf of DNT Acquisition LLC (“DNT”) (collectively, the “Development Entities”) complain against Desert Palace Inc. (“Caesars Palace”), Paris Las Vegas Operating Company, LLC (“Paris”), PHWLTV, LLC (“Planet Hollywood”), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City (“CAC”) (collectively, “Caesars”) as follows:

The Parties

1. MOTI is a New York limited liability company.
2. MOTI 16 is a Delaware limited liability company.
3. LLTQ is a Delaware limited liability company.
4. LLTQ 16 is a Delaware limited liability company.
5. TPOV is a New York limited liability company.
6. TPOV 16 is a Delaware limited liability company.
7. FERG is a Delaware limited liability company.
8. FERG 16 is a Delaware limited liability company.
9. DNT is a Delaware limited liability company; RSG is a Nevada limited liability company and owns 50 percent of the membership interest of DNT.
10. Caesars Palace is a Nevada Corporation that operates Caesars Palace resort and casino located at 3570 Las Vegas Boulevard South, Las Vegas, Nevada.
11. Paris is a Nevada limited liability company that operates the Paris Las Vegas Hotel and Casino located at 3655 Las Vegas Boulevard South, Las Vegas, Nevada.
12. Planet Hollywood is a Nevada limited liability company that operates the Planet Hollywood Las Vegas Resort and Casino located at 3667 Las Vegas Boulevard South, Las Vegas, Nevada.

1 13. CAC is a Delaware limited liability company that operates the Caesars Atlantic City
2 Hotel and Casino located at 2100 Pacific Ave, Atlantic City, New Jersey.

3 **Jurisdiction and Venue**

4 14. The Court has jurisdiction over this matter, and venue is proper in this District,
5 because (i) the alleged wrongful acts at issue were committed by Caesars who are residents of
6 Nevada and/or conduct business in Clark County, Nevada, and (ii) the damages suffered by the
7 Development Entities arise out of actions occurring and committed by Caesars in Clark County,
8 Nevada.

9 **The Development Agreements**

10 ***The MOTI Agreement***

11 15. In or around 2005, MOTI acquired the license rights to operate Serendipity 3
12 restaurants anywhere in the world outside New York City.

13 16. Shortly thereafter, Rowen Seibel (“Seibel”), the then-manager of MOTI, began
14 speaking with casino/resort executives and the food and beverage divisions of various Las Vegas
15 casinos/resorts regarding opening a Serendipity 3 restaurant.

16 17. In 2009, MOTI and Caesars Palace entered into a Development, Operation and
17 License Agreement (the “MOTI Agreement”) for the development and operation of a Serendipity 3
18 restaurant at Caesars Palace.

19 18. Pursuant to the MOTI Agreement, MOTI and Caesars were each required to
20 contribute fifty percent of the capital expenditures—with an initial capital contribution of \$300,000
21 from each party—needed to design, construct, equip and maintain the Serendipity 3 restaurant.

22 19. Serendipity 3 proved to be very successful for many years until its closing in early
23 January 2017.

24 **The DNT Agreement**

25 20. After entering into the MOTI Agreement, Caesars reached out to Seibel to inquire
26 about bringing a New York City-based steakhouse to Caesars Palace to replace the non-branded
27 restaurant that Caesars Palace had been operating.

22. In or around 2011, DNT and Caesars Palace entered into a Development, Operation and License Agreement (the “DNT Agreement”) pursuant to which DNT sub-licensed the Old Homestead brand to Caesars in exchange for license fees and a share of the profits generated at an Old Homestead Restaurant to be located in Caesars Palace.

23. The Old Homestead Restaurant at Caesars Palace proved to be a huge success and remains in operation.

The TPOV Agreement

24. In or around 2010, Gordon Ramsay (“Ramsay”), a celebrity chef, began to explore the possibility of creating and developing new themed restaurants with his name attached.

25. Seibel introduced Ramsay to, among others, key executives at Caesars, which, as detailed below, led to the development and creation of successful steak-themed restaurants, pub-themed restaurants, and a hamburger-themed restaurant (collectively, the “Ramsay Restaurants”).

26. At the time, Caesars had limited capital available to develop the Ramsay Restaurants.

27. Due to Caesars' inability to commit capital to develop the Ramsay Restaurants, the parties decided that to the extent capital was needed for the Ramsay Restaurants, one or more entities managed by Seibel would contribute all necessary capital.

28. The parties anticipated that the initial Ramsay Restaurants were to be the primary restaurants of each brand and, over time, each concept would be expanded with additional restaurants located throughout the United States and globally.

29. The parties conceived the concept of a steakhouse known as Gordon Ramsay Steak (the “Steak Restaurant”) to be located at the Paris.

30. In or around November 2011, TPOV entered into a Development and Operation Agreement (the “TPOV Agreement”) with Paris to develop the Steak Restaurant at Paris.

1 31. Simultaneously, in or around November 2011, Ramsay entered into his own
2 development, operation and license agreement with Caesars providing for the payment of a royalty
3 for the use of his name in connection with the Steak Restaurant (the “Ramsay Steak Agreement”).

4 32. The TPOV Agreement and the Ramsay Steak Agreement were entered into at the
5 same time—neither would have been entered into or carried out without the other, both agreements
6 reference each other, and both expressly concern the Steak Restaurant; accordingly, they form a
7 single integrated contract.

8 33. Under the terms of the TPOV Agreement, TPOV assisted in the initial design of the
9 Steak Restaurant and contributed \$1 million in capital needed to construct and equip the Steak
10 Restaurant.

11 34. In return, TPOV was entitled to receive a capital payback and 50 percent (50%) of
12 the profits from the Steak Restaurant after Paris obtained certain recoupments.

13 35. The Steak Restaurant proved to be a huge success and remains in operation.

14 **The LLTQ Agreement**

15 36. In or around early 2012, the parties conceived the concept of Gordon Ramsay Pub
16 & Grill (the “Pub Restaurant”) to be located at Caesars Palace.

17 37. In or around April 2012, LLTQ entered into a Development and Operation
18 Agreement (the “LLTQ Agreement”) with Caesars Palace to develop the Pub Restaurant.

19 38. Simultaneously, in or around April 2012, Ramsay entered into his own development,
20 operation and license agreement with Caesars providing for the payment of a royalty for the use of
21 his name in connection with the Pub Restaurant (the “Ramsay Pub Agreement”).

22 39. The LLTQ Agreement and the Ramsay Pub Agreement were entered into at the
23 same time—neither would have been entered or carried out without the other, both agreements
24 reference each other, and both expressly concern the Pub Restaurant; accordingly, they form a
25 single integrated contract.

26 40. Under the terms of the LLTQ Agreement, LLTQ assisted in the initial design of the
27 Pub Restaurant and contributed \$1 million in capital needed to construct and equip the Pub
28 Restaurant.

1 41. In return, LTTQ was entitled to receive a capital payback and 50 percent (50%) of
2 the profits from the Pub Restaurant after Caesars Palace obtained certain recoupments.

3 42. Additionally, Section 13.22 of the LLTQ Agreement provided that if Caesars chose
4 to pursue any additional venture in the nature of a pub, bar, cafe or tavern, the parties (or their
5 affiliates) were required to enter into a new agreement that follows the same terms and conditions
6 as contained in the LLTQ Agreement subject only to changes necessary to reflect the changes in
7 location, a baseline amount, expenses and costs.

8 43. Section 13.22 of the LLTQ Agreement further referenced the TPOV Agreement and
9 provided that if Caesars chose to pursue any additional venture in the nature of a steak restaurant,
10 fine dining steakhouse, or chop house, the parties (or their affiliates) were required to enter into a
11 new agreement that follows the same terms and conditions as contained in the TPOV Agreement
12 subject only to changes necessary to reflect the changes in location, a baseline amount, expenses
13 and costs.

14 44. The Pub Restaurant proved to be a huge success and remains in operation.

15 **The FERG Agreement**

16 45. In or around 2013, after seeing the enormous success of the Pub Restaurant in
17 Las Vegas, Caesars sought to open an additional pub restaurant in Atlantic City.

18 46. As required by Section 13.22 of the LLTQ Agreement, Caesars understood that it
19 could not develop a new pub restaurant without entering into a new agreement with LLTQ (or an
20 affiliate of LLTQ).

21 47. Accordingly, Caesars approached LLTQ to enter into a new agreement concerning
22 the proposed pub restaurant in Atlantic City.

23 48. In or around May 2014, FERG (an affiliate of LLTQ) entered into a Consulting
24 Agreement (the “FERG Agreement”) with CAC (an affiliate/subsidiary of Caesars) to develop the
25 same Pub Restaurant at CAC.

26 49. Simultaneously, in or around May 2014, Ramsay entered into his own development,
27 operation and license agreement with Caesars providing for the payment of a royalty to Ramsay for
28 the use of his name in connection with the new Pub Restaurant (the “Ramsay CAC Agreement”).

1 50. The FERG Agreement and the Ramsay CAC Agreement were entered into at the
2 same time—neither would have been entered into or carried out without the other, both agreements
3 reference each other, and both expressly concern the Pub Restaurant; accordingly, they form a
4 single integrated contract.

5 51. FERG was entitled to receive a percentage of the gross receipts from the Pub
6 Restaurant in CAC.

7 52. Like the Pub Restaurant in Las Vegas, the Pub Restaurant in Atlantic City proved to
8 be a huge success and remains in operation.

9 **Caesars and Ramsay Seek to Oust the Development Entities**

10 53. Beginning in or around 2013, Caesars and Ramsay began looking for ways to oust
11 the Development Entities from the MOTI Agreement, the DNT Agreement, the LLTQ Agreement,
12 the TPOV Agreement, and the FERG Agreement (collectively, the “Development Agreements”)
13 and future ventures.

14 54. Now that the Development Entities had introduced Caesars and Ramsay to the
15 concept of developing restaurants using Ramsay’s brand, Caesars and Ramsay believed that they
16 did not need the Development Entities involved in the Ramsay Restaurants anymore and wanted
17 more of the profits from those restaurants for themselves.

18 55. Caesars’ executives were upset by the continuing payment obligations owed to the
19 Development Entities under the terms of the Development Agreements.

20 **Caesars’ Bankruptcy**

21 56. On January 15, 2015 each of several entities affiliated with Caesars filed voluntary
22 petitions under Chapter 11 of the Bankruptcy Code in Illinois (collectively, the “Bankruptcy”).

23 57. In the Bankruptcy, Caesars sought to reject the LLTQ Agreement but did not seek to
24 reject the Ramsay Pub Agreement.

25 58. In the Bankruptcy, Caesars sought to reject the FERG Agreement but did not seek to
26 reject the Ramsay CAC Agreement.

27 59. In the Bankruptcy, Caesars sought to enter into a new agreement involving the Old
28 Homestead Restaurant in place of the DNT Agreement.

60. In the Bankruptcy, Caesars sought to reject the MOTI Agreement.

61. In the Bankruptcy, MOTI, LLTQ, FERG, DNT, and RSG asserted claims against Caesars for monies owed under the MOTI, LLTG, FERG, and DNT Agreements, and those claims remain pending.

62. On August 7, 2019, the Bankruptcy Court entered an Order Granting Motion of the Reorganized Debtors to Stay or Abstain (the “Contested Matters Stay”).

63. In the Contested Matters Stay, the Bankruptcy Court stayed all contested matters between the Development Entities and Caesars pending resolution of this matter.

64. The Development Entities reserve all rights to pursue their claims against Caesars in the Bankruptcy following the conclusion of this matter.

Caesars Excludes the Development Entities from New Ventures

65. Subsequent to entering into the LLTQ Agreement, Caesars created and operated new restaurants subject to Section 13.22 of the LLTQ Agreement, including: (a) Gordon Ramsay Fish & Chips at the LINQ; (b) Gordon Ramsay Steak in Baltimore, Maryland; (c) Gordon Ramsay Steak in Atlantic City, New Jersey;¹ and (d) Gordon Ramsay Steak in Kansas City, Missouri (collectively, the “New Pub/Steak Restaurants”).

66. Caesars did not enter into new agreements (or seek to enter into new agreements) with respect to the New Pub/Steak Restaurants with LLTQ or TPOV (or an affiliate of LLTQ or TPOV) that follow the same terms and conditions as contained in the LLTQ and TPOV Agreements as required by Section 13.22 of the LLTQ Agreement.

¹ The Development Entities acknowledge that the Court previously denied LLTQ, LLTQ 16, MOTI, and MOTI 16’s Motion to Amend their Answer, Affirmative Defenses, and Counterclaims (the “LLTQ/MOTI Answer & Counterclaims”), to include allegations relating to Gordon Ramsay Steak in Atlantic City, New Jersey. (*See* Order Denying Motion to Amend, filed on Nov. 25, 2019.) The Development Entities contend that LLTQ, LLTQ 16, MOTI, and MOTI 16’s prior pleadings already enabled them—under the liberal pleading standard of NRCP 8(a)—to seek damages for Caesars’ creation and operation Gordon Ramsay Steak in Atlantic City, New Jersey even though the restaurant was not specifically named in the LLTQ/MOTI Answer & Counterclaims. *See Hay v. Hay*, 100 Nev. 196, 198, 678 P.2d 672, 674 (1984) (“Because Nevada is a notice-pleading jurisdiction, our courts liberally construe pleadings to place into issue matters which are fairly noticed to the adverse party.”). Regardless, given that Caesars sought and obtained leave to file its First Amended Complaint—which vastly expanded the scope of this litigation by adding coercive claims for relief and a new party—LLTQ, LLTQ 16, MOTI, and MOTI 16 are arguably compelled to assert all compulsory counterclaims against Caesars, which includes seeking damages for their claims related to Gordon Ramsay Steak in Atlantic City, New Jersey.

1 67. On information and belief, the New Pub/Steak Restaurants have been very
2 successful and remain in operation.

3 **Seibel Divests His Interests in the Development Entities**

4 68. On May 16, 2014, the parties entered into a written amendment (the “Amendment”)
5 with regard to the MOTI Agreement, the DNT Agreement, the TPOV Agreement, and the LLTQ
6 Agreement, authorizing each of MOTI, DNT, TPOV, and LLTQ to sell, assign, or transfer its
7 membership interests without written consent from Caesars, provided that the assignees are not
8 competitors of Caesars and would be subject to Caesars’ internal compliance department.

9 69. The Amendment further provided that any obligations to be performed by Seibel
10 under the MOTI Agreement, the DNT Agreement, the TPOV Agreement, and the LLTQ
11 Agreement could be delegated without written consent from Caesars so long as the person to whom
12 such obligations were delegated is reasonably qualified to carry out those obligations.

13 70. In April 2016, Seibel divested his membership interests in and management rights
14 for the Development Entities.

15 71. In April 2016, Seibel assigned his membership interests in MOTI, DNT (via RSG),
16 TPOV, LLTQ, and FERG to the Seibel Family 2016 Trust (the “Trust”), an irrevocable trust of
17 which he is neither a beneficiary nor a trustee.

18 72. MOTI, TPOV, LLTQ, and FERG (the “Initial Entities”) assigned (the
19 “Assignments”) their interests in the Development Agreements to MOTI 16, TPOV 16, LLTQ 16,
20 and FERG 16 (the “16-Entities”), respectively.

21 73. Seibel’s obligations under the MOTI, TPOV, LLTQ, and FERG Agreements were
22 delegated to others, such that Seibel has no continuing rights or responsibilities to the Initial Entities
23 or the 16-Entities.

24 74. Caesars was notified of the Assignments, in writing, and, in acknowledgment and
25 ratification of the Assignments, began making payments under the Development Agreements to the
26 16-Entities.

27 **Caesars Weaponizes Seibel’s Conviction to Terminate the Development Agreements**

28 75. In April 2016, Seibel personally pled guilty to a tax offense.

1 76. Caesars saw Seibel's plea as pretext for its pre-planned objective to terminate the
2 Development Agreements and cease doing business with the Development Entities.

3 77. In September 2016, Caesars purported to terminate the Development Agreements,
4 contending that it had determined that Seibel—who had no interest in either the Initial Entities or
5 the 16-Entities—would be considered an “Unsuitable Person” by the Nevada Gaming Control
6 Board.

7 78. Caesars then stated that it was, *post hac*, rejecting the Assignments that it had
8 already ratified, contending that the Assignments were not valid and that it believed that the 16-
9 Entities remained affiliated with Seibel.

10 79. The Development Entities sought Caesars' guidance and assistance to satisfy any of
11 Caesars' alleged suitability concerns.

12 80. Caesars arbitrarily refused to provide any guidance or assistance to the Development
13 Entities to cure Caesars' alleged suitability concerns.

14 81. Caesars did not allow (or offer to allow) the Development Entities an opportunity to
15 sell their interests in the Development Agreements to a third party deemed suitable by Caesars.

16 82. Caesars did not purchase (or offer to purchase) the Development Entities' rights
17 under the Development Agreements.

18 83. Caesars did not close the Ramsay Restaurants (or the Old Homestead Restaurant);
19 nor did Caesars terminate any of its related agreements with Ramsay.

20 84. Caesars continued (and continues) to operate the Ramsay Restaurants (and the Old
21 Homestead Restaurant) for a substantial profit.

22 85. Caesars has not made any payments to the Development Entities as required by the
23 Development Agreements since terminating the Development Agreements.

24 86. Caesars wants the best of both worlds: receive the benefits of the Development
25 Agreements (e.g., capital funding and development of the Restaurants) without the corresponding
26 burdens (e.g., profit sharing with the Development Entities and repayment of the initial capital
27 funding provided by the Development Entities).
28

FIRST CAUSE OF ACTION

Breach of Contract

Development Entities v. Caesars

87. The Development Entities repeat and re-allege the above allegations as though fully set forth herein.

88. The Development Entities and Caesars entered into valid and binding contracts (the Development Agreements).

89. The Development Entities performed under the Development Agreements and/or were excused from performing.

90. Caesars materially breached the Development Agreements by, among other actions: (a) failing to pay the Development Entities monies owed under the Development Agreements; (b) wrongfully terminating the Development Agreements; (c) wrongfully rejecting the Assignments; (d) continuing to operate the Ramsay Restaurants (and the Old Homestead Restaurant) after its wrongful termination of the Development Agreements; and (e) creating and operating the New Pub/Steak Restaurants without entering into new agreements with LLTQ, TPOV, or an affiliate of LLTQ or TPOV.

91. As a result of Caesars' breaches, the Development Entities have been damaged in an amount in excess of \$15,000.

92. As a result of Caesars' breaches, the Development Entities have been forced to incur attorneys' fees and legal expenses, which the Development Entities are entitled to recover under the terms of the Development Agreements and/or as may be allowed by law.

93. The Development Entities are entitled to an accounting pursuant to the terms of the Development Agreements and under principles of equity.

SECOND CAUSE OF ACTION

Breach of the Implied Covenant of Good Faith and Fair Dealing

Development Entities v. Caesars

94. The Development Entities repeat and re-allege the above allegations as though fully set forth herein.

1 95. The Development Entities and Caesars entered into valid and binding contracts (the
2 Development Agreements).

3 96. As a result of the Development Agreements, Caesars owed the Development Entities
4 a duty of good faith and fair dealing, which prohibited Caesars from deliberately contravening the
5 intention and spirit of the Development Agreements.

6 97. Caesars breached this duty by, among other actions: (a) failing to pay the
7 Development Entities monies owed under the Development Agreements; (b) wrongfully
8 terminating the Development Agreements; (c) wrongfully rejecting the Assignments; (d) continuing
9 to operate the Ramsay Restaurants (and the Old Homestead Restaurant) after its wrongful
10 termination of the Development Agreements; (e) creating and operating the New Pub/Steak
11 Restaurants without entering into new agreements with LLTQ, TPOV, or an affiliate of LLTQ or
12 TPOV; (f) failing to work with, assist, and provide guidance to the Development Entities to satisfy
13 Caesars' alleged suitability concerns; (g) failing to allow (or offer to allow) the Development
14 Entities to sell their interests in the Development Agreements to a third party deemed suitable by
15 Caesars; and (h) failing to purchase (or offer to purchase) the Development Entities' rights under
16 the Development Agreements.

17 98. Caesars' breaches of the implied covenant of good faith and fair dealing underlying
18 the Development Agreements deprived the Development Entities of their justified expectations.

19 99. As a result of Caesars' breaches, the Development Entities have been damaged in an
20 amount in excess of \$15,000.

21 100. As a result of Caesars' breaches, the Development Entities have been forced to incur
22 attorneys' fees and legal expenses, which the Development Entities are entitled to recover under the
23 terms of the Development Agreements and/or as may be allowed by law.

24 101. The Development Entities are entitled to an accounting pursuant to the terms of the
25 Development Agreements and under principles of equity.

26 ///

27 ///

28 ///

WHEREFORE, the Development Entities pray for relief as follows:

1. For permanent injunctive relief restraining Caesars from engaging in conduct in violation of the Development Agreements, including continuing to operate the Ramsay Restaurants (and the Old Homestead Restaurant) without remitting a share of the profits to the Development Entities;
2. For judgment for compensatory damages in excess of \$15,000;
3. For judgment for punitive or exemplary damages according to proof;
4. For an award of interest and costs as provided by law;
5. For an award of reasonable attorneys' fees and costs as provided by the Development Agreements and/or as may be allowed by law; and
6. For such other and further relief as may be deemed just and proper.

DEMAND FOR JURY TRIAL

Pursuant to Nevada Rule of Civil Procedure 38, the Development Entities, Seibel, and Green demand a trial by jury of all triable issues in the above-captioned action.

DATED this 19th day of June 2020.

BAILEY ♦ KENNEDY

By: /s/ John R. Bailey

JOHN R. BAILEY
DENNIS L. KENNEDY
JOSHUA P. GILMORE
PAUL C. WILLIAMS
STEPHANIE J. GLANTZ

Attorneys for Rowen Seibel; Moti Partners, LLC; Moti Partners 16, LLC; LLTQ Enterprises, LLC; LLTQ Enterprises 16, LLC; TPOV Enterprises, LLC; TPOV Enterprises 16, LLC; FERG, LLC; FERG 16, LLC; Craig Green; and R Squared Global Solutions, LLC, Derivatively On Behalf of DNT Acquisition, LLC

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 19th day of June, 2020, service of the foregoing was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

JAMES J. PISANELLI
DEBRA L. SPINELLI
M. MAGALI MERCERA
BRITTNIE T. WATKINS
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, NV 89101

Email: JJP@pisanellibice.com
DLK@pisanellibice.com
MMM@pisanellibice.com
BTW@pisanellibice.com
Attorneys for Defendants/Counterclaimant Desert Palace, Inc.; Paris Las Vegas Operating Company, LLC; PHWLV, LLC; and Boardwalk Regency Corporation

JEFFREY J. ZEIGER
WILLIAM E. ARNAULT
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

Email: jzeiger@kirkland.com
warnault@kirkland.com
Attorneys for Defendants/Counterclaimant Desert Palace, Inc.; Paris Las Vegas Operating Company, LLC; PHWLV, LLC; and Boardwalk Regency Corporation

JOHN D. TENNERT
FENNEMORE CRAIG, P.C.
300 East 2nd Street, Suite 1510
Reno, NV 89501

Email: jtennert@fclaw.com
Attorneys for Defendants Gordon Ramsay

ALAN LEBENSFELD
LAWRENCE J. SHARON
BRETT SCHWARTZ
LEBENSFELD SHARON & SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701

Email: alan.lebensfeld@lsandspc.com
Lawrence.sharon@lsandspc.com
Brett.schwartz@lsandspc.com
Attorneys for Plaintiffs in Intervention The Original Homestead Restaurant, Inc.

MARK J. CONNOT
KEVIN M. SUTEHALL
FOX ROTHSCCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

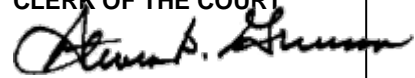
Email: mconnot@foxrothschild.com
ksutehall@foxrothschild.com
Attorneys for Plaintiffs in Intervention The Original Homestead Restaurant, Inc.

AARON D. LOVASS
NEWMYER & DILLION LLP
3800 Howard Hughes Pkwy,
Suite 700
Las Vegas, NV 89169

Email: Aaron.Lovaas@ndlf.com
Attorneys for GR Burgr, LLC

/s/ Paul C. Williams
Employee of BAILEY ♦ KENNEDY

TAB 18



ANSBU

AARON D. LOVAAS, ESQ. SBN 5701
NEWMYER & DILLION LLP
3800 Howard Hughes Pkwy, Suite 700
Las Vegas, Nevada 89169
Telephone: (702) 777-7500
Facsimile: (702) 777-7599
Aaron.Lovaas@ndlf.com

Attorneys for Nominal Plaintiff
GR BURGR, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

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

Defendants,

And

GR BURGR, LLC, a Delaware limited
liability company,

Nominal Plaintiff.

AND ALL RELATED CLAIMS.

CASE NO.: A-17-751759-B
DEPT. NO.: XVI

Consolidated with A-17-760537-B

**NOMINAL PLAINTIFF, GR BURGR, LLC's
ANSWER TO FIRST AMENDED
COMPLAINT**

NOMINAL PLAINTIFF, GR BURGR LLC, ("GRB,"), by and through its attorneys of
record, Aaron D. Lovaas, Esq. of the law firm of NEWMYER & DILLION LLP, hereby
answers the First Amended Complaint of DESERT PALACE, INC.; PARIS LAS VEGAS
OPERATING COMPANY, LLC; PHWLTV, LLC; and BOARDWALK REGENCY
CORPORATION dba CAESARS ATLANTIC CITY, ("Caesars") as follows:

PRELIMINARY STATEMENT

1
2 1. The answering Nominal Plaintiff, GRB, answering paragraph 1 of the First
3 Amended Complaint, is presently without sufficient information to form a belief as to the
4 truth of the allegations contained within this paragraph and therefore denies the same. As
5 to allegations regarding the various terms and requirements of the referenced "six
6 agreements," GRB affirmatively alleges that said agreements speak for themselves.

7 2. The answering Nominal Plaintiff, GRB, answering paragraph 2 of the First
8 Amended Complaint, is presently without sufficient information to form a belief as to the
9 truth of the allegations contained within this paragraph and therefore denies the same.

10 3. This answering Nominal Plaintiff, GRB, answering paragraph 3 of the First
11 Amended Complaint, is presently without sufficient information to form a belief as to the
12 truth of the allegations contained within this paragraph and therefore denies the same. As
13 to matters of public record alleged in paragraph 3, GRB affirmatively alleges that said
14 public records speak for themselves.

15 4. This answering Nominal Plaintiff, GRB, answering paragraph 4 of the First
16 Amended Complaint, is presently without sufficient information to form a belief as to the
17 truth of the allegations contained within this paragraph and therefore denies the same.

18 5. This answering Nominal Plaintiff, GRB, answering paragraph 5 of the First
19 Amended Complaint, is presently without sufficient information to form a belief as to the
20 truth of the allegations contained within this paragraph and therefore denies the same. As
21 to allegations regarding the various terms and requirements of the referenced
22 "agreements" among various parties, GRB affirmatively alleges that said agreements
23 speak for themselves.

24 6. This answering Nominal Plaintiff, GRB, answering paragraph 6 of the First
25 Amended Complaint, is presently without sufficient information to form a belief as to the
26 truth of the allegations contained within this paragraph and therefore denies the same. As
27 to allegations regarding what the various parties to the present case may be "claiming" or
28 "indicating," GRB affirmatively alleges that the papers and pleadings on file in this matter

1 speak for themselves.

2 7. This answering Nominal Plaintiff, GRB, answering paragraph 7 of the First
3 Amended Complaint, is presently without sufficient information to form a belief as to the
4 truth of the allegations contained within this paragraph and therefore denies the same. As
5 to specific allegations of fraudulent inducement attributed to GRB as one of the “Seibel-
6 Affiliated Entities” (as that term is defined in the First Amended Complaint), GRB denies
7 the same.

8 8. This answering Nominal Plaintiff, GRB, answering paragraph 8 of the First
9 Amended Complaint, incorporates by reference the responses above.

10 9. This answering Nominal Plaintiff, GRB, answering paragraph 9 of the First
11 Amended Complaint, is presently without sufficient information to form a belief as to the
12 truth of the allegations contained within this paragraph and therefore denies the same.

13 10. This answering Nominal Plaintiff, GRB, answering paragraph 10 of the First
14 Amended Complaint, is presently without sufficient information to form a belief as to the
15 truth of the allegations contained within this paragraph and therefore denies the same.

16 11. This answering Nominal Plaintiff, GRB, answering paragraph 11 of the First
17 Amended Complaint, is presently without sufficient information to form a belief as to the
18 truth of the allegations contained within this paragraph and therefore denies the same.

19 **PARTIES, JURISDICTION, AND VENUE**

20 12. This answering Nominal Plaintiff, GRB, answering paragraphs 12 - 17 of the
21 First Amended Complaint, admits the allegations therein, based on information and belief.

22 13. This answering Nominal Plaintiff, GRB, answering paragraph 18 of the First
23 Amended Complaint, admits the allegations therein as to the identification of the party,
24 based on information and belief. As to the factual allegations regarding the negotiation of
25 agreements, GRB is presently without sufficient information to form a belief as to the truth
26 of those allegations and therefore denies the same. As to the allegations describing
27 specific terms of the referenced agreements, GRB affirmatively alleges that said
28 agreements speak for themselves.

14. This answering Nominal Plaintiff, GRB, answering paragraph 19 of the First Amended Complaint, admits the allegations therein as to the identification of the party, based on information and belief. As to the remaining factual allegations of paragraph 19, GRB is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

15. This answering Nominal Plaintiff, GRB, answering paragraph 20 of the First Amended Complaint, admits the allegations therein as to the identification of the party, based on information and belief. As to the factual allegations regarding the negotiation of agreements, GRB is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

16. This answering Nominal Plaintiff, GRB, answering paragraph 21 of the First Amended Complaint, admits the allegations therein as to the identification of the party, based on information and belief. As to the factual allegations regarding the negotiation of agreements, GRB is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

17. This answering Nominal Plaintiff, GRB, answering paragraph 22 of the First Amended Complaint, admits the allegations therein as to the identification of the party, based on information and belief. As to the remaining factual allegations of paragraph 22, GRB is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

18. This answering Nominal Plaintiff, GRB, answering paragraph 23 of the First Amended Complaint, admits the allegations therein as to the identification of the party, based on information and belief. As to the factual allegations regarding the negotiation of agreements, GRB is presently without sufficient information to form a belief as to the truth

of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

19. This answering Nominal Plaintiff, GRB, answering paragraph 24 of the First Amended Complaint, admits the allegations therein as to the identification of the party, based on information and belief. As to the remaining factual allegations of paragraph 24, GRB is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

20. This answering Nominal Plaintiff, GRB, answering paragraph 25 of the First Amended Complaint, admits the allegations therein as to the identification of GRB. As to the allegations describing specific terms of the GRB Agreement, GRB affirmatively alleges that said agreement speaks for itself.

21. This answering Nominal Plaintiff, GRB, answering paragraph 26 of the First Amended Complaint, admits the allegations therein as to the identification of the party, based on information and belief. As to the factual allegations regarding the negotiation of agreements, GRB is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

22. This answering Nominal Plaintiff, GRB, answering paragraph 27 of the First Amended Complaint, admits the allegations therein as to the identification of the party, based on information and belief. As to the remaining factual allegations of paragraph 27, GRB is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

23. This answering Nominal Plaintiff, GRB, answering paragraph 28 of the First Amended Complaint, admits the allegations therein, based on information and belief.

/ / /

/ / /

STATEMENT OF FACTS

A. The Business Relationship Between Caesars and Mr. Seibel.

(a) *The MOTI Agreement.*

24. This answering Nominal Plaintiff, GRB, answering paragraphs 29 - 30 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations and therefore denies the same.

25. This answering Nominal Plaintiff, GRB, answering paragraphs 31 - 37 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

26. This answering Nominal Plaintiff, GRB, answering paragraphs 38 - 39 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

(b) *The DNT Agreement.*

27. This answering Nominal Plaintiff, GRB, answering paragraph 40 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

28. This answering Nominal Plaintiff, GRB, answering paragraph 41 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

29. This answering Nominal Plaintiff, GRB, answering paragraphs 42 - 48 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

30. This answering Nominal Plaintiff, GRB, answering paragraph 49 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

(c) The TPOV Agreement.

31. This answering Nominal Plaintiff, GRB, answering paragraph 50 - 57 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

32. This answering Nominal Plaintiff, GRB, answering paragraph 58 - 59 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

(d) The LLTQ Agreement.

33. This answering Nominal Plaintiff, GRB, answering paragraph 60 - 67 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

34. This answering Nominal Plaintiff, GRB, answering paragraph 68 - 69 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

35. This answering Nominal Plaintiff, GRB, answering paragraph 70 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

36. This answering Nominal Plaintiff, GRB, answering paragraph 71 of the First Amended Complaint, is presently without sufficient information to form a belief as to the

truth of the allegations and therefore denies the same.

(e) The GR BURGR Agreement.

37. This answering Nominal Plaintiff, GRB, answering paragraphs 72 - 78 of the First Amended Complaint, admits the allegations therein, based on information and belief. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

38. This answering Nominal Plaintiff, GRB, answering paragraph 79 of the First Amended Complaint, (a) affirmatively alleges that the terms of the agreements referenced therein speak for themselves; (b) has no capacity to answer on behalf of Mr. Seibel; and (c) has no capacity to admit or deny whether GRB was "obligated" as alleged under the terms of the referenced agreement as to do so calls for the expression of a legal conclusion.

39. This answering Nominal Plaintiff, GRB, answering paragraph 80 - 81 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

(f) The FERG Agreement.

40. This answering Nominal Plaintiff, GRB, answering paragraph 82 - 89 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

41. This answering Nominal Plaintiff, GRB, answering paragraph 90 - 91 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same.

42. This answering Nominal Plaintiff, GRB, answering paragraph 92 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said

agreements speak for themselves.

43. This answering Nominal Plaintiff, GRB, answering paragraph 93 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing what Caesars “contends” and/or what FERG “has asserted,” GRB affirmatively alleges that the papers and pleadings on file in this matter speak for themselves.

B. The Activities of Mr. Seibel and the Seibel-Affiliated Entities Rendered Him Unsuitable Under the Seibel Agreements.

44. This answering Nominal Plaintiff, GRB, answering paragraph 94 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

(a) Mr. Seibel set up numbered UBS accounts in Switzerland and concealed them from the United States government.

45. This answering Nominal Plaintiff, GRB, answering paragraphs 95 - 100 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

(b) In 2008, Mr. Seibel closed his UBS account and opened a new account.

46. This answering Nominal Plaintiff, GRB, answering paragraph 101 - 102 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

(c) Mr. Seibel filed incomplete and inaccurate tax returns.

47. This answering Nominal Plaintiff, GRB, answering paragraph 103 - 105 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those factual allegations and therefore denies the same. As to the allegations contained in those paragraphs describing various reporting and filing

obligations of United States citizens, GRB affirmatively alleges that the United States Internal Revenue Code and related regulations speak for themselves.

(d) Mr. Seibel provided false application to voluntary disclosure program.

48. This answering Nominal Plaintiff, GRB, answering paragraph 106 - 108 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

49. This answering Nominal Plaintiff, GRB, answering paragraph 109 - 110 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the factual allegations therein and therefore denies the same. As to the allegations of those paragraphs describing matters of public record, GRB affirmatively alleges that said public records speak for themselves.

50. This answering Nominal Plaintiff, GRB, answering paragraph 111 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

C. Caesars Exercises Its Sole Discretion to Terminate the Agreements with the Seibel-Affiliated Entities.

51. This answering Nominal Plaintiff, GRB, answering paragraph 112 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

(a) Termination of the MOTI Agreement.

52. This answering Nominal Plaintiff, GRB, answering paragraph 113 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced letter, GRB affirmatively alleges that said letter speaks for itself.

/ / /

(b) Termination of the DNT Agreement.

53. This answering Nominal Plaintiff, GRB, answering paragraph 114 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced letter, GRB affirmatively alleges that said letter speaks for itself.

54. This answering Nominal Plaintiff, GRB, answering paragraph 115 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

(c) Termination of the TPOV Agreement.

55. This answering Nominal Plaintiff, GRB, answering paragraph 116 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced letter, GRB affirmatively alleges that said letter speaks for itself.

(d) Termination of the LLTQ Agreement.

56. This answering Nominal Plaintiff, GRB, answering paragraph 117 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced letter, GRB affirmatively alleges that said letter speaks for itself.

(e) Termination of the GRB Agreement.

57. This answering Nominal Plaintiff, GRB, answering paragraph 118 of the First Amended Complaint, admits it received the referenced letter from Caesars dated on or about September 2, 2016. GRB affirmatively alleges that said letter speaks for itself.

58. This answering Nominal Plaintiff, GRB, answering paragraph 119 of the First Amended Complaint, admits the GRB Agreement was terminated.

/ / /

(f) Termination of the FERG Agreement.

59. This answering Nominal Plaintiff, GRB, answering paragraph 120 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced letter, GRB affirmatively alleges that said letter speaks for itself.

(g) The Seibel-Affiliated Entities dispute the propriety of the termination of their agreements with Caesars.

60. This answering Nominal Plaintiff, GRB, answering paragraphs 121 - 122 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced letters, GRB affirmatively alleges that said letters speak for themselves.

D. Legal Proceedings Involving Caesars and the Defendants.

(a) Contested matters involving Caesars Palace, CAC, LLTQ, FERG, and MOTI.

61. This answering Nominal Plaintiff, GRB, answering paragraph 123 - 128 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing matters of public record, GRB affirmatively alleges that said public records speak for themselves.

(b) Litigation involving GRB and Planet Hollywood.

62. This answering Nominal Plaintiff, GRB, answering paragraph 129 - 131 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing matters of public record, GRB affirmatively alleges that said public records speak for themselves.

/ / /

(c) Nevada Federal District Court litigation involving TPOV and Paris.

63. This answering Nominal Plaintiff, GRB, answering paragraph 132 - 133 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing matters of public record, GRB affirmatively alleges that said public records speak for themselves.

E. Mr. Seibel, Mr. Green, and the Seibel-Affiliated Entities Were Engaged in a Kickback Scheme.

64. This answering Nominal Plaintiff, GRB, answering paragraph 134 - 143 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

65. This answering Nominal Plaintiff, GRB, answering paragraph 144 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same. To the extent said allegations are directed towards GRB as a "Seibel-Affiliated Entity," GRB denies the same.

COUNT I

(Declaratory Judgment Against All Defendants Declaring That Caesars Properly Terminated All of the Seibel Agreements)

66. This answering Nominal Plaintiff, GRB, answering paragraph 145 of the First Amended Complaint, incorporates by reference the responses above.

67. This answering Nominal Plaintiff, GRB, answering paragraph 146 of the First Amended Complaint, neither admits, nor denies said paragraph as the same is a mere recitation of NRS 30.040(1), which speaks for itself.

68. This answering Nominal Plaintiff, GRB, answering paragraph 147 of the First Amended Complaint, neither admits, nor denies said paragraph as the same is a mere

1 recitation that the parties hereto have a dispute, which is evident from the existence of this
2 litigation, the papers and pleadings on file in which speak for themselves.

3 69. This answering Nominal Plaintiff, GRB, answering paragraph 148 of the First
4 Amended Complaint, lacks the capacity to either admit or deny as the determination of
5 whether Caesars “properly exercised” its discretion under the various alleged agreements
6 calls for a legal conclusion.

7 70. This answering Nominal Plaintiff, GRB, answering paragraph 149 of the First
8 Amended Complaint, neither admits nor denies the fact that Caesars requests any
9 particular relief. GRB affirmatively alleges that the First Amended Complaint speaks for
10 itself as to the relief sought by Caesars.

11 COUNT II

12 **(Declaratory Judgment Against All Defendants Declaring That Caesars Does Not** 13 **Have Any Current or Future Obligations to Defendants Under the Seibel** 14 **Agreements)**

15 71. This answering Nominal Plaintiff, GRB, answering paragraph 150 of the First
16 Amended Complaint, incorporates by reference the responses above.

17 72. This answering Nominal Plaintiff, GRB, answering paragraph 151 of the First
18 Amended Complaint, neither admits, nor denies said paragraph as the same is a mere
19 recitation of NRS 30.040(1), which speaks for itself.

20 73. This answering Nominal Plaintiff, GRB, answering paragraph 152 of the First
21 Amended Complaint, neither admits, nor denies said paragraph as the same is a mere
22 recitation that the parties hereto have a dispute, which is evident from the existence of this
23 litigation, the papers and pleadings on file in which speak for themselves.

24 74. This answering Nominal Plaintiff, GRB, answering paragraph 153 of the First
25 Amended Complaint, lacks the capacity to either admit or deny as the determination of
26 whether Caesars “ha[s] any current or future financial obligations or commitments to Mr.
27 Seibel or the Seibel-Affiliated Entities” calls for a legal conclusion.

28 75. This answering Nominal Plaintiff, GRB, answering paragraph 154 of the First

Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. As to the allegations describing specific terms of the referenced agreements, GRB affirmatively alleges that said agreements speak for themselves.

76. This answering Nominal Plaintiff, GRB, answering paragraph 155 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. To the extent “fraudulent inducement” is alleged in this paragraph against GRB as one of the “Seibel-Affiliated Entities,” GRB denies the same.

77. This answering Nominal Plaintiff, GRB, answering paragraph 156 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

78. This answering Nominal Plaintiff, GRB, answering paragraph 157 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. To the extent “fraudulent inducement” is alleged in this paragraph against GRB as one of the “Seibel-Affiliated Entities,” GRB denies the same.

79. This answering Nominal Plaintiff, GRB, answering paragraph 158 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. To the extent a breach of the referenced agreements is alleged in this paragraph against GRB as one of the “Seibel-Affiliated Entities,” GRB denies the same.

80. This answering Nominal Plaintiff, GRB, answering paragraph 159 – 160 of the First Amended Complaint, neither admits nor denies the fact that Caesars requests any particular relief. GRB affirmatively alleges that the First Amended Complaint speaks for itself as to the relief sought by Caesars.

/ / /

/ / /

COUNT III

(Declaratory Judgment Against All Defendants Declaring that the Seibel Agreements Do Not Prohibit or Limit Existing or Future Restaurant Ventures Between Caesars and Gordon Ramsay)

81. This answering Nominal Plaintiff, GRB, answering paragraph 161 of the First Amended Complaint, incorporates by reference the responses above.

82. This answering Nominal Plaintiff, GRB, answering paragraph 162 of the First Amended Complaint, neither admits, nor denies said paragraph as the same is a mere recitation of NRS 30.040(1), which speaks for itself.

83. This answering Nominal Plaintiff, GRB, answering paragraph 163 of the First Amended Complaint, neither admits, nor denies said paragraph as the same is a mere recitation that the parties hereto have a dispute, which is evident from the existence of this litigation, the papers and pleadings on file in which speak for themselves.

84. This answering Nominal Plaintiff, GRB, answering paragraph 164 - 168 of the First Amended Complaint, lacks the capacity to either admit or deny as the determination of whether the terms of the referenced agreements are "unenforceable," "overbroad," "indefinite," "vague," and "ambiguous" calls for a legal conclusion.

85. This answering Nominal Plaintiff, GRB, answering paragraph 169 - 170 of the First Amended Complaint, neither admits nor denies the fact that Caesars requests any particular relief. GRB affirmatively alleges that the First Amended Complaint speaks for itself as to the relief sought by Caesars.

COUNT IV

(Civil Conspiracy Against Mr. Seibel and Mr. Green)

86. This answering Nominal Plaintiff, GRB, answering paragraph 171 of the First Amended Complaint, incorporates by reference the responses above.

87. This answering Nominal Plaintiff, GRB, answering paragraphs 172 - 176 of the First Amended Complaint, neither admits, nor denies said allegations as the same are specifically directed at parties other than GRB.

COUNT V

(Breaches of Implied Covenants of Good Faith and Fair Dealing Against MOTI, DNT, TPOV, LLTQ, GR BURGR, and FERG)

88. This answering Nominal Plaintiff, GRB, answering paragraph 177 of the First Amended Complaint, incorporates by reference the responses above.

89. This answering Nominal Plaintiff, GRB, answering paragraph 178 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations regarding the MOTI, DNT, TPOV, LLTQ, and FERG Agreements and therefore denies the same. Specifically with respect to the GR BURGR Agreement, GRB lacks the capacity to either admit or deny as the determination of whether the agreement constituted a “valid, binding, and enforceable” contract calls for a legal conclusion.

90. This answering Nominal Plaintiff, GRB, answering paragraph 179 of the First Amended Complaint neither admits, nor denies said paragraph as the same is a mere recitation of Nevada law, which speaks for itself.

91. This answering Nominal Plaintiff, GRB, answering paragraph 180 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

92. This answering Nominal Plaintiff, GRB, answering paragraph 181 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of the allegations contained within this paragraph and therefore denies the same.

93. This answering Nominal Plaintiff, GRB, answering paragraph 182 - 183 of the First Amended Complaint, is presently without sufficient information to form a belief as to the truth of those allegations and therefore denies the same. To the extent a breach of the implied covenant of good faith and fair dealing is alleged against GRB and/or damages sought from GRB specifically, GRB denies the same.

/ / /

/ / /

COUNT VI

(Unjust Enrichment Against Mr. Seibel & Mr. Green)

94. This answering Nominal Plaintiff, GRB, answering paragraph 184 of the First Amended Complaint, incorporates by reference the responses above.

95. This answering Nominal Plaintiff, GRB, answering paragraph 185 - 190 of the First Amended Complaint, neither admits, nor denies said allegations as the same are specifically directed at parties other than GRB.

COUNT VII

(Intentional Interference with Contractual Relations Against Rowen Seibel and Craig Green)

96. This answering Nominal Plaintiff, GRB, answering paragraph 191 of the First Amended Complaint, incorporates by reference the responses above.

97. This answering Nominal Plaintiff, GRB, answering paragraph 192 - 198 of the First Amended Complaint, neither admits, nor denies said allegations as the same are specifically directed at parties other than GRB.

COUNT VIII

(Fraudulent Concealment Against Rowen Seibel and Craig Green)

98. This answering Nominal Plaintiff, GRB, answering paragraph 199 of the First Amended Complaint, incorporates by reference the responses above.

99. This answering Nominal Plaintiff, GRB, answering paragraph 200 - 206 of the First Amended Complaint, neither admits, nor denies said allegations as the same are specifically directed at parties other than GRB.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

The First Amended Complaint on file herein fails to state a claim against GRB upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Caesars' claims are barred, in whole or in part, by the doctrine of waiver, estoppel,

and/or laches.

THIRD AFFIRMATIVE DEFENSE

Caesars' claims are barred, in whole or in part, by reason of the fact that if Caesars suffered any injury or damages, which is expressly and specifically denied, that any such injury or damage was caused in whole or in part by the acts, omissions and conduct of Caesars.

FOURTH AFFIRMATIVE DEFENSE

Caesars' claims are barred, in whole or in part, by reason of the fact that if Caesars suffered any injury or damages, which is expressly and specifically denied, that any such injury or damage was caused in whole or in part by the acts, omissions and conduct of other parties over which GRB had no supervision or control.

FIFTH AFFIRMATIVE DEFENSE

Caesars' claims are barred, in whole or in part, by Caesars' failure to mitigate damages.

SIXTH AFFIRMATIVE DEFENSE

Any conduct or omissions by GRB were not the cause in fact or proximate cause of any injury or damages alleged by Caesars.

SEVENTH AFFIRMATIVE DEFENSE

If GRB failed to perform any contractual obligation, which is expressly and specifically denied, GRB was prevented from such performance by the actions of Caesars.

EIGHTH AFFIRMATIVE DEFENSE

If GRB failed to perform any contractual obligation, which is expressly and specifically denied, GRB was prevented from such performance by the actions of other parties over which GRB had no supervision or control.

NINTH AFFIRMATIVE DEFENSE

GRB hereby incorporates by reference those affirmative defenses enumerated in NRCP 8 for the specific reason of not waiving the same.

/ / /

1 **TENTH AFFIRMATIVE DEFENSE**

2 GRB reserves the right to assert any additional affirmative defenses and matters in
3 avoidance as may be disclosed during the course of additional investigation and
4 discovery. Pursuant to NRCP 11, as amended, all possible affirmative defenses may not
5 have been alleged herein insofar as sufficient facts were not plead and are not available
6 after reasonable inquiry upon the filing of GRB's Answer, and therefore GRB reserves the
7 right to amend this Answer to allege additional affirmative defenses if so warranted.

8 **PRAYER**

9 WHEREFORE, NOMINAL PLAINTIFF, GR BURGR, LLC prays for judgment
10 against DESERT PALACE, INC.; PARIS LAS VEGAS OPERATING COMPANY, LLC;
11 PHWLTV, LLC; and BOARDWALK REGENCY CORPORATION dba CAESARS
12 ATLANTIC CITY, as follows:

- 13 1. That Plaintiff take nothing by way of this action;
14 2. For the cost of suit incurred herein;
15 3. For attorney's fees and costs; and
16 4. For such other and further relief as the Court deems just and proper.

17
18 Dated: this 19th day of June, 2020

NEWMEYER & DILLION LLP

19
20 By: 

21 AARON D. LOVAAS, ESQ. SBN 5701
22 3800 Howard Hughes Pkwy, Suite 700
23 Las Vegas, Nevada 89169
24 Telephone: (702) 777-7500
25 Facsimile: (702) 777-7599

26
27 Attorneys for Nominal Plaintiff
28 GR BURGR, LLC

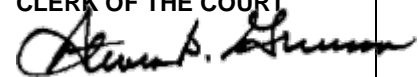
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of June, 2020, I served a true and correct copy of the foregoing **NOMINAL PLAINTIFF, GR BURGR, LLC's ANSWER TO FIRST AMENDED COMPLAINT** by electronic service to all parties listed on the master service list pursuant to Administrative Order 14-2 and Rule 9 of the NEFCR.

Yolanda Nance

An employee of Newmeyer & Dillion LLP

TAB 19



FFCO
James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittanie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
JZeiger@kirkland.com
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
WArnault@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: 312.862.2000

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWL, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
CAESARS' MOTION TO STRIKE THE
SEIBEL-AFFILIATED ENTITIES'
COUNTERCLAIMS, AND/OR IN THE
ALTERNATIVE, MOTION TO DISMISS**

Date of Hearing: September 23, 2020

Time of Hearing: 9:00 a.m.

PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City's ("CAC," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") *Motion to Strike the Seibel-Affiliated Entities' Counterclaims, and/or in the Alternative, Motion to Dismiss* (the "Motion to Strike"), filed on July 15, 2020, came before this Court for hearing on September 23, 2020, at 9:00 a.m. James J. Pisanelli, Esq., Debra L. Spinelli, Esq., and Brittanie T. Watkins, Esq. of the law firm PISANELLI BICE PLLC, appeared telephonically on behalf of Caesars. John R. Bailey, Esq. and Paul C. Williams, Esq. of the law firm BAILEY KENNEDY, appeared telephonically on behalf of TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared"), (collectively the "Development Entities"), Rowen Seibel ("Seibel"), and Craig Green ("Green").¹ John Tennert, Esq., of the law firm FENNEMORE CRAIG, appeared telephonically on behalf of Gordon Ramsay ("Ramsay"). Aaron D. Lovaas, Esq. of the law firm NEWMAYER & DILLION LLP, appeared telephonically on behalf of GR Burgr, LLC ("GRB").

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

FINDINGS OF FACT

1. THE COURT FINDS THAT, Caesars filed its Complaint in Case No. A-17-760537-B on August 25, 2017 (the "Original Complaint"), setting forth three causes of action against Seibel and the Development Entities relating to the termination of the

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

1 Development Agreements,² including: (1) declaratory judgment declaring that Caesars properly
2 terminated all of the Development Agreements; (2) declaratory judgment declaring that Caesars
3 does not have any current or future obligations to Defendants under the Development Agreements;
4 and (3) declaratory judgment declaring that the Development Agreements do not prohibit or limit
5 existing or future restaurant ventures between Caesars and Ramsay.

6 2. THE COURT FURTHER FINDS THAT, Case No A-17-760537-B was
7 consolidated with and into Case No. A-17-751759-B on or about February 9, 2018, pursuant to a
8 stipulation and order. (Stipulation & Order to Consolidate Case No. A-17-760537-B with & into
9 Case No. A-17-751759-B, Feb. 9, 2018, on file.)

10 3. THE COURT FURTHER FINDS THAT, on or about July 6, 2018, LLTQ, LLTQ
11 16, FERG, FERG 16, and DNT, derivatively by R Squared, filed answers to Caesars' Original
12 Complaint and counterclaims against Caesars. (LLTQ/FERG Defs.' Answer & Affirmative
13 Defenses to Pl.'s Compl. & Countercls., July 6, 2018, on file; Def. DNT's Answer to Pl.'s Compl.
14 & Coutnercls., July 6, 2018, on file.)

15 4. THE COURT FURTHER FINDS THAT, on or about July 6, 2018, TPOV, TPOV
16 16, MOTI, and MOTI 16 filed answers only to Caesars' Original Complaint. (MOTI Defs.' Answer
17 & Affirmative Defenses to Pl.'s Compl., July 6, 2018; Defs. TPOV & TPOV 16's Answer to Pl.'s
18 Compl., July 6, 2018, on file.)

19 5. THE COURT FURTHER FINDS THAT, on or about October 31, 2018, the Court
20 issued a scheduling order setting, among other things, the deadline to amend pleadings or add
21 _____

22 ² The Development Agreements include: (1) a Development, Operation and License
23 Agreement between MOTI Partners, LLC and Desert Palace, Inc., dated March 2009 (the "MOTI
24 Agreement"); (2) a Development, Operation and License Agreement between DNT Acquisition,
25 LLC, the Original Homestead Restaurant, Inc., and Desert Palace, Inc., dated June 21, 2011 (the
26 "DNT Agreement"); (3) a Development and Operation Agreement between TPOV and Paris, dated
27 November 2011 (the "TPOV Agreement"); (4) a Development and Operation Agreement between
28 LLTQ Enterprises, LLC and Desert Palace, Inc., dated April 4, 2012 (the "LLTQ Agreement"); (5)
a Development, Operation and License Agreement between PHW Las Vegas, LLC dba Planet
Hollywood by its manager, PHW Manager, LLC, GR BURGR, LLC, and Gordon Ramsay, dated
December 13, 2012 (the "GR Burgr Agreement"); and (6) a Consulting Agreement between FERG,
LLC and Boardwalk Regency Corporation dba Caesars Atlantic City, dated May 16, 2014 (the
"FERG Agreement").

1 parties for February 4, 2019. (Business Court Scheduling Order Setting Civil Jury Trial & Pre-Trial
2 Conference Calendar Call, Oct. 31, 2018, on file, at 2:3.)

3 6. THE COURT FURTHER FINDS THAT, the deadline to amend pleadings or add
4 parties was never extended or otherwise modified beyond February 4, 2019.

5 7. THE COURT FURTHER FINDS THAT, on or about October 2, 2019, nearly eight
6 months after the deadline to amend pleadings expired, LLTQ, LLTQ 16, FERG, and FERG 16 (the
7 "LLTQ/FERG Defendants") moved this Court for leave to amend their counterclaims to add claims
8 in their counterclaims related to a Gordon Ramsay Steak Restaurant located in Atlantic City as well
9 as additional restaurants in the United States involving Gordon Ramsay and Caesars or its affiliates
10 (Mot. to Amend LLTQ/FERG Defendants' Answer, Affirmative Defenses & Countercls., Oct. 2,
11 2019, on file.)

12 8. THE COURT FURTHER FINDS THAT, the Court denied the LLTQ/FERG
13 Defendants' request to amend, finding that the LLTQ/FERG Defendants had failed to meet their
14 "burden and ha[d] not demonstrated that good cause exists to permit amendment of their
15 counterclaim." (Order Denying Mot. to Amend LLTQ/FERG Defs.' Answer, Affirmative Defenses,
16 & Countercls., at 3:4-6, Nov. 25, 2019, on file.) The Court specifically held that "[t]he LLTQ/FERG
17 Defendants were aware of the facts they sought to include in their amended counterclaim before
18 the deadline to amend expired and they delayed seeking leave to amend their counterclaim." (*Id.* at
19 3:6-8.)

20 9. THE COURT FURTHER FINDS THAT, on or about December 12, 2019, ten
21 months after the deadline to amend pleadings expired, Caesars moved to amend its Original
22 Complaint to add new allegations and claims pertaining to an alleged kickback scheme it claimed
23 to have uncovered following discovery and depositions and to add Green as a defendant. (Caesars'
24 Mot. for Leave to File 1st Am. Compl., Dec. 12, 2019, on file.)

25 10. THE COURT FURTHER FINDS THAT, on or about March 10, 2020, this Court
26 granted Caesars' motion to amend, finding that "Caesars demonstrated good cause [to permit
27 amendment after the deadline to amend expired] because depositions had to be taken in order to
28

understand the documents produced by the parties." (Order Granting Caesars' Mot. for Leave to File 1st Am. Compl., at 3:6-9, Mar. 10, 2020, on file.)

11. THE COURT FURTHER FINDS THAT, on or about March 11, 2020, Caesars filed its First Amended Complaint, asserting five new claims, including (1) civil conspiracy against Seibel and Green, (2) breaches of the implied covenants of good faith and fair dealing against the Development Entities; (3) unjust enrichment against Seibel and Green, (4) intentional interference with contractual relations against Seibel and Green, and (5) fraudulent concealment against Seibel and Green. (First Am. Compl., Mar. 11, 2020, ¶¶ 171-206, on file.)

12. THE COURT FURTHER FINDS THAT, all of Caesars' new allegations and claims were limited to an alleged kickback scheme Caesars claimed to have uncovered in discovery during the litigation.

13. THE COURT FURTHER FINDS THAT, Caesars did not make changes to any of the claims or allegations surrounding Caesars' termination of the Development Agreements as pleaded in the Original Complaint.

14. THE COURT FURTHER FINDS THAT, on or about April 8, 2020, the Development Parties filed a Motion to Dismiss Counts IV, V, VI, VII, and VIII of Caesars' First Amended Complaint (the "Development Parties' Motion to Dismiss").

15. THE COURT FURTHER FINDS THAT, Caesars' First Amended Complaint withstood the Rule 12(b)(5) challenge and the Development Parties' Motion to Dismiss was denied. (Order Denying without Prejudice Rowen Seibel, the Development Entities, & Craig Green's Motion to Dismiss Counts IV, V, VI, VII, & VIII of Caesars' 1st Am. Compl., May 29, 2020, on file.)

16. THE COURT FURTHER FINDS THAT, on or about June 19, 2020, the Development Parties filed a consolidated Answer to Caesars' First Amended Complaint and Counterclaims. (The Development Entities, Seibel, & Green's Answer to Caesars' 1st Am. Compl. & Countercls., June 19, 2020, on file.)

17. THE COURT FURTHER FINDS THAT, in their counterclaims filed June 19, 2020, all of the Development Entities asserted claims for breach of contract and breach of the implied

1 covenant of good faith and fair dealing against Caesars concerning the termination of the
2 Development Agreements as first alleged in Caesars' Original Complaint brought nearly three years
3 prior.

4 18. THE COURT FURTHER FINDS THAT, the counterclaims filed June 19, 2020
5 included claims from TPOV, TPOV 16, MOTI, and MOTI 16, entities that did not previously assert
6 any counterclaims in response to Caesars' Original Complaint.

7 19. THE COURT FURTHER FINDS THAT, none of the Development Entities'
8 counterclaims filed June 19, 2020 pertain to the new claims (the alleged kickback scheme) brought
9 by Caesars in its First Amended Complaint.

10 20. THE COURT FURTHER FINDS THAT, the Development Entities did not move to
11 amend their initial counterclaims filed July 6, 2018 before filing their counterclaims on June 19,
12 2020, nor did they seek reconsideration of this Court's prior order denying the LLTQ/FERG
13 Defendants' previous motion to amend.

14 CONCLUSIONS OF LAW

15 1. There are three Nevada Rules of Civil Procedure ("NRCP") that are implicated by
16 the instant motion: Rule 12(f), which governs motions to strike, Rule 15(a), which governs
17 amendments to pleadings, and former Rule 13(f), which governed the addition of omitted
18 counterclaims.

19 2. The 2019 Amendments to the NRCPs changed Rule 15(a) and abrogated Rule 13(f)
20 (consistent with the Federal Rules of Civil Procedure).

21 3. Pursuant to NRCP 12(f), a "court may strike from a pleading an insufficient defense
22 or any redundant, immaterial, impertinent, or scandalous matter." *See also Russell Rd. Food &*
23 *Beverage, LLC v. Galam*, No. 2:13-CV-0776-JCM-NJK, 2013 WL 6684631, at *1 (D. Nev. Dec.
24 17, 2013 (internal quotations omitted) ("A motion to strike material from a pleading is made
25 pursuant to Rule 12(f), which allows courts to strike an insufficient defense or any redundant,
26 immaterial, impertinent or scandalous matter.").

27 4. "The essential function of a Rule 12(f) motion is to 'avoid the expenditure of time
28 and money that may arise from litigating spurious issues by dispensing with those issues prior to

trial." *Russell Rd. Food & Beverage, LLC*, 2013 WL 6684631, at *1 (quoting *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993)); *see also Bolick v. Pasioneck*, No. 2:10-CV-00353-KJD, 2011 WL 742237, at *3 (D. Nev. Feb. 24, 2011) (citations omitted) ("The Court is cautious of transparent attempts to prolong litigation, open up spurious discovery issues, or that may unnecessarily waste time, expense, resources or cause undue prejudice.").

5. "In considering a motion to strike, 'the court views the pleadings in the light most favorable to the non-moving party, and resolves any doubt as to the relevance of the challenged allegations or sufficiency of a defense in [non-moving party's] favor.'" *Genlyte Thomas Grp., LLC v. Covelli*, No. 208CV01350KJDPAL, 2009 WL 10709254, at *4 (D. Nev. Aug. 7, 2009) (quoting *State of Cal. Dep't of Toxic Substances Control v. Alco Pac., Inc.*, 217 F. Supp. 2d 1028, 1033 (C.D. Cal. 2002)).

6. There is no Nevada case law directly addressing whether a defendant may file amended counterclaims in response to an amended complaint without leave of court. Therefore, the Court turns to federal case law addressing the analogous Federal Rules of Civil Procedure.

7. Federal case law has recognized three separate approaches, which have been characterized as narrow, permissive, and moderate.

8. Under the narrow approach, "counterclaims as of right are allowed only if they are 'strictly confined to the new issues raised by the amended complaint.'" *Bibb Cnty. Sch. Dist. v. Dallemand*, Civil Action No. 5:26-cv-549, 2019 WL 1519299, at *3 n.6 (M.D. GA Apr. 8, 2019) (quoting *S. New England Tel. Co v. Glob. NAPS, Inc.*, Civil Action No. 3:04-cv-2075 (JCH), 2007 WL 521162, at *2-3 (D. Con. Feb. 14, 2007)). The abrogation of FRCP 13(f) in 2009; and consequently NRCP 13(f) in 2019 would supersede cases following the narrow approach. *See Sierra Dev. Co. v. Chartwell Advisory Grp. Ltd.*, No. 13-cv-602-BEN-VPC, 2016 U.S. Dist. LEXIS 160308, at *11 (D. Nev. Nov. 18, 2016).

9. "Under the 'permissive' approach, 'once a plaintiff amends a complaint, the defendant always has the right to amend to bring new counterclaims, without regard to the scope of the amendments.'" *Cieutat v. HPCSP Invs., LLC*, No. CV 20-0012-WS-B, 2020 WL 4004806, at *3 (S.D. Ala. July 15, 2020) (quoting *Bern Unlimited, Inc. v. Burton Corp.*, 25 F. Supp. 3d 170,

1 178 (D. Mass. 2014)). Courts have found that the permissive approach deprives a court of the ability
2 to manage the litigation. *See Sierra Dev. Co.*, 2016 U.S. Dist. LEXIS 160308, at *11. Under Nevada
3 law, the permissive approach would contradict NRCP 16, which the Nevada Supreme Court
4 implemented to ensure trial judges actively managed their cases in an orderly manner.

5 10. Under the moderate approach, courts have held that the breadth of the amended
6 counterclaim's changes must reflect the breadth of the changes in the amended complaint. Under
7 this approach, the Development Entities' counterclaims would not be permitted because the breadth
8 of the changes in their Amended Counterclaims do not reflect the breadth of the changes in Caesars'
9 First Amended Complaint (*i.e.*, the alleged kick-back scheme). Instead, the Amended
10 Counterclaims relate to Caesars' termination of the Development Agreements. Moreover, this Court
11 already rejected the LLTQ/FERG Defendants' efforts to file similar amended counterclaims, finding
12 that they failed to show good cause after the deadline to amend had expired.

13 11. Pursuant to NRCP 15(a), a party should be granted leave to amend a pleading when
14 justice so requires, and the proposed amendment is not futile. However, when a party seeks leave
15 to amend a pleading after the deadline previously set for seeking such amendment has expired,
16 NRCP 16(b) requires a showing of "good cause" for missing the deadline. *See Nutton v. Sunset*
17 *Station*, 131 Nev. 279, 28, 357 P.3d 966, 970-71 (Nev. App. 2015).

18 12. This Court has considered the three approaches described under federal law;
19 however, this Court will follow the NRCP 16 mandate, which specifically requires a showing of
20 good cause to amend the pleadings after the time for doing so set forth in the court's scheduling
21 order has expired.

22 13. "Where a scheduling order has been entered, the lenient standard under Rule 15(a),
23 which provides leave to amend 'shall be freely given,' must be balanced against the requirement
24 under Rule 16(b) that the Court's scheduling order shall not be modified except upon a showing of
25 good cause.'" *Nutton*, 131 Nev. at 285, 357 P.3d at 971 (quoting *Grochowski v. Phoenix Constr.*,
26 318 F.3d 80, 86 (2d Cir. 2003)). "Disregard of the [scheduling] order would undermine the court's
27 ability to control its docket, disrupt the agreed-upon course of the litigation, and reward the indolent
28

1 and the cavalier." *Id.* at 285–86, 357 P.3d at 971 (quoting *Johnson v. Mammoth Recreations, Inc.*,
2 975 F.2d 604, 610 (9th Cir. 1992)).

3 14. Consequently, the Amended Counterclaims are time-barred by this Court's prior
4 scheduling order and the previous denial of the LTTQ/FERG Defendants' Motion to Amend.

5 15. Caesars' First Amended Complaint did not open the door for the Development
6 Entities to expand the scope of the litigation beyond its current parameters. Thus, the Development
7 Entities' counterclaims filed June 19, 2020 must be stricken.

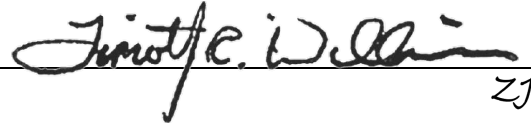
8 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motion to Strike
9 shall be, and hereby is, GRANTED.

10 IT IS HEREBY FURTHER ORDERED that the Development Entities' Amended
11 Counterclaims are STRICKEN in their entirety.

1 IT IS HEREBY FURTHER ORDERED that the Development Entities shall file a
2 responsive pleading consistent with this order (as well as any and all applicable prior orders).

3 IT IS SO ORDERED.

4 DATED this 3rd day of ~~January~~ February 2021.

5
6  ZJ

8 Respectfully submitted by:

Approved as to form and content by:

9 DATED January 27, 2021

DATED January 27, 2021

10 PISANELLI BICE PLLC

FENNEMORE CRAIG, P.C.

11 By: /s/ M. Magali Mercera
12 James J. Pisanelli, Esq., Bar No. 4027
13 Debra L. Spinelli, Esq., Bar No. 9695
14 M. Magali Mercera, Esq., Bar No. 11742
15 Brittanie T. Watkins, Esq., Bar No. 13612
16 400 South 7th Street, Suite 300
17 Las Vegas, NV 89101

By: /s/ John D. Tennert
John D. Tennert, Esq. (SBN 11728)
Wade Beavers, Esq. (SBN 13451)
7800 Rancharra Parkway
Reno, NV 89511

Attorneys for Gordon Ramsay

18 and

19 Jeffrey J. Zeiger, P.C., Esq.
20 (admitted *pro hac vice*)
21 William E. Arnault, IV, Esq.
22 (admitted *pro hac vice*)
23 KIRKLAND & ELLIS LLP
24 300 North LaSalle
25 Chicago, IL 60654

26 *Attorneys for Desert Palace, Inc.;*
27 *Paris Las Vegas Operating*
28 *Company, LLC; PHWLTV, LLC; and*
Boardwalk Regency
Corporation d/b/a Caesars Atlantic City

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25
26
27
28

Approved as to form and content by:

DATED January 27, 2021

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 07701

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

*Attorneys for The Original Homestead
Restaurant, Inc*

Approved as to form and content by:

DATED January 27, 2021

NEWMAYER & DILLION LLP

By: /s/ Aaron D. Lovaas
Aaron D. Lovaas, Esq.
3800 Howard Hughes Pkwy, Suite 700
Las Vegas, Nevada 89169

Attorneys for GR Burgr, LLC

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Wednesday, January 27, 2021 12:19 PM
To: Magali Mercera; Paul Williams
Cc: Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Brittnie T. Watkins; James Pisanelli; Aaron D. Lovaas; Tennert, John; Joshua Gilmore; Stephanie Glantz; Sharon Murnane; Susan Russo; Beavers, Wade
Subject: RE: [EXTERNAL]:RE: Notification of Service for Case: A-17-751759-B, Rowen Seibel, Plaintiff(s) vs.PHWLV LLC, Defendant(s) for filing Service Only, Envelope Number: 6981047 [FC-Email.FID7746767]

CAUTION: External Email

Magali, you have my authority to apply my signature to the Order.

Thank you.

Alan

From: Magali Mercera [mailto:mmm@pisanellibice.com]
Sent: Wednesday, January 27, 2021 2:36 PM
To: Paul Williams
Cc: Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Brittnie T. Watkins; James Pisanelli; Aaron D. Lovaas; Tennert, John; Joshua Gilmore; Stephanie Glantz; Sharon Murnane; Susan Russo; Beavers, Wade; Alan Lebensfeld
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Thanks, Paul. As discussed during our meet and confer, we believe that your proposal narrows the court's ruling, which limits any new allegations and counterclaims to the kickback scheme. Since we are at an impasse, we will proceed with submitting competing orders. We will plan to send ours this afternoon and copy counsel on the submission.

John, Alan, and Aaron – I assume we still have your approval to apply your e-signatures to this version. If that is not correct, please let us know promptly.

Once we have final confirmation from John, Alan, and Aaron, we will plan to submit the order and note in the body of the email that a competing version is being submitted by you as well. We would request that you similarly copy us on the submission.

Thanks,

M. Magali Mercera
PISANELLI BICE, PLLC
Telephone: (702) 214-2100
mmm@pisanellibice.com | www.pisanellibice.com



Please consider the environment before printing.

This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

Cinda C. Towne

From: Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>
Sent: Wednesday, January 27, 2021 12:28 PM
To: Magali Mercera; Paul Williams
Cc: Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Brittnie T. Watkins; James Pisanelli; Tennert, John; Joshua Gilmore; Stephanie Glantz; Sharon Murnane; Susan Russo; Beavers, Wade; Alan Lebensfeld
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CAUTION: External Email

Confirming my previous authorization to affix my e-signature.

Aaron D. Lovaas
702.777.7519 | Aaron.Lovaas@ndlf.com
[Newmeyer & Dillion LLP](#)

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, January 27, 2021 11:36 AM
To: Paul Williams <PWilliams@baileykennedy.com>
Cc: Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; James Pisanelli <jjp@pisanellibice.com>; Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>; Tennert, John <jtennert@fennemorelaw.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Stephanie Glantz <SGlantz@baileykennedy.com>; Sharon Murnane <SMurnane@baileykennedy.com>; Susan Russo <SRusso@baileykennedy.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
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M. Magali Mercera
PISANELLI BICE, PLLC
Telephone: (702) 214-2100
mmm@pisanellibice.com | www.pisanellibice.com



Please consider the environment before printing.

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Wednesday, January 27, 2021 11:40 AM
To: Magali Mercera; Paul Williams
Cc: Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Brittnie T. Watkins; James Pisanelli; Aaron D. Lovaas; Joshua Gilmore; Stephanie Glantz; Sharon Murnane; Susan Russo; Beavers, Wade; Alan Lebensfeld
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CAUTION: External Email

Magali,
Yes, you still have my approval to apply my e-signature to Caesars' version.
Thanks,
John

John D. Tennert III, Director
T: 775.788.2212 | F: 775.788.2213
jtennert@fennemorelaw.com

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, January 27, 2021 11:36 AM
To: Paul Williams <PWilliams@baileykennedy.com>
Cc: Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; James Pisanelli <jjp@pisanellibice.com>; Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>; Tennert, John <jtennert@fennemorelaw.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Stephanie Glantz <SGlantz@baileykennedy.com>; Sharon Murnane <SMurnane@baileykennedy.com>; Susan Russo <SRusso@baileykennedy.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
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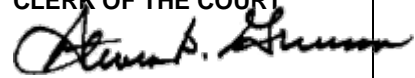
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Thanks,

M. Magali Mercera
PISANELLI BICE, PLLC

TAB 20



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittanie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
JZeiger@kirkland.com
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
WArnault@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: 312.862.2000

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B
Dept. No.: XVI

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING CAESARS' MOTION
TO STRIKE THE SEIBEL-AFFILIATED
ENTITIES' COUNTERCLAIMS, AND/OR
IN THE ALTERNATIVE, MOTION TO
DISMISS**

AND ALL RELATED MATTERS

1 PLEASE TAKE NOTICE that the Findings of Fact, Conclusions of Law, and Order
2 Granting Caesars' Motion to Strike the Seibel-Affiliated Entities' Counterclaims, and/or in the
3 Alternative, Motion to Dismiss was entered in the above-captioned matter on February 3, 2021, a
4 true and correct copy of which is attached hereto.

5 DATED this 3rd day of February 2021.

6 PISANELLI BICE PLLC

7
8 By: /s/ M. Magali Mercera
9 James J. Pisanelli, Esq., #4027
10 Debra L. Spinelli, Esq., #9695
11 M. Magali Mercera, Esq., #11742
12 Brittnie T. Watkins, Esq., #13612
13 400 South 7th Street, Suite 300
14 Las Vegas, Nevada 89101

15 Jeffrey J. Zeiger, P.C., Esq.
16 (admitted *pro hac vice*)
17 William E. Arnault, IV, Esq.
18 (admitted *pro hac vice*)
19 KIRKLAND & ELLIS LLP
20 300 North LaSalle
21 Chicago, Illinois 60654

22 *Attorneys for Desert Palace, Inc.;*
23 *Paris Las Vegas Operating Company, LLC;*
24 *PHWLV, LLC; and Boardwalk Regency*
25 *Corporation d/b/a Caesars Atlantic City*
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 3rd day of February 2021, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING CAESARS' MOTION TO STRIKE THE SEIBEL-AFFILIATED ENTITIES' COUNTERCLAIMS, AND/OR IN THE ALTERNATIVE, MOTION TO DISMISS** to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.
Stephanie J. Glantz, Esq.
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
JBailey@BaileyKennedy.com
DKennedy@BaileyKennedy.com
JGilmore@BaileyKennedy.com
PWilliams@BaileyKennedy.com
SGlantz@BaileyKennedy.com

*Attorneys for Rowen Seibel, Craig Green
Moti Partners, LLC, Moti Partner 16, LLC,
LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC,
TPOV Enterprises, LLC, TPOV Enterprises 16, LLC,
FERG, LLC, and FERG 16, LLC; and R Squared
Global Solutions, LLC, Derivatively on Behalf of
DNT Acquisition, LLC*

John D. Tennert, Esq.
Wade Beavers, Esq.
FENNEMORE CRAIG, P.C.
7800 Rancharrah Parkway
Reno, NV 89511
jtennert@fclaw.com
wbeavers@fclaw.com

Attorneys for Gordon Ramsay

Alan Lebensfeld, Esq.
LEBENSFELD SHARON &
SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701
alan.lebensfeld@lsandspc.com

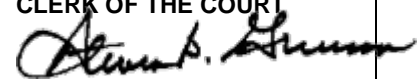
Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135
mconnot@foxrothschild.com
ksutehall@foxrothschild.com

*Attorneys for Plaintiff in Intervention
The Original Homestead Restaurant, Inc.*

Aaron D. Lovaas, Esq.
NEWMAYER & DILLION LLP
3800 Howard Hughes Pkwy., Suite 700
Las Vegas, NV 89169
aaron.lovaas@ndlf.com

*Attorneys for Nominal Plaintiff
GR Burgr LLC*

/s/ Cinda Towne
An employee of PISANELLI BICE PLLC



FFCO
James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittanie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
JZeiger@kirkland.com
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
WArnault@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: 312.862.2000

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWL, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
CAESARS' MOTION TO STRIKE THE
SEIBEL-AFFILIATED ENTITIES'
COUNTERCLAIMS, AND/OR IN THE
ALTERNATIVE, MOTION TO DISMISS**

Date of Hearing: September 23, 2020

Time of Hearing: 9:00 a.m.

AND ALL RELATED MATTERS

PHWLV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City's ("CAC," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") *Motion to Strike the Seibel-Affiliated Entities' Counterclaims, and/or in the Alternative, Motion to Dismiss* (the "Motion to Strike"), filed on July 15, 2020, came before this Court for hearing on September 23, 2020, at 9:00 a.m. James J. Pisanelli, Esq., Debra L. Spinelli, Esq., and Brittanie T. Watkins, Esq. of the law firm PISANELLI BICE PLLC, appeared telephonically on behalf of Caesars. John R. Bailey, Esq. and Paul C. Williams, Esq. of the law firm BAILEY KENNEDY, appeared telephonically on behalf of TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared"), (collectively the "Development Entities"), Rowen Seibel ("Seibel"), and Craig Green ("Green").¹ John Tennert, Esq., of the law firm FENNEMORE CRAIG, appeared telephonically on behalf of Gordon Ramsay ("Ramsay"). Aaron D. Lovaas, Esq. of the law firm NEWMAYER & DILLION LLP, appeared telephonically on behalf of GR Burgr, LLC ("GRB").

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

FINDINGS OF FACT

1. THE COURT FINDS THAT, Caesars filed its Complaint in Case No. A-17-760537-B on August 25, 2017 (the "Original Complaint"), setting forth three causes of action against Seibel and the Development Entities relating to the termination of the

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

1 Development Agreements,² including: (1) declaratory judgment declaring that Caesars properly
2 terminated all of the Development Agreements; (2) declaratory judgment declaring that Caesars
3 does not have any current or future obligations to Defendants under the Development Agreements;
4 and (3) declaratory judgment declaring that the Development Agreements do not prohibit or limit
5 existing or future restaurant ventures between Caesars and Ramsay.

6 2. THE COURT FURTHER FINDS THAT, Case No A-17-760537-B was
7 consolidated with and into Case No. A-17-751759-B on or about February 9, 2018, pursuant to a
8 stipulation and order. (Stipulation & Order to Consolidate Case No. A-17-760537-B with & into
9 Case No. A-17-751759-B, Feb. 9, 2018, on file.)

10 3. THE COURT FURTHER FINDS THAT, on or about July 6, 2018, LLTQ, LLTQ
11 16, FERG, FERG 16, and DNT, derivatively by R Squared, filed answers to Caesars' Original
12 Complaint and counterclaims against Caesars. (LLTQ/FERG Defs.' Answer & Affirmative
13 Defenses to Pl.'s Compl. & Countercls., July 6, 2018, on file; Def. DNT's Answer to Pl.'s Compl.
14 & Coutnercls., July 6, 2018, on file.)

15 4. THE COURT FURTHER FINDS THAT, on or about July 6, 2018, TPOV, TPOV
16 16, MOTI, and MOTI 16 filed answers only to Caesars' Original Complaint. (MOTI Defs.' Answer
17 & Affirmative Defenses to Pl.'s Compl., July 6, 2018; Defs. TPOV & TPOV 16's Answer to Pl.'s
18 Compl., July 6, 2018, on file.)

19 5. THE COURT FURTHER FINDS THAT, on or about October 31, 2018, the Court
20 issued a scheduling order setting, among other things, the deadline to amend pleadings or add
21 _____

22 ² The Development Agreements include: (1) a Development, Operation and License
23 Agreement between MOTI Partners, LLC and Desert Palace, Inc., dated March 2009 (the "MOTI
24 Agreement"); (2) a Development, Operation and License Agreement between DNT Acquisition,
25 LLC, the Original Homestead Restaurant, Inc., and Desert Palace, Inc., dated June 21, 2011 (the
26 "DNT Agreement"); (3) a Development and Operation Agreement between TPOV and Paris, dated
27 November 2011 (the "TPOV Agreement"); (4) a Development and Operation Agreement between
28 LLTQ Enterprises, LLC and Desert Palace, Inc., dated April 4, 2012 (the "LLTQ Agreement"); (5)
a Development, Operation and License Agreement between PHW Las Vegas, LLC dba Planet
Hollywood by its manager, PHW Manager, LLC, GR BURGR, LLC, and Gordon Ramsay, dated
December 13, 2012 (the "GR Burgr Agreement"); and (6) a Consulting Agreement between FERG,
LLC and Boardwalk Regency Corporation dba Caesars Atlantic City, dated May 16, 2014 (the
"FERG Agreement").

parties for February 4, 2019. (Business Court Scheduling Order Setting Civil Jury Trial & Pre-Trial Conference Calendar Call, Oct. 31, 2018, on file, at 2:3.)

6. THE COURT FURTHER FINDS THAT, the deadline to amend pleadings or add parties was never extended or otherwise modified beyond February 4, 2019.

7. THE COURT FURTHER FINDS THAT, on or about October 2, 2019, nearly eight months after the deadline to amend pleadings expired, LLTQ, LLTQ 16, FERG, and FERG 16 (the "LLTQ/FERG Defendants") moved this Court for leave to amend their counterclaims to add claims in their counterclaims related to a Gordon Ramsay Steak Restaurant located in Atlantic City as well as additional restaurants in the United States involving Gordon Ramsay and Caesars or its affiliates (Mot. to Amend LLTQ/FERG Defendants' Answer, Affirmative Defenses & Countercls., Oct. 2, 2019, on file.)

8. THE COURT FURTHER FINDS THAT, the Court denied the LLTQ/FERG Defendants' request to amend, finding that the LLTQ/FERG Defendants had failed to meet their "burden and ha[d] not demonstrated that good cause exists to permit amendment of their counterclaim." (Order Denying Mot. to Amend LLTQ/FERG Defs.' Answer, Affirmative Defenses, & Countercls., at 3:4-6, Nov. 25, 2019, on file.) The Court specifically held that "[t]he LLTQ/FERG Defendants were aware of the facts they sought to include in their amended counterclaim before the deadline to amend expired and they delayed seeking leave to amend their counterclaim." (*Id.* at 3:6-8.)

9. THE COURT FURTHER FINDS THAT, on or about December 12, 2019, ten months after the deadline to amend pleadings expired, Caesars moved to amend its Original Complaint to add new allegations and claims pertaining to an alleged kickback scheme it claimed to have uncovered following discovery and depositions and to add Green as a defendant. (Caesars' Mot. for Leave to File 1st Am. Compl., Dec. 12, 2019, on file.)

10. THE COURT FURTHER FINDS THAT, on or about March 10, 2020, this Court granted Caesars' motion to amend, finding that "Caesars demonstrated good cause [to permit amendment after the deadline to amend expired] because depositions had to be taken in order to

1 understand the documents produced by the parties." (Order Granting Caesars' Mot. for Leave to
2 File 1st Am. Compl., at 3:6-9, Mar. 10, 2020, on file.)

3 11. THE COURT FURTHER FINDS THAT, on or about March 11, 2020, Caesars filed
4 its First Amended Complaint, asserting five new claims, including (1) civil conspiracy against
5 Seibel and Green, (2) breaches of the implied covenants of good faith and fair dealing against the
6 Development Entities; (3) unjust enrichment against Seibel and Green, (4) intentional interference
7 with contractual relations against Seibel and Green, and (5) fraudulent concealment against Seibel
8 and Green. (First Am. Compl., Mar. 11, 2020, ¶¶ 171-206, on file.)

9 12. THE COURT FURTHER FINDS THAT, all of Caesars' new allegations and claims
10 were limited to an alleged kickback scheme Caesars claimed to have uncovered in discovery during
11 the litigation.

12 13. THE COURT FURTHER FINDS THAT, Caesars did not make changes to any of
13 the claims or allegations surrounding Caesars' termination of the Development Agreements as
14 pleaded in the Original Complaint.

15 14. THE COURT FURTHER FINDS THAT, on or about April 8, 2020, the
16 Development Parties filed a Motion to Dismiss Counts IV, V, VI, VII, and VIII of Caesars' First
17 Amended Complaint (the "Development Parties' Motion to Dismiss").

18 15. THE COURT FURTHER FINDS THAT, Caesars' First Amended Complaint
19 withstood the Rule 12(b)(5) challenge and the Development Parties' Motion to Dismiss was denied.
20 (Order Denying without Prejudice Rowen Seibel, the Development Entities, & Craig Green's
21 Motion to Dismiss Counts IV, V, VI, VII, & VIII of Caesars' 1st Am. Compl., May 29, 2020, on
22 file.)

23 16. THE COURT FURTHER FINDS THAT, on or about June 19, 2020, the
24 Development Parties filed a consolidated Answer to Caesars' First Amended Complaint and
25 Counterclaims. (The Development Entities, Seibel, & Green's Answer to Caesars' 1st Am. Compl.
26 & Countercls., June 19, 2020, on file.)

27 17. THE COURT FURTHER FINDS THAT, in their counterclaims filed June 19, 2020,
28 all of the Development Entities asserted claims for breach of contract and breach of the implied

1 covenant of good faith and fair dealing against Caesars concerning the termination of the
2 Development Agreements as first alleged in Caesars' Original Complaint brought nearly three years
3 prior.

4 18. THE COURT FURTHER FINDS THAT, the counterclaims filed June 19, 2020
5 included claims from TPOV, TPOV 16, MOTI, and MOTI 16, entities that did not previously assert
6 any counterclaims in response to Caesars' Original Complaint.

7 19. THE COURT FURTHER FINDS THAT, none of the Development Entities'
8 counterclaims filed June 19, 2020 pertain to the new claims (the alleged kickback scheme) brought
9 by Caesars in its First Amended Complaint.

10 20. THE COURT FURTHER FINDS THAT, the Development Entities did not move to
11 amend their initial counterclaims filed July 6, 2018 before filing their counterclaims on June 19,
12 2020, nor did they seek reconsideration of this Court's prior order denying the LLTQ/FERG
13 Defendants' previous motion to amend.

14 CONCLUSIONS OF LAW

15 1. There are three Nevada Rules of Civil Procedure ("NRCP") that are implicated by
16 the instant motion: Rule 12(f), which governs motions to strike, Rule 15(a), which governs
17 amendments to pleadings, and former Rule 13(f), which governed the addition of omitted
18 counterclaims.

19 2. The 2019 Amendments to the NRCPs changed Rule 15(a) and abrogated Rule 13(f)
20 (consistent with the Federal Rules of Civil Procedure).

21 3. Pursuant to NRCP 12(f), a "court may strike from a pleading an insufficient defense
22 or any redundant, immaterial, impertinent, or scandalous matter." *See also Russell Rd. Food &*
23 *Beverage, LLC v. Galam*, No. 2:13-CV-0776-JCM-NJK, 2013 WL 6684631, at *1 (D. Nev. Dec.
24 17, 2013 (internal quotations omitted) ("A motion to strike material from a pleading is made
25 pursuant to Rule 12(f), which allows courts to strike an insufficient defense or any redundant,
26 immaterial, impertinent or scandalous matter.").

27 4. "The essential function of a Rule 12(f) motion is to 'avoid the expenditure of time
28 and money that may arise from litigating spurious issues by dispensing with those issues prior to

trial.'" *Russell Rd. Food & Beverage, LLC*, 2013 WL 6684631, at *1 (quoting *Fantasy, Inc. v. Fogerty*, 984 F.2d 1524, 1527 (9th Cir. 1993)); *see also Bolick v. Pasioneck*, No. 2:10-CV-00353-KJD, 2011 WL 742237, at *3 (D. Nev. Feb. 24, 2011) (citations omitted) ("The Court is cautious of transparent attempts to prolong litigation, open up spurious discovery issues, or that may unnecessarily waste time, expense, resources or cause undue prejudice.").

5. "In considering a motion to strike, 'the court views the pleadings in the light most favorable to the non-moving party, and resolves any doubt as to the relevance of the challenged allegations or sufficiency of a defense in [non-moving party's] favor.'" *Genlyte Thomas Grp., LLC v. Covelli*, No. 208CV01350KJDPAL, 2009 WL 10709254, at *4 (D. Nev. Aug. 7, 2009) (quoting *State of Cal. Dep't of Toxic Substances Control v. Alco Pac., Inc.*, 217 F. Supp. 2d 1028, 1033 (C.D. Cal. 2002)).

6. There is no Nevada case law directly addressing whether a defendant may file amended counterclaims in response to an amended complaint without leave of court. Therefore, the Court turns to federal case law addressing the analogous Federal Rules of Civil Procedure.

7. Federal case law has recognized three separate approaches, which have been characterized as narrow, permissive, and moderate.

8. Under the narrow approach, "counterclaims as of right are allowed only if they are 'strictly confined to the new issues raised by the amended complaint.'" *Bibb Cnty. Sch. Dist. v. Dallemand*, Civil Action No. 5:26-cv-549, 2019 WL 1519299, at *3 n.6 (M.D. GA Apr. 8, 2019) (quoting *S. New England Tel. Co v. Glob. NAPS, Inc.*, Civil Action No. 3:04-cv-2075 (JCH), 2007 WL 521162, at *2-3 (D. Con. Feb. 14, 2007)). The abrogation of FRCP 13(f) in 2009; and consequently NRCP 13(f) in 2019 would supersede cases following the narrow approach. *See Sierra Dev. Co. v. Chartwell Advisory Grp. Ltd.*, No. 13-cv-602-BEN-VPC, 2016 U.S. Dist. LEXIS 160308, at *11 (D. Nev. Nov. 18, 2016).

9. "Under the 'permissive' approach, '"once a plaintiff amends a complaint, the defendant always has the right to amend to bring new counterclaims, without regard to the scope of the amendments.'" *Cieutat v. HPCSP Invs., LLC*, No. CV 20-0012-WS-B, 2020 WL 4004806, at *3 (S.D. Ala. July 15, 2020) (quoting *Bern Unlimited, Inc. v. Burton Corp.*, 25 F. Supp. 3d 170,

1 178 (D. Mass. 2014)). Courts have found that the permissive approach deprives a court of the ability
2 to manage the litigation. *See Sierra Dev. Co.*, 2016 U.S. Dist. LEXIS 160308, at *11. Under Nevada
3 law, the permissive approach would contradict NRCP 16, which the Nevada Supreme Court
4 implemented to ensure trial judges actively managed their cases in an orderly manner.

5 10. Under the moderate approach, courts have held that the breadth of the amended
6 counterclaim's changes must reflect the breadth of the changes in the amended complaint. Under
7 this approach, the Development Entities' counterclaims would not be permitted because the breadth
8 of the changes in their Amended Counterclaims do not reflect the breadth of the changes in Caesars'
9 First Amended Complaint (*i.e.*, the alleged kick-back scheme). Instead, the Amended
10 Counterclaims relate to Caesars' termination of the Development Agreements. Moreover, this Court
11 already rejected the LLTQ/FERG Defendants' efforts to file similar amended counterclaims, finding
12 that they failed to show good cause after the deadline to amend had expired.

13 11. Pursuant to NRCP 15(a), a party should be granted leave to amend a pleading when
14 justice so requires, and the proposed amendment is not futile. However, when a party seeks leave
15 to amend a pleading after the deadline previously set for seeking such amendment has expired,
16 NRCP 16(b) requires a showing of "good cause" for missing the deadline. *See Nutton v. Sunset*
17 *Station*, 131 Nev. 279, 28, 357 P.3d 966, 970-71 (Nev. App. 2015).

18 12. This Court has considered the three approaches described under federal law;
19 however, this Court will follow the NRCP 16 mandate, which specifically requires a showing of
20 good cause to amend the pleadings after the time for doing so set forth in the court's scheduling
21 order has expired.

22 13. "Where a scheduling order has been entered, the lenient standard under Rule 15(a),
23 which provides leave to amend 'shall be freely given,' must be balanced against the requirement
24 under Rule 16(b) that the Court's scheduling order shall not be modified except upon a showing of
25 good cause." *Nutton*, 131 Nev. at 285, 357 P.3d at 971 (quoting *Grochowski v. Phoenix Constr.*,
26 318 F.3d 80, 86 (2d Cir. 2003)). "Disregard of the [scheduling] order would undermine the court's
27 ability to control its docket, disrupt the agreed-upon course of the litigation, and reward the indolent
28

1 and the cavalier." *Id.* at 285–86, 357 P.3d at 971 (quoting *Johnson v. Mammoth Recreations, Inc.*,
2 975 F.2d 604, 610 (9th Cir. 1992)).

3 14. Consequently, the Amended Counterclaims are time-barred by this Court's prior
4 scheduling order and the previous denial of the LTTQ/FERG Defendants' Motion to Amend.

5 15. Caesars' First Amended Complaint did not open the door for the Development
6 Entities to expand the scope of the litigation beyond its current parameters. Thus, the Development
7 Entities' counterclaims filed June 19, 2020 must be stricken.

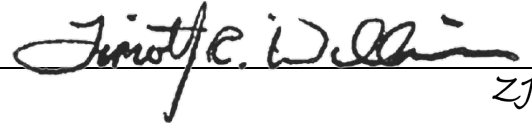
8 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motion to Strike
9 shall be, and hereby is, GRANTED.

10 IT IS HEREBY FURTHER ORDERED that the Development Entities' Amended
11 Counterclaims are STRICKEN in their entirety.

IT IS HEREBY FURTHER ORDERED that the Development Entities shall file a responsive pleading consistent with this order (as well as any and all applicable prior orders).

IT IS SO ORDERED.

DATED this 3rd day of ~~January~~ February 2021.



ZJ

Respectfully submitted by:

Approved as to form and content by:

DATED January 27, 2021

DATED January 27, 2021

PISANELLI BICE PLLC

FENNEMORE CRAIG, P.C.

By: /s/ M. Magali Mercera
James J. Pisanelli, Esq., Bar No. 4027
Debra L. Spinelli, Esq., Bar No. 9695
M. Magali Mercera, Esq., Bar No. 11742
Brittanie T. Watkins, Esq., Bar No. 13612
400 South 7th Street, Suite 300
Las Vegas, NV 89101

By: /s/ John D. Tennert
John D. Tennert, Esq. (SBN 11728)
Wade Beavers, Esq. (SBN 13451)
7800 Rancharra Parkway
Reno, NV 89511

Attorneys for Gordon Ramsay

and

Jeffrey J. Zeiger, P.C., Esq.
(admitted *pro hac vice*)
William E. Arnault, IV, Esq.
(admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating
Company, LLC; PHWLTV, LLC; and
Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

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Approved as to form and content by:

DATED January 27, 2021

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 07701

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

*Attorneys for The Original Homestead
Restaurant, Inc*

Approved as to form and content by:

DATED January 27, 2021

NEWMAYER & DILLION LLP

By: /s/ Aaron D. Lovaas
Aaron D. Lovaas, Esq.
3800 Howard Hughes Pkwy, Suite 700
Las Vegas, Nevada 89169

Attorneys for GR Burgr, LLC

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Wednesday, January 27, 2021 12:19 PM
To: Magali Mercera; Paul Williams
Cc: Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Brittnie T. Watkins; James Pisanelli; Aaron D. Lovaas; Tennert, John; Joshua Gilmore; Stephanie Glantz; Sharon Murnane; Susan Russo; Beavers, Wade
Subject: RE: [EXTERNAL]:RE: Notification of Service for Case: A-17-751759-B, Rowen Seibel, Plaintiff(s) vs.PHWLV LLC, Defendant(s) for filing Service Only, Envelope Number: 6981047 [FC-Email.FID7746767]

CAUTION: External Email

Magali, you have my authority to apply my signature to the Order.

Thank you.

Alan

From: Magali Mercera [mailto:mmm@pisanellibice.com]
Sent: Wednesday, January 27, 2021 2:36 PM
To: Paul Williams
Cc: Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Brittnie T. Watkins; James Pisanelli; Aaron D. Lovaas; Tennert, John; Joshua Gilmore; Stephanie Glantz; Sharon Murnane; Susan Russo; Beavers, Wade; Alan Lebensfeld
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Thanks, Paul. As discussed during our meet and confer, we believe that your proposal narrows the court's ruling, which limits any new allegations and counterclaims to the kickback scheme. Since we are at an impasse, we will proceed with submitting competing orders. We will plan to send ours this afternoon and copy counsel on the submission.

John, Alan, and Aaron – I assume we still have your approval to apply your e-signatures to this version. If that is not correct, please let us know promptly.

Once we have final confirmation from John, Alan, and Aaron, we will plan to submit the order and note in the body of the email that a competing version is being submitted by you as well. We would request that you similarly copy us on the submission.

Thanks,

M. Magali Mercera
PISANELLI BICE, PLLC
Telephone: (702) 214-2100
mmm@pisanellibice.com | www.pisanellibice.com



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This transaction and any attachment is confidential. Any dissemination or copying of this communication is prohibited. If you are not the intended recipient, please notify us immediately by replying and delete the message. Thank you.

Cinda C. Towne

From: Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>
Sent: Wednesday, January 27, 2021 12:28 PM
To: Magali Mercera; Paul Williams
Cc: Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Brittnie T. Watkins; James Pisanelli; Tennert, John; Joshua Gilmore; Stephanie Glantz; Sharon Murnane; Susan Russo; Beavers, Wade; Alan Lebensfeld
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CAUTION: External Email

Confirming my previous authorization to affix my e-signature.

Aaron D. Lovaas
702.777.7519 | Aaron.Lovaas@ndlf.com
[Newmeyer & Dillion LLP](#)

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, January 27, 2021 11:36 AM
To: Paul Williams <PWilliams@baileykennedy.com>
Cc: Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; James Pisanelli <jjp@pisanellibice.com>; Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>; Tennert, John <jtennert@fennemorelaw.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Stephanie Glantz <SGlantz@baileykennedy.com>; Sharon Murnane <SMurnane@baileykennedy.com>; Susan Russo <SRusso@baileykennedy.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
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M. Magali Mercera
PISANELLI BICE, PLLC
Telephone: (702) 214-2100
mmm@pisanellibice.com | www.pisanellibice.com



Please consider the environment before printing.

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Wednesday, January 27, 2021 11:40 AM
To: Magali Mercera; Paul Williams
Cc: Debra Spinelli; Emily A. Buchwald; Robert A. Ryan; Brittnie T. Watkins; James Pisanelli; Aaron D. Lovaas; Joshua Gilmore; Stephanie Glantz; Sharon Murnane; Susan Russo; Beavers, Wade; Alan Lebensfeld
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CAUTION: External Email

Magali,
Yes, you still have my approval to apply my e-signature to Caesars' version.
Thanks,
John

John D. Tennert III, Director
T: 775.788.2212 | F: 775.788.2213
jtennert@fennemorelaw.com

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, January 27, 2021 11:36 AM
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Cc: Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; James Pisanelli <jjp@pisanellibice.com>; Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>; Tennert, John <jtennert@fennemorelaw.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Stephanie Glantz <SGlantz@baileykennedy.com>; Sharon Murnane <SMurnane@baileykennedy.com>; Susan Russo <SRusso@baileykennedy.com>; Beavers, Wade <WBeavers@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
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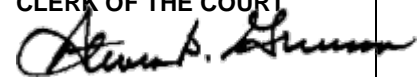
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Thanks,

M. Magali Mercera
PISANELLI BICE, PLLC

TAB 21



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittanie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
JZeiger@kirkland.com
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
WArnault@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: 312.862.2000

Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,
v.

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

Defendants,
and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B
Dept. No.: XVI

Consolidated with A-17-760537-B

**ORDER (i) DENYING THE
DEVELOPMENT ENTITIES, ROWEN
SEIBEL, AND CRAIG GREEN'S
MOTION: (1) FOR LEAVE TO TAKE
CAESARS' NRCP 30(B)(6)
DEPOSITIONS; AND (2) TO COMPEL
RESPONSES TO WRITTEN DISCOVERY
ON ORDER SHORTENING TIME; AND
(ii) GRANTING CAESARS'
COUNTERMOTION FOR PROTECTIVE
ORDER AND FOR LEAVE TO TAKE
LIMITED DEPOSITION OF CRAIG
GREEN**

Date of Hearing: December 14, 2020

Time of Hearing: 9:30 a.m.

The Development Entities,¹ Rowen Seibel ("Seibel"), and Craig Green's ("Green") Motion: (1) For Leave to Take Caesars' NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on Order Shortening Time ("Motion to Compel"), filed on November 20, 2020, and Caesars'² Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green ("Countermotion"), filed December 4, 2020, came before this Court for hearing on December 14, 2020, at 9:30 a.m. James J. Pisanelli, Esq. and Brittanie T. Watkins, Esq. of the law firm PISANELLI BICE PLLC, appeared telephonically on behalf of Caesars. Paul C. Williams, Esq. of the law firm BAILEY KENNEDY, appeared telephonically on behalf of the Seibel Parties.³

The Court having considered the Motion to Compel, the Countermotion, the Points and Authorities contained therein, and the oppositions and reply thereto, as well as argument of counsel presented at the hearing, and good cause appearing therefor,

THE COURT FINDS as follows:

1. The Seibel Parties' requests for production, interrogatories, and NRCP 30(b)(6) topics at issue in their Motion to Compel are not relevant to this case and disproportionate under NRCP 26;

2. There is a distinction between the rebates or gratuities about which the Seibel Parties seek discovery, on the one hand, and the coercive conduct that Caesars alleges the Seibel Parties engaged in, on the other hand;

3. Discovery into the rebates, gratuities, or Caesars' accounting practices related to rebates are not relevant. Additionally, discovery for purposes of a purported set-off is not relevant;

¹ TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), and R Squared Global Solutions, LLC ("R Squared"), derivatively on behalf of DNT Acquisition, LLC ("DNT"), are collectively referred to herein as the "Development Entities."

² PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), Boardwalk Regency Corporation d/b/a Caesars Atlantic City's ("CAC") are collectively referred to herein as Caesars.

³ The Development Entities, Green, and Seibel are collectively referred to herein as the "Seibel Parties."

4. The discovery sought by the Seibel Parties related to felony convictions of Caesars' employees is not relevant or germane to the case; and

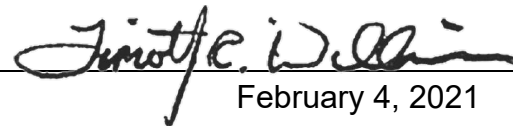
5. Caesars anticipated litigation when it became aware of Seibel's guilty plea on or about August 19, 2016. Therefore, August 19, 2016 is the controlling date for the common-interest privilege between Caesars and Gordon Ramsay.

In light of the foregoing, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

1. The Seibel Parties' Motion to Compel shall be, and hereby is, DENIED; and

2. Caesars' Countermotion, shall be, and hereby is, GRANTED.

IT IS SO ORDERED.



February 4, 2021

ZJ

Respectfully submitted by:

Approved as to form and content by:

DATED February 3, 2021

DATED February 1, 2021

PISANELLI BICE PLLC

BAILEY ♦ KENNEDY

By: /s/ Emily A. Buchwald, Bar #13442
James J. Pisanelli, Esq., Bar No. 4027
Debra L. Spinelli, Esq., Bar No. 9695
M. Magali Mercera, Esq., Bar No. 11742
Brittanie T. Watkins, Esq., Bar No. 13612
400 South 7th Street, Suite 300
Las Vegas, NV 89101

By: /s/ Paul C. Williams
John R. Bailey (SBN 0137)
Dennis L. Kennedy (SBN 1462)
Joshua P. Gilmore (SBN 11576)
Paul C. Williams (SBN 12524)
Stephanie J. Glantz (SBN 14878)
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

Jeffrey J. Zeiger, P.C., Esq.
(admitted *pro hac vice*)
William E. Arnault, IV, Esq.
(admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

*Attorneys for Rowen Seibel, Craig Green
Moti Partners, LLC, Moti Partners 16, LLC,
LLTQ Enterprises, LLC,
LLTQ Enterprises 16, LLC,
TPOV Enterprises, LLC,
TPOV Enterprises 16, LLC,
FERG, LLC, and FERG 16, LLC; and
R Squared Global Solutions, LLC, Derivatively
on Behalf of DNT Acquisition, LLC*

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating
Company, LLC; PHWL, LLC; and
Boardwalk Regency Corporation d/b/a
Caesars Atlantic City*

1 Approved as to form and content by:

2 DATED February 3, 2021

3 FENNEMORE CRAIG, P.C.

4
5 By: /s/ John D. Tennert
6 John D. Tennert, Esq. (SBN 11728)
7 Wade Beavers, Esq. (SBN 13451)
8 7800 Rancharrah Parkway
9 Reno, NV 89511

10 *Attorneys for Gordon Ramsay*

11 Approved as to form and content by:

12 DATED February 3, 2021

13 LEBENSFELD SHARON & SCHWARTZ
14 P.C.

15 By: /s/ Alan M. Lebensfeld
16 Alan M. Lebensfeld, Esq.
17 (admitted *pro hac* vice)
18 140 Broad Street
19 Red Bank, New Jersey 07701

20 Mark J. Connot, Esq.
21 Kevin M. Sutehall, Esq.
22 FOX ROTHSCHILD LLP
23 1980 Festival Plaza Drive, #700
24 Las Vegas, NV 89135

25 *Attorneys for The Original Homestead*
26 *Restaurant, Inc*

Approved as to form and content by:

DATED February 3, 2021

NEWMAYER & DILLION LLP

By: /s/ Aaron D. Lovaas
Aaron D. Lovaas, Esq.
3800 Howard Hughes Pkwy, Suite 700
Las Vegas, Nevada 89169

Attorneys for GR Burgr, LLC

Cinda C. Towne

From: Emily A. Buchwald
Sent: Wednesday, February 3, 2021 9:19 AM
To: Paul Williams
Cc: James Pisanelli; Debra Spinelli; Robert A. Ryan; Brittnie T. Watkins; Cinda C. Towne; Susan Russo; Magali Mercera; Joshua Gilmore; Stephanie Glantz; John Bailey; 'jtennert@fclaw.com'; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

Paul,

We can accept your revision, and will apply your e-signature. John, Alan, and Aaron, do we have your permission to affix your e-signature to the order?

Emily A. Buchwald

PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Tel: (702) 214-2100
Fax: (702) 214-2101
eab@pisanellibice.com | www.pisanellibice.com

From: Paul Williams <PWilliams@baileykennedy.com>
Sent: Monday, February 1, 2021 5:38 PM
To: Emily A. Buchwald <eab@pisanellibice.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>; Magali Mercera <mmm@pisanellibice.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Stephanie Glantz <SGlantz@baileykennedy.com>; John Bailey <JBailey@baileykennedy.com>; 'jtennert@fclaw.com' <jtennert@fclaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

CAUTION: External Email

Hi Emily,

Attached is a redline with one revision to your last version. The Court did not find that the discovery concerning benefits was irrelevant based on a failure to allege offset as an affirmative defense or counterclaim. Neither Caesars nor the Development Parties had briefed that issue—the Judge raised it as a potential issue sua sponte, though ultimately did not make that particular finding in his decision.

If you are okay with this revision, you may affix my electronic signature and submit it the court.

Thank you,

Paul C. Williams
Bailey Kennedy, LLP
8984 Spanish Ridge Avenue

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Wednesday, February 3, 2021 9:28 AM
To: Emily A. Buchwald; Paul Williams
Cc: James Pisanelli; Debra Spinelli; Robert A. Ryan; Brittnie T. Watkins; Cinda C. Towne; Susan Russo; Magali Mercera; Joshua Gilmore; Stephanie Glantz; John Bailey; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

CAUTION: External Email

Hi Emily,
You may affix my e-signature.
Thanks,
John

John D. Tennert III, Director

FENNEMORE.

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



Fennemore has expanded to California. [Read more here.](#)

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

From: Emily A. Buchwald <eab@pisanellibice.com>
Sent: Wednesday, February 3, 2021 9:19 AM
To: Paul Williams <PWilliams@baileykennedy.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>; Magali Mercera <mmm@pisanellibice.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Stephanie Glantz <SGlantz@baileykennedy.com>; John Bailey <JBailey@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

Paul,

Cinda C. Towne

From: Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>
Sent: Wednesday, February 3, 2021 9:26 AM
To: Emily A. Buchwald; Paul Williams
Cc: James Pisanelli; Debra Spinelli; Robert A. Ryan; Brittnie T. Watkins; Cinda C. Towne; Susan Russo; Magali Mercera; Joshua Gilmore; Stephanie Glantz; John Bailey; 'jtennert@fclaw.com'; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Subject: RE: [EXTERNAL]:RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

CAUTION: External Email

You may apply my e-signature.

Aaron D. Lovaas
702.777.7519 | Aaron.Lovaas@ndlf.com
[Newmeyer & Dillion LLP](#)

From: Emily A. Buchwald <eab@pisanellibice.com>
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Subject: [EXTERNAL]:RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

Paul,

We can accept your revision, and will apply your e-signature. John, Alan, and Aaron, do we have your permission to affix your e-signature to the order?

Emily A. Buchwald
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Tel: (702) 214-2100
Fax: (702) 214-2101
eab@pisanellibice.com | www.pisanellibice.com

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Cinda C. Towne

From: Emily A. Buchwald
Sent: Wednesday, February 3, 2021 10:37 AM
To: Cinda C. Towne
Subject: Fwd: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

Begin forwarded message:

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion
Date: February 3, 2021 at 10:29:30 AM PST
To: "Emily A. Buchwald" <eab@pisanellibice.com>

CAUTION: External Email

Yes, thanks.

From: Emily A. Buchwald [<mailto:eab@pisanellibice.com>]
Sent: Wednesday, February 03, 2021 12:19 PM
To: Paul Williams
Cc: James Pisanelli; Debra Spinelli; Robert A. Ryan; Brittanie T. Watkins; Cinda C. Towne; Susan Russo; Magali Mercera; Joshua Gilmore; Stephanie Glantz; John Bailey; 'jtennert@fclaw.com'; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

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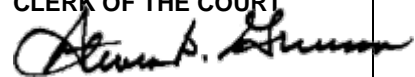
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TAB 22



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
Brittanie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Jeffrey J. Zeiger, P.C., Esq. (admitted *pro hac vice*)
JZeiger@kirkland.com
William E. Arnault, IV, Esq. (admitted *pro hac vice*)
WArnault@kirkland.com
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, Illinois 60654
Telephone: 312.862.2000

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

ROWEN SEIBEL, an individual and citizen of
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in Interest GR BURGR LLC, a Delaware
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Plaintiff,

v.

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DOES I through X; ROE CORPORATIONS I
through X,

Defendants,

and

GR BURGR LLC, a Delaware limited liability
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Nominal Plaintiff.

Case No.: A-17-751759-B
Dept. No.: XVI

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF ORDER (i)
DENYING THE DEVELOPMENT
ENTITIES, ROWEN SEIBEL, AND
CRAIG GREEN'S MOTION: (1) FOR
LEAVE TO TAKE CAESARS NRCP
30(B)(6) DEPOSITIONS; AND (2) TO
COMPEL RESPONSES TO WRITTEN
DISCOVERY ON ORDER SHORTENING
TIME; AND (ii) GRANTING CAESARS'
COUNTERMOTION FOR PROTECTIVE
ORDER AND FOR LEAVE TO TAKE
LIMITED DEPOSITION OF CRAIG
GREEN**

AND ALL RELATED MATTERS

1 PLEASE TAKE NOTICE that an Order (i) Denying the Development Entities, Rowen
2 Seibel, and Craig Green's Motion: (1) for Leave to Take Caesars' NRCP 30(b)(6) Depositions;
3 and (2) to Compel Responses to Written Discovery on Order Shortening Time; and (ii) Granting
4 Caesars' Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig
5 Green was entered in the above-captioned matter on February 4, 2021, a true and correct copy of
6 which is attached hereto.

7 DATED this 4th day of February 2021.

8 PISANELLI BICE PLLC

9 By: /s/ Emily A. Buchwald, Bar #13442

10 James J. Pisanelli, Esq., #4027
11 Debra L. Spinelli, Esq., #9695
12 M. Magali Mercera, Esq., #11742
13 Brittanie T. Watkins, Esq., #13612
14 400 South 7th Street, Suite 300
15 Las Vegas, Nevada 89101

16 Jeffrey J. Zeiger, P.C., Esq.
17 (admitted *pro hac vice*)
18 William E. Arnault, IV, Esq.
19 (admitted *pro hac vice*)
20 KIRKLAND & ELLIS LLP
21 300 North LaSalle
22 Chicago, Illinois 60654

23 *Attorneys for Desert Palace, Inc.;*
24 *Paris Las Vegas Operating Company, LLC;*
25 *PHWLV, LLC; and Boardwalk Regency*
26 *Corporation d/b/a Caesars Atlantic City*
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 4th day of February 2021, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF ORDER (i) DENYING THE DEVELOPMENT ENTITIES, ROWEN SEIBEL, AND CRAIG GREEN'S MOTION: (1) FOR LEAVE TO TAKE CAESARS NRCP 30(B)(6) DEPOSITIONS; AND (2) TO COMPEL RESPONSES TO WRITTEN DISCOVERY ON ORDER SHORTENING TIME; AND (ii) GRANTING CAESARS' COUNTERMOTION FOR PROTECTIVE ORDER AND FOR LEAVE TO TAKE LIMITED DEPOSITION OF CRAIG GREEN** to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.
Stephanie J. Glantz, Esq.
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
JBailey@BaileyKennedy.com
DKennedy@BaileyKennedy.com
JGilmore@BaileyKennedy.com
PWilliams@BaileyKennedy.com
SGlantz@BaileyKennedy.com

*Attorneys for Rowen Seibel, Craig Green
Moti Partners, LLC, Moti Partner 16, LLC,
LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC,
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John D. Tennert, Esq.
Wade Beavers, Esq.
FENNEMORE CRAIG, P.C.
7800 Rancharrah Parkway
Reno, NV 89511
jtennert@fclaw.com
wbeavers@fclaw.com

Attorneys for Gordon Ramsay

Alan Lebensfeld, Esq.
LEBENSFELD SHARON &
SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701
alan.lebensfeld@lsandspc.com

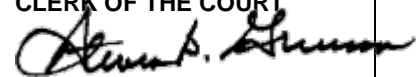
Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135
mconnot@foxrothschild.com
ksutehall@foxrothschild.com

*Attorneys for Plaintiff in Intervention
The Original Homestead Restaurant, Inc.*

Aaron D. Lovaas, Esq.
NEWMAYER & DILLION LLP
3800 Howard Hughes Pkwy., Suite 700
Las Vegas, NV 89169
aaron.lovaas@ndlf.com

*Attorneys for Nominal Plaintiff
GR Burgr LLC*

/s/ Cinda Towne
An employee of PISANELLI BICE PLLC



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
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MMM@pisanellibice.com
Brittanie T. Watkins, Esq., Bar No. 13612
BTW@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100

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JZeiger@kirkland.com
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WArnault@kirkland.com
KIRKLAND & ELLIS LLP
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Attorneys for Desert Palace, Inc.;
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EIGHTH JUDICIAL DISTRICT COURT

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ROWEN SEIBEL, an individual and citizen of
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DOES I through X; ROE CORPORATIONS I
through X,

Defendants,
and

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Date of Hearing: December 14, 2020

Time of Hearing: 9:30 a.m.

The Development Entities,¹ Rowen Seibel ("Seibel"), and Craig Green's ("Green") Motion: (1) For Leave to Take Caesars' NRCP 30(b)(6) Depositions; and (2) to Compel Responses to Written Discovery on Order Shortening Time ("Motion to Compel"), filed on November 20, 2020, and Caesars'² Countermotion for Protective Order and for Leave to Take Limited Deposition of Craig Green ("Countermotion"), filed December 4, 2020, came before this Court for hearing on December 14, 2020, at 9:30 a.m. James J. Pisanelli, Esq. and Brittanie T. Watkins, Esq. of the law firm PISANELLI BICE PLLC, appeared telephonically on behalf of Caesars. Paul C. Williams, Esq. of the law firm BAILEY KENNEDY, appeared telephonically on behalf of the Seibel Parties.³

The Court having considered the Motion to Compel, the Countermotion, the Points and Authorities contained therein, and the oppositions and reply thereto, as well as argument of counsel presented at the hearing, and good cause appearing therefor,

THE COURT FINDS as follows:

1. The Seibel Parties' requests for production, interrogatories, and NRCP 30(b)(6) topics at issue in their Motion to Compel are not relevant to this case and disproportionate under NRCP 26;

2. There is a distinction between the rebates or gratuities about which the Seibel Parties seek discovery, on the one hand, and the coercive conduct that Caesars alleges the Seibel Parties engaged in, on the other hand;

3. Discovery into the rebates, gratuities, or Caesars' accounting practices related to rebates are not relevant. Additionally, discovery for purposes of a purported set-off is not relevant;

¹ TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), and R Squared Global Solutions, LLC ("R Squared"), derivatively on behalf of DNT Acquisition, LLC ("DNT"), are collectively referred to herein as the "Development Entities."

² PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), Boardwalk Regency Corporation d/b/a Caesars Atlantic City's ("CAC") are collectively referred to herein as Caesars.

³ The Development Entities, Green, and Seibel are collectively referred to herein as the "Seibel Parties."

4. The discovery sought by the Seibel Parties related to felony convictions of Caesars' employees is not relevant or germane to the case; and

5. Caesars anticipated litigation when it became aware of Seibel's guilty plea on or about August 19, 2016. Therefore, August 19, 2016 is the controlling date for the common-interest privilege between Caesars and Gordon Ramsay.

In light of the foregoing, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

1. The Seibel Parties' Motion to Compel shall be, and hereby is, DENIED; and

2. Caesars' Countermotion, shall be, and hereby is, GRANTED.

IT IS SO ORDERED.



February 4, 2021

ZJ

Respectfully submitted by:

Approved as to form and content by:

DATED February 3, 2021

DATED February 1, 2021

PISANELLI BICE PLLC

BAILEY ♦ KENNEDY

By: /s/ Emily A. Buchwald, Bar #13442
James J. Pisanelli, Esq., Bar No. 4027
Debra L. Spinelli, Esq., Bar No. 9695
M. Magali Mercera, Esq., Bar No. 11742
Brittanie T. Watkins, Esq., Bar No. 13612
400 South 7th Street, Suite 300
Las Vegas, NV 89101

By: /s/ Paul C. Williams
John R. Bailey (SBN 0137)
Dennis L. Kennedy (SBN 1462)
Joshua P. Gilmore (SBN 11576)
Paul C. Williams (SBN 12524)
Stephanie J. Glantz (SBN 14878)
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148

Jeffrey J. Zeiger, P.C., Esq.
(admitted *pro hac vice*)
William E. Arnault, IV, Esq.
(admitted *pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654

*Attorneys for Rowen Seibel, Craig Green
Moti Partners, LLC, Moti Partners 16, LLC,
LLTQ Enterprises, LLC,
LLTQ Enterprises 16, LLC,
TPOV Enterprises, LLC,
TPOV Enterprises 16, LLC,
FERG, LLC, and FERG 16, LLC; and
R Squared Global Solutions, LLC, Derivatively
on Behalf of DNT Acquisition, LLC*

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating
Company, LLC; PHWL, LLC; and
Boardwalk Regency Corporation d/b/a
Caesars Atlantic City*

1 Approved as to form and content by:

2 DATED February 3, 2021

3 FENNEMORE CRAIG, P.C.

4
5 By: /s/ John D. Tennert
6 John D. Tennert, Esq. (SBN 11728)
7 Wade Beavers, Esq. (SBN 13451)
8 7800 Rancharrah Parkway
9 Reno, NV 89511

10 *Attorneys for Gordon Ramsay*

11 Approved as to form and content by:

12 DATED February 3, 2021

13 LEBENSFELD SHARON & SCHWARTZ
14 P.C.

15 By: /s/ Alan M. Lebensfeld
16 Alan M. Lebensfeld, Esq.
17 (admitted *pro hac* vice)
18 140 Broad Street
19 Red Bank, New Jersey 07701

20 Mark J. Connot, Esq.
21 Kevin M. Sutehall, Esq.
22 FOX ROTHSCHILD LLP
23 1980 Festival Plaza Drive, #700
24 Las Vegas, NV 89135

25 *Attorneys for The Original Homestead*
26 *Restaurant, Inc*

Approved as to form and content by:

DATED February 3, 2021

NEWMAYER & DILLION LLP

By: /s/ Aaron D. Lovaas
Aaron D. Lovaas, Esq.
3800 Howard Hughes Pkwy, Suite 700
Las Vegas, Nevada 89169

Attorneys for GR Burgr, LLC

Cinda C. Towne

From: Emily A. Buchwald
Sent: Wednesday, February 3, 2021 9:19 AM
To: Paul Williams
Cc: James Pisanelli; Debra Spinelli; Robert A. Ryan; Brittnie T. Watkins; Cinda C. Towne; Susan Russo; Magali Mercera; Joshua Gilmore; Stephanie Glantz; John Bailey; 'jtennert@fclaw.com'; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

Paul,

We can accept your revision, and will apply your e-signature. John, Alan, and Aaron, do we have your permission to affix your e-signature to the order?

Emily A. Buchwald

PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Tel: (702) 214-2100
Fax: (702) 214-2101
eab@pisanellibice.com | www.pisanellibice.com

From: Paul Williams <PWilliams@baileykennedy.com>
Sent: Monday, February 1, 2021 5:38 PM
To: Emily A. Buchwald <eab@pisanellibice.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>; Magali Mercera <mmm@pisanellibice.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Stephanie Glantz <SGlantz@baileykennedy.com>; John Bailey <JBailey@baileykennedy.com>; 'jtennert@fclaw.com' <jtennert@fclaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

CAUTION: External Email

Hi Emily,

Attached is a redline with one revision to your last version. The Court did not find that the discovery concerning benefits was irrelevant based on a failure to allege offset as an affirmative defense or counterclaim. Neither Caesars nor the Development Parties had briefed that issue—the Judge raised it as a potential issue sua sponte, though ultimately did not make that particular finding in his decision.

If you are okay with this revision, you may affix my electronic signature and submit it the court.

Thank you,

Paul C. Williams
Bailey Kennedy, LLP
8984 Spanish Ridge Avenue

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Wednesday, February 3, 2021 9:28 AM
To: Emily A. Buchwald; Paul Williams
Cc: James Pisanelli; Debra Spinelli; Robert A. Ryan; Brittnie T. Watkins; Cinda C. Towne; Susan Russo; Magali Mercera; Joshua Gilmore; Stephanie Glantz; John Bailey; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

CAUTION: External Email

Hi Emily,
You may affix my e-signature.
Thanks,
John

John D. Tennert III, Director

FENNEMORE.

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



Fennemore has expanded to California. [Read more here.](#)

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From: Emily A. Buchwald <eab@pisanellibice.com>
Sent: Wednesday, February 3, 2021 9:19 AM
To: Paul Williams <PWilliams@baileykennedy.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>; Magali Mercera <mmm@pisanellibice.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Stephanie Glantz <SGlantz@baileykennedy.com>; John Bailey <JBailey@baileykennedy.com>; Tennert, John <jtennert@fennemorelaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

Paul,

Cinda C. Towne

From: Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>
Sent: Wednesday, February 3, 2021 9:26 AM
To: Emily A. Buchwald; Paul Williams
Cc: James Pisanelli; Debra Spinelli; Robert A. Ryan; Brittnie T. Watkins; Cinda C. Towne; Susan Russo; Magali Mercera; Joshua Gilmore; Stephanie Glantz; John Bailey; 'jtennert@fclaw.com'; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com
Subject: RE: [EXTERNAL]:RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

CAUTION: External Email

You may apply my e-signature.

Aaron D. Lovaas
702.777.7519 | Aaron.Lovaas@ndlf.com
[Newmeyer & Dillion LLP](#)

From: Emily A. Buchwald <eab@pisanellibice.com>
Sent: Wednesday, February 3, 2021 9:19 AM
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Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Robert A. Ryan <RR@pisanellibice.com>; Brittnie T. Watkins <BTW@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>; Magali Mercera <mmm@pisanellibice.com>; Joshua Gilmore <JGilmore@baileykennedy.com>; Stephanie Glantz <SGlantz@baileykennedy.com>; John Bailey <JBailey@baileykennedy.com>; 'jtennert@fclaw.com' <jtennert@fclaw.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron D. Lovaas <Aaron.Lovaas@ndlf.com>
Subject: [EXTERNAL]:RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

Paul,

We can accept your revision, and will apply your e-signature. John, Alan, and Aaron, do we have your permission to affix your e-signature to the order?

Emily A. Buchwald
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Tel: (702) 214-2100
Fax: (702) 214-2101
eab@pisanellibice.com | www.pisanellibice.com

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Cinda C. Towne

From: Emily A. Buchwald
Sent: Wednesday, February 3, 2021 10:37 AM
To: Cinda C. Towne
Subject: Fwd: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

Begin forwarded message:

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion
Date: February 3, 2021 at 10:29:30 AM PST
To: "Emily A. Buchwald" <eab@pisanellibice.com>

CAUTION: External Email

Yes, thanks.

From: Emily A. Buchwald [<mailto:eab@pisanellibice.com>]
Sent: Wednesday, February 03, 2021 12:19 PM
To: Paul Williams
Cc: James Pisanelli; Debra Spinelli; Robert A. Ryan; Brittanie T. Watkins; Cinda C. Towne; Susan Russo; Magali Mercera; Joshua Gilmore; Stephanie Glantz; John Bailey; 'jtennert@fclaw.com'; Alan Lebensfeld; mconnot@foxrothschild.com; ksutehall@foxrothschild.com; Aaron.Lovaas@ndlf.com
Subject: RE: Desert Palace v. Seibel: Draft Order Denying Motion to Compel and Granting Countermotion

Paul,

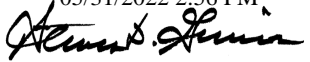
We can accept your revision, and will apply your e-signature. John, Alan, and Aaron, do we have your permission to affix your e-signature to the order?

Emily A. Buchwald

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400 South 7th Street, Suite 300
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TAB 23


CLERK OF THE COURT

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
CAESARS' MOTION FOR SUMMARY
JUDGMENT NO. 1**

Date of Hearing: December 6, 2021

Time of Hearing: 1:30 p.m.

AND ALL RELATED MATTERS

PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City's ("Caesars Atlantic City," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") *Motion for Summary Judgment No. 1* (the "MSJ No. 1"), filed on February 25, 2021, came before this Court for hearing on December 6, 2021, at 1:30 p.m.

PISANELLI BICE PLLC
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

James J. Pisanelli, Esq., and M. Magali Mercera, Esq., of the law firm PISANELLI BICE PLLC, appeared telephonically on behalf of Caesars. Joshua P. Gilmore, Esq., and Paul C. Williams, Esq., of the law firm BAILEY KENNEDY, appeared telephonically on behalf of TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), GR Burgr, LLC ("GRB"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared") (collectively the "Seibel-Affiliated Entities"), Rowen Seibel ("Seibel"), and Craig Green ("Green").¹ John Tennert, Esq., of the law firm FENNEMORE CRAIG, appeared telephonically on behalf of Gordon Ramsay ("Ramsay"). Alan Lebensfeld, of the law firm LEBENSFELD SHARON & SCHWARTZ P.C., appeared telephonically on behalf of The Original Homestead Restaurant.

The Court having considered MSJ No. 1, the opposition thereto, as well as argument of counsel presented at the hearing, taken the matter under advisement, and good cause appearing therefor, enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The Court HEREBY FINDS AS FOLLOWS:

1. Caesars and its affiliates hold gaming licenses in Nevada and other jurisdictions across the country.

2. Nevada's gaming regulations provide that a gaming license will not be awarded unless the Nevada Gaming Commission is satisfied that the gaming license applicant (a) is "of good character, honesty, and integrity" (b) with "background, reputation and associations [that] will not result in adverse publicity for the State of Nevada and its gaming industry; and" (c) someone who "[h]as adequate business competence and experience for the role or position for which application is made." Nev. Gaming Regul. 3.090(1).

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

1 3. Nevada gaming licensees are required to self-police and to act promptly if they learn
2 of derogatory information about their own operations or those of their business associates.

3 4. Caesars has established and operates an Ethics and Compliance Program (the
4 "Compliance Plan") requiring Caesars to maintain the highest standards of conduct and association
5 and guard its reputation to avoid even the slightest appearance of impropriety. To that end, Caesars
6 is further required to avoid questionable associations with Unsuitable Persons which could tarnish
7 Caesars' image, jeopardize its gaming licenses, or hamper its ability to expand into new markets.

8 5. Pursuant to Caesars' Compliance Plan, Caesars' vendors, suppliers, and business
9 partners, among others, must agree to abide by the same standards, business ethics, and principles
10 expected of Caesars' employees. To that end, Caesars customarily includes clear and unambiguous
11 language in its contracts with third parties that puts all such parties on notice that Caesars is in a
12 highly regulated business and that such third parties must abide by suitability requirements.

13 6. Beginning in 2009, Caesars began entering into contracts with Seibel and the Seibel-
14 Affiliated Entities relating to the development, creation, and operation of various restaurants at
15 Caesars properties in Las Vegas and Atlantic City.

16 7. Caesars Palace and a Seibel-Affiliated Entity, MOTI, entered into an agreement on
17 or about March 2009 relating to the Serendipity 3 restaurant in Las Vegas (the "MOTI Agreement").

18 8. Caesars Palace and a Seibel-Affiliated Entity, DNT, entered into an agreement on
19 or about June 2011 relating to the Original Homestead Restaurant in Las Vegas (the "DNT
20 Agreement").

21 9. Paris and a Seibel-Affiliated Entity, TPOV, entered into an agreement on or about
22 November 2011 relating to the Gordon Ramsay Steak restaurant at the Paris Las Vegas (the "TPOV
23 Agreement").

24 10. Caesars Palace and a Seibel-Affiliated Entity, LLTQ, entered into an agreement on
25 or about April 2012 relating to the Gordon Ramsay Pub & Grill at Caesars Palace in La Vegas (the
26 "LLTQ Agreement").
27
28

11. Section 13.22 of the LLTQ Agreement contemplated potential future restaurants but Caesars Palace and LLTQ did not agree on material terms regarding future restaurants. Specifically, Section 13.22 provided that:

If Caesars elects under this Agreement to pursue any venture similar to (1) the Restaurant (i.e., any venture generally in the nature of a pub, bar, café, or tavern) or (ii) the "Restaurant" as defined in the development and operation agreement entered into December 5, 2011 between TPOV Enterprises, LLC (an affiliate of LLTQ), on the one hand, and Paris Las Vegas Operating Company, LLC, on the other hand (i.e., any venture generally in the nature of a steak restaurant, fine dining steakhouse or chop house), Caesars and LLTQ shall, or shall cause an Affiliate to, execute a development and operation agreement on the same terms and conditions as this Agreement, subject only to revisions proposed by Caesars or its Affiliate as are necessary to reflect the difference in location between the Restaurant and such other venture (including, for the avoidance of doubt, the Baseline Amount, permitted Operating Expenses and necessary Project Costs).

12. Planet Hollywood and a Seibel-Affiliated Entity, GRB, entered into an agreement on or about December 2012 relating to the GR Burgr restaurant at Planet Hollywood in Las Vegas (the "GRB Agreement").

13. Caesars Atlantic City and a Seibel-Affiliated Entity, FERG, entered into an agreement on or about May 2014 relating to the Gordon Ramsay Pub & Grill at Caesars Atlantic City (the "FERG Agreement").²

14. Section 4.1 of the FERG Agreement contemplated potential future restaurants but Caesars Atlantic City and FERG did not agree on material terms regarding future restaurants. Specifically, Section 4.1 provided that:

In the event, a new agreement is executed between [Caesars Atlantic City] and/or its Affiliate and Gordon Ramsay and/or his Affiliate relative to the Restaurant, or Restaurant Premises, this Agreement shall be in effect and binding on the parties during the term thereof.

15. Each of the Seibel Agreements contained representations, warranties, and conditions to ensure that Caesars was not involved in a business relationship with an unsuitable individual

² The MOTI Agreement, DNT Agreement, TPOV Agreement, LLTQ Agreement, GRB Agreement, and FERG Agreement shall be collectively referred to hereinafter as the "Seibel Agreements."

1 and/or entity. Each of the Seibel agreements contained nearly identical language noting that each
2 of the Seibel-Affiliated Entities acknowledged that Caesars and its affiliates were subject to and
3 exists because of privileged licenses "issued U.S., state, local and foreign governmental, regulatory
4 and administrative authorities, agencies, boards and officials (the "Gaming Authorities")
5 responsible for or involved in the administration of application of laws, rules and regulations
6 relating to gaming or gaming activities or the sale, distribution and possession of alcoholic
7 beverages." (*See, e.g.*, Section 10.2 of the TPOV Agreement). The Seibel Agreements further
8 provided that "[t]he Gaming Authorities require [Caesars], and [Caesars] deems it advisable, to
9 have a compliance committee (the "Compliance Committee") that does its own background checks
10 on, and issues approvals of Persons involved with [Caesars] and its Affiliates." (*See, e.g., id.*)

11 16. Each of the Seibel Agreements provided for severe consequences, up to and
12 including termination of the agreements, if the Seibel-Affiliated Entities failed to abide their
13 suitability obligations.

14 17. Under each of the Seibel Agreements, Caesars reserved the right in its sole and
15 exclusive judgment to determine whether any Seibel-Affiliated Entity or Associate was an
16 Unsuitable Person.

17 18. The Seibel Agreements also contained suitability disclosure obligations requiring
18 the Seibel-Affiliated Entities to disclose certain information. Each of the Seibel Agreements
19 contained nearly identical language providing that prior to the execution of the agreement and "on
20 each anniversary of the Opening Date during the Term, (a) [the Seibel-Affiliated Entities] shall
21 provide to [Caesars] written disclosure regarding the [Seibel-Affiliated Entities] Associates, and (b)
22 the Compliance Committee shall have issued approvals of the [Seibel-Affiliated Entities]
23 Associates." (*See, e.g.*, Section 10.2 of the TPOV Agreement). Further, "during the Term, on ten
24 (10) calendar days written request by [Caesars] to [the Seibel-Affiliated Entities], [the Seibel-
25 Affiliated Entities] shall disclose to [Caesars] all [the Seibel-Affiliated Entities] Associates." (*See,*
26 *e.g., id.*) If any such disclosures became inaccurate, "within ten (10) calendar days from that event,
27 update the prior disclosure without [Caesars] making any further request [the Seibel-Affiliated
28 Entities] shall cause all [the Seibel-Affiliated Entities] Associates to provide all requested

1 information and apply for and obtain all necessary approvals required or requested by [Caesars] or
2 the Gaming Authorities." (*See, e.g., id.*)

3 19. Caesars required that the Seibel-Affiliated Entities complete and submit to Caesars
4 Business Information Forms ("BIFs"). In the BIFs, the Seibel-Affiliated Entities were required to
5 disclose potentially derogatory information about their background and their suitability. Among
6 other things, the BIFs required Seibel and the Seibel-Affiliated Entities to disclose whether any of
7 their associated persons, including Seibel, had been convicted of any crimes, engaged in criminal
8 activity, or were the subject of any criminal investigation.

9 20. In accordance with the MOTI Agreement, MOTI submitted a BIF (the "MOTI
10 BIF").

11 21. The MOTI BIF did not disclose any criminal activities by Seibel.

12 22. In accordance with the DNT Agreement, DNT submitted a BIF (the "DNT BIF").
13 The DNT BIF did not disclose any criminal activity by Seibel.

14 23. As set forth in the Seibel Agreements, the suitability disclosures (*e.g.*, the BIFs) were
15 required to be updated. Nevertheless, following submittal of the MOTI BIF and DNT BIF, neither
16 MOTI nor DNT updated their respective BIFs to disclose any criminal activity by Seibel.

17 24. Neither Seibel nor the Seibel-Affiliated Entities submitted a BIF in connection with
18 the TPOV Agreement, the LLTQ Agreement, the GRB Agreement, or the FERG Agreement.
19 Caesars did not waive, release, or modify the disclosure obligations for any of the Seibel-Affiliated
20 Entities.

21 25. Pursuant to the Seibel Agreements, if the Seibel-Affiliated Entities failed to comply
22 with their disclosure obligations, Caesars reserved the right, in its sole discretion, to terminate the
23 Seibel Agreements and its relationship with any of the Seibel Affiliated Entities. Specifically, each
24 of the Seibel Agreements contained nearly identical language providing, in pertinent part, that:

25 If any [Seibel-Affiliated Entity] Associate fails to satisfy or such requirement, if
26 [Caesars] or any of [Caesars'] Affiliates are directed to cease business with any
27 [Seibel-Affiliated Entity] Associate by any Gaming Authority, or if [Caesars] shall
28 determine, in [Caesars'] sole and exclusive judgment, that any [Seibel-Affiliated
Entity] Associate is an Unsuitable Person, whether as a result of a [Seibel-Affiliated
Entity] Change of Control or otherwise, then (a) [the Seibel-Affiliated Entity] shall
terminate any relationship with the Person who is the source of such issue, (b) [the

Seibel-Affiliated Entity] shall cease the activity or relationship creating the issue to [Caesars'] satisfaction, in [Caesars'] sole judgment, or (c) if such activity or relationship is not subject to cure as set forth in the foregoing clauses (a) and (b), as determined by [Caesars] in its sole discretion, [Caesars] shall, without prejudice to any other rights or remedies of [Caesars] including at law or in equity, have the right to terminate th[e] Agreement and its relationship with [the Seibel-Affiliated Entity]. [The Seibel-Affiliated Entity] further acknowledges that [Caesars] shall have the absolute right to terminate this Agreement in the event any Gaming Authority requires [Caesars] or one of its Affiliates to do so. Any termination by [Caesars] pursuant to this Section . . . shall not be subject to dispute by [the Seibel-Affiliated Entity] and shall not be the subject of any proceeding

26. Per the express language of the Seibel Agreements, Caesars' determination and termination of the Seibel Agreements were not subject to dispute by the Seibel-Affiliated Entities

27. In April 2016, Seibel pleaded guilty to one count of corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws because, in Seibel's own words, he was in fact guilty of the crime.

28. Prior to his guilty plea, and despite a January 2016 tolling agreement with the U.S. government entered into to allow Seibel "to manage his financial affairs in an optimal way prior to entering a guilty plea," neither Seibel nor any of the Seibel-Affiliated Entities notified Caesars of any of the facts underlying the charges against him, or that Seibel planned to plead guilty to a felony. Siebel did not update any of the mandatory suitability disclosures.

29. Rather than disclosing these crimes to Caesars, before pleading guilty, Seibel undertook at scheme to create the appearance of disassociating from certain Seibel Agreements³ by (1) creating new entities to which he was purportedly assigning the interests in the Seibel Agreements; (2) creating the Seibel Family 2016 Trust to receive the income from said entities; and (3) entering into a prenuptial agreement with his soon to be wife.

30. Seibel, with his attorneys, and Green, created new entities to which he purportedly assigned the Seibel Agreements.

³ As set forth in the Court's Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 2, Seibel attempted to assign his interest in GRB to The Seibel Family 2016 Trust (the "Trust"). In order to do so, Seibel needed GRUS, the other member of GRB, to consent to such an assignment. However, Seibel did not inform GRUS or Gordon Ramsay that the reason he sought to assign his interest was because he planned to plead guilty to a felony in the coming week and GRUS did not consent to the assignment.

1 31. While not mentioning or disclosing his criminal activity or impending guilty plea,
2 Seibel sent letters to Caesars representing that the Seibel Agreements would be assigned to those
3 new entities whose membership interests were mostly owned by the Seibel Family 2016 Trust.

4 32. Seibel represented to Caesars that the sole beneficiaries of the Seibel Family 2016
5 Trust were Netty Wachtel Slushny, Bryn Dorfman, and potential descendants of Seibel, and that
6 "[o]ther than the parties described in th[e] letter[s], there [were] no other parties that have any
7 management rights, powers or responsibilities regarding, or equity or financial interests in" the new
8 entities.

9 33. Those representations were all false and were made with the intent to deceive
10 Caesars.

11 34. At or around the same time, Seibel negotiated a prenuptial agreement with his soon-
12 to-be wife that would require her to share distributions she received from the Seibel Family 2016
13 Trust with Seibel and ensure that the entities assigned to the Trust would remain Seibel's separate
14 property. Seibel did not disclose this association with Caesars.

15 35. On or about August 19, 2016, Seibel was sentenced for his crimes, served time in a
16 federal penitentiary, and was required to pay fines and restitution, and perform community service.

17 36. At the time Caesars entered into the Seibel Agreements, Seibel did not disclose to
18 Caesars that he had been engaged in criminal activity.

19 37. At the time Seibel became aware that he was being investigated for crimes related
20 to violations of federal tax laws, Seibel did not disclose to Caesars that he was being investigated
21 for engaging in criminal activity.

22 38. Seibel did not disclose to Caesars that he pleaded guilty to one count of corrupt
23 endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C. §
24 7212, a Class E Felony.

25 39. Seibel did not disclose to Caesars that he was sentenced to serve time in federal
26 prison as a result of his guilty plea and conviction for engaging in a corrupt endeavor to obstruct
27 and impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212, a Class E
28 Felony.

44. The Nevada gaming regulators agreed with Caesars' actions, concluding that Caesars appropriately addressed the matter as the Nevada gaming regulators would expect from a gaming licensee.

1. Pursuant to Nevada law, summary judgment is appropriate and shall be rendered when the pleadings and other evidence on file demonstrate that no genuine issue as to any material fact remains and the moving party is entitled to judgment as a matter of law. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005); NRCp 56(c). "The party moving for summary judgment bears the initial burden of production to show the absence of a genuine issue of material fact." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007) (citation omitted). "If such a showing is made, then the party opposing summary judgment assumes a burden of production to show the existence of a genuine issue of material fact." *Id.*, 172 P.3d at 134.

2. "[T]o defeat summary judgment, the nonmoving party must transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine issue of material fact." *Id.*, 172 P.3d 131, 134 (2007) (citation omitted). Importantly, the nonmoving party can no longer merely raise the "slightest doubt" to avoid summary judgment. *Wood*, 121 Nev. at 731, 121 P.3d at 1031. Rather, the nonmoving party must present genuine issues of material fact to

1 avoid summary judgment. *Id.*, 121 P.3d at 1031. The nonmoving party cannot merely "build a case
2 on the gossamer threads of whimsy, speculation, and conjecture." *Id.*, 121 P.3d at 1031

3 3. Under Nevada law, "[a]ny person interested under [a written contract] or whose
4 rights, status or other legal relations are affected by a [contract] may have determined any question
5 of construction or validity arising under the [contract] and obtain a declaration of rights, status or
6 other legal relations thereunder." NRS § 30.040(1). "In the absence of ambiguity or other factual
7 complexities, contract interpretation presents a question of law that the district court may decide on
8 summary judgment." *Galardi v. Naples Polaris, LLC*, 129 Nev. 306, 309, 301 P.3d 364, 366 (2013)
9 (citations omitted). "As a general rule, [courts] construe unambiguous contracts . . . according to
10 their plain language." *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 487–88, 117 P.3d
11 219, 223–24 (2005).

12 4. Each of the Seibel Agreements contains valid and enforceable provisions that
13 Caesars reserved the right to terminate the agreements if it found, in its sole and exclusive
14 discretion, that any of the Seibel Affiliated Entities or their associates were an Unsuitable Person.

15 5. Caesars' determination that the Seibel-Affiliated Entities were unsuitable based on
16 Seibel's admitted criminal activities, *i.e.*, a felony conviction for engaging in corrupt endeavor to
17 obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212, and
18 sentence to serve prison time for the same, was within Caesars' sole discretion under the Seibel
19 Agreements.

20 6. Caesars properly exercised its discretion in terminating the Seibel Agreements.

21 7. Caesars did not breach the Seibel Agreements.

22 8. Seibel and the Seibel entities breached the Seibel Agreements by not disclosing that
23 Seibel had engaged in criminal activities, pleaded guilty to and been convicted of engaging in
24 corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26
25 U.S.C. § 7212, and been sentenced to serve prison as a result of that crime.

26 9. Seibel and the Seibel-Affiliated Entities purported to "cure" the unsuitability through
27 the creation of new entities, but Seibel secretly continued to hold both a beneficial and actual
28 ownership interest in the new entities. However, the Seibel Agreements (1) do not provide Seibel

1 or the Seibel-Affiliated Entities with an opportunity to cure; (2) nor do they provide Seibel or a
2 Seibel-Affiliated Entity with a unilateral right to sell Seibel's interests to a third party.

3 10. Even if the Seibel Agreements provided Seibel or the Seibel-Affiliated Entities a
4 right to cure his unsuitability, which the Court finds it did not, Seibel and the Seibel-Affiliated
5 Entities forfeited any such right through the fraudulent cure scheme and Seibel's continued
6 association with the Seibel-Affiliated Entities.

7 11. "A breach of the [implied] covenant [of good faith and fair dealing] occurs '[w]here
8 the terms of a contract are literally complied with but one party to the contract deliberately
9 contravenes the intention and spirit of the contract. . . .'" *Gamboa v. World Sav. Bank, FSB*, No.
10 3:10-CV-454-ECR-VPC, 2010 WL 5071166, at *2 (D. Nev. Dec. 6, 2010) (quoting *Hilton Hotels*
11 *Corp. v. Butch Lewis Prods., Inc.*, 107 Nev. 226, 232, 808 P.2d 919, 922-23 (1991)). "[W]hen there
12 is no factual basis for concluding that a defendant acted in bad faith, a court may determine the
13 issue of bad faith as a matter of law." *Tennier v. Wells Fargo Bank, N.A.*, No. 3:14-CV-0035-LRH-
14 VPC, 2015 WL 128672, at *7 (D. Nev. Jan. 8, 2015) (quoting *Andrew v. Century Sur. Co.*, No.
15 2:12-cv-0978, 2014 WL 1764740, at *10 (D. Nev. Apr. 29, 2014).

16 12. While every agreement has an implied covenant of good faith and fair dealing, that
17 implied covenant generally cannot contradict an *express* contract provision. *See, e.g., Kuiava v.*
18 *Kwasniewski*, 126 Nev. 731, 367 P.3d 791 (2010) (unpublished disposition), citing with approval
19 *Kucharczyk v. Regents of Univ. of Cal.*, 946 F. Supp. 1419, 1432 (N.D. Cal. 1996) (noting that the
20 implied covenant of good faith and fair dealing may not be used to imply a term that is contradicted
21 by an express term of the contract); *see also Gerdlund v. Elec. Dispensers Int'l*, 235 Cal. Rptr. 279,
22 286 (Ct. App. 1987) (internal quotations omitted) ("No obligation can be implied, however, which
23 would result in the obliteration of a right expressly given under a written contract.")

24 13. "There cannot be a valid express contract and an implied contract, each embracing
25 the same subject, but requiring different results." *Gerdlund*, 235 Cal. Rptr. at 286 (internal
26 quotations omitted); *see also Melnick v. State Farm Mut. Auto. Ins. Co.*, 749 P.2d 1105, 1110 (N.M.
27 1988) ("We cannot change or modify the language of an otherwise legal contract for the benefit of
28 one party and to the detriment of another.").

14. Moreover, "one generally cannot base a claim for breach of the implied covenant on conduct authorized by the terms of the agreement." *Miller v. FiberLight, LLC*, 808 S.E.2d 75, 87 (Ga. App. Ct. 2017) (quoting *Dunlap v. State Farm Fire & Cas. Co.*, 878 A.2d 434, 441 (Del. 2005)); see also *Vitek v. Bank of Am., N.A.*, No. 8:13-CV-816-JLS ANX, 2014 WL 1042397, at *5 (C.D. Cal. Jan. 23, 2014) (citation omitted) ("In general, acting in accordance with an express contractual provision does not amount to bad faith."). "In other words, 'a party does not act in bad faith by relying on contract provisions for which that party bargained where doing so simply limits advantages to another party.'" *Miller*, 343 Ga. App. at 607–08, 808 S.E.2d at 87 (quoting *Alpha Balanced Fund, LLLP v. Irongate Performance Fund, LLC*, 802 S.E.2d 357 (Ga. 2017)).

15. Importantly, "when there is no factual basis for concluding that a defendant acted in bad faith, a court may determine the issue of bad faith as a matter of law." *Tennier v. Wells Fargo Bank, N.A.*, No. 3:14-CV-0035-LRH-VPC, 2015 WL 128672, at *7 (D. Nev. Jan. 8, 2015) (quoting *Andrew v. Century Sur. Co.*, No. 2:12-cv- 0978, 2014 WL 1764740, at *10 (D. Nev. Apr. 29, 2014)).

16. The "implied promise of good faith and fair dealing is 'reciprocal,' a 'two-way street' which demands mutual compliance from the contracting parties." *Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*, 791 F.2d 1356, 1361 (9th Cir. 1986) (citation omitted). Indeed, there is "no justice in permitting a plaintiff to complain of unfair dealing in a [t]ransaction when he himself has not fulfilled in good faith his contractual obligations with regard to that transaction." *Id.* at 1362 (citation omitted).

17. Caesars' termination of the Seibel Agreements after learning that Seibel had engaged in criminal activities, pleaded guilty to and been convicted of engaging in corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212, and been sentenced to serve prison as a result of that crime, does not constitute a breach of the covenant of good faith and fair dealing.

18. In addition, Seibel and the Seibel-Affiliated Entities are barred from arguing Caesars acted in bad faith by their committing the first breach and Seibel's own acts of bad faith, including

not only the felony conviction and the conduct leading up to it, but also the misrepresentation of purported disassociation through the new entities to which he purported to assign his interests.

19. Finally, Seibel's unsuitability renders the future restaurant provisions void as a result of his unsuitability to do business with a gaming licensee.

20. Under Nevada law, that "[a]n agreement to agree at a future time is nothing and will not support an action for damages." *City of Reno v. Silver State Flying Serv., Inc.*, 84 Nev. 170, 176, 438 P.2d 257, 261 (1968) (quoting *Salomon v. Cooper*, 98 Cal. App. 2d 521, 220 P.2d 774 (1950)). "There is no dispute that neither law nor equity provides a remedy for breach of an agreement to agree in the future." *Autry v. Republic Prods.*, 30 Cal. 2d 144, 151, 180 P.2d 888, 893 (1947). Indeed, "[s]uch a contract cannot be made the basis of a cause of action." *Id.*, 180 P.2d at 893 (citations omitted). "Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds, and consideration." *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). "With respect to contract formation, preliminary negotiations do not constitute a binding contract unless the parties have agreed to all material terms." *Id.*, 119 P.3d at 1257.

21. Section 13.22 of the LLTQ Agreement has indefinite and open terms and thus is an invalid and unenforceable agreement to agree. As such, this provision fails as a matter of law.

22. Section 4.2 of the FERG Agreement has indefinite and open terms and thus is an invalid and unenforceable agreement to agree. As such, this provision fails as a matter of law.

23. Section 13.22 of the LLTQ Agreement and Section 4.2 of the FERG Agreement are further unenforceable because the Seibel-Affiliated Entities would be unable to comply with the suitability obligations required by contract and gaming regulations rendering them agreements against public policy and void as a matter of law.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Caesars' MSJ No. 1 shall be, and hereby is, GRANTED in its entirety and that judgment is entered in favor of Caesars on Counts I, II, and III of Caesars First Amended Complaint.

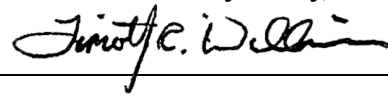
1 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Caesars is
2 entitled to declarations that:

- 3 (1) Caesars Palace properly terminated the MOTI Agreement, the DNT
4 Agreement, and the LLTQ Agreement;
- 5 (2) Paris properly terminated the TPOV Agreement;
- 6 (3) PHWLV properly terminated the GRB Agreement;
- 7 (4) Caesars Atlantic City properly terminated the FERG Agreement;
- 8 (5) Caesars does not have any current or future financial obligations or
9 commitments to Seibel or any of the Seibel-Affiliated Entities;
- 10 (6) Section 13.22 of the LLTQ Agreement is unenforceable and Caesars does
11 not have any current or future obligations pursuant to that provision or
12 otherwise that would prohibit or limit existing or future restaurant ventures
13 between Caesars and Gordon Ramsay; and
- 14 (7) Section 4.1 of the FERG Agreement is unenforceable and Caesars does not
15 have any current or future obligations pursuant to that provision or
16 otherwise that would prohibit or limit existing or future restaurant ventures
17 between Caesars and Gordon Ramsay.

18 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is
19 entered in favor Caesars on Counts I and II of DNT's counterclaim, and on Counts I, II, III and IV
20 of LLTQ, LLTQ 16, FERG, and FERG 16's counterclaims, which seek an accounting of monies
21 purportedly owed under the DNT, LLTQ, and FERG Agreements and allege breaches of contract
22 related to the ongoing operation of certain restaurants. Because all Seibel Agreements were properly
23 terminated by Caesars as found herein, these counterclaims fail as a matter of law and judgment is
24 appropriate in favor of Caesars.

25 IT IS SO ORDERED.

Dated this 31st day of May, 2022



MH

2AA A93 02DD E0B1
Timothy C. Williams
District Court Judge

Respectfully submitted by:

DATED May 25, 2022

PISANELLI BICE PLLC

By: /s/ M. Magali Mercera
James J. Pisanelli, Esq., Bar No. 4027
Debra L. Spinelli, Esq., Bar No. 9695
M. Magali Mercera, Esq., Bar No. 11742
400 South 7th Street, Suite 300
Las Vegas, NV 89101

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating
Company, LLC; PHWLTV, LLC; and
Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

Approved as to form and content by:

DATED May 25, 2022

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 07701

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

Attorneys for The Original Homestead Restaurant

Approved as to form and content by:

DATED May 25, 2022

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert
John D. Tennert, Esq. (SBN 11728)
Wade Beavers, Esq. (SBN 13451)
7800 Rancharrah Parkway
Reno, NV 89511
Attorneys for Gordon Ramsay

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Wednesday, May 25, 2022 4:36 PM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Tennert, John; Beavers, Wade
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Susan Russo
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

You may, thanks

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, May 25, 2022 5:11 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

Understood, Josh.

John and Alan – We updated our draft proposed findings of fact and conclusions of law to remove Bailey Kennedy from the signature block in light of their objections to the orders and updated the date to May. Please confirm that we may affix your e-signatures to these versions.

Thanks,

M. Magali Mercera

PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 214-2100
Fax: (702) 214-2101
mmm@pisanellibice.com | www.pisanellibice.com



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From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Tuesday, April 26, 2022 2:03 PM
To: Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Wednesday, May 25, 2022 2:44 PM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Alan Lebensfeld; Beavers, Wade
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Susan Russo
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

Hi Magali,

You may affix my e-signature to both proposed orders.

Thanks,
John

John D. Tennert III, Director

FENNEMORE.

7800 Rancharrah Parkway, Reno, NV 89511

T: 775.788.2212 | F: 775.788.2213

jtennert@fennemorelaw.com | [View Bio](#)



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From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, May 25, 2022 2:11 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

Understood, Josh.

John and Alan – We updated our draft proposed findings of fact and conclusions of law to remove Bailey Kennedy from the signature block in light of their objections to the orders and updated the date to May. Please confirm that we may affix your e-signatures to these versions.

Thanks,

M. Magali Mercera
PISANELLI BICE, PLLC

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/31/2022

15 Robert Atkinson

robert@nv-lawfirm.com

16 Kevin Sutehall

ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." .

lit@pisanellibice.com

18 "John Tennert, Esq." .

jtennert@fclaw.com

19 Brittnie T. Watkins .

btw@pisanellibice.com

20 Dan McNutt .

drm@cmlawnv.com

21 Debra L. Spinelli .

dls@pisanellibice.com

22 Diana Barton .

db@pisanellibice.com

23 Lisa Anne Heller .

lah@cmlawnv.com

24 Matt Wolf .

mcw@cmlawnv.com

25 PB Lit .

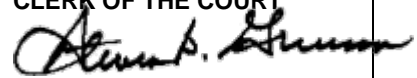
lit@pisanellibice.com

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Daniel McNutt	drm@cmlawnv.com
6	Paul Sweeney	PSweeney@certilmanbalin.com
7	Nathan Rugg	nathan.rugg@bfkn.com
8	Steven Chaiken	sbc@ag-ltd.com
9	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
10	Brett Schwartz	brett.schwartz@lsandspc.com
11	Doreen Loffredo	dloffredo@foxrothschild.com
12	Mark Connot	mconnot@foxrothschild.com
13	Joshua Feldman	jfeldman@certilmanbalin.com
14	Nicole Milone	nmilone@certilmanbalin.com
15	Karen Hippner	karen.hippner@lsandspc.com
16	Lawrence Sharon	lawrence.sharon@lsandspc.com
17	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
18	Magali Mercera	mmm@pisanellibice.com
19	Cinda Towne	cct@pisanellibice.com
20	Litigation Paralegal	bknotices@nv-lawfirm.com
21	Shawna Braselton	sbraselton@fennemorelaw.com
22	Christine Gioe	christine.gioe@lsandspc.com
23	Trey Pictum	trey@mcnuttlawfirm.com
24		
25		
26		
27		
28		

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23
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25
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27
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Monice Campbell	monice@envision.legal
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
John Tennert	jtennert@fennemorelaw.com
Wade Beavers	wbeavers@fclaw.com
Sarah Hope	shope@fennemorelaw.com

TAB 24



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER GRANTING CAESARS' MOTION
FOR SUMMARY JUDGMENT NO. 1**

AND ALL RELATED MATTERS

PLEASE TAKE NOTICE that a Findings of Fact, Conclusions of Law, and Order
Granting Caesars' Motion for Summary Judgment No. 1 was entered in the above-captioned

1 matter on May 31, 2022, a true and correct copy of which is attached hereto.

2 DATED this 3rd day of June 2022.

3 PISANELLI BICE PLLC

4 By: /s/ M. Magali Mercera
5 James J. Pisanelli, Esq., #4027
6 Debra L. Spinelli, Esq., #9695
7 M. Magali Mercera, Esq., #11742
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

8 *Attorneys for Desert Palace, Inc.;*
9 *Paris Las Vegas Operating Company, LLC;*
10 *PHWLV, LLC; and Boardwalk Regency*
11 *Corporation d/b/a Caesars Atlantic City*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 3rd day of June 2022, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING CAESARS' MOTION FOR SUMMARY JUDGMENT NO. 1** to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
JBailey@BaileyKennedy.com
DKennedy@BaileyKennedy.com
JGilmore@BaileyKennedy.com
PWilliams@BaileyKennedy.com

*Attorneys for Rowen Seibel, Craig Green
Moti Partners, LLC, Moti Partner 16, LLC,
LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC,
TPOV Enterprises, LLC, TPOV Enterprises 16, LLC,
FERG, LLC, and FERG 16, LLC; and R Squared
Global Solutions, LLC, Derivatively on Behalf of
DNT Acquisition, LLC, and Nominal Plaintiff
GR Burgr LLC*

John D. Tennert, Esq.
Wade Beavers, Esq.
FENNEMORE CRAIG, P.C.
7800 Rancharrah Parkway
Reno, NV 89511
jtennert@fclaw.com
wbeavers@fclaw.com

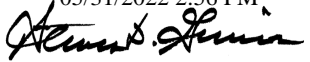
Attorneys for Gordon Ramsay

Alan Lebensfeld, Esq.
LEBENSFELD SHARON &
SCHWARTZ, P.C.
140 Broad Street
Red Bank, NJ 07701
alan.lebensfeld@lsandspc.com

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135
mconnot@foxrothschild.com
ksutehall@foxrothschild.com

*Attorneys for Plaintiff in Intervention
The Original Homestead Restaurant, Inc.*

/s/ Cinda Towne
An employee of PISANELLI BICE PLLC


CLERK OF THE COURT

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
CAESARS' MOTION FOR SUMMARY
JUDGMENT NO. 1**

Date of Hearing: December 6, 2021

Time of Hearing: 1:30 p.m.

AND ALL RELATED MATTERS

PHWLTV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City's ("Caesars Atlantic City," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") *Motion for Summary Judgment No. 1* (the "MSJ No. 1"), filed on February 25, 2021, came before this Court for hearing on December 6, 2021, at 1:30 p.m.

PISANELLI BICE PLLC
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

James J. Pisanelli, Esq., and M. Magali Mercera, Esq., of the law firm PISANELLI BICE PLLC, appeared telephonically on behalf of Caesars. Joshua P. Gilmore, Esq., and Paul C. Williams, Esq., of the law firm BAILEY KENNEDY, appeared telephonically on behalf of TPOV Enterprises, LLC ("TPOV"), TPOV Enterprises 16, LLC ("TPOV 16"), LLTQ Enterprises, LLC ("LLTQ"), LLTQ Enterprises 16, LLC ("LLTQ 16"), FERG, LLC ("FERG"), FERG 16, LLC ("FERG 16"), MOTI Partners, LLC ("MOTI"), MOTI Partners 16, LLC ("MOTI 16"), GR Burgr, LLC ("GRB"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared") (collectively the "Seibel-Affiliated Entities"), Rowen Seibel ("Seibel"), and Craig Green ("Green").¹ John Tennert, Esq., of the law firm FENNEMORE CRAIG, appeared telephonically on behalf of Gordon Ramsay ("Ramsay"). Alan Lebensfeld, of the law firm LEBENSFELD SHARON & SCHWARTZ P.C., appeared telephonically on behalf of The Original Homestead Restaurant.

The Court having considered MSJ No. 1, the opposition thereto, as well as argument of counsel presented at the hearing, taken the matter under advisement, and good cause appearing therefor, enters the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

The Court HEREBY FINDS AS FOLLOWS:

1. Caesars and its affiliates hold gaming licenses in Nevada and other jurisdictions across the country.

2. Nevada's gaming regulations provide that a gaming license will not be awarded unless the Nevada Gaming Commission is satisfied that the gaming license applicant (a) is "of good character, honesty, and integrity" (b) with "background, reputation and associations [that] will not result in adverse publicity for the State of Nevada and its gaming industry; and" (c) someone who "[h]as adequate business competence and experience for the role or position for which application is made." Nev. Gaming Regul. 3.090(1).

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

1 3. Nevada gaming licensees are required to self-police and to act promptly if they learn
2 of derogatory information about their own operations or those of their business associates.

3 4. Caesars has established and operates an Ethics and Compliance Program (the
4 "Compliance Plan") requiring Caesars to maintain the highest standards of conduct and association
5 and guard its reputation to avoid even the slightest appearance of impropriety. To that end, Caesars
6 is further required to avoid questionable associations with Unsuitable Persons which could tarnish
7 Caesars' image, jeopardize its gaming licenses, or hamper its ability to expand into new markets.

8 5. Pursuant to Caesars' Compliance Plan, Caesars' vendors, suppliers, and business
9 partners, among others, must agree to abide by the same standards, business ethics, and principles
10 expected of Caesars' employees. To that end, Caesars customarily includes clear and unambiguous
11 language in its contracts with third parties that puts all such parties on notice that Caesars is in a
12 highly regulated business and that such third parties must abide by suitability requirements.

13 6. Beginning in 2009, Caesars began entering into contracts with Seibel and the Seibel-
14 Affiliated Entities relating to the development, creation, and operation of various restaurants at
15 Caesars properties in Las Vegas and Atlantic City.

16 7. Caesars Palace and a Seibel-Affiliated Entity, MOTI, entered into an agreement on
17 or about March 2009 relating to the Serendipity 3 restaurant in Las Vegas (the "MOTI Agreement").

18 8. Caesars Palace and a Seibel-Affiliated Entity, DNT, entered into an agreement on
19 or about June 2011 relating to the Original Homestead Restaurant in Las Vegas (the "DNT
20 Agreement").

21 9. Paris and a Seibel-Affiliated Entity, TPOV, entered into an agreement on or about
22 November 2011 relating to the Gordon Ramsay Steak restaurant at the Paris Las Vegas (the "TPOV
23 Agreement").

24 10. Caesars Palace and a Seibel-Affiliated Entity, LLTQ, entered into an agreement on
25 or about April 2012 relating to the Gordon Ramsay Pub & Grill at Caesars Palace in La Vegas (the
26 "LLTQ Agreement").
27
28

11. Section 13.22 of the LLTQ Agreement contemplated potential future restaurants but Caesars Palace and LLTQ did not agree on material terms regarding future restaurants. Specifically, Section 13.22 provided that:

If Caesars elects under this Agreement to pursue any venture similar to (1) the Restaurant (i.e., any venture generally in the nature of a pub, bar, café, or tavern) or (ii) the "Restaurant" as defined in the development and operation agreement entered into December 5, 2011 between TPOV Enterprises, LLC (an affiliate of LLTQ), on the one hand, and Paris Las Vegas Operating Company, LLC, on the other hand (i.e., any venture generally in the nature of a steak restaurant, fine dining steakhouse or chop house), Caesars and LLTQ shall, or shall cause an Affiliate to, execute a development and operation agreement on the same terms and conditions as this Agreement, subject only to revisions proposed by Caesars or its Affiliate as are necessary to reflect the difference in location between the Restaurant and such other venture (including, for the avoidance of doubt, the Baseline Amount, permitted Operating Expenses and necessary Project Costs).

12. Planet Hollywood and a Seibel-Affiliated Entity, GRB, entered into an agreement on or about December 2012 relating to the GR Burgr restaurant at Planet Hollywood in Las Vegas (the "GRB Agreement").

13. Caesars Atlantic City and a Seibel-Affiliated Entity, FERG, entered into an agreement on or about May 2014 relating to the Gordon Ramsay Pub & Grill at Caesars Atlantic City (the "FERG Agreement").²

14. Section 4.1 of the FERG Agreement contemplated potential future restaurants but Caesars Atlantic City and FERG did not agree on material terms regarding future restaurants. Specifically, Section 4.1 provided that:

In the event, a new agreement is executed between [Caesars Atlantic City] and/or its Affiliate and Gordon Ramsay and/or his Affiliate relative to the Restaurant, or Restaurant Premises, this Agreement shall be in effect and binding on the parties during the term thereof.

15. Each of the Seibel Agreements contained representations, warranties, and conditions to ensure that Caesars was not involved in a business relationship with an unsuitable individual

² The MOTI Agreement, DNT Agreement, TPOV Agreement, LLTQ Agreement, GRB Agreement, and FERG Agreement shall be collectively referred to hereinafter as the "Seibel Agreements."

1 and/or entity. Each of the Seibel agreements contained nearly identical language noting that each
2 of the Seibel-Affiliated Entities acknowledged that Caesars and its affiliates were subject to and
3 exists because of privileged licenses "issued U.S., state, local and foreign governmental, regulatory
4 and administrative authorities, agencies, boards and officials (the "Gaming Authorities")
5 responsible for or involved in the administration of application of laws, rules and regulations
6 relating to gaming or gaming activities or the sale, distribution and possession of alcoholic
7 beverages." (*See, e.g.,* Section 10.2 of the TPOV Agreement). The Seibel Agreements further
8 provided that "[t]he Gaming Authorities require [Caesars], and [Caesars] deems it advisable, to
9 have a compliance committee (the "Compliance Committee") that does its own background checks
10 on, and issues approvals of Persons involved with [Caesars] and its Affiliates." (*See, e.g., id.*)

11 16. Each of the Seibel Agreements provided for severe consequences, up to and
12 including termination of the agreements, if the Seibel-Affiliated Entities failed to abide their
13 suitability obligations.

14 17. Under each of the Seibel Agreements, Caesars reserved the right in its sole and
15 exclusive judgment to determine whether any Seibel-Affiliated Entity or Associate was an
16 Unsuitable Person.

17 18. The Seibel Agreements also contained suitability disclosure obligations requiring
18 the Seibel-Affiliated Entities to disclose certain information. Each of the Seibel Agreements
19 contained nearly identical language providing that prior to the execution of the agreement and "on
20 each anniversary of the Opening Date during the Term, (a) [the Seibel-Affiliated Entities] shall
21 provide to [Caesars] written disclosure regarding the [Seibel-Affiliated Entities] Associates, and (b)
22 the Compliance Committee shall have issued approvals of the [Seibel-Affiliated Entities]
23 Associates." (*See, e.g.,* Section 10.2 of the TPOV Agreement). Further, "during the Term, on ten
24 (10) calendar days written request by [Caesars] to [the Seibel-Affiliated Entities], [the Seibel-
25 Affiliated Entities] shall disclose to [Caesars] all [the Seibel-Affiliated Entities] Associates." (*See,*
26 *e.g., id.*) If any such disclosures became inaccurate, "within ten (10) calendar days from that event,
27 update the prior disclosure without [Caesars] making any further request [the Seibel-Affiliated
28 Entities] shall cause all [the Seibel-Affiliated Entities] Associates to provide all requested

1 information and apply for and obtain all necessary approvals required or requested by [Caesars] or
2 the Gaming Authorities." (*See, e.g., id.*)

3 19. Caesars required that the Seibel-Affiliated Entities complete and submit to Caesars
4 Business Information Forms ("BIFs"). In the BIFs, the Seibel-Affiliated Entities were required to
5 disclose potentially derogatory information about their background and their suitability. Among
6 other things, the BIFs required Seibel and the Seibel-Affiliated Entities to disclose whether any of
7 their associated persons, including Seibel, had been convicted of any crimes, engaged in criminal
8 activity, or were the subject of any criminal investigation.

9 20. In accordance with the MOTI Agreement, MOTI submitted a BIF (the "MOTI
10 BIF").

11 21. The MOTI BIF did not disclose any criminal activities by Seibel.

12 22. In accordance with the DNT Agreement, DNT submitted a BIF (the "DNT BIF").
13 The DNT BIF did not disclose any criminal activity by Seibel.

14 23. As set forth in the Seibel Agreements, the suitability disclosures (*e.g.*, the BIFs) were
15 required to be updated. Nevertheless, following submittal of the MOTI BIF and DNT BIF, neither
16 MOTI nor DNT updated their respective BIFs to disclose any criminal activity by Seibel.

17 24. Neither Seibel nor the Seibel-Affiliated Entities submitted a BIF in connection with
18 the TPOV Agreement, the LLTQ Agreement, the GRB Agreement, or the FERG Agreement.
19 Caesars did not waive, release, or modify the disclosure obligations for any of the Seibel-Affiliated
20 Entities.

21 25. Pursuant to the Seibel Agreements, if the Seibel-Affiliated Entities failed to comply
22 with their disclosure obligations, Caesars reserved the right, in its sole discretion, to terminate the
23 Seibel Agreements and its relationship with any of the Seibel Affiliated Entities. Specifically, each
24 of the Seibel Agreements contained nearly identical language providing, in pertinent part, that:

25 If any [Seibel-Affiliated Entity] Associate fails to satisfy or such requirement, if
26 [Caesars] or any of [Caesars'] Affiliates are directed to cease business with any
27 [Seibel-Affiliated Entity] Associate by any Gaming Authority, or if [Caesars] shall
28 determine, in [Caesars'] sole and exclusive judgment, that any [Seibel-Affiliated
Entity] Associate is an Unsuitable Person, whether as a result of a [Seibel-Affiliated
Entity] Change of Control or otherwise, then (a) [the Seibel-Affiliated Entity] shall
terminate any relationship with the Person who is the source of such issue, (b) [the

Seibel-Affiliated Entity] shall cease the activity or relationship creating the issue to [Caesars'] satisfaction, in [Caesars'] sole judgment, or (c) if such activity or relationship is not subject to cure as set forth in the foregoing clauses (a) and (b), as determined by [Caesars] in its sole discretion, [Caesars] shall, without prejudice to any other rights or remedies of [Caesars] including at law or in equity, have the right to terminate th[e] Agreement and its relationship with [the Seibel-Affiliated Entity]. [The Seibel-Affiliated Entity] further acknowledges that [Caesars] shall have the absolute right to terminate this Agreement in the event any Gaming Authority requires [Caesars] or one of its Affiliates to do so. Any termination by [Caesars] pursuant to this Section . . . shall not be subject to dispute by [the Seibel-Affiliated Entity] and shall not be the subject of any proceeding

26. Per the express language of the Seibel Agreements, Caesars' determination and termination of the Seibel Agreements were not subject to dispute by the Seibel-Affiliated Entities

27. In April 2016, Seibel pleaded guilty to one count of corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws because, in Seibel's own words, he was in fact guilty of the crime.

28. Prior to his guilty plea, and despite a January 2016 tolling agreement with the U.S. government entered into to allow Seibel "to manage his financial affairs in an optimal way prior to entering a guilty plea," neither Seibel nor any of the Seibel-Affiliated Entities notified Caesars of any of the facts underlying the charges against him, or that Seibel planned to plead guilty to a felony. Siebel did not update any of the mandatory suitability disclosures.

29. Rather than disclosing these crimes to Caesars, before pleading guilty, Seibel undertook at scheme to create the appearance of disassociating from certain Seibel Agreements³ by (1) creating new entities to which he was purportedly assigning the interests in the Seibel Agreements; (2) creating the Seibel Family 2016 Trust to receive the income from said entities; and (3) entering into a prenuptial agreement with his soon to be wife.

30. Seibel, with his attorneys, and Green, created new entities to which he purportedly assigned the Seibel Agreements.

³ As set forth in the Court's Findings of Fact, Conclusions of Law, and Order Granting Caesars' Motion for Summary Judgment No. 2, Seibel attempted to assign his interest in GRB to The Seibel Family 2016 Trust (the "Trust"). In order to do so, Seibel needed GRUS, the other member of GRB, to consent to such an assignment. However, Seibel did not inform GRUS or Gordon Ramsay that the reason he sought to assign his interest was because he planned to plead guilty to a felony in the coming week and GRUS did not consent to the assignment.

1 31. While not mentioning or disclosing his criminal activity or impending guilty plea,
2 Seibel sent letters to Caesars representing that the Seibel Agreements would be assigned to those
3 new entities whose membership interests were mostly owned by the Seibel Family 2016 Trust.

4 32. Seibel represented to Caesars that the sole beneficiaries of the Seibel Family 2016
5 Trust were Netty Wachtel Slushny, Bryn Dorfman, and potential descendants of Seibel, and that
6 "[o]ther than the parties described in th[e] letter[s], there [were] no other parties that have any
7 management rights, powers or responsibilities regarding, or equity or financial interests in" the new
8 entities.

9 33. Those representations were all false and were made with the intent to deceive
10 Caesars.

11 34. At or around the same time, Seibel negotiated a prenuptial agreement with his soon-
12 to-be wife that would require her to share distributions she received from the Seibel Family 2016
13 Trust with Seibel and ensure that the entities assigned to the Trust would remain Seibel's separate
14 property. Seibel did not disclose this association with Caesars.

15 35. On or about August 19, 2016, Seibel was sentenced for his crimes, served time in a
16 federal penitentiary, and was required to pay fines and restitution, and perform community service.

17 36. At the time Caesars entered into the Seibel Agreements, Seibel did not disclose to
18 Caesars that he had been engaged in criminal activity.

19 37. At the time Seibel became aware that he was being investigated for crimes related
20 to violations of federal tax laws, Seibel did not disclose to Caesars that he was being investigated
21 for engaging in criminal activity.

22 38. Seibel did not disclose to Caesars that he pleaded guilty to one count of corrupt
23 endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C. §
24 7212, a Class E Felony.

25 39. Seibel did not disclose to Caesars that he was sentenced to serve time in federal
26 prison as a result of his guilty plea and conviction for engaging in a corrupt endeavor to obstruct
27 and impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212, a Class E
28 Felony.

44. The Nevada gaming regulators agreed with Caesars' actions, concluding that Caesars appropriately addressed the matter as the Nevada gaming regulators would expect from a gaming licensee.

1. Pursuant to Nevada law, summary judgment is appropriate and shall be rendered when the pleadings and other evidence on file demonstrate that no genuine issue as to any material fact remains and the moving party is entitled to judgment as a matter of law. *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005); NRCP 56(c). "The party moving for summary judgment bears the initial burden of production to show the absence of a genuine issue of material fact." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007) (citation omitted). "If such a showing is made, then the party opposing summary judgment assumes a burden of production to show the existence of a genuine issue of material fact." *Id.*, 172 P.3d at 134.

2. "[T]o defeat summary judgment, the nonmoving party must transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine issue of material fact." *Id.*, 172 P.3d 131, 134 (2007) (citation omitted). Importantly, the nonmoving party can no longer merely raise the "slightest doubt" to avoid summary judgment. *Wood*, 121 Nev. at 731, 121 P.3d at 1031. Rather, the nonmoving party must present genuine issues of material fact to

1 avoid summary judgment. *Id.*, 121 P.3d at 1031. The nonmoving party cannot merely "build a case
2 on the gossamer threads of whimsy, speculation, and conjecture." *Id.*, 121 P.3d at 1031

3 3. Under Nevada law, "[a]ny person interested under [a written contract] or whose
4 rights, status or other legal relations are affected by a [contract] may have determined any question
5 of construction or validity arising under the [contract] and obtain a declaration of rights, status or
6 other legal relations thereunder." NRS § 30.040(1). "In the absence of ambiguity or other factual
7 complexities, contract interpretation presents a question of law that the district court may decide on
8 summary judgment." *Galardi v. Naples Polaris, LLC*, 129 Nev. 306, 309, 301 P.3d 364, 366 (2013)
9 (citations omitted). "As a general rule, [courts] construe unambiguous contracts . . . according to
10 their plain language." *Sheehan & Sheehan v. Nelson Malley & Co.*, 121 Nev. 481, 487–88, 117 P.3d
11 219, 223–24 (2005).

12 4. Each of the Seibel Agreements contains valid and enforceable provisions that
13 Caesars reserved the right to terminate the agreements if it found, in its sole and exclusive
14 discretion, that any of the Seibel Affiliated Entities or their associates were an Unsuitable Person.

15 5. Caesars' determination that the Seibel-Affiliated Entities were unsuitable based on
16 Seibel's admitted criminal activities, *i.e.*, a felony conviction for engaging in corrupt endeavor to
17 obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212, and
18 sentence to serve prison time for the same, was within Caesars' sole discretion under the Seibel
19 Agreements.

20 6. Caesars properly exercised its discretion in terminating the Seibel Agreements.

21 7. Caesars did not breach the Seibel Agreements.

22 8. Seibel and the Seibel entities breached the Seibel Agreements by not disclosing that
23 Seibel had engaged in criminal activities, pleaded guilty to and been convicted of engaging in
24 corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26
25 U.S.C. § 7212, and been sentenced to serve prison as a result of that crime.

26 9. Seibel and the Seibel-Affiliated Entities purported to "cure" the unsuitability through
27 the creation of new entities, but Seibel secretly continued to hold both a beneficial and actual
28 ownership interest in the new entities. However, the Seibel Agreements (1) do not provide Seibel

1 or the Seibel-Affiliated Entities with an opportunity to cure; (2) nor do they provide Seibel or a
2 Seibel-Affiliated Entity with a unilateral right to sell Seibel's interests to a third party.

3 10. Even if the Seibel Agreements provided Seibel or the Seibel-Affiliated Entities a
4 right to cure his unsuitability, which the Court finds it did not, Seibel and the Seibel-Affiliated
5 Entities forfeited any such right through the fraudulent cure scheme and Seibel's continued
6 association with the Seibel-Affiliated Entities.

7 11. "A breach of the [implied] covenant [of good faith and fair dealing] occurs '[w]here
8 the terms of a contract are literally complied with but one party to the contract deliberately
9 contravenes the intention and spirit of the contract. . . .'" *Gamboa v. World Sav. Bank, FSB*, No.
10 3:10-CV-454-ECR-VPC, 2010 WL 5071166, at *2 (D. Nev. Dec. 6, 2010) (quoting *Hilton Hotels*
11 *Corp. v. Butch Lewis Prods., Inc.*, 107 Nev. 226, 232, 808 P.2d 919, 922-23 (1991)). "[W]hen there
12 is no factual basis for concluding that a defendant acted in bad faith, a court may determine the
13 issue of bad faith as a matter of law." *Tennier v. Wells Fargo Bank, N.A.*, No. 3:14-CV-0035-LRH-
14 VPC, 2015 WL 128672, at *7 (D. Nev. Jan. 8, 2015) (quoting *Andrew v. Century Sur. Co.*, No.
15 2:12-cv-0978, 2014 WL 1764740, at *10 (D. Nev. Apr. 29, 2014).

16 12. While every agreement has an implied covenant of good faith and fair dealing, that
17 implied covenant generally cannot contradict an *express* contract provision. *See, e.g., Kuiava v.*
18 *Kwasniewski*, 126 Nev. 731, 367 P.3d 791 (2010) (unpublished disposition), citing with approval
19 *Kucharczyk v. Regents of Univ. of Cal.*, 946 F. Supp. 1419, 1432 (N.D. Cal. 1996) (noting that the
20 implied covenant of good faith and fair dealing may not be used to imply a term that is contradicted
21 by an express term of the contract); *see also Gerdlund v. Elec. Dispensers Int'l*, 235 Cal. Rptr. 279,
22 286 (Ct. App. 1987) (internal quotations omitted) ("No obligation can be implied, however, which
23 would result in the obliteration of a right expressly given under a written contract.")

24 13. "There cannot be a valid express contract and an implied contract, each embracing
25 the same subject, but requiring different results." *Gerdlund*, 235 Cal. Rptr. at 286 (internal
26 quotations omitted); *see also Melnick v. State Farm Mut. Auto. Ins. Co.*, 749 P.2d 1105, 1110 (N.M.
27 1988) ("We cannot change or modify the language of an otherwise legal contract for the benefit of
28 one party and to the detriment of another.").

14. Moreover, "one generally cannot base a claim for breach of the implied covenant on conduct authorized by the terms of the agreement." *Miller v. FiberLight, LLC*, 808 S.E.2d 75, 87 (Ga. App. Ct. 2017) (quoting *Dunlap v. State Farm Fire & Cas. Co.*, 878 A.2d 434, 441 (Del. 2005)); *see also Vitek v. Bank of Am., N.A.*, No. 8:13-CV-816-JLS ANX, 2014 WL 1042397, at *5 (C.D. Cal. Jan. 23, 2014) (citation omitted) ("In general, acting in accordance with an express contractual provision does not amount to bad faith."). "In other words, 'a party does not act in bad faith by relying on contract provisions for which that party bargained where doing so simply limits advantages to another party.'" *Miller*, 343 Ga. App. at 607–08, 808 S.E.2d at 87 (quoting *Alpha Balanced Fund, LLLP v. Irongate Performance Fund, LLC*, 802 S.E.2d 357 (Ga. 2017)).

15. Importantly, "when there is no factual basis for concluding that a defendant acted in bad faith, a court may determine the issue of bad faith as a matter of law." *Tennier v. Wells Fargo Bank, N.A.*, No. 3:14-CV-0035-LRH-VPC, 2015 WL 128672, at *7 (D. Nev. Jan. 8, 2015) (quoting *Andrew v. Century Sur. Co.*, No. 2:12-cv- 0978, 2014 WL 1764740, at *10 (D. Nev. Apr. 29, 2014)).

16. The "implied promise of good faith and fair dealing is 'reciprocal,' a 'two-way street' which demands mutual compliance from the contracting parties." *Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*, 791 F.2d 1356, 1361 (9th Cir. 1986) (citation omitted). Indeed, there is "no justice in permitting a plaintiff to complain of unfair dealing in a [t]ransaction when he himself has not fulfilled in good faith his contractual obligations with regard to that transaction." *Id.* at 1362 (citation omitted).

17. Caesars' termination of the Seibel Agreements after learning that Seibel had engaged in criminal activities, pleaded guilty to and been convicted of engaging in corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Laws, 26 U.S.C. § 7212, and been sentenced to serve prison as a result of that crime, does not constitute a breach of the covenant of good faith and fair dealing.

18. In addition, Seibel and the Seibel-Affiliated Entities are barred from arguing Caesars acted in bad faith by their committing the first breach and Seibel's own acts of bad faith, including

not only the felony conviction and the conduct leading up to it, but also the misrepresentation of purported disassociation through the new entities to which he purported to assign his interests.

19. Finally, Seibel's unsuitability renders the future restaurant provisions void as a result of his unsuitability to do business with a gaming licensee.

20. Under Nevada law, that "[a]n agreement to agree at a future time is nothing and will not support an action for damages." *City of Reno v. Silver State Flying Serv., Inc.*, 84 Nev. 170, 176, 438 P.2d 257, 261 (1968) (quoting *Salomon v. Cooper*, 98 Cal. App. 2d 521, 220 P.2d 774 (1950)). "There is no dispute that neither law nor equity provides a remedy for breach of an agreement to agree in the future." *Autry v. Republic Prods.*, 30 Cal. 2d 144, 151, 180 P.2d 888, 893 (1947). Indeed, "[s]uch a contract cannot be made the basis of a cause of action." *Id.*, 180 P.2d at 893 (citations omitted). "Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds, and consideration." *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). "With respect to contract formation, preliminary negotiations do not constitute a binding contract unless the parties have agreed to all material terms." *Id.*, 119 P.3d at 1257.

21. Section 13.22 of the LLTQ Agreement has indefinite and open terms and thus is an invalid and unenforceable agreement to agree. As such, this provision fails as a matter of law.

22. Section 4.2 of the FERG Agreement has indefinite and open terms and thus is an invalid and unenforceable agreement to agree. As such, this provision fails as a matter of law.

23. Section 13.22 of the LLTQ Agreement and Section 4.2 of the FERG Agreement are further unenforceable because the Seibel-Affiliated Entities would be unable to comply with the suitability obligations required by contract and gaming regulations rendering them agreements against public policy and void as a matter of law.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Caesars' MSJ No. 1 shall be, and hereby is, GRANTED in its entirety and that judgment is entered in favor of Caesars on Counts I, II, and III of Caesars First Amended Complaint.

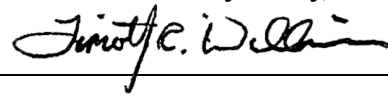
1 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Caesars is
2 entitled to declarations that:

- 3 (1) Caesars Palace properly terminated the MOTI Agreement, the DNT
4 Agreement, and the LLTQ Agreement;
- 5 (2) Paris properly terminated the TPOV Agreement;
- 6 (3) PHWLV properly terminated the GRB Agreement;
- 7 (4) Caesars Atlantic City properly terminated the FERG Agreement;
- 8 (5) Caesars does not have any current or future financial obligations or
9 commitments to Seibel or any of the Seibel-Affiliated Entities;
- 10 (6) Section 13.22 of the LLTQ Agreement is unenforceable and Caesars does
11 not have any current or future obligations pursuant to that provision or
12 otherwise that would prohibit or limit existing or future restaurant ventures
13 between Caesars and Gordon Ramsay; and
- 14 (7) Section 4.1 of the FERG Agreement is unenforceable and Caesars does not
15 have any current or future obligations pursuant to that provision or
16 otherwise that would prohibit or limit existing or future restaurant ventures
17 between Caesars and Gordon Ramsay.

18 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is
19 entered in favor Caesars on Counts I and II of DNT's counterclaim, and on Counts I, II, III and IV
20 of LLTQ, LLTQ 16, FERG, and FERG 16's counterclaims, which seek an accounting of monies
21 purportedly owed under the DNT, LLTQ, and FERG Agreements and allege breaches of contract
22 related to the ongoing operation of certain restaurants. Because all Seibel Agreements were properly
23 terminated by Caesars as found herein, these counterclaims fail as a matter of law and judgment is
24 appropriate in favor of Caesars.

25 IT IS SO ORDERED.

Dated this 31st day of May, 2022



MH

2AA A93 02DD E0B1
Timothy C. Williams
District Court Judge

Respectfully submitted by:

DATED May 25, 2022

PISANELLI BICE PLLC

By: /s/ M. Magali Mercera
James J. Pisanelli, Esq., Bar No. 4027
Debra L. Spinelli, Esq., Bar No. 9695
M. Magali Mercera, Esq., Bar No. 11742
400 South 7th Street, Suite 300
Las Vegas, NV 89101

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating
Company, LLC; PHWLTV, LLC; and
Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

Approved as to form and content by:

DATED May 25, 2022

LEBENSFELD SHARON & SCHWARTZ P.C.

By: /s/ Alan M. Lebensfeld
Alan M. Lebensfeld, Esq.
(admitted *pro hac vice*)
140 Broad Street
Red Bank, New Jersey 07701

Mark J. Connot, Esq.
Kevin M. Sutehall, Esq.
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135

Attorneys for The Original Homestead Restaurant

Approved as to form and content by:

DATED May 25, 2022

FENNEMORE CRAIG, P.C.

By: /s/ John D. Tennert
John D. Tennert, Esq. (SBN 11728)
Wade Beavers, Esq. (SBN 13451)
7800 Rancharrah Parkway
Reno, NV 89511
Attorneys for Gordon Ramsay

Cinda C. Towne

From: Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>
Sent: Wednesday, May 25, 2022 4:36 PM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Tennert, John; Beavers, Wade
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Susan Russo
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

You may, thanks

From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, May 25, 2022 5:11 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

Understood, Josh.

John and Alan – We updated our draft proposed findings of fact and conclusions of law to remove Bailey Kennedy from the signature block in light of their objections to the orders and updated the date to May. Please confirm that we may affix your e-signatures to these versions.

Thanks,

M. Magali Mercera

PISANELLI BICE, PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: (702) 214-2100
Fax: (702) 214-2101
mmm@pisanellibice.com | www.pisanellibice.com



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From: Joshua Gilmore <JGilmore@baileykennedy.com>
Sent: Tuesday, April 26, 2022 2:03 PM
To: Magali Mercera <mmm@pisanellibice.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

Cinda C. Towne

From: Tennert, John <jtennert@fennemorelaw.com>
Sent: Wednesday, May 25, 2022 2:44 PM
To: Magali Mercera; Joshua Gilmore; Paul Williams; Alan Lebensfeld; Beavers, Wade
Cc: James Pisanelli; Debra Spinelli; Emily A. Buchwald; Cinda C. Towne; Susan Russo
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

CAUTION: This message is from an EXTERNAL SENDER.

Hi Magali,

You may affix my e-signature to both proposed orders.

Thanks,
John

John D. Tennert III, Director

FENNEMORE.

7800 Rancharrah Parkway, Reno, NV 89511

T: 775.788.2212 | F: 775.788.2213

jtennert@fennemorelaw.com | [View Bio](#)



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From: Magali Mercera <mmm@pisanellibice.com>
Sent: Wednesday, May 25, 2022 2:11 PM
To: Joshua Gilmore <JGilmore@baileykennedy.com>; Paul Williams <PWilliams@baileykennedy.com>; Alan Lebensfeld <Alan.Lebensfeld@lsandspc.com>; Tennert, John <jtennert@fennemorelaw.com>; Beavers, Wade <WBeavers@fennemorelaw.com>
Cc: James Pisanelli <jjp@pisanellibice.com>; Debra Spinelli <dls@pisanellibice.com>; Emily A. Buchwald <eab@pisanellibice.com>; Cinda C. Towne <cct@pisanellibice.com>; Susan Russo <SRusso@baileykennedy.com>
Subject: RE: Desert Palace v. Seibel: FFCL Granting Caesars' MSJ No. 1 and MSJ No. 2

Understood, Josh.

John and Alan – We updated our draft proposed findings of fact and conclusions of law to remove Bailey Kennedy from the signature block in light of their objections to the orders and updated the date to May. Please confirm that we may affix your e-signatures to these versions.

Thanks,

M. Magali Mercera
PISANELLI BICE, PLLC

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 5/31/2022

15 Robert Atkinson

robert@nv-lawfirm.com

16 Kevin Sutehall

ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." .

lit@pisanellibice.com

18 "John Tennert, Esq." .

jtennert@fclaw.com

19 Brittnie T. Watkins .

btw@pisanellibice.com

20 Dan McNutt .

drm@cmlawnv.com

21 Debra L. Spinelli .

dls@pisanellibice.com

22 Diana Barton .

db@pisanellibice.com

23 Lisa Anne Heller .

lah@cmlawnv.com

24 Matt Wolf .

mcw@cmlawnv.com

25 PB Lit .

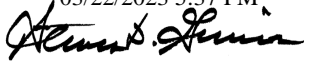
lit@pisanellibice.com

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Daniel McNutt	drm@cmlawnv.com
6	Paul Sweeney	PSweeney@certilmanbalin.com
7	Nathan Rugg	nathan.rugg@bfkn.com
8	Steven Chaiken	sbc@ag-ltd.com
9	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
10	Brett Schwartz	brett.schwartz@lsandspc.com
11	Doreen Loffredo	dloffredo@foxrothschild.com
12	Mark Connot	mconnot@foxrothschild.com
13	Joshua Feldman	jfeldman@certilmanbalin.com
14	Nicole Milone	nmilone@certilmanbalin.com
15	Karen Hippner	karen.hippner@lsandspc.com
16	Lawrence Sharon	lawrence.sharon@lsandspc.com
17	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
18	Magali Mercera	mmm@pisanellibice.com
19	Cinda Towne	cct@pisanellibice.com
20	Litigation Paralegal	bknotices@nv-lawfirm.com
21	Shawna Braselton	sbraselton@fennemorelaw.com
22	Christine Gioe	christine.gioe@lsandspc.com
23	Trey Pictum	trey@mcnuttlawfirm.com
24		
25		
26		
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Monice Campbell	monice@envision.legal
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
John Tennert	jtennert@fennemorelaw.com
Wade Beavers	wbeavers@fclaw.com
Sarah Hope	shope@fennemorelaw.com

TAB 25


CLERK OF THE COURT

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER:**

**(1) DENYING CRAIG GREEN'S
MOTION FOR SUMMARY
JUDGMENT;**

**(2) GRANTING CAESARS'
COUNTER-MOTION FOR
SUMMARY JUDGMENT
AGAINST CRAIG GREEN; AND**

**(1) GRANTING CAESARS' CROSS-
MOTION FOR SUMMARY
JUDGMENT AGAINST ROWEN
SEIBEL AND THE SEIBEL-
AFFILIATED ENTITIES
(RELATED TO COUNTS IV-VIII
OF THE FIRST AMENDED
COMPLAINT)**

Date of Hearing: November 22, 2022

Time of Hearing: 1:30 p.m.

AND ALL RELATED MATTERS

PISANELLIBICE PLLC
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

Craig Green's ("Green") *Motion for Summary Judgment* (the "Green Motion for Summary Judgment"), filed on June 17, 2022; PHWLV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City's ("Caesars Atlantic City," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") *Counter-Motion for Summary Judgment Against Craig Green* (the "Counter-Motion for Summary Judgment"), filed on July 14, 2022; and Caesars' *Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VIII of the First Amended Complaint)* (the "Cross-Motion for Summary Judgment"), filed on July 14, 2022, came before this Court for hearing on November 22, 2022, at 1:30 p.m.

James J. Pisanelli, Esq., and M. Magali Mercera, Esq., of the law firm PISANELLI BICE PLLC, appeared on behalf of Caesars. Joshua P. Gilmore, Esq., and Paul C. Williams, Esq., of the law firm BAILEY KENNEDY, appeared on behalf of TPOV Enterprises, LLC ("TPOV"), LLTQ Enterprises, LLC ("LLTQ"), FERG, LLC ("FERG"), MOTI Partners, LLC ("MOTI"), GR Burgr, LLC ("GRB"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared") (collectively the "Seibel-Affiliated Entities"), Rowen Seibel ("Seibel"), and Green.¹

The Court having considered the Green Motion for Summary Judgment, the Counter-Motion for Summary Judgment, the Cross-Motion for Summary Judgment, the oppositions and replies thereto, as well as argument of counsel presented at the hearing, taken the matter under advisement, and good cause appearing therefor, enters the following Findings of Fact and Conclusions of Law:

///

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

FINDINGS OF FACT²

The Court HEREBY FINDS AS FOLLOWS:

1. Caesars and its affiliates hold gaming licenses in Nevada and other jurisdictions across the country.

2. These gaming licenses are not a right, but rather a privilege that Caesars must earn and continually show it remains suitable to hold.

3. Nevada's gaming regulations make clear that a gaming license will not be awarded unless the Nevada Gaming Commission is satisfied that the gaming license applicant (a) is "of good character, honesty, and integrity" (b) with "background, reputation and associations [that] will not result in adverse publicity for the State of Nevada and its gaming industry; and" (c) someone who "[h]as adequate business competence and experience for the role or position for which application is made." Nev. Gaming Regul. 3.090(1).

4. As a result, Caesars is required to self-police and ensure it is not engaged in unsuitable practices or doing business with unsuitable persons.

5. To ensure it is upholding the standards expected of a gaming licensee, Caesars maintains an Ethics and Compliance Program (the "Compliance Plan").

6. Under the express and unequivocal terms of its Compliance Plan, Caesars' employees are instructed "to avoid acts and situations that are improper, might give an appearance of impropriety, or might impair their good judgment when acting on behalf of" Caesars. The Compliance Plan also explicitly states that "[b]ribes, influence payments or kickbacks may never be provided to or accepted from any Person, including in the form of gifts, hospitality, or similar benefits."

7. Importantly, Caesars' Compliance Plan requires that, "[a]ll vendors, suppliers, tenants, business partners, independent agents/junket representatives, lobbyists, and consultants

2 Any stated findings of fact which constitute conclusions of law shall be treated as conclusions of law, and any conclusions of law which constitute findings of fact shall be treated as findings of fact.

1 who represent or have relationships with [Caesars] or any of its Affiliates must agree to meet the
2 standards, business ethics, and principles that govern the [Caesars'] Employees."

3 8. Thus, Caesars' vendors are prohibited from engaging in illegal conduct, including,
4 but not limited to, the procurement or acceptance of kickbacks.

5 9. Beginning in 2009, Caesars began entering into contracts with Seibel and the Seibel-
6 Affiliated Entities relating to the development, creation, and operation of various restaurants at
7 Caesars properties in Las Vegas and Atlantic City.

8 10. In total, Caesars and the Seibel-Affiliated Entities entered into six agreements as
9 follows:

10 (1) A Development, Operation and License Agreement between MOTI Partners, LLC
11 and Desert Palace, Inc. dated March 2009 related to the Serendipity restaurant in
Las Vegas (the "MOTI Agreement");

12 (2) A Development, Operation and License Agreement between DNT Acquisition,
13 LLC, the Original Homestead Restaurant, Inc., and Desert Palace, Inc., dated June
14 21, 2011, dated June 21, 2011 related to the Original Homestead Restaurant in Las
Vegas (the "DNT Agreement");

15 (3) A Development and Operation Agreement between TPOV and Paris dated
16 November 2011 related to the Gordon Ramsay Steak restaurant at the Paris Las
Vegas (the "TPOV Agreement");

17 (4) A Development and Operation Agreement between LLTQ Enterprises, LLC and
18 Desert Palace, Inc. dated April 4, 2012 related to the Gordon Ramsay Pub & Grill
at Caesars Palace in La Vegas (the "LLTQ Agreement");

19 (5) A Development, Operation and License Agreement between PHW Las Vegas, LLC
20 dba Planet Hollywood by its manager, PHW Manager, LLC, GR BURGR, LLC, and
Gordon Ramsay, dated December 13, 2012 related to the GR Burgr restaurant at
Planet Hollywood in Las Vegas (the "GRB Agreement"); and

21 (6) A Consulting Agreement between FERG, LLC and Boardwalk Regency
22 Corporation dba Caesars Atlantic City, dated May 16, 2014 related to the Gordon
Ramsay Pub & Grill at Caesars Atlantic City (the "FERG Agreement").

23 11. Each of the agreements (collectively the "Seibel Agreements") required the Seibel-
24 Affiliated Entities to acknowledge that Caesars' properties were "exclusive first-class resort hotels
25 casinos" and each of the restaurants governed by the agreements would be "an exclusive first-class
26 restaurant."

27 12. Caesars' reputation and the goodwill of its guests and invitees were of the utmost
28 importance and, as such, each of the Seibel-Affiliated Entities agreed to conduct themselves "with

1 the highest standards of honesty, integrity, quality and courtesy so as to maintain and enhance the
2 reputation and goodwill of" Caesars.

3 13. Under each of the Seibel Agreements, Caesars was solely responsible for the day-
4 to-day operations of the restaurants, which included purchasing necessary items for the
5 establishments.

6 14. Further, the Seibel Agreements provide that any rebates obtained be appropriately
7 accounted for in the restaurants' financials for the benefit of the operations.

8 15. Importantly, under the Seibel Agreements, an "Unsuitable Person" is defined to
9 include:

10 Any Person (a) whose association with Caesars could be anticipated to result in a
11 disciplinary action relating to, or the loss of, inability to reinstate or failure to
12 obtain, any registration, application or license or any other rights or entitlements
13 held or required to be held by Caesars or any of its Affiliates under any United
14 States, state, local or foreign laws, rules or regulations relating to gaming or the sale
15 of alcohol, (b) whose association or relationship with Caesars or its Affiliates could
16 be anticipated to violate any United States, state, local or foreign laws, rules or
17 regulations relating to gaming or the sale of alcohol to which Caesars or its
18 Affiliates are subject, (c) who is or might be engaged or about to be engaged in any
19 activity which could adversely impact the business or reputation of Caesars or its
20 Affiliates, or (d) who is required to be licensed, registered, qualified or found
21 suitable under any United States, state, local, or foreign laws, rules or regulations
22 relating to gaming or the sale of alcohol under which Caesars or any of its Affiliates
23 is licensed, registered, qualified or found suitable, and such Person is not or does
24 not remain so licensed, registered, qualified or found suitable.

18 16. Unbeknownst to Caesars at the time, the Seibel Parties developed a scheme to
19 undermine the Seibel Agreements in order to reap kickbacks, for their own benefit.

20 17. Specifically, Green and Seibel secretly contacted Caesars' vendors and unilaterally
21 extorted kickbacks for items Caesars purchased. They specifically demanded a percentage
22 "reimbursement" for any sales the vendors made to Caesars' restaurants not only for future
23 purchases by Caesars, but also retroactively for product Caesars had previously purchased.

24 18. Green specifically directed others to seek kickbacks and went as far as to encourage
25 threats against vendors who did not want to pay any kickbacks to the Seibel Parties. If vendors were
26 not willing to engage in the scheme, the Seibel Parties threatened to remove them from the
27 restaurants they were already selling to.

28

1 19. The Seibel Parties admit that the kickback scheme – demanding payment from
2 Caesars' vendors without Caesars' knowledge for product that Caesars purchased – occurred but
3 argue that these "arrangements" were marketing.

4 20. The Court rejects the Seibel Parties' arguments. There has been no evidence of a
5 marketing agreement, marketing activation, branding, or any marketing deliverables. Further Seibel
6 admits there was no obligation to market nor were any marketing efforts undertaken.

7 21. The Seibel Parties kept Caesars and their other business partners, like Gordon
8 Ramsay and the Sherry brothers, in the dark about their kickback scheme. In fact, Green explicitly
9 instructed Caesars' vendors not to provide the kickback amounts to Harrah's and directed that they
10 instead go directly to one of his companies.

11 22. For his part, Green engaged in this kickback scheme in his own capacity. Green was
12 not an employee of Seibel or any of the Seibel-Affiliated Entities and he admits that he provided
13 consulting services to Seibel through Green's company, CBG Hospitality Consulting, LLC., *i.e.*, a
14 separate legal entity. Seibel also describes his relationship with Green as a friendship and business
15 associate, not as an employer-employee.

16 23. Caesars initiated this litigation in August 2017 seeking declaratory relief from this
17 Court related to Seibel's concealment of his criminal conviction which made him unsuitable to do
18 business with Caesars, a gaming licensee subject to rigorous regulation. (Compl., Aug. 25, 2017,
19 on file).

20 24. Discovery in the litigation revealed that Seibel was engaged in further criminal
21 activity.

22 25. Caesars discovered that Seibel and his friend Green engaged in commercial bribery
23 by soliciting and accepting kickbacks from Caesars' vendors and resorted to extortion when vendors
24 attempted to play "hardball."

25 26. Upon its discovery, Caesars moved to amend its complaint. (Caesars' Mot. for Leave
26 to File 1st Am. Compl.; Ex-Parte Appl. for Order Shortening Time, Dec. 12, 2019, on file).

28. On March 11, 2020, Caesars amended its complaint to add claims for civil conspiracy, unjust enrichment, intentional interference with contractual relations, and fraudulent concealment against Seibel and Green and a claim for breaches of implied covenants of good faith and fair dealing against the Seibel-Affiliated Entities.

29. In total, discovery revealed that Seibel and Green have solicited and received illegal kickbacks totaling \$326,046.87, as follows:

- (1) Kickbacks received from Innis & Gunn USA, Inc. in the amount of \$25,671.75;
- (2) Kickbacks received from LaFrieda Meats in the amount of \$278,507.08;
- (3) Kickbacks received from Tynant/Sysco in the amount of \$11,411.94; and
- (4) Kickbacks received from Marathon Enterprises, Inc. in the amount of \$10,456.10.

1. Pursuant to Nevada law, "[s]ummary judgment is appropriate and shall be rendered forthwith when the pleadings and other evidence on file demonstrate that no genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (internal quotations omitted); NRCP 56. "The purpose of summary judgment is to avoid unnecessary trials when there is no dispute over the facts before the court." *Winnemucca Farms, Inc. v. Eckersell*, No. 3:05-CV-385-RAM, 2010 WL 1416881, at *2 (D. Nev. Mar. 31, 2010) (citing *Nw. Motorcycle Ass'n v. U.S. Dep't of Agric.*, 18 F.3d 1468, 1471 (9th Cir. 1994)).

2. "The party moving for summary judgment bears the initial burden of production to show the absence of a genuine issue of material fact." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007) (citation omitted). "If such a showing is made, then the party opposing summary judgment assumes a burden of production to show the existence of a genuine issue of material fact." *Id.*, 172 P.3d at 134. "[T]o defeat summary judgment, the nonmoving party must transcend the pleadings and, by affidavit or other admissible evidence,

1 introduce specific facts that show a genuine issue of material fact." *Id.*, 172 P.3d 131, 134 (2007)
2 (citation omitted).

3 3. "[T]he nonmoving party may not defeat a motion for summary judgment by relying
4 on the gossamer threads of whimsy, speculation and conjecture." *Wood*, 121 Nev. at 731, 121 P.3d
5 at 1030 (internal quotation omitted).

6 4. "General allegations and conclusory statements do not create genuine issues of fact."
7 *Saticoy Bay LLC Series 9641 Christine View v. Fed. Nat'l Mortg. Ass'n*, 134 Nev. 270, 271, 417
8 P.3d 363, 366 (2018) (citations omitted).

9 5. "The substantive law controls which factual disputes are material and will preclude
10 summary judgment; other factual disputes are irrelevant." *Wood*, 121 Nev. at 731, 121 P.3d at 1031.

11 6. Under Nevada law, "[a]n actionable civil conspiracy is a combination of two or more
12 persons who, by some concerted action, intend to accomplish some unlawful objective for the
13 purpose of harming another which results in damage." *Collins v. Union Fed. Sav. & Loan Ass'n*, 99
14 Nev. 284, 303, 662 P.2d 610, 622 (1983) (citations omitted).

15 7. "[A] plaintiff must provide evidence of an explicit or tacit agreement between the
16 alleged conspirators." *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813, 335
17 P.3d 190, 198 (2014). But, "it has long been the rule that it is not necessary for all joint tortfeasors
18 to be named as defendants in a single lawsuit." *Temple v. Synthes Corp., Ltd.*, 498 U.S. 5, 7 (1990).

19 8. Generally, "[a]gents and employees of a corporation cannot conspire with their
20 corporate principal or employer where they act in their official capacities on behalf of the
21 corporation and not as individuals for their individual advantage." *Collins*, 99 Nev. at 303, 662 P.2d
22 at 622 (citations omitted). "This limitation, known as the intracorporate conspiracy doctrine,
23 prevents a finding of liability for conspiracy between co-employees without a showing that the
24 employees were acting as individuals and for their individual advantage." *U-Haul Co. of Nev. v.*
25 *United States*, No. 2:08 CV-729-KJD-RJJ, 2012 WL 3042908, at *2 (D. Nev. July 25, 2012) (citing
26 *Collins*, 99 Nev. at 303, 662 P.2d at 622).

27 9. However, the intra-corporate conspiracy doctrine does not apply to corporate
28 employees acting outside of the scope of their employment. *See Collins*, 99 Nev. at 303, 662 P.2d

1 at 622. Indeed, "employees of a corporation may be deemed to be conspirators with their employer
2 corporation when they act "as individuals for their individual advantage." *Loc. Ad Link, Inc. v.*
3 *AdzZoo, LLC*, No. 209CV01564RCJLRL, 2009 WL 10694069, at *9 (D. Nev. Dec. 15, 2009)
4 (quoting *Collins*, 99 Nev. at 303, 662 P.2d at 622).

5 10. Seibel and Green engaged in civil conspiracy against Caesars. The documentary
6 evidence in this case is undisputed and overwhelmingly demonstrates that Seibel and Green entered
7 into agreements with different Caesars' vendors to obtain a percentage kickback of the amounts
8 sold to, or purchased by, Caesars. Each and every communication with the vendors make clear that
9 Seibel and Green were soliciting and coercing kickbacks for their own individual benefits.

10 11. Specifically, Seibel and Green sought and coerced payment from vendors who had
11 agreements with Caesars for the sale of certain products to Caesars' restaurants. If the vendors
12 refused, they were threatened with having their relationship with Caesars severed. By actively
13 pursuing such arrangements – to Caesars' detriment – Green and Seibel are liable for civil
14 conspiracy.

15 12. Importantly, separate and apart from any obligation or duty to disclose owed to
16 Caesars, Seibel and Green's conduct was illegal on its own. Indeed, neither Seibel, Green, nor any
17 of their companies purchased any of the goods for which they demanded money. Instead, Seibel
18 and Green sought and/or coerced payment from vendors who had agreements with Caesars for the
19 sale of certain products to Caesars' restaurants. *See, e.g.*, NRS 207.295(1) ("Any person who, with
20 corrupt intent . . . [o]ffers, confers or agrees to confer any benefit upon any employee, agent or
21 fiduciary without the consent of the employer or principal of that employee, agent or fiduciary in
22 order to influence adversely that person's conduct in relation to the commercial affairs of his or her
23 employer or principal . . . commits commercial bribery and is guilty of a misdemeanor.").

24 13. Further, the intracorporate conspiracy doctrine is inapplicable here as Green was not
25 an employee of Seibel or any of the Seibel-Affiliated Entities.

26 14. "[U]njust enrichment occurs 'when ever [sic] a person has and retains a benefit which
27 in equity and good conscience belongs to another.'" *Leasepartners Corp. v. Robert L. Brooks Tr.*
28

1 *Dated Nov. 12, 1975*, 113 Nev. 747, 755, 942 P.2d 182, 187 (1997) (quoting *Unionamerica Mtg. v.*
2 *McDonald*, 97 Nev. 210, 212, 626 P.2d 1272, 1273 (1981)).

3 15. "Unjust enrichment exists when the plaintiff confers a benefit on the defendant, the
4 defendant appreciates such benefit, and there is acceptance and retention by the defendant of such
5 benefit under circumstances such that it would be inequitable for him to retain the benefit without
6 payment of the value thereof." *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 381,
7 283 P.3d 250, 257 (2012) (internal quotations omitted). "[B]enefit in the unjust enrichment context
8 can include services beneficial to or at the request of the other, denotes any form of advantage, and
9 is not confined to retention of money or property." *Id.* at 382, 283 P.3d at 257 (internal quotations
10 omitted).

11 16. Seibel and Green individually benefitted and were unjustly enrichment by their
12 kickback scheme. By his own testimony, Green admitted that BR 23 Venture, the entity to which
13 he funneled the kickbacks paid for his health insurance and at one point became part owner of said
14 entity. For his part, Seibel reported BR 23 Venture's income on his tax return demonstrating that he
15 obtained income – a benefit – from the entity and Seibel treated BR 23's Venture's income as his
16 own. Both Seibel and Green are liable for unjust enrichment against Caesars.

17 17. Under Nevada law, to prove a claim for intentional interference with contractual
18 relations, "a plaintiff must establish (1) a valid and existing contract; (2) the defendant's knowledge
19 of the contract; (3) intentional acts intended or designed to disrupt the contractual relationship; (4)
20 actual disruption of the contract; and (5) resulting damage." *J.J. Indus., LLC v. Bennett*, 119 Nev.
21 269, 274, 71 P.3d 1264, 1267 (2003) (citations omitted).

22 18. "[I]n Nevada, a party cannot, as a matter of law, tortiously interfere with his own
23 contract." *Klein v. Freedom Strategic Partners, LLC*, 595 F. Supp. 2d 1152, 1163 (D. Nev. 2009)
24 (internal quotations omitted). However, an "agent may be an interfering third party if the agent was
25 acting outside the scope of the agency, was not acting in the principal's interest, or was motivated
26 by malice towards one or both of the contracting parties." *From the Future, LLC v. Flowers, No.*
27 *206CV00203PMPRJJ*, 2009 WL 10709083, at *8 (D. Nev. Apr. 20, 2009). "[A]n agent is
28 privileged to interfere with his principal's contract 'unless the agent acts to serve the agent's own

1 interests or for another wrongful purpose.'" *Id.* (quoting Restatement (Third) of Agency § 7.01 cmt.
2 E). Indeed, "[i]f the agent is acting predominantly in his own interest, he effectively exceeds the
3 scope of the agency or he no longer is acting in the principal's interest, and he thus may be liable to
4 a third party for tortious interference with his principal's contract." *Id.*

5 19. The Seibel Agreements were valid and existing contracts between Caesars and its
6 vendors. Seibel and Green were aware of the Seibel Agreements and that their kickback scheme
7 was designed to disrupt those agreements. Specifically, Green and Seibel were aware that the Seibel
8 Agreements required rebates for items purchased for the restaurants to be accounted for and they
9 nevertheless sought kickbacks from the vendors. The Seibel Agreements were disrupted as amounts
10 that should have been accounted as "rebates" under the Seibel Agreements were instead syphoned
11 to Green and Seibel for their own benefit. Further, by the very act of engaging in a kickback scheme
12 whereby they sought to coerce certain fees from vendors for product they sold to Caesars, Green
13 and Seibel lost the ability to claim that any "agent status" precluded their liability. Seibel and Green
14 are liable for intentional interference with contractual relations.

15 20. Under Nevada law, to establish a claim for fraudulent concealment, a plaintiff must
16 show "(1) the defendant concealed or suppressed a material fact; (2) the defendant was under a duty
17 to disclose the fact to the plaintiff; (3) the defendant intentionally concealed or suppressed the fact
18 with the intent to defraud the plaintiff; that is, the defendant concealed or suppressed the fact for
19 the purpose of inducing the plaintiff to act differently than she would have if she had known the
20 fact; (4) the plaintiff was unaware of the fact and would have acted differently if she had known of
21 the concealed or suppressed fact; (5) and, as a result of the concealment or suppression of the fact,
22 the plaintiff sustained damages." *Dow Chem. Co. v. Mahlum*, 114 Nev. 1468, 1485, 970 P.2d 98,
23 110 (1998), *abrogated, in part on other grounds by GES, Inc. v. Corbitt*, 117 Nev. 265, 21 P.3d 11
24 (2001) (citation omitted).

25 21. "Nondisclosure will become the equivalent of fraudulent concealment when it
26 becomes the duty of a person to speak in order that the party with whom he is dealing may be placed
27 on an equal footing with him." *Id.* at 1486, 970 P.2d at 110 (quoting *Mackintosh v. Jack Matthews*
28 & Co., 109 Nev. 628, 634 35, 855 P.2d 549, 553 (1993)).

22. "Even when the parties are dealing at arm's length, a duty to disclose may arise from the existence of material facts peculiarly within the knowledge of the party sought to be charged and not within the fair and reasonable reach of the other party." *Id.* at 1486, 970 P.2d at 110 (quoting *Villalon v. Bowen*, 70 Nev. 456, 467-68, 273 P.2d 409, 415 (1954)).

23. "Under such circumstances the general rule is that a deliberate failure to correct an apparent misapprehension or delusion may constitute fraud." *Villalon*, 70 Nev. at 468, 273 P.2d at 415. "This would appear to be particularly so where the false impression deliberately has been created by the party sought to be charged." *Id.*, 273 P.2d at 415.

24. Caesars was unaware that Seibel and Green were engaged in a kickback scheme as the scheme was a scenario entirely of Seibel and Green's own making. Indeed, given all of the safeguards in the Seibel Agreements meant to thwart dishonest or illegal conduct, Caesars cannot be faulted for failing to guess that Green and Seibel were soliciting kickbacks.

25. Neither Seibel nor Green informed Caesars of the kickback scheme and instead actively took steps to conceal it from Caesars.

26. Additionally, the Seibel Agreements further obligated Seibel to disclose the illegal kickback conduct. Under the terms of the Seibel Agreements, the Seibel Affiliates Entities and their Associates – a definition that encompasses Seibel – were obligated to inform Caesars about any events that could threaten Caesars' gaming license within ten days. Thus, Seibel was required to inform Caesars if he became an Unsuitable Person. Separate and apart from his unsuitability as a result of his felony conviction, Seibel also became an Unsuitable Person by engaging in the kickback scheme. The Seibel Agreements define an Unsuitable Person to include "[a]ny person . . . who is or might be engaged or about to be engaged in any activity which could adversely impact the business or reputation of Caesars." The very act of soliciting kickbacks is illegal and thus could unquestionably "adversely impact the business or reputation of Caesars." As a result, Seibel had a duty to disclose his involvement in the kickback scheme to Caesars.

27. Seibel and Green's failure to disclose the kickback scheme to Caesars makes them liable for fraudulent concealment.

28. "An implied covenant of good faith and fair dealing exists in every Nevada contract and essentially forbids arbitrary, unfair acts by one party that disadvantage the other." *Frantz v. Johnson*, 116 Nev. 455, 465 n.4, 999 P.2d 351, 358 n.4 (2000) (citing *Consol. Generator v. Cummins Engine*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998)). "A breach of the [implied] covenant [of good faith and fair dealing] occurs '[w]here the terms of a contract are literally complied with but one party to the contract deliberately contravenes the intention and spirit of the contract. . . .'" *Gamboa v. World Sav. Bank*, FSB, No. 3:10-CV-454-ECR-VPC, 2010 WL 5071166, at *2 (D. Nev. Dec. 6, 2010) (quoting *Hilton Hotels Corp. v. Butch Lewis Prods., Inc.*, 107 Nev. 226, 232, 808 P.2d 919, 922-23 (1991)).

29. "When one party performs a contract in a manner that is unfaithful to the purpose of the contract and the justified expectations of the other party are thus denied, damages may be awarded against the party who does not act in good faith." *Hilton*, 107 Nev. at 234, 808 P.2d at 923 (emphasis added).

30. "Reasonable expectations are to be 'determined by the various factors and special circumstances that shape these expectations.'" *Perry v. Jordan*, 111 Nev. 943, 948, 900 P.2d 335, 338 (1995) (quoting *Hilton*, 107 Nev. at 234, 808 P.2d at 924).

31. The Seibel Agreements were valid and existing contracts. Under the terms of the Seibel Agreements, the Seibel-Affiliated Entities agreed to hold their Associates (which includes Seibel) to the suitability standards of the various agreements. Nevertheless, aware that Seibel was soliciting kickbacks and thus double-dipping in amounts received from vendors, the Seibel-Affiliated Entities did nothing to inform Caesars of the illegal kickback scheme.

32. At no time did any of the Seibel-Affiliated Entities notify any of their business partners that their Associated Persons were engaging in this illegal conduct. By failing to report their conduct, the Seibel Affiliated Entities were also continuing to benefit from the Seibel Agreements which likely would have been terminated had Caesars become aware of the illegal activity at the time. This conduct was not only in bad faith, but also in direct contravention of the spirit, intent, and justified expectations under the Seibel Agreements, which required the Seibel-Affiliated Entities to conduct themselves "with the highest standards of honesty, integrity, quality

1 and courtesy so as to maintain and enhance the reputation and goodwill of" Caesars. As a result,
2 the Seibel-Affiliated Entities breached the implied covenant of good faith and fair dealing.

3 33. Caesars suffered damages as a result of the Seibel Parties' actions totaling
4 \$326,046.87.

5 **ORDER**

6 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Green's Motion for
7 Summary Judgment is DENIED;

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Caesars' Counter-
9 Motion for Summary Judgment shall be, and hereby is, GRANTED in its entirety and that judgment
10 is entered in favor of Caesars on Counts IV, VI, VII, and VII of Caesars First Amended Complaint
11 against Green;

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Caesars' Cross-Motion
13 for Summary Judgment shall be, and hereby is, GRANTED in its entirety and that judgment is
14 entered in favor of Caesars on Counts IV, VI, VII, and VII of Caesars First Amended Complaint
15 against Seibel

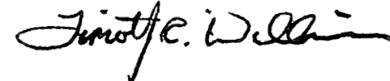
16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Caesars' Cross-Motion
17 for Summary Judgment shall be, and hereby is, GRANTED in its entirety and that judgment is
18 entered in favor of Caesars on V of Caesars First Amended Complaint against the TPOV
19 Enterprises, LLC, LLTQ Enterprises, LLC, FERG, LLC, MOTI Partners, LLC, GR Burgr, LLC,
20 and DNT Acquisition, LLC; and

21 ///

1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is entered in
2 favor of Caesars and against the Seibel Parties in the amount of \$326,046.87 plus pre- and post-
3 judgment interest, with Seibel and Green being jointly and severally liable for the amount awarded
4 to Caesars.

5 IT IS SO ORDERED.

6 Dated this 22nd day of March, 2023

7 

8 5A8 E80 15B3 8074
9 Timothy C. Williams
District Court Judge

JM

10 Respectfully submitted by:

11 DATED: March 21, 2023

12 PISANELLI BICE PLLC

13 By: /s/ M. Magali Mercera
14 James J. Pisanelli, Esq., Bar No. 4027
15 Debra L. Spinelli, Esq., Bar No. 9695
16 M. Magali Mercera, Esq., Bar No. 11742
400 South 7th Street, Suite 300
Las Vegas, NV 89101

17 *Attorneys for Desert Palace, Inc.;*
18 *Paris Las Vegas Operating*
19 *Company, LLC; PHWLTV, LLC; and*
Boardwalk Regency
Corporation d/b/a Caesars Atlantic City

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/22/2023

15 Robert Atkinson robert@nv-lawfirm.com

16 Kevin Sutehall ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." . lit@pisanellibice.com

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

19 Brittanie T. Watkins . btw@pisanellibice.com

20 Dan McNutt . drm@cmlawnv.com

21 Debra L. Spinelli . dls@pisanellibice.com

22 Diana Barton . db@pisanellibice.com

23 Lisa Anne Heller . lah@cmlawnv.com

24 Matt Wolf . mcw@cmlawnv.com

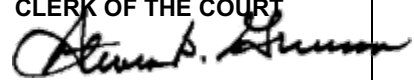
25 PB Lit . lit@pisanellibice.com

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Daniel McNutt	drm@cmlawnv.com
6	Paul Sweeney	PSweeney@certilmanbalin.com
7	Nathan Rugg	nathan.rugg@bfkn.com
8	Steven Chaiken	sbc@ag-ltd.com
9	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
10	Brett Schwartz	brett.schwartz@lsandspc.com
11	Doreen Loffredo	dloffredo@foxrothschild.com
12	Mark Connot	mconnot@foxrothschild.com
13	Joshua Feldman	jfeldman@certilmanbalin.com
14	Nicole Milone	nmilone@certilmanbalin.com
15	Karen Hippner	karen.hippner@lsandspc.com
16	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
17	Magali Mercera	mmm@pisanellibice.com
18	Cinda Towne	cct@pisanellibice.com
19	Litigation Paralegal	bknotices@nv-lawfirm.com
20	Shawna Braselton	sbraselton@fennemorelaw.com
21	Christine Gioe	christine.gioe@lsandspc.com
22	Trey Pictum	trey@mcnuttlawfirm.com
23	Anne Alley	aalley@fclaw.com
24		
25		
26		
27		
28		

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15
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21
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23
24
25
26
27
28

Monice Campbell	monice@envision.legal
Lawrence Sharon	lawrence.sharon@lsandspc.com
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
John Tennert	jtennert@fennemorelaw.com
Debbie Sorensen	dsorensen@fclaw.com
Wade Beavers	wbeavers@fclaw.com
Geenamarie Carucci	gcarucci@fennemorelaw.com
Susan Whitehouse	swhitehouse@fennemorelaw.com

TAB 26



James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

AND ALL RELATED MATTERS

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**NOTICE OF ENTRY OF FINDINGS OF
FACT, CONCLUSIONS OF LAW, AND
ORDER:**

**(1) DENYING CRAIG GREEN'S MOTION
FOR SUMMARY JUDGMENT;**

**(2) GRANTING CAESARS' COUNTER-
MOTION FOR SUMMARY
JUDGMENT AGAINST CRAIG
GREEN; AND**

**(3) GRANTING CAESARS' CROSS-
MOTION FOR SUMMARY
JUDGMENT AGAINST ROWEN
SEIBEL AND THE SEIBEL-
AFFILIATED ENTITIES (RELATED
TO COUNTS IV-VIII OF THE FIRST
AMENDED COMPLAINT)**

PLEASE TAKE NOTICE that the *Findings of Fact, Conclusions of Law, and Order:* (1)
Denying Craig Green's Motion for Summary Judgment; (2) Granting Caesars' Counter-Motion for

1 *Summary Judgment Against Craig Green; and (3) Granting Caesars' Cross-Motion for Summary*
2 *Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VIII of the*
3 *First Amended Complaint)* was entered in the above-captioned matter on March 22, 2023, a true
4 and correct copy of which is attached hereto.

5 DATED this 28th day of March 2023.

6 PISANELLI BICE PLLC

7
8 By: /s/ M. Magali Mercera
9 James J. Pisanelli, Esq., #4027
10 Debra L. Spinelli, Esq., #9695
11 M. Magali Mercera, Esq., #11742
12 400 South 7th Street, Suite 300
13 Las Vegas, Nevada 89101

14 *Attorneys for Desert Palace, Inc.;*
15 *Paris Las Vegas Operating Company, LLC;*
16 *PHWLV, LLC; and Boardwalk Regency*
17 *Corporation d/b/a Caesars Atlantic City*
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC and that, on this 28th day of March 2023, I caused to be served via the Court's e-filing/e-service system a true and correct copy of the above and foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER: (1) DENYING CRAIG GREEN'S MOTION FOR SUMMARY JUDGMENT; (2) GRANTING CAESARS' COUNTER-MOTION FOR SUMMARY JUDGMENT AGAINST CRAIG GREEN; AND (3) GRANTING CAESARS' CROSS-MOTION FOR SUMMARY JUDGMENT AGAINST ROWEN SEIBEL AND THE SEIBEL-AFFILIATED ENTITIES (RELATED TO COUNTS IV-VIII OF THE FIRST AMENDED COMPLAINT)** to the following:

John R. Bailey, Esq.
Dennis L. Kennedy, Esq.
Joshua P. Gilmore, Esq.
Paul C. Williams, Esq.

BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
JBailey@BaileyKennedy.com
DKennedy@BaileyKennedy.com
JGilmore@BaileyKennedy.com
PWilliams@BaileyKennedy.com

John D. Tennert, Esq.
Wade Beavers, Esq.
Geenamarie V. Carucci-Vance, Esq.
FENNEMORE CRAIG, P.C.
7800 Rancharrah Parkway
Reno, NV 89511
jtennert@fclaw.com
wbeavers@fclaw.com
gcarucci@fennemorelaw.com

Attorneys for Gordon Ramsay

*Attorneys for Rowen Seibel, Craig Green
Moti Partners, LLC, Moti Partner 16, LLC,
LLTQ Enterprises, LLC, LLTQ Enterprises 16, LLC,
TPOV Enterprises, LLC, TPOV Enterprises 16, LLC,
FERG, LLC, and FERG 16, LLC; and R Squared
Global Solutions, LLC, Derivatively on Behalf of
DNT Acquisition, LLC, and Nominal Plaintiff
GR Burgr LLC*

/s/ Cinda Towne
An employee of PISANELLI BICE PLLC

PISANELLIBICE PLLC
400 SOUTH 7TH STREET, SUITE 300
LAS VEGAS, NEVADA 89101

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
M. Magali Mercera, Esq., Bar No. 11742
MMM@pisanellibice.com
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101
Telephone: 702.214.2100
Facsimile: 702.214.2101

*Attorneys for Desert Palace, Inc.;
Paris Las Vegas Operating Company, LLC;
PHWLTV, LLC; and Boardwalk Regency
Corporation d/b/a Caesars Atlantic City*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiff,

v.

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

Defendants,

and

GR BURGR LLC, a Delaware limited liability
company,

Nominal Plaintiff.

Case No.: A-17-751759-B

Dept. No.: XVI

Consolidated with A-17-760537-B

**FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER:**

**(1) DENYING CRAIG GREEN'S
MOTION FOR SUMMARY
JUDGMENT;**

**(2) GRANTING CAESARS'
COUNTER-MOTION FOR
SUMMARY JUDGMENT
AGAINST CRAIG GREEN; AND**

**(1) GRANTING CAESARS' CROSS-
MOTION FOR SUMMARY
JUDGMENT AGAINST ROWEN
SEIBEL AND THE SEIBEL-
AFFILIATED ENTITIES
(RELATED TO COUNTS IV-VIII
OF THE FIRST AMENDED
COMPLAINT)**

Date of Hearing: November 22, 2022

Time of Hearing: 1:30 p.m.

AND ALL RELATED MATTERS

Craig Green's ("Green") *Motion for Summary Judgment* (the "Green Motion for Summary Judgment"), filed on June 17, 2022; PHWLV, LLC ("Planet Hollywood"), Desert Palace, Inc. ("Caesars Palace"), Paris Las Vegas Operating Company, LLC ("Paris"), and Boardwalk Regency Corporation d/b/a Caesars Atlantic City's ("Caesars Atlantic City," and collectively, with Caesars Palace, Paris, and Planet Hollywood, "Caesars,") *Counter-Motion for Summary Judgment Against Craig Green* (the "Counter-Motion for Summary Judgment"), filed on July 14, 2022; and Caesars' *Cross-Motion for Summary Judgment Against Rowen Seibel and the Seibel-Affiliated Entities (Related to Counts IV-VIII of the First Amended Complaint)* (the "Cross-Motion for Summary Judgment"), filed on July 14, 2022, came before this Court for hearing on November 22, 2022, at 1:30 p.m.

James J. Pisanelli, Esq., and M. Magali Mercera, Esq., of the law firm PISANELLI BICE PLLC, appeared on behalf of Caesars. Joshua P. Gilmore, Esq., and Paul C. Williams, Esq., of the law firm BAILEY KENNEDY, appeared on behalf of TPOV Enterprises, LLC ("TPOV"), LLTQ Enterprises, LLC ("LLTQ"), FERG, LLC ("FERG"), MOTI Partners, LLC ("MOTI"), GR Burgr, LLC ("GRB"), and DNT Acquisition, LLC ("DNT"), appearing derivatively by and through R Squared Global Solutions, LLC ("R Squared") (collectively the "Seibel-Affiliated Entities"), Rowen Seibel ("Seibel"), and Green.¹

The Court having considered the Green Motion for Summary Judgment, the Counter-Motion for Summary Judgment, the Cross-Motion for Summary Judgment, the oppositions and replies thereto, as well as argument of counsel presented at the hearing, taken the matter under advisement, and good cause appearing therefor, enters the following Findings of Fact and Conclusions of Law:

///

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

FINDINGS OF FACT²

The Court HEREBY FINDS AS FOLLOWS:

1. Caesars and its affiliates hold gaming licenses in Nevada and other jurisdictions across the country.

2. These gaming licenses are not a right, but rather a privilege that Caesars must earn and continually show it remains suitable to hold.

3. Nevada's gaming regulations make clear that a gaming license will not be awarded unless the Nevada Gaming Commission is satisfied that the gaming license applicant (a) is "of good character, honesty, and integrity" (b) with "background, reputation and associations [that] will not result in adverse publicity for the State of Nevada and its gaming industry; and" (c) someone who "[h]as adequate business competence and experience for the role or position for which application is made." Nev. Gaming Regul. 3.090(1).

4. As a result, Caesars is required to self-police and ensure it is not engaged in unsuitable practices or doing business with unsuitable persons.

5. To ensure it is upholding the standards expected of a gaming licensee, Caesars maintains an Ethics and Compliance Program (the "Compliance Plan").

6. Under the express and unequivocal terms of its Compliance Plan, Caesars' employees are instructed "to avoid acts and situations that are improper, might give an appearance of impropriety, or might impair their good judgment when acting on behalf of" Caesars. The Compliance Plan also explicitly states that "[b]ribes, influence payments or kickbacks may never be provided to or accepted from any Person, including in the form of gifts, hospitality, or similar benefits."

7. Importantly, Caesars' Compliance Plan requires that, "[a]ll vendors, suppliers, tenants, business partners, independent agents/junket representatives, lobbyists, and consultants

2 Any stated findings of fact which constitute conclusions of law shall be treated as conclusions of law, and any conclusions of law which constitute findings of fact shall be treated as findings of fact.

1 who represent or have relationships with [Caesars] or any of its Affiliates must agree to meet the
2 standards, business ethics, and principles that govern the [Caesars'] Employees."

3 8. Thus, Caesars' vendors are prohibited from engaging in illegal conduct, including,
4 but not limited to, the procurement or acceptance of kickbacks.

5 9. Beginning in 2009, Caesars began entering into contracts with Seibel and the Seibel-
6 Affiliated Entities relating to the development, creation, and operation of various restaurants at
7 Caesars properties in Las Vegas and Atlantic City.

8 10. In total, Caesars and the Seibel-Affiliated Entities entered into six agreements as
9 follows:

10 (1) A Development, Operation and License Agreement between MOTI Partners, LLC
11 and Desert Palace, Inc. dated March 2009 related to the Serendipity restaurant in
Las Vegas (the "MOTI Agreement");

12 (2) A Development, Operation and License Agreement between DNT Acquisition,
13 LLC, the Original Homestead Restaurant, Inc., and Desert Palace, Inc., dated June
21, 2011, dated June 21, 2011 related to the Original Homestead Restaurant in Las
14 Vegas (the "DNT Agreement");

15 (3) A Development and Operation Agreement between TPOV and Paris dated
November 2011 related to the Gordon Ramsay Steak restaurant at the Paris Las
16 Vegas (the "TPOV Agreement");

17 (4) A Development and Operation Agreement between LLTQ Enterprises, LLC and
Desert Palace, Inc. dated April 4, 2012 related to the Gordon Ramsay Pub & Grill
18 at Caesars Palace in La Vegas (the "LLTQ Agreement");

19 (5) A Development, Operation and License Agreement between PHW Las Vegas, LLC
20 dba Planet Hollywood by its manager, PHW Manager, LLC, GR BURGR, LLC, and
Gordon Ramsay, dated December 13, 2012 related to the GR Burgr restaurant at
Planet Hollywood in Las Vegas (the "GRB Agreement"); and

21 (6) A Consulting Agreement between FERG, LLC and Boardwalk Regency
22 Corporation dba Caesars Atlantic City, dated May 16, 2014 related to the Gordon
Ramsay Pub & Grill at Caesars Atlantic City (the "FERG Agreement").

23 11. Each of the agreements (collectively the "Seibel Agreements") required the Seibel-
24 Affiliated Entities to acknowledge that Caesars' properties were "exclusive first-class resort hotels
25 casinos" and each of the restaurants governed by the agreements would be "an exclusive first-class
26 restaurant."

27 12. Caesars' reputation and the goodwill of its guests and invitees were of the utmost
28 importance and, as such, each of the Seibel-Affiliated Entities agreed to conduct themselves "with

1 the highest standards of honesty, integrity, quality and courtesy so as to maintain and enhance the
2 reputation and goodwill of" Caesars.

3 13. Under each of the Seibel Agreements, Caesars was solely responsible for the day-
4 to-day operations of the restaurants, which included purchasing necessary items for the
5 establishments.

6 14. Further, the Seibel Agreements provide that any rebates obtained be appropriately
7 accounted for in the restaurants' financials for the benefit of the operations.

8 15. Importantly, under the Seibel Agreements, an "Unsuitable Person" is defined to
9 include:

10 Any Person (a) whose association with Caesars could be anticipated to result in a
11 disciplinary action relating to, or the loss of, inability to reinstate or failure to
12 obtain, any registration, application or license or any other rights or entitlements
13 held or required to be held by Caesars or any of its Affiliates under any United
14 States, state, local or foreign laws, rules or regulations relating to gaming or the sale
15 of alcohol, (b) whose association or relationship with Caesars or its Affiliates could
16 be anticipated to violate any United States, state, local or foreign laws, rules or
17 regulations relating to gaming or the sale of alcohol to which Caesars or its
18 Affiliates are subject, (c) who is or might be engaged or about to be engaged in any
19 activity which could adversely impact the business or reputation of Caesars or its
20 Affiliates, or (d) who is required to be licensed, registered, qualified or found
21 suitable under any United States, state, local, or foreign laws, rules or regulations
22 relating to gaming or the sale of alcohol under which Caesars or any of its Affiliates
23 is licensed, registered, qualified or found suitable, and such Person is not or does
24 not remain so licensed, registered, qualified or found suitable.

18 16. Unbeknownst to Caesars at the time, the Seibel Parties developed a scheme to
19 undermine the Seibel Agreements in order to reap kickbacks, for their own benefit.

20 17. Specifically, Green and Seibel secretly contacted Caesars' vendors and unilaterally
21 extorted kickbacks for items Caesars purchased. They specifically demanded a percentage
22 "reimbursement" for any sales the vendors made to Caesars' restaurants not only for future
23 purchases by Caesars, but also retroactively for product Caesars had previously purchased.

24 18. Green specifically directed others to seek kickbacks and went as far as to encourage
25 threats against vendors who did not want to pay any kickbacks to the Seibel Parties. If vendors were
26 not willing to engage in the scheme, the Seibel Parties threatened to remove them from the
27 restaurants they were already selling to.

28

1 19. The Seibel Parties admit that the kickback scheme – demanding payment from
2 Caesars' vendors without Caesars' knowledge for product that Caesars purchased – occurred but
3 argue that these "arrangements" were marketing.

4 20. The Court rejects the Seibel Parties' arguments. There has been no evidence of a
5 marketing agreement, marketing activation, branding, or any marketing deliverables. Further Seibel
6 admits there was no obligation to market nor were any marketing efforts undertaken.

7 21. The Seibel Parties kept Caesars and their other business partners, like Gordon
8 Ramsay and the Sherry brothers, in the dark about their kickback scheme. In fact, Green explicitly
9 instructed Caesars' vendors not to provide the kickback amounts to Harrah's and directed that they
10 instead go directly to one of his companies.

11 22. For his part, Green engaged in this kickback scheme in his own capacity. Green was
12 not an employee of Seibel or any of the Seibel-Affiliated Entities and he admits that he provided
13 consulting services to Seibel through Green's company, CBG Hospitality Consulting, LLC., *i.e.*, a
14 separate legal entity. Seibel also describes his relationship with Green as a friendship and business
15 associate, not as an employer-employee.

16 23. Caesars initiated this litigation in August 2017 seeking declaratory relief from this
17 Court related to Seibel's concealment of his criminal conviction which made him unsuitable to do
18 business with Caesars, a gaming licensee subject to rigorous regulation. (Compl., Aug. 25, 2017,
19 on file).

20 24. Discovery in the litigation revealed that Seibel was engaged in further criminal
21 activity.

22 25. Caesars discovered that Seibel and his friend Green engaged in commercial bribery
23 by soliciting and accepting kickbacks from Caesars' vendors and resorted to extortion when vendors
24 attempted to play "hardball."

25 26. Upon its discovery, Caesars moved to amend its complaint. (Caesars' Mot. for Leave
26 to File 1st Am. Compl.; Ex-Parte Appl. for Order Shortening Time, Dec. 12, 2019, on file).

28. On March 11, 2020, Caesars amended its complaint to add claims for civil conspiracy, unjust enrichment, intentional interference with contractual relations, and fraudulent concealment against Seibel and Green and a claim for breaches of implied covenants of good faith and fair dealing against the Seibel-Affiliated Entities.

29. In total, discovery revealed that Seibel and Green have solicited and received illegal kickbacks totaling \$326,046.87, as follows:

- (1) Kickbacks received from Innis & Gunn USA, Inc. in the amount of \$25,671.75;
- (2) Kickbacks received from LaFrieda Meats in the amount of \$278,507.08;
- (3) Kickbacks received from Tynant/Sysco in the amount of \$11,411.94; and
- (4) Kickbacks received from Marathon Enterprises, Inc. in the amount of \$10,456.10.

CONCLUSIONS OF LAW

1. Pursuant to Nevada law, "[s]ummary judgment is appropriate and shall be rendered forthwith when the pleadings and other evidence on file demonstrate that no genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law." *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (internal quotations omitted); NRCp 56. "The purpose of summary judgment is to avoid unnecessary trials when there is no dispute over the facts before the court." *Winnemucca Farms, Inc. v. Eckersell*, No. 3:05-CV-385-RAM, 2010 WL 1416881, at *2 (D. Nev. Mar. 31, 2010) (citing *Nw. Motorcycle Ass'n v. U.S. Dep't of Agric.*, 18 F.3d 1468, 1471 (9th Cir. 1994)).

2. "The party moving for summary judgment bears the initial burden of production to show the absence of a genuine issue of material fact." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007) (citation omitted). "If such a showing is made, then the party opposing summary judgment assumes a burden of production to show the existence of a genuine issue of material fact." *Id.*, 172 P.3d at 134. "[T]o defeat summary judgment, the nonmoving party must transcend the pleadings and, by affidavit or other admissible evidence,

1 introduce specific facts that show a genuine issue of material fact." *Id.*, 172 P.3d 131, 134 (2007)
2 (citation omitted).

3 3. "[T]he nonmoving party may not defeat a motion for summary judgment by relying
4 on the gossamer threads of whimsy, speculation and conjecture." *Wood*, 121 Nev. at 731, 121 P.3d
5 at 1030 (internal quotation omitted).

6 4. "General allegations and conclusory statements do not create genuine issues of fact."
7 *Saticoy Bay LLC Series 9641 Christine View v. Fed. Nat'l Mortg. Ass'n*, 134 Nev. 270, 271, 417
8 P.3d 363, 366 (2018) (citations omitted).

9 5. "The substantive law controls which factual disputes are material and will preclude
10 summary judgment; other factual disputes are irrelevant." *Wood*, 121 Nev. at 731, 121 P.3d at 1031.

11 6. Under Nevada law, "[a]n actionable civil conspiracy is a combination of two or more
12 persons who, by some concerted action, intend to accomplish some unlawful objective for the
13 purpose of harming another which results in damage." *Collins v. Union Fed. Sav. & Loan Ass'n*, 99
14 Nev. 284, 303, 662 P.2d 610, 622 (1983) (citations omitted).

15 7. "[A] plaintiff must provide evidence of an explicit or tacit agreement between the
16 alleged conspirators." *Guilfoyle v. Olde Monmouth Stock Transfer Co.*, 130 Nev. 801, 813, 335
17 P.3d 190, 198 (2014). But, "it has long been the rule that it is not necessary for all joint tortfeasors
18 to be named as defendants in a single lawsuit." *Temple v. Synthes Corp., Ltd.*, 498 U.S. 5, 7 (1990).

19 8. Generally, "[a]gents and employees of a corporation cannot conspire with their
20 corporate principal or employer where they act in their official capacities on behalf of the
21 corporation and not as individuals for their individual advantage." *Collins*, 99 Nev. at 303, 662 P.2d
22 at 622 (citations omitted). "This limitation, known as the intracorporate conspiracy doctrine,
23 prevents a finding of liability for conspiracy between co-employees without a showing that the
24 employees were acting as individuals and for their individual advantage." *U-Haul Co. of Nev. v.*
25 *United States*, No. 2:08 CV-729-KJD-RJJ, 2012 WL 3042908, at *2 (D. Nev. July 25, 2012) (citing
26 *Collins*, 99 Nev. at 303, 662 P.2d at 622).

27 9. However, the intra-corporate conspiracy doctrine does not apply to corporate
28 employees acting outside of the scope of their employment. *See Collins*, 99 Nev. at 303, 662 P.2d

1 at 622. Indeed, "employees of a corporation may be deemed to be conspirators with their employer
2 corporation when they act "as individuals for their individual advantage." *Loc. Ad Link, Inc. v.*
3 *AdzZoo, LLC*, No. 209CV01564RCJLRL, 2009 WL 10694069, at *9 (D. Nev. Dec. 15, 2009)
4 (quoting *Collins*, 99 Nev. at 303, 662 P.2d at 622).

5 10. Seibel and Green engaged in civil conspiracy against Caesars. The documentary
6 evidence in this case is undisputed and overwhelmingly demonstrates that Seibel and Green entered
7 into agreements with different Caesars' vendors to obtain a percentage kickback of the amounts
8 sold to, or purchased by, Caesars. Each and every communication with the vendors make clear that
9 Seibel and Green were soliciting and coercing kickbacks for their own individual benefits.

10 11. Specifically, Seibel and Green sought and coerced payment from vendors who had
11 agreements with Caesars for the sale of certain products to Caesars' restaurants. If the vendors
12 refused, they were threatened with having their relationship with Caesars severed. By actively
13 pursuing such arrangements – to Caesars' detriment – Green and Seibel are liable for civil
14 conspiracy.

15 12. Importantly, separate and apart from any obligation or duty to disclose owed to
16 Caesars, Seibel and Green's conduct was illegal on its own. Indeed, neither Seibel, Green, nor any
17 of their companies purchased any of the goods for which they demanded money. Instead, Seibel
18 and Green sought and/or coerced payment from vendors who had agreements with Caesars for the
19 sale of certain products to Caesars' restaurants. *See, e.g.*, NRS 207.295(1) ("Any person who, with
20 corrupt intent . . . [o]ffers, confers or agrees to confer any benefit upon any employee, agent or
21 fiduciary without the consent of the employer or principal of that employee, agent or fiduciary in
22 order to influence adversely that person's conduct in relation to the commercial affairs of his or her
23 employer or principal . . . commits commercial bribery and is guilty of a misdemeanor.").

24 13. Further, the intracorporate conspiracy doctrine is inapplicable here as Green was not
25 an employee of Seibel or any of the Seibel-Affiliated Entities.

26 14. "[U]njust enrichment occurs 'when ever [sic] a person has and retains a benefit which
27 in equity and good conscience belongs to another.'" *Leasepartners Corp. v. Robert L. Brooks Tr.*
28

1 *Dated Nov. 12, 1975*, 113 Nev. 747, 755, 942 P.2d 182, 187 (1997) (quoting *Unionamerica Mtg. v.*
2 *McDonald*, 97 Nev. 210, 212, 626 P.2d 1272, 1273 (1981)).

3 15. "Unjust enrichment exists when the plaintiff confers a benefit on the defendant, the
4 defendant appreciates such benefit, and there is acceptance and retention by the defendant of such
5 benefit under circumstances such that it would be inequitable for him to retain the benefit without
6 payment of the value thereof." *Certified Fire Prot. Inc. v. Precision Constr.*, 128 Nev. 371, 381,
7 283 P.3d 250, 257 (2012) (internal quotations omitted). "[B]enefit in the unjust enrichment context
8 can include services beneficial to or at the request of the other, denotes any form of advantage, and
9 is not confined to retention of money or property." *Id.* at 382, 283 P.3d at 257 (internal quotations
10 omitted).

11 16. Seibel and Green individually benefitted and were unjustly enrichment by their
12 kickback scheme. By his own testimony, Green admitted that BR 23 Venture, the entity to which
13 he funneled the kickbacks paid for his health insurance and at one point became part owner of said
14 entity. For his part, Seibel reported BR 23 Venture's income on his tax return demonstrating that he
15 obtained income – a benefit – from the entity and Seibel treated BR 23's Venture's income as his
16 own. Both Seibel and Green are liable for unjust enrichment against Caesars.

17 17. Under Nevada law, to prove a claim for intentional interference with contractual
18 relations, "a plaintiff must establish (1) a valid and existing contract; (2) the defendant's knowledge
19 of the contract; (3) intentional acts intended or designed to disrupt the contractual relationship; (4)
20 actual disruption of the contract; and (5) resulting damage." *J.J. Indus., LLC v. Bennett*, 119 Nev.
21 269, 274, 71 P.3d 1264, 1267 (2003) (citations omitted).

22 18. "[I]n Nevada, a party cannot, as a matter of law, tortiously interfere with his own
23 contract." *Klein v. Freedom Strategic Partners, LLC*, 595 F. Supp. 2d 1152, 1163 (D. Nev. 2009)
24 (internal quotations omitted). However, an "agent may be an interfering third party if the agent was
25 acting outside the scope of the agency, was not acting in the principal's interest, or was motivated
26 by malice towards one or both of the contracting parties." *From the Future, LLC v. Flowers, No.*
27 *206CV00203PMPRJJ*, 2009 WL 10709083, at *8 (D. Nev. Apr. 20, 2009). "[A]n agent is
28 privileged to interfere with his principal's contract 'unless the agent acts to serve the agent's own

1 interests or for another wrongful purpose.'" *Id.* (quoting Restatement (Third) of Agency § 7.01 cmt.
2 E). Indeed, "[i]f the agent is acting predominantly in his own interest, he effectively exceeds the
3 scope of the agency or he no longer is acting in the principal's interest, and he thus may be liable to
4 a third party for tortious interference with his principal's contract." *Id.*

5 19. The Seibel Agreements were valid and existing contracts between Caesars and its
6 vendors. Seibel and Green were aware of the Seibel Agreements and that their kickback scheme
7 was designed to disrupt those agreements. Specifically, Green and Seibel were aware that the Seibel
8 Agreements required rebates for items purchased for the restaurants to be accounted for and they
9 nevertheless sought kickbacks from the vendors. The Seibel Agreements were disrupted as amounts
10 that should have been accounted as "rebates" under the Seibel Agreements were instead syphoned
11 to Green and Seibel for their own benefit. Further, by the very act of engaging in a kickback scheme
12 whereby they sought to coerce certain fees from vendors for product they sold to Caesars, Green
13 and Seibel lost the ability to claim that any "agent status" precluded their liability. Seibel and Green
14 are liable for intentional interference with contractual relations.

15 20. Under Nevada law, to establish a claim for fraudulent concealment, a plaintiff must
16 show "(1) the defendant concealed or suppressed a material fact; (2) the defendant was under a duty
17 to disclose the fact to the plaintiff; (3) the defendant intentionally concealed or suppressed the fact
18 with the intent to defraud the plaintiff; that is, the defendant concealed or suppressed the fact for
19 the purpose of inducing the plaintiff to act differently than she would have if she had known the
20 fact; (4) the plaintiff was unaware of the fact and would have acted differently if she had known of
21 the concealed or suppressed fact; (5) and, as a result of the concealment or suppression of the fact,
22 the plaintiff sustained damages." *Dow Chem. Co. v. Mahlum*, 114 Nev. 1468, 1485, 970 P.2d 98,
23 110 (1998), *abrogated, in part on other grounds by GES, Inc. v. Corbitt*, 117 Nev. 265, 21 P.3d 11
24 (2001) (citation omitted).

25 21. "Nondisclosure will become the equivalent of fraudulent concealment when it
26 becomes the duty of a person to speak in order that the party with whom he is dealing may be placed
27 on an equal footing with him." *Id.* at 1486, 970 P.2d at 110 (quoting *Mackintosh v. Jack Matthews*
28 & Co., 109 Nev. 628, 634 35, 855 P.2d 549, 553 (1993)).

1 22. "Even when the parties are dealing at arm's length, a duty to disclose may arise from
2 'the existence of material facts peculiarly within the knowledge of the party sought to be charged
3 and not within the fair and reasonable reach of the other party.'" *Id.* at 1486, 970 P.2d at 110 (quoting
4 *Villalon v. Bowen*, 70 Nev. 456, 467-68, 273 P.2d 409, 415 (1954)).

5 23. "Under such circumstances the general rule is that a deliberate failure to correct an
6 apparent misapprehension or delusion may constitute fraud." *Villalon*, 70 Nev. at 468, 273 P.2d at
7 415. "This would appear to be particularly so where the false impression deliberately has been
8 created by the party sought to be charged." *Id.*, 273 P.2d at 415.

9 24. Caesars was unaware that Seibel and Green were engaged in a kickback scheme as
10 the scheme was a scenario entirely of Seibel and Green's own making. Indeed, given all of the
11 safeguards in the Seibel Agreements meant to thwart dishonest or illegal conduct, Caesars cannot
12 be faulted for failing to guess that Green and Seibel were soliciting kickbacks.

13 25. Neither Seibel nor Green informed Caesars of the kickback scheme and instead
14 actively took steps to conceal it from Caesars.

15 26. Additionally, the Seibel Agreements further obligated Seibel to disclose the illegal
16 kickback conduct. Under the terms of the Seibel Agreements, the Seibel Affiliates Entities and their
17 Associates – a definition that encompasses Seibel – were obligated to inform Caesars about any
18 events that could threaten Caesars' gaming license within ten days. Thus, Seibel was required to
19 inform Caesars if he became an Unsuitable Person. Separate and apart from his unsuitability as a
20 result of his felony conviction, Seibel also became an Unsuitable Person by engaging in the
21 kickback scheme. The Seibel Agreements define an Unsuitable Person to include "[a]ny person . .
22 . who is or might be engaged or about to be engaged in any activity which could adversely impact
23 the business or reputation of Caesars." The very act of soliciting kickbacks is illegal and thus could
24 unquestionably "adversely impact the business or reputation of Caesars." As a result, Seibel had a
25 duty to disclose his involvement in the kickback scheme to Caesars.

26 27. Seibel and Green's failure to disclose the kickback scheme to Caesars makes them
27 liable for fraudulent concealment.
28

28. "An implied covenant of good faith and fair dealing exists in every Nevada contract and essentially forbids arbitrary, unfair acts by one party that disadvantage the other." *Frantz v. Johnson*, 116 Nev. 455, 465 n.4, 999 P.2d 351, 358 n.4 (2000) (citing *Consol. Generator v. Cummins Engine*, 114 Nev. 1304, 1311, 971 P.2d 1251, 1256 (1998)). "A breach of the [implied] covenant [of good faith and fair dealing] occurs '[w]here the terms of a contract are literally complied with but one party to the contract deliberately contravenes the intention and spirit of the contract. . . .'" *Gamboa v. World Sav. Bank*, FSB, No. 3:10-CV-454-ECR-VPC, 2010 WL 5071166, at *2 (D. Nev. Dec. 6, 2010) (quoting *Hilton Hotels Corp. v. Butch Lewis Prods., Inc.*, 107 Nev. 226, 232, 808 P.2d 919, 922-23 (1991)).

29. "When one party performs a contract in a manner that is unfaithful to the purpose of the contract and the justified expectations of the other party are thus denied, damages may be awarded against the party who does not act in good faith." *Hilton*, 107 Nev. at 234, 808 P.2d at 923 (emphasis added).

30. "Reasonable expectations are to be 'determined by the various factors and special circumstances that shape these expectations.'" *Perry v. Jordan*, 111 Nev. 943, 948, 900 P.2d 335, 338 (1995) (quoting *Hilton*, 107 Nev. at 234, 808 P.2d at 924).

31. The Seibel Agreements were valid and existing contracts. Under the terms of the Seibel Agreements, the Seibel-Affiliated Entities agreed to hold their Associates (which includes Seibel) to the suitability standards of the various agreements. Nevertheless, aware that Seibel was soliciting kickbacks and thus double-dipping in amounts received from vendors, the Seibel-Affiliated Entities did nothing to inform Caesars of the illegal kickback scheme.

32. At no time did any of the Seibel-Affiliated Entities notify any of their business partners that their Associated Persons were engaging in this illegal conduct. By failing to report their conduct, the Seibel Affiliated Entities were also continuing to benefit from the Seibel Agreements which likely would have been terminated had Caesars become aware of the illegal activity at the time. This conduct was not only in bad faith, but also in direct contravention of the spirit, intent, and justified expectations under the Seibel Agreements, which required the Seibel-Affiliated Entities to conduct themselves "with the highest standards of honesty, integrity, quality

1 and courtesy so as to maintain and enhance the reputation and goodwill of" Caesars. As a result,
2 the Seibel-Affiliated Entities breached the implied covenant of good faith and fair dealing.

3 33. Caesars suffered damages as a result of the Seibel Parties' actions totaling
4 \$326,046.87.

5 **ORDER**

6 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that Green's Motion for
7 Summary Judgment is DENIED;

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Caesars' Counter-
9 Motion for Summary Judgment shall be, and hereby is, GRANTED in its entirety and that judgment
10 is entered in favor of Caesars on Counts IV, VI, VII, and VII of Caesars First Amended Complaint
11 against Green;

12 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Caesars' Cross-Motion
13 for Summary Judgment shall be, and hereby is, GRANTED in its entirety and that judgment is
14 entered in favor of Caesars on Counts IV, VI, VII, and VII of Caesars First Amended Complaint
15 against Seibel

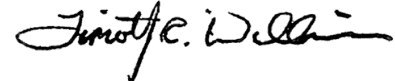
16 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Caesars' Cross-Motion
17 for Summary Judgment shall be, and hereby is, GRANTED in its entirety and that judgment is
18 entered in favor of Caesars on V of Caesars First Amended Complaint against the TPOV
19 Enterprises, LLC, LLTQ Enterprises, LLC, FERG, LLC, MOTI Partners, LLC, GR Burgr, LLC,
20 and DNT Acquisition, LLC; and

21 ///

1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that judgment is entered in
2 favor of Caesars and against the Seibel Parties in the amount of \$326,046.87 plus pre- and post-
3 judgment interest, with Seibel and Green being jointly and severally liable for the amount awarded
4 to Caesars.

5 IT IS SO ORDERED.

6 Dated this 22nd day of March, 2023

7 

8 5A8 E80 15B3 8074
9 Timothy C. Williams
District Court Judge

JM

10 Respectfully submitted by:

11 DATED: March 21, 2023

12 PISANELLI BICE PLLC

13 By: /s/ M. Magali Mercera
14 James J. Pisanelli, Esq., Bar No. 4027
15 Debra L. Spinelli, Esq., Bar No. 9695
16 M. Magali Mercera, Esq., Bar No. 11742
400 South 7th Street, Suite 300
Las Vegas, NV 89101

17 *Attorneys for Desert Palace, Inc.;*
18 *Paris Las Vegas Operating*
19 *Company, LLC; PHWLTV, LLC; and*
Boardwalk Regency
Corporation d/b/a Caesars Atlantic City

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Rowen Seibel, Plaintiff(s)

CASE NO: A-17-751759-B

7 vs.

DEPT. NO. Department 16

8 PHWL V LLC, Defendant(s)

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/22/2023

15 Robert Atkinson

robert@nv-lawfirm.com

16 Kevin Sutehall

ksutehall@foxrothschild.com

17 "James J. Pisanelli, Esq." .

lit@pisanellibice.com

18 "John Tennert, Esq." .

jtennert@fclaw.com

19 Brittanie T. Watkins .

btw@pisanellibice.com

20 Dan McNutt .

drm@cmlawnv.com

21 Debra L. Spinelli .

dls@pisanellibice.com

22 Diana Barton .

db@pisanellibice.com

23 Lisa Anne Heller .

lah@cmlawnv.com

24 Matt Wolf .

mcw@cmlawnv.com

25 PB Lit .

lit@pisanellibice.com

1	Paul Williams	pwilliams@baileykennedy.com
2	Dennis Kennedy	dkennedy@baileykennedy.com
3	Joshua Gilmore	jgilmore@baileykennedy.com
4	John Bailey	jbailey@baileykennedy.com
5	Daniel McNutt	drm@cmlawnv.com
6	Paul Sweeney	PSweeney@certilmanbalin.com
7	Nathan Rugg	nathan.rugg@bfkn.com
8	Steven Chaiken	sbc@ag-ltd.com
9	Alan Lebensfeld	alan.lebensfeld@lsandspc.com
10	Brett Schwartz	brett.schwartz@lsandspc.com
11	Doreen Loffredo	dloffredo@foxrothschild.com
12	Mark Connot	mconnot@foxrothschild.com
13	Joshua Feldman	jfeldman@certilmanbalin.com
14	Nicole Milone	nmilone@certilmanbalin.com
15	Karen Hippner	karen.hippner@lsandspc.com
16	Bailey Kennedy, LLP	bkfederaldownloads@baileykennedy.com
17	Magali Mercera	mmm@pisanellibice.com
18	Cinda Towne	cct@pisanellibice.com
19	Litigation Paralegal	bknotices@nv-lawfirm.com
20	Shawna Braselton	sbraselton@fennemorelaw.com
21	Christine Gioe	christine.gioe@lsandspc.com
22	Trey Pictum	trey@mcnuttlawfirm.com
23	Anne Alley	aalley@fclaw.com

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24
25
26
27
28

Monice Campbell	monice@envision.legal
Lawrence Sharon	lawrence.sharon@lsandspc.com
Emily Buchwald	eab@pisanellibice.com
Cinda Towne	Cinda@pisanellibice.com
John Tennert	jtennert@fennemorelaw.com
Debbie Sorensen	dsorensen@fclaw.com
Wade Beavers	wbeavers@fclaw.com
Geenamarie Carucci	gcarucci@fennemorelaw.com
Susan Whitehouse	swhitehouse@fennemorelaw.com