

IN THE SUPREME COURT OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

ROWEN SEIBEL, MOTI PARTNERS, LLC; MOTI PARTNERS, 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.

District Court Case No. A-17-760537-B

**APPELLANTS' MOTION TO REDACT OPENING BRIEF AND SEAL
CONFIDENTIAL VOLUMES OF APPELLANTS' APPENDIX**

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Attorneys for Appellants

Pursuant to NRAP 27 and Rule 3(1) of the SRCR, Appellants¹ move this Court to: (i) permit them to redact portions of their Opening Brief; and (ii) allow them to file all or portions of Volumes 4 – 5, 7, 11 – 20, and 22 – 41 to Appellants' Appendix (the "Confidential Appendix Volumes") under seal.

The documents contained in the Confidential Appendix Volumes (the "Proposed Sealed Documents") were filed and have been maintained under seal in district court because they contain confidential, proprietary, financial, and/or commercially sensitive information related to the parties that is not publicly known. Subject to further Order of this Court, they must remain under seal.

SRCR 7. Further, the Opening Brief quotes from and summarizes portions of the Proposed Sealed Documents. Accordingly, Appellants respectfully request that they be allowed to file a redacted copy of their Opening Brief.

¹ "Appellants" refers to Rowen Seibel ("Seibel"); Craig Green ("Green"); 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 ("R Squared"), derivatively on behalf of DNT Acquisition LLC ("DNT"); and GR Burgr LLC ("GRB").

This Motion to Seal/Redact is made and based on the record included in Appellants' Appendix and the following Memorandum of Points and Authorities.

DATED this 27th day of September, 2023.

BAILEY ❖ KENNEDY

By: /s/ Joshua P. Gilmore

JOHN R. BAILEY

DENNIS L. KENNEDY

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PAUL C. WILLIAMS

Attorneys for Appellants

MEMORANDUM OF POINTS AND AUTHORITIES

“Any person may request that the court seal or redact court records for a case that is subject to these rules by filing a written motion” SRCR 3(1).

“The court may order the court files and records, or any part thereof, in a civil action to be sealed or redacted, provided the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record.” SRCR 3(4). “The ... privacy ... interests that outweigh the public interest in open court records include findings that: [t]he sealing or redaction furthers ... a protective order entered under NRCP 26(c)”; or [t]he sealing or redaction is justified or required by another identified compelling circumstance.” SRCR 3(4)(b), (h).

Once a motion to seal or redact is pending, “the information to be sealed or redacted remains confidential for a reasonable period of time until the court rules on the motion.” SRCR 3(2). Further, in the context of an appeal, “[c]ourt records sealed in the trial court shall be sealed from public access in the Nevada Supreme Court subject to further order of that court.” SRCR 7.

Appellants are filing their Opening Brief in this matter. Included in the Confidential Appendix Volumes are pertinent filings (the Proposed Sealed Documents) from the proceedings below. Although redacted copies of certain motions, oppositions, and replies and related appendices of exhibits were publicly filed by the parties with the district court,² un-redacted copies were filed under seal because they contain confidential, proprietary, financial, and/or commercially sensitive information related to the parties that is not publicly known. Whenever a party filed a motion, opposition, or reply under seal or in redacted form, with or without exhibits, the party also filed a motion to seal or redact, which was unopposed and which was granted by the district court.³ Copies of the applicable Orders granting the various motions to seal or redact are included in Appellants’

² The publicly filed, redacted documents were not included in Appellants’ Appendix as they are duplicative of the sealed versions of these documents.

³ The district court previously entered a Stipulated Confidentiality Agreement and Protective Order governing the use and disclosure of confidential and highly confidential information. (*See* 2 AA423-44.)

Appendix. (See 5 AA1152-55; 13 AA2601-11; 31 AA6426-37; 33 AA6970-79, 7007-16, 7030-38, 7051; 34 AA7092-100; 38 AA8042-50, 8063-71, 8084-90; 41 AA8862-68; 42 AA9024-41.) Those Orders remain in effect to this date.

Additionally, the Opening Brief quotes from and summarizes information contained in the Proposed Sealed Exhibits that has been designated as either confidential or highly confidential by the parties. As a result, Appellants are publicly filing a copy of their Opening Brief with redactions to the quoted or summarized confidential or highly confidential information. An unredacted copy of the Opening Brief will be manually submitted for filing to this Court.

For these reasons, subject to further Order of this Court, Appellants respectfully request that this Motion to Seal/Redact be granted, and that this Court maintain under seal the Proposed Sealed Documents found in the Confidential Appendix Volumes and allow the redactions to the publicly filed version of the Opening Brief.

DATED this 27th day of September, 2023.

BAILEY ❖ KENNEDY

By: /s/ Joshua P. Gilmore

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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ❖ KENNEDY and that on the 27th day of September, 2023, service of the foregoing was made by electronic service through the Nevada Supreme Court's electronic filing system, electronic service through the Eighth Judicial District Court's electronic filing system, hand delivery, and/or by email as agreed by the parties, and addressed to the following at their last known email address:

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