

1 Honor, and ask you for more time because we're not done. I  
2 don't want to -- I don't want to do that again.

3 THE COURT: Yeah. But I've got to get this done --

4 MR. PEEK: I agree.

5 THE COURT: -- because when the Supreme Court issues  
6 a writ and says, do this hearing, and then you guys need to do  
7 discovery and then we have problems getting it done, you know,  
8 I can't be just hanging out there. I've got to get it done.

9 MR. PEEK: And, Your Honor, we want to get it done,  
10 too. Mr. Jones -- and there will be other new counsel who  
11 will be helpful to him, as well, who have offices in the Far  
12 East. We will be going to Macau to begin that review as to  
13 whether or not there are any documents over in Macau. You've  
14 got to get there to be able to find that out.

15 THE COURT: I'm going to stay out of it till  
16 somebody brings a motion, because scheduling -- you've told me  
17 what your schedule is. I'm taking you at your word. And Mr.  
18 Bice says he thinks you can be done in February, you say you  
19 think March-April, but there's the Suen trial in the middle,  
20 which throws us off. So --

21 MR. PEEK: It does, Your Honor. And I --

22 THE COURT: -- I'll see where I can find a place.

23 MR. PEEK: I apologize. When I was thinking of the  
24 time I wasn't thinking of Suen, either. But --

25 THE COURT: We'll figure it out.

1 MR. PEEK: Thank you, Your Honor.the

2 THE COURT: So I will hopefully find a time. If I  
3 am able to identify a time before I next see you, I will have  
4 Max arrange a conference call so we can discuss scheduling  
5 issues. And then if you have any serious conflicts, like kids  
6 graduating or marrying or something like that, we can try and  
7 work around those issues.

8 MR. PEEK: Mine are not there, Your Honor, yet.

9 THE COURT: Some of yours are there, Mr. Peek.

10 MR. PEEK: Well, they're already married and have  
11 kids.

12 MR. BICE: Thank you, Your Honor.

13 THE COURT: Have a nice day.

14 MR. JONES: Thank you, Your Honor.

15 THE PROCEEDINGS CONCLUDED AT 9:20 A.M.

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CERTIFICATION

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

AFFIRMATION

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

FLORENCE HOYT  
Las Vegas, Nevada 89146

*Florence M. Hoyt*  
FLORENCE HOYT, TRANSCRIBER

10/31/12

\_\_\_\_\_  
DATE

1 implemented.

2 MR. PEEK: Your Honor, I've allowed all of that  
3 examination already.

4 THE COURT: There have been some issues.

5 MR. BICE: Well, I disagree that he has, but we'll  
6 address --

7 THE COURT: And I am not going to limit the  
8 depositions of the four executives to the one day that has  
9 been asked. However, if the depositions become harassing  
10 because people are trying to get into the substance of the  
11 decision of the termination or the substance of any of the  
12 settlement negotiations, those would be inappropriate under  
13 the stay that I currently have in place.

14 Any other questions on that motion before I go to  
15 the administrative action issue?

16 MR. PEEK: Your Honor, I do have some more  
17 questions. When you say you're not going to permit the  
18 harassment, you're going to allow them to come back?

19 THE COURT: I am.

20 MR. PEEK: Is there any limitation at all? Because,  
21 Your Honor, with 200,000 pages of documents, one full day for  
22 each of them, and this sort of minutia because they want to  
23 say "the magnitude" of the contacts, if you will, is important  
24 to them, could extend well beyond two days, three days, and  
25 four days. I've already been in one day with Mr. Pisanelli



1 and two other days with Mr. Bice on the other depositions, and  
2 I know where it's going.

3 THE COURT: I don't think they could ever in any  
4 case finish a deposition in a day.

5 MR. PEEK: I know that, Your Honor. And that's what  
6 concerns me. I don't want to bring senior executives --

7 THE COURT: I'm not saying that they're not  
8 competent, I'm saying they're very thorough, and this is an  
9 issue that as a result of the writ that's been taken has a lot  
10 of attention that's going to be paid to it. So I'm not going  
11 to limit them. However, if you believe under Rule 37 that the  
12 deposition is becoming -- is it 37 or 26?

13 MR. PEEK: It be 37, Your Honor, if --

14 THE COURT: 37 --

15 MR. PEEK: It's been 26. But I already believe it  
16 is that way.

17 THE COURT: I disagree --

18 MR. PEEK: But you've told me I --

19 THE COURT: -- at this point.

20 MR. PEEK: You told me that I'm wrong.

21 THE COURT: Well, so far. I did agree with you once  
22 this week. So -- but if it gets to a point, Mr. Peaks and Mr.  
23 Joneses, that you believe that the depositions are becomes  
24 harassing, you may suspend the deposition and, you know -- you  
25 know what happens then.

1 MR. PEEK: I know what happens, Your Honor.

2 THE COURT: You'll come over here.

3 MR. PEEK: I don't want to put myself at that kind  
4 of risk. That's why I'm asking the Court --

5 THE COURT: I'm not going to limit the time.

6 MR. PEEK: -- to limit them just like we do in a  
7 trial, Your Honor.

8 THE COURT: I'm not going to limit the time.

9 MR. PEEK: To limit that.

10 THE COURT: I understand. However, if they're still  
11 going and they've gone for three days, I might think it's too  
12 many.

13 MR. PEEK: That's a -- that, Your Honor, sort of  
14 tells me something I really frankly didn't want to hear, that  
15 they should be allowed to even go three days. Even allowed to  
16 go two days, Your Honor, is rather excessive.

17 THE COURT: Two days is not of concern to me.

18 MR. PEEK: Pardon?

19 THE COURT: Two days is not of concern to me.

20 MR. PEEK: And I don't know how we're ever going to  
21 get to an evidentiary hearing, Your Honor, that we want to  
22 have right away.

23 THE COURT: I have a note right there.

24 MR. PEEK: I know.

25 THE COURT: I'm getting there.

1           Okay. If I could go to the administrative action in  
2 Florida. Let me make a statement. I'm not the judge in  
3 Florida. Now do you want to make your motion?

4           MR. PEEK: Your Honor, I don't think there's a whole  
5 lot more to say, because that really is the theme, is that  
6 this is going to be heard on the 13th of this month in Florida  
7 by the judge in Florida as to what the scope of the  
8 depositions will be that are being requested to be taken here.  
9 And there are actually six. I only represent three of the  
10 individuals. And we don't want to get into a debate here, as  
11 they want to, about the merits of the Adelson action and what  
12 he does in Florida versus what happened here in Nevada. We  
13 don't want to get into the issue of whether there are merits  
14 -- that they're allowed merits discovery here. That's an  
15 issue for the Florida courts. If they didn't like the  
16 questions in the deposition of Mr. Jacobs about merits, they  
17 could have suspended that deposition and gone to a Florida  
18 judge and said, there is a stay in place in Nevada and these  
19 folks are trying to violate that stay. These are issues, Your  
20 Honor, for the Florida court, and let's let the Florida court  
21 make these decisions, as opposed this court make those  
22 decisions. And that Florida court will tell all of us what  
23 the scope ought to be, because there's no coordination between  
24 this case and the Florida case.

25           THE COURT: I can't coordinate with another state

1 court judge unless the state court judge wants to.

2 MR. PEEK: Yeah. So, Your Honor, I think -- I think  
3 that really -- you know, I certainly -- we have set forth the  
4 request for production, we have that already. They have a  
5 motion to compel on that.

6 With respect to those documents, Your Honor, again,  
7 the custodian is Las Vegas Sands Corporation, not these  
8 individuals who are being sought -- from whom they're seeking  
9 documents. If they have that, they should seek those from Las  
10 Vegas Sands.

11 Your Honor, the subpoenas and the questioning of  
12 Leven and Goldstein should be limited to the issue of --  
13 that's framed by the complaint and not in the entire merits,  
14 because they want to try to get to merits of the termination.  
15 And certainly, Your Honor, we hope to get to the merits  
16 ourselves very soon.

17 And then with respect to the subpoena to Mr. Reese,  
18 as we've said, that ought not to be -- that deposition ought  
19 not go forward at all. Mr. Reese said, I know nothing about  
20 prostitution in Macau or the issue or the statements made by  
21 Mr. Jacobs in his declaration to this Court in June of this  
22 year about the so-called prostitution strategy. Thank you.

23 THE COURT: Thank you.

24 Mr. Bice.

25 MR. BICE: Your Honor, I'm a little confused because

1 it's their motion, but apparently they don't want you to  
2 really address their motion. It seems like let's have the  
3 Florida judge decide the motion. They didn't make this motion  
4 -- these employees didn't make this motion in Florida. There  
5 were six. Only three of them have filed a motion, and, of  
6 course, it's the three that currently work there, because this  
7 is, again, Mr. Adelson directing the litigation relative to  
8 claims that he has asserted in the state of Florida that grow  
9 out of this lawsuit and this Nevada proceeding.

10 So I don't need to spend a lot of time on this,  
11 because you can just simply look at the gentleman's complaint,  
12 look at his own lawyer's acknowledgements in Florida, and they  
13 contradict everything that now Mr. Adelson through these three  
14 employees has submitted relative to the current motion before  
15 this Court.

16 What they have tried to claim is that the stay in  
17 this action or the stay in your action that you are the judge  
18 on stays or insulates Mr. Adelson and these executives from  
19 discovery relative to the Florida action. Now, one only has  
20 to look at the caselaw to know that simply isn't the law, and  
21 in fact Mr. Adelson's lawyer acknowledged that quite gleefully  
22 when he was deposing Mr. Jacobs. Unremarkably in our  
23 experience with Mr. Adelson and his litigation tactics, that  
24 tune quickly changed, of course, once we started seeking  
25 discovery from Mr. Adelson and Mr. Adelson's executives. Now

1 all of a sudden this stay has great impact upon the Florida  
2 proceedings.

3           The reason that I think -- and the reason that we  
4 sought coordination to have this in front of you is in no  
5 small part because I think it is important that the Nevada  
6 court does address whether or not its stay order impacts or  
7 has any extension into that Florida proceeding. We've cited  
8 the caselaw to you. It does not. And we don't believe that  
9 it's appropriate for a litigant --

10           Let's also remember something. You know, Mr.  
11 Adelson is out of the Nevada action. He obtained 54(b)  
12 certification. He's not even a party in terms of his personal  
13 capacity to that stay. So where he gets off trying to now  
14 invoke it to insulate his employees from questions about a  
15 lawsuit he brought I think is a bit much.

16           Our point here, Your Honor, is a party has asserted  
17 defamation in another court. They have asserted in that  
18 defamation claim as the malice and the motive that Mr. Jacobs  
19 brought this lawsuit, the Nevada action, and filed the  
20 affidavit in the Nevada action as supposed retaliation in  
21 order to earn an unearned windfall because he was terminated  
22 for cause. That's their explanation to the Florida court  
23 about what the lawsuit is about. All right. Mr. Jacobs is  
24 entitled to disprove that supposed motive. He is entitled to  
25 conduct discovery to challenge that supposed malice. And that

1 includes the facts and circumstances surrounding his  
2 termination, the facts and circumstances surrounding the  
3 declaration that he filed in this action, and why he has  
4 brought this action, as opposed to the story that Mr. Adelson  
5 and company now wants to tell -- or wants to claim in the  
6 Florida lawsuit, that somehow Mr. Jacobs brought this  
7 litigation solely as a means of trying to earn an unearned  
8 windfall, as opposed to a legitimate attempt by Mr. Jacobs to  
9 recover what he believes he's rightfully owed for being  
10 wrongfully terminated by someone who was insistent upon taking  
11 a course of unethical and illegal business activities. And  
12 that, of course, is all fair game when someone opens up and  
13 files a defamation lawsuit and says, no, none of that was true  
14 and you were just trying to extort me for money. Having  
15 elected to file that cause of action, Mr. Adelson has opened  
16 the door for that discovery, properly so, and Mr. Jacobs is  
17 entitled to defend himself.

18           And, Your Honor, we have pointed out in this  
19 proceeding -- and when I say this proceeding, the proceeding  
20 in which you are the judge, you know, I don't need to go back  
21 into the whole history of what was going on relative to  
22 document production and the withholding of evidence and the  
23 attempt to prejudice Mr. Jacobs through that maneuver. This  
24 is simply -- this present motion is simply an extension of  
25 that same strategy, and that is let's obstruct whenever we can

1 as much as we can.

2 And I'm asking this Court -- that happened already  
3 in the proceeding in front of you by Mr. Adelson's companies.  
4 I'm asking that it not be allowed to extend elsewhere. And so  
5 therefore this motion should be denied in its entirety, Your  
6 Honor.

7 The story about Mr. Reese not knowing anything,  
8 well, perhaps they didn't bother to look at Mr. Adelson's  
9 deposition when he says he specifically discussed this issue  
10 with Mr. Reese and in fact Mr. Reese is the one who went and  
11 issued the press release about it. And Mr. Reese is the one  
12 who has tremendous knowledge about all the other issues that  
13 are impacting Mr. Adelson's reputation, the ongoing criminal  
14 investigation by the Department of Justice and the Securities  
15 and Exchange Commission, as well as the U.S. Attorney's Office  
16 out of Los Angeles, which is conducting a money laundering  
17 investigation, and there are newspaper articles with Mr.  
18 Adelson's picture painted all over headlines about a money  
19 laundering investigation.

20 This individual's reputation is being impacted not  
21 because of an affidavit that references prostitution in Macau  
22 casinos, of which there are also newspaper articles where the  
23 Macau Government raided one of his casinos after Mr. Jacobs  
24 was gone and arrested 120 prostitutes and pimps on the casino  
25 floor while Mr. Adelson was present at the property. So to



1 sit there and say, well, his reputation is being harmed by  
2 this prostitution issue, we're entitled to demonstrate and to  
3 conduct discovery to show, no, no, no, no, your reputation is  
4 being harmed by all of the other investigations that the  
5 government and all of the other nefarious activities that were  
6 going on and that you were supervising and directing. And  
7 that is all an appropriate subject matter for a defamation  
8 lawsuit on an individual who claims that his reputation has  
9 been harmed, especially considering -- and this is where we  
10 had attached the New York pleadings -- when he claims that his  
11 reputation in Nevada law governs and it primarily all occurred  
12 in Nevada. And that's why we are entitled to that discovery,  
13 and the motion should be denied.

14           With respect to the documents, Your Honor, we've  
15 cited you the caselaw. These are high-ranking corporate  
16 executives. Mr. Leven is the president and COO of Las Vegas  
17 Sands. By definition he has control over those documents, and  
18 the courts -- the Federal Courts -- and, again, we have the  
19 parallel rules in Nevada, the Nevada Supreme Court hasn't  
20 addressed it, but the Federal Courts have addressed it, and  
21 they say high-ranking executives have control over the  
22 documents and you can subpoena them -- the documents from them  
23 directly, you do not have to issue a separate subpoena to the  
24 company itself.

25           THE COURT: So why haven't you issued a separate

1 subpoena to the company itself?

2 MR. BICE: We haven't issued because, Your Honor, we  
3 have -- we have difficulty, unremarkably, getting subpoenas,  
4 getting cooperation out of Mr. Adelson's Florida counsel about  
5 getting these depositions set. So we issued a subpoena for  
6 the individuals, to take their depositions and issued with  
7 that subpoena a request for the documents, which we are  
8 entitled to do. Could we -- could we go through the same  
9 rigmarole and get a whole separate subpoena and issue it and  
10 bring it back here? Well, that'd take a bunch of time. And  
11 are they going to, of course, obstruct us in the Florida  
12 proceedings to do that? Of course they are.

13 So the question is -- and I appreciate your  
14 question, Your Honor, but I would pose the point to the Court  
15 why should I have to do that when the law doesn't say that we  
16 have to do that.

17 THE COURT: Okay. Thank you.

18 MR. BICE: Thank you, Your Honor.

19 THE COURT: The stay order that has been issued by  
20 the Nevada Supreme Court in their Case Number 58294 does not  
21 apply to this administrative action. However, I disagree with  
22 Mr. Bice with respect to the scope of the document requests  
23 that are attached to the subpoenas and believe that it would  
24 be more appropriate for the subpoena for almost all of the  
25 documents requests to be directed to the Las Vegas Sands, as

1 opposed to the individuals. However, with certain exceptions,  
2 which are those documents, for instance, Number 25 and 26 --  
3 24, 25, and 26 with respect to Mr. Leven's document requests,  
4 those clearly relate to documents that are personally in his  
5 possession or information that is personally maintained by  
6 him, and those are fair subject of this --

7 MR. PEEK: 24 through 26 of the subpoena.

8 THE COURT: Well, as examples. As examples.

9 MR. PEEK: Well --

10 THE COURT: All the others appear to me to be items  
11 that are corporate in nature.

12 MR. PEEK: Okay.

13 THE COURT: However, if Mr. Leven has his own  
14 personal file that he keeps at home, then that's fair game.

15 MR. PEEK: And, Your Honor, I agree with that. I  
16 have not disputed that.

17 THE COURT: So -- but with respect to those  
18 documents which are being sought in his position as the  
19 president of the Las Vegas Sands it would be more appropriate  
20 to direct the subpoena to the Las Vegas Sands.

21 I am not going to limit the scope of any examination  
22 of these gentlemen. That determination, if one is going to be  
23 made, needs to be made by the judge in Florida. But my stay  
24 that I'm subject to does not apply to these. But if the  
25 Florida judge decides it does, that's his problem or her

1 problem.

2 MR. PEEK: That's sort of a point of clarification.  
3 There's going to be a hearing in Florida on the 13th. It's  
4 going to address this very same issue. So I don't know  
5 whether you're saying, I'm ordering them to go forward, or  
6 you're saying, I'm going to defer and be bound by the ruling  
7 in Florida of the Florida judge.

8 THE COURT: I am ordering them to go forward unless  
9 a judge in Florida makes a different decision.

10 MR. PEEK: So you're taking -- because, you know --

11 THE COURT: I'm not ruling on the scope. I don't  
12 know what the scope of the Florida litigation is going to be,  
13 because that's the Florida judge's job. If the Florida judge  
14 makes a determination like I did in my March 8, 2012, order  
15 the limit the scope of discovery, that would clearly apply to  
16 these depositions, because they're being taken in that case.  
17 I don't know that that's going to happen. But if it does  
18 happen, I'm going to defer to that.

19 MR. PEEK: That's really what I was asking you, is  
20 to defer now, Your Honor, to that --

21 THE COURT: I'm not going to defer now, because I  
22 have no idea when or ever -- I've deferred to judges and I got  
23 stuck waiting for six months for somebody in South Carolina.  
24 And so I'm not doing it again.

25 MR. PEEK: And I've been in here when you've had

1 that issue, Your Honor. But what Mr. Bice says to you is, I  
2 should be allowed to do all of these things about defamation  
3 and the scope of the defamation action should allow me to do  
4 all of these things. That's -- Florida law is different than  
5 Nevada law. And I didn't want to brief that, because I  
6 thought it was more appropriate that a Florida judge make  
7 those decisions, as opposed to a Nevada judge make those  
8 decisions.

9 THE COURT: And I don't disagree. But in the  
10 absence of a Florida judge having made that decision I am  
11 permitting the depositions to forward, but limiting the  
12 document responses as I said.

13 MR. PEEK: Thank you, Your Honor.

14 THE COURT: All right. Anything else?

15 Let's go to the request for additional discovery  
16 related to your sanctions motion that is currently pending for  
17 December 27th and whether you really want to have any  
18 additional stuff or you just want to talk to me about  
19 attorneys' fees based on the findings I've already made.

20 MR. BICE: No, I do want to talk to you about  
21 additional stuff, Your Honor. You have made findings. But,  
22 as you will recall from the -- both the discovery that you  
23 permitted preceding the evidentiary hearing on your sanctions  
24 motion -- or not your -- yeah, it was really the Court's  
25 sanctions motion.

1 THE COURT: It was.

2 MR. BICE: It was.

3 THE COURT: It was sua sponte.

4 MR. BICE: It was sua sponte.

5 As you will recall, there were a lot of issues that  
6 had come up in that discovery, both in the discovery and at  
7 the evidentiary hearing itself, relative to the scope of  
8 questions and our ability to determine the involvement of  
9 executives at Las Vegas Sands and at Sands China in the  
10 involvement in the concealing of evidence from us and from the  
11 Court. And the Court had indicated to us that it wasn't --  
12 that was beyond the scope of its particular hearing and  
13 therefore would address that at a subsequent point in time  
14 relative to a Rule 37 motion to be brought by us, which is  
15 what we have brought, in part not just because of the past  
16 conduct, but because we believe that that conduct has  
17 continued even past the evidentiary hearing that you have  
18 directed, and that's what's on the -- that's what's part of  
19 our motion that is set at the end of the month.

20 THE COURT: So let me ask you a question, Mr.  
21 Bice --

22 MR. BICE: Yeah.

23 THE COURT: -- because I am clearly confused.

24 MR. BICE: All right.

25 THE COURT: My brief review -- because, understand

1 I'm in a different trial, so I'm looking at stuff, but I may  
2 not be paying as much attention to things that are on the end  
3 of December as I would usually.

4 It looks like what you're asking in that motion is  
5 largely duplicative of the substantive issues that I've  
6 already made determinations on.

7 MR. BICE: Part is true. Not completely.

8 THE COURT: Okay. What part are you trying to carve  
9 out that's different than what I've already had a hearing on?

10 MR. BICE: Relative to -- well, there's two parts, I  
11 would say. Part of that motion that is going to be heard at  
12 the end of the month is the ongoing -- what we believe is the  
13 ongoing noncompliance with your directive and instructions to  
14 them to review the documents in Macau, which we do not believe  
15 -- again, we were here a month ago, and we seem to be getting  
16 very conflicting stories about what has transpired. After Mr.  
17 Weissman was here, as you will recall, from Munger Tolles, we  
18 had a hearing in front of you where Mr. Weissman had indicated  
19 they wanted to do the sequencing, and you shut that down  
20 immediately. We were led to believe then that the review was  
21 going on in Macau and we were going to either get a log of  
22 some sort that told us what it is that they claimed to have  
23 there relevant to the jurisdictional discovery or not.

24 We were here about a month ago, and Mr. Peek and Mr.  
25 Jones were here and told you they were going to be going to

1 Macau to review documents. After that hearing Ms. Spinelli  
2 and I were a little bit confused, because it didn't sound like  
3 anybody had been there, and we wanted to confirm that process  
4 had been underway.

5 Well, then we get a response that we believe just  
6 indicated that they had done nothing. And now we get a motion  
7 that was -- I guess it's on today, another motion that was --  
8 there's an OST signed for it, yes, that --

9 THE COURT: Max is handing it to me.

10 MR. BICE: -- which was given to us the day before  
11 yesterday at about 4:30. Which is really an attempt to  
12 preempt that issue. And we find that motion to be  
13 fascinating, Your Honor, in many respects, because now there  
14 are documents that are from back in August that they refused  
15 to give to us, but now they're giving them to the Court.

16 THE COURT: -- the OST. Did I?

17 MR. PEEK: You did, Your Honor. We were actually  
18 surprised that you did.

19 MR. BICE: Not as surprised as I was.

20 MR. PEEK: I was -- I was -- Your Honor, I have to  
21 say I was surprised that you signed it for today, because we  
22 did submit it to you at about 4:30 in the afternoon.

23 THE COURT: Okay. Keep going, Mr. Bice.

24 MR. BICE: Well, I haven't had a chance to address  
25 that motion. Obviously --



1 THE COURT: We're going to move it, because I didn't  
2 take this one home last night.

3 MR. BICE: Understood, Your Honor. So the point  
4 being here we've got a lot going on relative to documents in  
5 Macau and whether they reviewed those documents and whether  
6 they have been reviewing them since I believe it was sometime  
7 in May when they led -- when you told them the sequencing  
8 story wasn't going -- or attempt wasn't going to work. They  
9 never came back to you, they never sought any form of relief  
10 from you on that.

11 Then we get an email from Mr. Jones, who was new to  
12 the case, which gave us a firm belief that nothing has  
13 transpired in terms of review. And then we get this motion  
14 which we have only preliminarily reviewed, Your Honor, and it  
15 seems to confirm that story, because now they're basically  
16 asking you for a protective order that says that they don't  
17 have to --

18 THE COURT: Okay.

19 MR. BICE: -- some six months later.

20 THE COURT: So let's talk for just a second about  
21 that motion for protective order related to the search of the  
22 ESI that's in Macau. When will you all be ready to talk to  
23 me, understanding for some reason I didn't take this one home  
24 last night?

25 MR. PEEK: I'll let the Jones brothers handle that,

1 Your Honor, even though it's my motion. Mark's the one that's  
2 been to Macau.

3 MR. BICE: And we are obviously, Your Honor, going  
4 to want to respond to it.

5 THE COURT: I know.

6 MR. BICE: It's very extensive.

7 THE COURT: I'm trying to find a time for us to talk  
8 about it.

9 MR. BICE: Understood.

10 THE COURT: Scheduling.

11 MR. MARK JONES: Your Honor, we have been the  
12 process throughout this, and since [inaudible] and before that  
13 the short version is that we believe that if everything goes  
14 according to plan [inaudible] the documents should make their  
15 way out of Macau to the Court and to counsel, and we're still  
16 confirming that we captured all of the Jacobs ESI, and we  
17 don't know the volume as of yet, and that's the only --

18 THE COURT: So my question is do you want the  
19 December 13th or December 18th is really my question.

20 MR. MARK JONES: I'm sorry, Your Honor?

21 THE COURT: December 13th or 18th for the hearing?

22 MR. PEEK: 18th would be better for me.

23 MR. BICE: Can we move it to the 27th, which we're  
24 going to be here anyway, or theoretically we're going to be  
25 here anyway.

1 THE COURT: Because somebody's going to tell me  
2 they're having Christmas with their kids. I don't know which  
3 one of the people in the room's going to say that. Okay. I  
4 had a volunteer to say it.

5 MR. PEEK: I'm going to be with my two teenage  
6 daughters in Reno, Your Honor. And one of my -- we'll just be  
7 home that week.

8 THE COURT: Well, let's -- I'm going to talk about  
9 scheduling in a minute. But do you want to move the motion  
10 for protective order on whether you have to search the  
11 information in Macau to the 13th or the 18th?

12 MR. MARK JONES: The 18th, Your Honor.

13 THE COURT: Okay. So we're going to start with that  
14 on the 18th.

15 Now let's go back to your motion that you want to do  
16 -- it sounds like this is really a motion to compel, Mr. Bice,  
17 because I've had representations made to me in court that  
18 certain discovery obligations were going to be done --

19 MR. BICE: Yes.

20 THE COURT: -- and maybe we haven't met that  
21 schedule.

22 MR. BICE: Well, it is -- it is in addition to that.  
23 And I don't disagree with you that --

24 THE COURT: Well, what's the in addition? I'm  
25 trying to get to what's really the subject of the Rule 37

1 motion so I can determine if there's anything I should let you  
2 do discovery on, because I'm not inclined to do so.

3 MR. BICE: Okay. Well, you shouldn't give me that  
4 warning, because now I'm going to try and persuade you  
5 otherwise. But I'm going to do so briefly.

6 THE COURT: I know. That's why I gave you the hint.

7 MR. BICE: Your Honor, as you will recall, you had  
8 indicated at the hearing and both during the discovery process  
9 -- they were refusing to provide information because the  
10 testimony was principally coming from lawyers, and so they  
11 were refusing to provide a whole host of information about  
12 what executives were involved, when they were involved, who  
13 reviewed the documents, where they sent them to, et cetera,  
14 all of --

15 THE COURT: I had the IT guy tell me it was a  
16 decision made by management. That's the guy who sat on the  
17 stand, and he told me management made that decision.

18 MR. BICE: And we tried to get into more detail with  
19 him in his deposition on that, and they claimed either  
20 privilege or he hadn't been prepared on those subject matters.  
21 That's why we had -- and as you'll recall, at the evidentiary  
22 hearing itself we asked the lawyers these specific questions,  
23 did Mr. Leven -- was Mr. Leven involved in that decision, was  
24 Mr. Adelson involved.

25 THE COURT: We got attorney-client. That's why I

1 had Sam Lionel here.

2 MR. BICE: Privilege, privilege, privilege,  
3 privilege. And you had indicated to us at that point in time  
4 it was because we were asking the lawyers.

5 THE COURT: That's right.

6 MR. BICE: So what we're entitled to do is we're  
7 entitled to find out what executives were involved in this  
8 process of concealing the evidence from us. And I know that  
9 they don't want to do that, but we're entitled to know that as  
10 part of our Rule 37 sanctions --

11 THE COURT: Okay.

12 MR. BICE: -- both on the past activity, as well as  
13 that going forward. Because you'll also recall they wouldn't  
14 provide to us -- and this is what we find fascinating about  
15 this latest motion -- they wouldn't provide to us their  
16 contacts with the Macau Government. Well, now they want to  
17 release some of them, the ones that they think are helpful to  
18 them. And again it's this garbling of the truth, as the  
19 Nevada Supreme Court says, when you try and selectively waive  
20 information that you think is helpful to yourself but then you  
21 invoke privilege on any questions or followup.

22 THE COURT: It's called the sword and shield  
23 doctrine.

24 MR. BICE: Yes.

25 THE COURT: So basically what you're trying to tell

1 me is that, since I wouldn't let you take the depositions of  
2 certain executives during the discovery before my Rule 37  
3 sanctions, you want me to now let you take those executives'  
4 depositions understanding you may be faced with all the  
5 privilege issues again.

6 MR. BICE: We may be. But we think that we can  
7 certainly have a better shot at --

8 THE COURT: So what is the purpose, since I've  
9 already granted you all the fees related to the work that  
10 would have been accomplished related to those decisions by  
11 executives?

12 MR. BICE: We are seeking additional forms of  
13 sanctions, Your Honor, in addition to fees under Rule 37.

14 THE COURT: Okay. We're not going to do any more  
15 discovery, then.

16 MR. BICE: What's that?

17 THE COURT: We're not going to do any more  
18 discovery. You can ask me for the additional sanctions, but I  
19 had testimony from the IT, the head of IT for the whole  
20 company --

21 MR. BICE: I understand that.

22 THE COURT: -- and I understood what he told me. It  
23 was a decision made by the company, not a decision made by the  
24 lawyers. He told me that. I heard him. What was his name?

25 MR. BICE: Mr. Singh.

1 MR. PEEK: Manjit Singh, Your Honor.

2 THE COURT: Mr. Singh.

3 MR. BICE: But the problem with that, Your Honor, is  
4 at the same time we asked questions about the involvement of  
5 personnel, and there were claims of privilege, and you had  
6 indicated to us we would get into that relative to our motion,  
7 as opposed to the Court's motion, because that was directed at  
8 representations to the Court.

9 THE COURT: I was surprised I heard that testimony  
10 in my evidentiary hearing. And as a result of hearing that  
11 testimony in my evidentiary hearing I believe I covered the  
12 issue related to misconduct of management in making the  
13 decision to mislead the Court, what I believed was a decision  
14 to mislead the Court.

15 MR. BICE: So our --

16 THE COURT: I know the Sands still disagrees and  
17 says it wasn't wilful, because I read your footnote.

18 MR. BICE: I understand that that is what they  
19 claim. But, Your Honor, again, they invoke privilege  
20 selectively, and they have done it yet again in this current  
21 motion.

22 THE COURT: I'm not saying you won't be able to get  
23 there some other day. I'm on jurisdictional discovery. I did  
24 the sanctions hearing related to jurisdictional discovery.  
25 You may well be able to get into some of those other issues

1 later, because it will certainly go to the credibility that  
2 witnesses may have. But in getting ready for my  
3 jurisdictional hearing I am not going to go there now.

4 MR. BICE: I will want to readdress this very point  
5 with you when we address that motion, because --

6 THE COURT: Yes. I'm not precluding you.

7 MR. BICE: Yeah. It seems to be a very selective  
8 disclosure of information, Your Honor.the

9 THE COURT: I'm not saying they weren't selective.  
10 I saw what they did. I was here.

11 MR. BICE: Thank you.

12 THE COURT: I watched Sam Lionel and Charlie McCrea  
13 do their job.

14 MR. BICE: Yes. I'm not criticizing them for doing  
15 their jobs. My point is I just don't think you can cut off  
16 some questions and allow others to be answered. That's been  
17 our only point.

18 THE COURT: I understand.

19 December 27th is when the issue related to their  
20 Rule 37 motion is scheduled. Do you want to move it up to  
21 December 18th, since you're all going to be here?

22 MR. BICE: We would ask that you do so.

23 MR. RANDALL JONES: The only concern I have, Your  
24 Honor, is that I know -- I think --

25 THE COURT: When are you going to be done with trial



1 with Judge Johnson?

2 MR. RANDALL JONES: Not till mid January.

3 THE COURT: Yeah. I'm not going to be done till mid  
4 January, either. And I don't want to wait till mid January to  
5 do this.

6 MR. PEEK: What you're talking about, you're just  
7 talking about an oral argument on their motion?

8 THE COURT: All I'm having is an oral argument.

9 MR. RANDALL JONES: If we set it at 8:30, Your Honor  
10 -- the 18th is what day of the week?

11 MR. PEEK: It's a Tuesday, Your Honor.

12 THE COURT: It's a Tuesday.

13 MR. RANDALL JONES: That's typically a very late day  
14 for Judge Johnson. So if we set this early, I can --

15 THE COURT: You want to come at 8:20 on the 18th and  
16 move the motion that's currently on the 27th to that day.

17 MR. BICE: We have Mr. Kaye's deposition that day,  
18 Your Honor.

19 THE COURT: Can you start him a little later since  
20 I've said you're not limited to a day?

21 MR. PEEK: He's noticed for 10:00 o'clock anyway,  
22 Your Honor, I believe, because that's when they notice all  
23 their depositions is for 10:00 o'clock.

24 THE COURT: Well, but sometimes it takes them a  
25 little longer to argue motions.

1 MR. PEEK: I hadn't noticed that, Your Honor.

2 THE COURT: You're part of the problem.

3 MR. PEEK: I'm trying to be part of the solution,  
4 Your Honor.

5 THE COURT: In fact, when I look at my calendar and  
6 I'm in trial and I see your name on there, I move the trial  
7 start time back.

8 MR. PEEK: Oh, my gosh. I'm crushed, Your Honor.

9 THE COURT: Yeah, I know you are. Anything else?

10 MR. BICE: No, Your Honor. Thank you.

11 MR. RANDALL JONES: Your Honor, just to be clear, I  
12 was going to respond to that. But I take it that the Court  
13 has denied that motion without prejudice.

14 THE COURT: The discovery motion?

15 MR. RANDALL JONES: Yes, Your Honor.

16 THE COURT: During this period of time where I am in  
17 jurisdictional discovery only, yes.

18 MR. RANDALL JONES: Denied their motion, just for  
19 the record, for all purposes at this time without prejudice?

20 THE COURT: Correct. On discovery.

21 MR. PEEK: And I'm assuming, Your Honor, you're also  
22 denying their motion for an evidentiary hearing, as well.

23 THE COURT: I may change my mind --

24 MR. PEEK: That comes -- that comes after the 18th

25 THE COURT: -- during the 18th hearing that an

1 evidentiary hearing would be appropriate. Certainly if I make  
2 a determination that evidentiary sanctions are appropriate,  
3 Mr. Jones, I will make the offer, as I always do under Nevada  
4 Power-Fluor, to the person who may be facing sanctions to have  
5 an evidentiary hearing.

6 MR. BICE: Thank you, Your Honor.

7 MR. RANDALL JONES: Your Honor, again, the only  
8 concern I have -- we didn't argue it, and I don't want to  
9 belabor it. I know you've had a lot of people waiting a long  
10 time. But there are -- there are issues that we want to make  
11 sure we address at that hearing on the 18th that we did not  
12 address today so that --

13 THE COURT: So are you going to file a brief?

14 MR. RANDALL JONES: Well, we did file an opposition  
15 to this motion, and we also will file --

16 THE COURT: No. Are you going to file a brief in  
17 response to the Rule 37 motion?

18 MR. RANDALL JONES: We will. Absolutely, Your  
19 Honor.

20 THE COURT: Okay. That's really what I will need,  
21 Mr. Jones.

22 MR. RANDALL JONES: Okay. Very good.

23 MR. PEEK: Your Honor, may we have -- and I -- maybe  
24 I could just ask counsel here, because we've been dealing with  
25 quite a few other motions so far, and I think that our

1 response date is due today on that motion, or maybe Monday on  
2 that motion. You don't know, Ms. Spinelli?

3 MS. SPINELLI: I don't know your deadlines. I just  
4 know mine.

5 MR. PEEK: Your Honor, we'd just like a little  
6 additional time until like the --

7 MR. RANDALL JONES: Monday?

8 MR. PEEK: No. I think it's due on Monday. I can  
9 look at my calendar, as well, Your Honor.

10 MR. BICE: I'm trying to check mine, Steve. I  
11 apologize.

12 THE COURT: Mr. Bice has all this technology at his  
13 fingertips. It's really odd when you're in a settlement  
14 conference and people are quoting from stuff and all they have  
15 is that little piece of plastic in front of them.

16 MR. BICE: I don't know what day it is due, but I  
17 will -- Mr. Peek and I and Mr. Jones will chat, and we will  
18 agree upon a time frame --

19 MR. PEEK: The deposition is due on the 10th, Your  
20 Honor.

21 THE COURT: Agree on a reasonable schedule, and I  
22 will need the reply brief by noon on the 17th.

23 MR. BICE: Understood, Your Honor. Thank you.

24 MR. PEEK: Our opposition's due the 10th, so we  
25 probably want until the 13th.

1 MR. MARK JONES: The motion to seal, do you want to  
2 deal with the motion to seal?

3 THE COURT: The motions to seal we handle on the  
4 chambers calendar.

5 MR. PEEK: Sort of administratively.

6 MR. RANDALL JONES: Thank you, Your Honor.

7 MR. PEEK: May I just consult with counsel for a  
8 moment, Your Honor, before you dismiss you?

9 THE COURT: Yes.

10 The motion to seal that's on calendar today, does  
11 anybody have an objection to sealing or redacting Exhibits D  
12 and F to the motion for protective order?

13 MR. BICE: Your Honor, I don't have -- for purposes  
14 of right now I don't, because Mr. Goldstein's deposition, the  
15 30 days is not --

16 THE COURT: So I'll grant it, and then if you need  
17 to change it, you'll let me know.

18 MR. BICE: In respect to Mr. Adelson's deposition we  
19 haven't had our meet and confer over those designations yet,  
20 so we may -- we're not going to oppose it for right -- for  
21 purposes of right now, but we may in the future.

22 MR. PEEK: Yeah. I understood that, Your Honor.

23 THE COURT: Okay.

24 MR. PEEK: They have an objection to some of the  
25 designations that we've made, and we'll address those with

1 them.

2 THE COURT: Billie Jo, the motion that was on the  
3 27th is now on the 18th.

4 'Bye. 8:00 a.m.

5 THE PROCEEDINGS CONCLUDED AT 9:41 A.M.

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CERTIFICATION

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

AFFIRMATION

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

FLORENCE HOYT  
Las Vegas, Nevada 89146

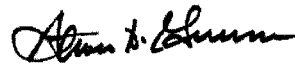
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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

26 STEVEN C. JACOBS,

27 Plaintiff,

28 v.

29 LAS VEGAS SANDS CORP., a Nevada  
30 corporation; SANDS CHINA LTD., a Cayman  
31 Islands corporation; SHELDON G. ADELSON,  
32 in his individual and representative capacity;  
33 DOES I-X; and ROE CORPORATIONS I-X,

34 Defendants.

35 AND ALL RELATED MATTERS.

CASE NO.: A627691-B  
DEPT NO.: XI

Date: December 27, 2012  
Time: 8:30 a.m.

**DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
SANCTIONS**

36  
37 Defendants Las Vegas Sands Corp. ("LVSC") and Sands China Ltd. ("SCL") submit the  
38 following opposition to Plaintiff's Motion for Sanctions filed on November 21, 2012.



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1     **1.     Introduction**

2             Plaintiff's motion for sanctions should be denied for at least three independent reasons.

3             **First**, the motion has no legal basis because it cites no specific court order that Defendants  
4     allegedly violated. Although Plaintiff purports to seek sanctions for alleged non-compliance with  
5     a discovery order, the Court never entered such an order, nor did Plaintiff ever seek one. Indeed,  
6     Plaintiff chose *not* to file a motion challenging the scope of Defendants' document production,  
7     even though Defendants repeatedly described their planned production in correspondence, court  
8     filings and court appearances between June and October 2012. As a result, the Court never  
9     entered an order directing Defendants to produce documents, and Plaintiff therefore has no legal  
10    basis for his motion.

11            **Second**, Plaintiff also has no *factual* basis for his motion. While Plaintiff broadly asserts  
12    that Defendants have conducted no searches of electronic files, this claim is simply not true. In  
13    the past several months, Defendants have provided a rolling production of more than 145,000  
14    pages of documents based on an extensive search of ESI and other records, all at a cost of more  
15    than \$2,000,000. This production has included more than 15,000 pages of documents from ESI  
16    that had been "ghost imaged" and transferred to the United States in August 2010. With the  
17    completion of this production, the only remaining step is to review the ESI in Macau for which  
18    Plaintiff is a custodian to ensure that it does not contain any responsive documents not found in  
19    the ghost-imaged ESI transferred to the United States. To this end, on November 29, 2012, after  
20    repeated requests, Defendants obtained permission from Macau's Office of Data Privacy  
21    Protection ("OPDP") to conduct such a review in Macau, and SCL is now proceeding with the  
22    completion of this final step. These undisputed facts plainly demonstrate Defendants' good faith,  
23    and they directly refute the baseless factual assertions made in Plaintiff's memorandum.

24            **Third**, Plaintiff makes no showing of prejudice, even though he now seeks the drastic  
25    sanction of a directed finding of personal jurisdiction. In his memorandum, Plaintiff nowhere  
26    explains exactly what documents Defendants have supposedly failed to produce, or how  
27    Defendants' alleged non-compliance has prejudiced his case. This striking omission is not  
28    surprising in light of Defendants' production of virtually all of the discovery having any

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conceivable relevance to Plaintiff's jurisdictional theories. This discovery includes not only the voluminous document production described above, but also the depositions of LVSC's Chairman, its Executive Vice President of Gaming, and its Chief Operating Officer, as well as the upcoming deposition of its Chief Financial Officer. On these facts, Plaintiff can make no showing of prejudice, let alone a sufficient showing to warrant the sanctions he seeks.

Accordingly, for each of these reasons, Plaintiff's motion should be denied.

## 2. Factual Background

Defendants respectfully suggest that the history of the jurisdictional discovery in this case undercuts all of Plaintiff's arguments for sanctions. The relevant facts are set forth below.

### (a) *The Scope of Jurisdictional Discovery*

On March 8, 2012, the Court entered an Order granting Plaintiff's motion to conduct discovery on certain jurisdictional issues. (March 8, 2012 Order, Ex. C to SCL's Motion for a Protective Order, at 1-6).<sup>1</sup> In the Order, the Court authorized Plaintiff to take the depositions of four individuals (Messrs. Adelson, Leven, Goldstein and Kay) and to seek the production of fifteen categories of documents. (*Id.* at 1-3). As an "overriding limitation" on the scope of the Order, the Court directed the parties to conduct only "discovery related to activities that were done for or on behalf of Sands China." (*Id.* at 6.)<sup>2</sup> The Court also made clear that its order was *not* self-executing:

You're going to have to do formal discovery requests. . . let's not assume that just because I said you can do these things . . . that that means that [Defendants] have to immediately respond. They don't.

(Oct. 13, 2011 Tr., Ex. E, at 65).

Accordingly, on December 23 and 27, 2011, Plaintiff served discovery requests seeking documents from both SCL and LVSC, including (1) documents establishing the date and location of SCL Board meetings; (2) documents reflecting travel to Hong Kong, Macau or China by

<sup>1</sup> For the convenience of the Court, this Memorandum incorporates by reference the set of exhibits submitted in support of "Defendant Sands China Ltd.'s Motion for a Protective Order on Order Shortening Time." The Memorandum also incorporates by reference the factual points and legal arguments made in Defendants' Motion for a Protective Order.

<sup>2</sup> Although the Court's Order was not entered until March 8, 2012, it provided this clarification in a hearing held on October 13, 2011.

certain LVSC executives; (3) agreements between SCL and LVSC; (4) contracts between SCL and other entities doing business in Nevada; and (5) other documents reflecting work performed on behalf of SCL in Nevada by LVSC or other entities. (*See* Exs. F-G).

(b) *The May 24, 2012 Status Check*

On May 24, 2012, the parties appeared for a scheduled hearing on the status of discovery. (May 24, 2012 Tr., Ex. S, at 12-14.). At the hearing, LVSC announced that in March it had begun a rolling production of responsive documents, which was still ongoing. (*Id.*, at 8-9). SCL stated that it had not yet reviewed Plaintiff's ESI, explaining that it was waiting until the electronic media that Plaintiff had taken with him when he left Macau could first be searched. (*Id.*, at 12-14) The Court responded that this kind of "staggered" approach was improper, and it vacated the scheduled date for the jurisdictional hearing. (*Id.*, at 14). The Court also instructed the parties to return for another status check on June 28, 2012, adding that the parties should submit status reports setting forth both the current status of discovery and the parties' respective plans for the remainder of discovery. (*Id.*, at 20).

(c) *Defendants Describe Their Plans for the Remaining Document Production*

On June 27, 2012, Defendants submitted a Joint Status Conference Statement summarizing their production to date and outlining their plans for future production. (Ex. T). In the Statement, Defendants began by describing the ghost-imaged copy of Plaintiff's ESI that had been transferred to the United States in August 2010. (*Id.*, at 5). Defendants also described the process they had used in making their production to date, including the identification of relevant custodians and appropriate search terms. (*Id.*, at 2-4). This process yielded documents responsive to virtually all of the major categories of Plaintiff's document requests. (*Id.*, at 2-3).

Defendants then noted that their "future production" would generally consist of documents for which Plaintiff was the custodian. (*Id.*, at 4). As to these documents, Defendants stated that they intended to implement a two-step approach by (1) immediately searching Plaintiff's ESI that had been transferred to the United States in August, 2010;<sup>3</sup> and (2) then reviewing Plaintiff's ESI

<sup>3</sup> On May 29, 2012, the OPDP informed Defendants that SCL could produce documents from the Plaintiff's ESI in the United States without violating the MPDPA. (Ex. Y).

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1 in Macau to determine if it contained any responsive documents not found in the transferred ESI.  
2 (*Id.*, at 6). Defendants explained that by first producing documents from the ghost-imaged ESI in  
3 the United States, SCL could avoid “difficult questions” under Macau’s Personal Data Protection  
4 Act (“MPDPA”). (*Id.*, at 5). Indeed, under this approach, a problem would arise only if the  
5 Macau data contained responsive documents *not found* in the transferred ESI—and even then, only  
6 if such documents also contained “personal data” within the meaning of the MPDPA. (*Id.*, at 6-  
7 7).

8 At the June 28, 2012 hearing, Defendants again referred to their planned two-step approach  
9 in producing Plaintiff’s ESI. At that time, SCL’s then-counsel stated that SCL intended to  
10 “double and redouble” its efforts to “review the *Jacobs documents that are in the United States*  
11 and get those documents that are responsive to jurisdiction produced as quickly as we can.”  
12 (June 28, 2012 Tr., Ex. A, at 12) (emphasis added). However, SCL’s counsel also noted that  
13 Plaintiff’s original ESI in Macau still presented difficult legal issues:

14 . . . And we think that we can get all of the documents, *other than documents*  
15 *in Macau* – and we have to decide what the Court is going to do with that, because  
16 *documents in Macau are a whole different situation and involve legal issues that*  
17 *may or may not have to be resolved on the jurisdictional issue.* But we think we can  
18 get through all of the Jacobs documents and all of the other documents *in the United*  
19 *States* by Labor Day . . .

18 (*Id.*, at 13) (emphasis added).<sup>4</sup> Thus, consistent with the discovery plan outlined in Defendants’  
19 court filing, SCL’s counsel distinguished between Plaintiff’s ESI in the United States (which  
20 Defendants would review immediately) and the ESI in Macau (which SCL would review only  
21 after the completion of the U.S. search).

22 Furthermore, at the same hearing, Plaintiff made no objection to this procedure or raise  
23 any other concerns about Defendants’ plans for discovery in Macau, even though Defendants had  
24 fully set forth their planned two-step approach in their June 27, 2012 Statement. This silence  
25 reflected Plaintiff’s recognition that Defendants’ approach did not represent a form of “staggered”

26 <sup>4</sup> In his Motion for Sanctions, Plaintiff quotes SCL’s counsel as saying that SCL was going to  
27 “double and re-double its efforts” and then claims that SCL’s counsel was promising to review documents  
28 in Macau. But as the full quotation shows, the promise was to review and produce documents from the  
Plaintiff’s ESI *in the United States*. SCL made no promises at all with respect to Macau and in fact  
reiterated the difficulties of producing documents that are located in Macau.

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1 or “sequenced” discovery—in which one party conditions the production of documents on the  
2 other party’s production of its documents—but instead represented the most efficient way to  
3 produce the documents.

4 Finally, as part of the “meet and confer” process with Plaintiff’s counsel, Defendants  
5 outlined the same major elements of their plans for document production. For example, in a July  
6 30, 2012 letter, Defendants again noted that their document production plan called for a “review  
7 of documents in the United States *in the first instance*” before undertaking any search in Macau.  
8 (Ex. W) (emphasis added). Defendants also reiterated that their search in Macau would focus  
9 solely on documents for which Plaintiff was the custodian—and that Defendants did not intend to  
10 conduct the same expansive search in Macau that LVSC was conducting in the United States.  
11 (*Id.*, at 1-2).

12 Accordingly, in court filings, correspondence and open court, Defendants repeatedly  
13 stressed that (1) they intended to review Plaintiff’s ESI in Macau only after reviewing Plaintiff’s  
14 ESI in the United States; and (2) the search in Macau would be limited to documents for which  
15 Plaintiff was the custodian.

16 In their communications with Plaintiff, Defendants also emphasized one other point: If  
17 Plaintiff was dissatisfied with any part of Defendants’ plans for document production, Plaintiff  
18 should file a motion to compel with the Court. (*Id.*, at 2). In so doing, Defendants echoed the  
19 Court’s observation during the June 28, 2012 hearing that the “appropriate” way to raise a  
20 discovery dispute is to file a motion after first going through the “meet-and-confer” process.  
21 (June 28, 2012 Tr., Ex. A, at 12-13). After making this observation, the Court noted that “I  
22 anticipate *always* that issues related to compelling documents will be handled by motion.” (*Id.*, at  
23 13) (emphasis added). Yet, notwithstanding the Court’s unambiguous comments—and  
24 notwithstanding Defendants’ repeated descriptions of their plans for document production—  
25 Plaintiff never filed a motion asking the Court to compel Defendants to produce documents or to  
26 otherwise revise their document production plans.

27 ///

28 ///

1           (d)    *The Court's September 14, 2012 Order*

2           After Defendants disclosed that Plaintiff's ESI had been transferred to the United States,  
3           the Court held an evidentiary hearing on September 10-12, 2012 to determine whether sanctions  
4           should be imposed. At the conclusion of the hearing, the Court issued a September 14, 2012  
5           Order imposing sanctions on Defendants and directing that (*inter alia*) "Sands China will be  
6           precluded from raising the MPDPA as an objection or as a defense to admission, disclosure or  
7           production of any documents." (*Id.*, at 8). However, the Court also noted that "[t]his does not  
8           prevent the Defendants from raising *any other appropriate objection or privilege*." (*Id.*, at 8, n.  
9           12) (emphasis added).

10          (e)    *Defendants' Subsequent Document Production*

11          Following the June 24, 2012 Status Check, the parties conducted several meet-and-confer  
12          sessions to discuss Plaintiff's claim that Defendants' document production had been inadequate.  
13          (See SCL's "Motion for a Protective Order," at 15-16). The goal of the discussions was to (1)  
14          agree on a set of expanded search terms that LVSC could use to search the ESI of custodians  
15          whose documents had already been searched once; and (2) agree on the identity of other  
16          custodians who might have traded relevant emails with Plaintiff during the relevant period. (*Id.*).  
17          However, Plaintiff ultimately refused to continue the discussions and insisted that Defendants  
18          select their own search terms for their own searches. (*Id.*, at 16).

19          Eventually, Defendants did just that. Beginning in July 2012, Defendants unilaterally  
20          expanded the scope of their earlier searches by adding four new custodians and increasing the  
21          number of search terms used to identify potentially relevant documents. (*Id.*). With the expanded  
22          set of search terms, LVSC then conducted another search for responsive documents maintained  
23          by the original custodians it had reviewed earlier. (*Id.*). LVSC also used the expanded search  
24          terms to review Plaintiff's ghost-imaged ESI that had been transferred to the United States, as  
25          well as the emails sent to and from Plaintiff by the expanded list of LVSC custodians. (*Id.*).

26          In early November 2012, Defendants completed their production of virtually all  
27          non-duplicative documents responsive to Plaintiff's jurisdictional discovery requests. (*Id.*, at 6,  
28          16). Using the expanded search terms and a longer list of custodians, Defendants produced more

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1 than 145,000 pages of documents at a cost of more than \$2,000,000. (*Id.*) These documents  
2 included responsive documents from Plaintiff's transferred ESI, as well as (1) contracts between  
3 SCL and LVSC; (2) contracts between SCL and entities doing business in Nevada, (3) documents  
4 relating to services performed by LVSC executives on behalf of SCL. (4) documents relating to  
5 the location and attendees at Board meetings, (5) documents relating to the activities of  
6 Messrs. Leven and Goldstein on behalf of SCL; and (6) documents relating to services performed  
7 by LVSC and other entities on behalf of LVSC in Nevada. (*Id.*, at 11-16).

8 Thus, by November 2012, the only remaining step was to review Plaintiff's ESI in Macau  
9 to determine if it contained any responsive documents that had not been ghost-imaged in the ESI  
10 transferred to the United States.<sup>5</sup>

11 (*f*) *Discovery in Macau*

12 Within a month of the Court's September 14, 2012 Order, SCL replaced its counsel with  
13 the undersigned counsel who entered their appearance in October 2012. Almost immediately,  
14 SCL's new counsel attempted to meet and confer with Plaintiff's counsel to discuss the scope of  
15 any document review in Macau. However, Plaintiff's lawyers declined to discuss the scope of the  
16 Macau search with SCL's new counsel. (*Id.*, at 16; *see also* Ex. BB).<sup>6</sup>

17 As a result, Defendants were left to make their own determinations as to how to conduct  
18 the Macau discovery in light of the Court's September 14, 2012 Order. Although the Order  
19 precluded Defendants from invoking the MPDPA as an "objection" to the production of Macau  
20 documents, it did *not* preclude SCL from attempting to comply with the laws of Macau in  
21 discharging its discovery obligations. As noted earlier, the availability of Plaintiff's ghost-imaged  
22 ESI in the United States enabled Defendants to avoid issues under the MPDPA by producing  
23 responsive documents located in the United States. The only remaining issue was whether the  
24 ghost-imaged ESI in the United States somehow failed to capture any responsive documents

25  
26 <sup>5</sup> On December 6, 2012, the Court also ordered that Defendants produce additional travel records and make  
Messrs. Adelson, Leven and Goldstein available for additional deposition time.

27 <sup>6</sup> Mr. Jones' October 30, 2012 e-mail to D. Spinelli (Ex. BB) and the transcript of the October 30, 2012  
28 hearing (Ex. CC) are the only exhibits cited in this Memorandum that do not appear as part of the exhibits filed with  
SCL's Motion for a Protective Order. Accordingly, Exs. BB and CC will be filed along with this Memorandum.

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1 contained in Plaintiff's ESI in Macau—an issue that could be determined only by reviewing  
2 Plaintiff's ESI in Macau.

3 Accordingly, at the October 30, 2012 Status Check, Defendants reported to the Court that  
4 they were about to undertake this final step:

5 MR. PEEK: . . . *we're going to go to Macau, and we're*  
6 *going to look at documents in Macau.* So  
7 whether or not there's anything there that relates  
8 to jurisdictional discovery that you've allowed  
them to take will be – only can be found out  
when you go there.

9 THE COURT: Okay.

10 \* \* \*

11 MR. PEEK: . . . *We will be going to Macau to begin that*  
12 *review as to whether or not there are any*  
13 *documents over in Macau.* You've got to get  
there to be able to find that out.

14 (Oct. 30, 2012 Tr., Ex. CC, at 8, 12) (emphasis added). At the same hearing, Plaintiff  
15 raised no objections to these comments, nor did he claim that the upcoming Macau review would  
16 somehow prejudice his ability to present his jurisdictional case. (*Id.*, at 8-12). On the contrary,  
17 Plaintiff insisted that the parties could still proceed to a jurisdictional hearing in late February or  
18 early March 2013. (*Id.*).

19 On November 6, 2012, SCL's new counsel flew to Macau to meet with representatives of  
20 OPDP to attempt to obtain their permission to review documents in Macau.<sup>7</sup> On November 29,  
21 2012, OPDP notified SCL that the Macau lawyers of an SCL subsidiary (Venetian Macau, Ltd.)  
22 could review the data in Macau. (Ex. AA).

23 Under this decision, the Macau lawyers can review Plaintiff's ESI to determine if it  
24 contains any responsive documents not found in the ghost-imaged ESI data transferred to the  
25 United States. (*Id.*). If it does, the Macau lawyers can then determine if the documents contain  
26 any "personal data" and, if so, whether consents can be obtained or the data can be redacted.

27  
28 <sup>7</sup> OPDP had previously taken the position that the MPDPA barred SCL's lawyers from even reviewing the  
ESI in Macau.



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(*Id.*). By following this procedure, SCL hopes to be able to discharge its obligations to both the Court and OPDP in Macau without any conflict. Defendants have now begun the process of reviewing Plaintiff's ESI in Macau, and they expect to complete the review by January 15, 2013.

### 3. Legal Analysis

#### (a) Plaintiff's Motion Has No Legal Basis

Plaintiff's motion for sanctions has no legal basis because it fails to cite any specific discovery order that Defendants purportedly violated. The Nevada Supreme Court has held that "[u]nder NRCP 37(b)(2), a district court has discretion to sanction a party for its failure to comply with a *discovery order*, which includes document production under NRCP 16.1." *Clark Co. School Dist. v. Richardson Const. Co.*, 123 Nev. 382, 391; 168 P.3d 87, 93 (2007) (emphasis added). Under this standard, a district court can impose sanctions "only when there has been willful noncompliance with the discovery order or willful failure to produce documents as required under NRCP 16.1." *Id.*

This requirement comports with the same requirement imposed by federal courts in dealing the federal analogue of NRCP 37(b). In a long line of cases, the federal courts have uniformly held that a clear and explicit court order is a necessary prerequisite for the imposition of sanctions under Fed.R.Civ.P. 37(b). *See, e.g., Unigard Sec. Ins. Co. v. Lakewood Eng'g & Mfg. Corp.*, 982 F.2d 363, 368 (9<sup>th</sup> Cir. 1992).<sup>8</sup> The rationale for this requirement is that the imposition of sanctions is a drastic remedy that should be considered only when a party has engaged in willful or bad faith conduct. *LeGrande v. Adecco*, 233 F.R.D. 253, 257 (N.D.N.Y.) "In order for an act to constitute willfulness, the court's order must be clear with no misunderstanding of the intent of the order and, further, there is no other factor beyond the party's control which contributed to the non-compliance." *Id.*

In this case, Plaintiff expressly seeks sanctions under NRCP 37, but he nowhere identifies the precise discovery order that Defendants allegedly breached. This omission is not surprising. The Court never entered such an order because Plaintiff chose *not* to file a motion challenging

<sup>8</sup> See also *R.W. Int'l Corp. v. Welch Foods, Inc.*, 937 F.2d 11, 15 (1st Cir. 1991); *Salahuddin v. Harris*, 782 F.2d 1127, 1131 (2d Cir. 1986); *Bair v. California State Dept. of Transp.*, 867 F. Supp. 2d 1058, 1068 (N.D. Cal. 2012) (citing *Unigard*); *Am. Prop. Const. Co. v. Sprenger Lang Found.*, 274 F.R.D. 1, 10 (D.D.C. 2011).

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1 Defendants' document production, even though Plaintiff has been well aware of the scope of that  
2 production since at least June 2012.

3 In particular, beginning in June 2012 and continuing through October, Defendants  
4 repeatedly informed Plaintiff that SCL would conduct a search of Plaintiff's ESI in Macau only  
5 after Defendants had completed their search of ESI and other documents (including Plaintiff's  
6 ESI) in the United States. Defendants also informed Plaintiff that in light of the limited nature of  
7 the jurisdictional inquiry the search in Macau would be limited to documents for which Plaintiff  
8 was the custodian.

9 Consistent with this protocol, as the completion of the production of the U.S. documents  
10 drew near in October 2012, Defendants reported to the Court that they intended to go to Macau  
11 for the final stage of their document production. (*See Oct. 30, 2012 Tr., Ex. CC, at 8, 12*). Yet,  
12 at no time during this process—not even after the October 30, 2012 Status Check—did Plaintiff  
13 ever file a motion asking the Court to compel Defendants to produce specific documents or to  
14 otherwise revise the schedule for Defendants' document production. Instead, Plaintiff skipped this  
15 requirement entirely and simply filed his motion for sanctions on November 21, 2012.<sup>9</sup>

16 The facts of this case thus stand in sharp contrast to the facts of *Insurance Corp of Ireland,*  
17 *Ltd. v. Compagnie des Bauxities de Guinee*, 456 U.S. 694 (1982), which is the principal authority  
18 cited by Plaintiff. In *Insurance Corp. of Ireland*, the trial court issued an order granting the  
19 plaintiff's motion to compel defendants to produce certain specifically-identified documents  
20 within 90 days. *Id.*, at 698. The trial court later modified its order by extending the time for  
21 production by an additional 90 days, and it expressly warned defendants that their failure to  
22 comply with the order would result in sanctions. *Id.* When defendants thereafter refused to  
23 produce the documents, the trial court imposed sanctions under Fed.R.Civ.P. 37 by striking the  
24 defense of lack of personal jurisdiction. *Id.*, at 699. On these facts, the Supreme Court upheld the  
25 Rule 37 sanction as a "just" remedy for defendants' repeated refusal to comply with an explicit  
26 and unambiguous court order. *Id.*, at 707.

27 <sup>9</sup> Because Plaintiff's motion for sanctions raises discovery issues that should have been raised in a motion to  
28 compel, Defendants filed a Motion for Protective Order on December 4, 2012. In their motion, Defendants request  
an order providing that SCL has no obligation to search the ESI in Macau of custodians other than Plaintiff.

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1 By contrast, in this case, the Court issued *no discovery order at all*. Because Plaintiff  
2 chose not to challenge Defendants' document production, the Court never had occasion to rule on  
3 its propriety or to issue an order requiring Defendants to produce specific documents within a  
4 specific timeframe. Nor does Plaintiff cite any other *specific* discovery obligation—whether  
5 based on a court order, NRCP 16.1 or any other legal source—that Defendants allegedly violated.  
6 As a result, Plaintiff has no legal basis for sanctions under NRCP 37(b), and on this ground alone,  
7 his motion should be denied.

8 (b) *Plaintiff's Motion Has No Factual Basis*

9 Plaintiff's motion also has no factual basis. To establish the factual predicate for sanctions  
10 under NRCP 37(b)(2), Plaintiff must demonstrate not only that Defendants failed to comply with  
11 a discovery order, but also that such non-compliance was willful. *Clark Co. School District*, 123  
12 Nev. At 391; 168 P.3d at 93. In the case, Plaintiff can make neither showing.

13 First, as shown above, Plaintiff makes no showing that Defendants violated even a  
14 generalized discovery obligation, let alone a specific court order. To be sure, in his motion,  
15 Plaintiff claims that Defendants have “done nothing” to complete their discovery obligations, and  
16 that SCL in particular has not even begun its search for responsive documents. (Pl. Memo., at  
17 4-5).

18 But these statements are simply not true. As detailed above, Defendants have completed  
19 their production of documents responsive to Plaintiff's jurisdictional discovery requests, except  
20 for the purely precautionary step of reviewing Plaintiff's ESI in Macau to determine if it contains  
21 any responsive and non-duplicative documents. Defendants are now proceeding with this review,  
22 and they expect to complete this process by January 15, 2013. As a consequence, Plaintiff's  
23 claims that Defendants have “done nothing” are entirely baseless.

24 Second, Plaintiff makes no showing that Defendants engaged in any form of *willful*  
25 misconduct—let alone willful noncompliance with a court order—which could justify the  
26 imposition of additional sanctions. In his memorandum, Plaintiff asserts that Defendants engaged  
27 in “fraud” and “deceit,” but he bases these allegations solely on the conduct that the Court  
28 previously addressed in its September 14, 2012 Order—*i.e.*, the failure to disclose the transfer of

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1 Plaintiff's ESI to the United States. (Pl. Memo., at 8-9, 14). Plaintiff nowhere identifies any  
2 other specific conduct by Defendants or their new counsel that could constitute "willful non-  
3 compliance" to justify the imposition of new sanctions. Instead, Plaintiff simply relies on  
4 generalized (and baseless) assertions that Defendants have still "done nothing" to comply with his  
5 document requests, and that this continuing non-compliance is contrary to Defendants' prior  
6 representations. (*Id.*, at 5).

7 But the facts show that Defendants have conducted their document production exactly as  
8 they said they would do all along, and that they are fully compliant with their discovery  
9 obligations. Indeed, Defendants have not only undertaken extraordinary discovery burdens at an  
10 extraordinary cost, but they have done so in the face of Plaintiff's persistent refusal to provide any  
11 good faith cooperation in the discovery process. At every turn, Plaintiff has demanded the most  
12 costly and burdensome of discovery alternatives. He has refused to stipulate to any facts that  
13 would eliminate the need for any of his document requests; he has demanded that both  
14 Defendants produce duplicate copies of responsive emails; he has refused to agree to search terms  
15 or custodians; and he has ignored a recent request to speak to SCL's new counsel about the scope  
16 of ESI discovery in Macau. (*See, e.g., Ex. BB*).

17 As a result, Defendants have been forced to unilaterally develop an expanded set of search  
18 terms, unilaterally identify an expanded list of custodians and unilaterally determine the scope of  
19 the ESI search in Macau. Yet, despite all this, Defendants have now produced all non-duplicative  
20 documents having any relevance to any plausible jurisdictional theory, subject only to the  
21 precautionary review now being undertaken in Macau and the additional discovery ordered by the  
22 Court on December 6, 2012. Plaintiff's claims to the contrary are factually baseless, and this  
23 complete failure of proof provides a second reason for denying Plaintiff's motion for sanctions.

24 (c) *Plaintiff Makes No Showing of Prejudice*

25 Plaintiff also makes no showing of prejudice, even though he seeks the drastic sanction of  
26 a judicial finding of personal jurisdiction. The courts have long recognized that a showing of  
27 prejudice is an important factor in determining whether sanctions are "just" under Rule 37(b).  
28 *See, e.g., Insurance Corp. of Ireland*, 456 U.S. at 709. For example, in *Insurance Corp. of*

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1 *Ireland*—the principal case cited by Plaintiff—the Supreme Court stressed that the defendants’  
2 refusal to comply with the trial court’s order meant that the plaintiff “was unable to establish the  
3 full extent of the contacts between [defendants] and Pennsylvania, the critical issue in proving  
4 personal jurisdiction.” *Id.*, at 707.

5 By contrast, in this case, while Plaintiff makes broad claims of “sabotage,”  
6 “concealment,” “obstruction” and “delay,” he nowhere describes exactly what types of documents  
7 Defendants have allegedly failed to produce, or exactly how Defendants’ document production  
8 has supposedly prejudiced his case.

9 Nor does Plaintiff explain why, if Defendants’ alleged non-compliance has “sabotaged”  
10 his case, he never filed a motion to compel, as this Court suggested during the June 28, 2012  
11 hearing. (June 28, 2012 Tr., Ex. B, at 12). Indeed, even at the October 30, 2012 hearing, when  
12 Defendants expressly noted their intention to conduct a document review in Macau, Plaintiff  
13 made no claims of “delay, obstruction and concealment.” (Oct. 30, 2012 Tr., Ex. CC, at 8).  
14 Instead, he insisted that, notwithstanding the Macau review, the jurisdictional hearing could *still*  
15 *go forward* in late February or early March 2013 (*id.*, at 8-12)—thus acknowledging that the  
16 Macau review will not prejudice his ability to present his jurisdictional theories.

17 Plaintiff’s acknowledgment underscores the extent to which Defendants have already  
18 produced virtually all of the non-duplicative documents responsive to Plaintiff’s jurisdictional  
19 discovery requests, including all responsive documents found in Plaintiff’s transferred ESI. The  
20 only remaining step (the search of Plaintiff’s ESI in Macau) is not likely to yield many (if any)  
21 responsive and non-duplicative documents, since Defendants have already produced the  
22 responsive documents from Plaintiff’s ghost-imaged ESI in the United States—and, of course,  
23 Plaintiff also has access to the ESI that he brought with him from Macau. Nevertheless, even as  
24 to these documents, Defendants recently secured permission from OPDP to conduct the review,  
25 and they expect to complete the process by January 15, 2013.

26 Accordingly, Plaintiff cannot show prejudice because (1) Defendants have already  
27 produced virtually all of the discovery (including Plaintiff’s ESI) having any conceivable  
28 relevance to Plaintiff’s jurisdictional theories; (2) Plaintiff’s ESI in Macau is not likely to contain

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1 any material documents that have not already been produced; and (3) in any event, even as to this  
2 data, Defendants are now proceeding with its review to determine if it contains any responsive  
3 and non-duplicative material.

4 In the absence of any showing of prejudice, Plaintiff's motion for sanctions should be  
5 denied.

6 **4. Conclusion**

7 For the foregoing reasons, as well as the reasons stated in SCL's Motion for a Protective  
8 Order, Defendants urge the Court to deny Plaintiff's motion for sanctions.

9 DATED December 12, 2012.

  
J. Stephen Peek, Esq.  
Robert J. Cassity, Esq.  
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*Attorneys for Las Vegas Sands Corp. and Sands  
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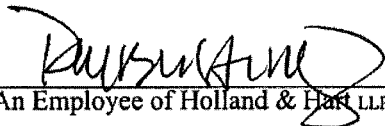
*Attorneys for Sands China, LTD.*

**CERTIFICATE OF SERVICE**

Pursuant to Nev. R. Civ. P. 5(b), I certify that on December 12, 2012, I served a true and correct copy of the foregoing **DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR SANCTIONS** via e-mail and by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

James J. Pisanelli, Esq.  
Debra L. Spinelli, Esq.  
Todd L. Bice, Esq.  
Pisanelli & Bice  
3883 Howard Hughes Parkway, Suite 800  
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*Attorney for Plaintiff*

  
An Employee of Holland & Hart LLP

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---

**Dineen Bergsing**

---

**From:** Dineen Bergsing  
**Sent:** Wednesday, December 12, 2012 4:38 PM  
**To:** JAMES J PISANELLI; dls@pisanellibice.com; tlb@pisanellibice.com; Kimberly Peets; see@pisanellibice.com  
**Cc:** Steve Peek; Bob Cassity; Theresa McCracken  
**Subject:** LV Sands/Jacobs - Defendants' Opposition to Plaintiff's Motion for Sanctions  
**Attachments:** 1179\_001

Please see attached Defendants' Opposition to Plaintiff's Motion for Sanctions. A copy to follow by mail.

**Dineen M. Bergsing**  
*Legal Assistant to J. Stephen Peek,  
Justin C. Jones, David J. Freeman  
and Nicole E. Lovelock*  
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## **EXHIBIT BB**

PA1645

From: [Mark Jones](#)  
To: [Debra Spinelli](#)  
Subject: Steven C. Jacobs v. LVSC, et al. -- follow up  
Date: Tuesday, October 30, 2012 4:51:51 PM

---

Debbie,

Steve Peek and I are requesting a meet-and-confer with your firm to go over the scope of our ESI review for SCL, which, I understand, is required by the June 23, 2011 Stipulation and Order Regarding ESI Discovery. Specifically, we need to reach an agreement during the meeting as to the custodians for whom information should be reviewed and the search terms to be used to identify potentially responsive jurisdictional information from those custodians. We would request the meeting this Thursday or Friday, and will make ourselves available on those dates at your convenience.

Thanks,

Mark

Mark M. Jones, Esq.

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3800 Howard Hughes Parkway, 17th Floor  
Las Vegas, Nevada 89169  
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Fax (702) 385-6001  
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---

From: Debra Spinelli (<mailto:dls@pisanellibice.com>)  
Sent: Tuesday, October 30, 2012 10:13 AM  
To: Steve Peek ([Speek@hollandhart.com](mailto:Speek@hollandhart.com)); Randall Jones; Mark Jones  
Cc: Todd Bice; James Pisanelli; Jennifer L. Braster; Eric T. Aldrian  
Subject: Steven C. Jacobs v. LVSC, et al. -- follow up


Steve --

I was pondering on my drive back from court and wanted to follow up on something you said at the status conference. You mentioned that you (meaning Defendants' counsel) were going to Macau to review documents. We were under the impression, for whatever reason, that this review process in Macau had already begun. Can you please confirm (1) if documents in Macau have been reviewed for jurisdiction yet; and (2) when you (or whomever attorney for Defendants) will be going to Macau for the document review you referenced? Among other things, this may facilitate planning/scheduling.

PA1646

Thanks in advance,  
Debbie

Debra L. Spinelli  
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tel 702.214.2100  
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PA1647

## **EXHIBIT CC**

PA1648

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TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\*\*\*\*\*

STEVEN JACOBS

Plaintiff

vs.

LAS VEGAS SANDS CORP., et al.

Defendants

CASE NO. A-627691

DEPT. NO. XI

Transcript of  
Proceedings

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

STATUS CHECK

TUESDAY, OCTOBER 30, 2012

APPEARANCES:

FOR THE PLAINTIFF:

TODD BICE, ESQ.  
DEBRA SPINELLI, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.  
MARK JONES, ESQ.

COURT RECORDER:

JILL HAWKINS  
District Court

TRANSCRIPTION BY:

FLORENCE HOYT  
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.

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PA1649

1 LAS VEGAS, NEVADA, TUESDAY, OCTOBER 30, 2012, 9:07 A.M.

2 (Court was called to order)

3 THE COURT: Now I go to Stevens versus Jacobs -- no.  
4 Steven Jacobs versus Sands.

5 Mr. Mark Jones, you've joined our foray here.

6 MR. JONES: Yes, Your Honor.

7 MR. BICE: Good morning, Your Honor. Todd Bice and  
8 Debra Spinelli on behalf of Steven Jacobs.

9 MR. PEEK: And good morning, Your Honor. Stephen  
10 Peek on behalf of Las Vegas Sands Corp. and Sands China  
11 Limited.

12 MR. JONES: And Mark Jones on behalf of Sands China  
13 Limited, Your Honor.

14 THE COURT: All right. I set this status check  
15 because I need to get us back on track for me to have the  
16 evidentiary hearing on the jurisdictional issues the Nevada  
17 Supreme Court ordered me to do about a year ago. And we've  
18 been messing around with discovery for that period of time.

19 The question is, since I have new counsel for Sands  
20 China and we've had a diversion on some of the Macau Data  
21 Privacy Act issues, what more do you need to do before I  
22 schedule your evidentiary hearing.

23 MR. BICE: Well, I think, Your Honor, our preference  
24 would be to get a sense of your schedule. We are --

25 THE COURT: My schedule sucks.

1           MR. BICE: I know it does. But only you can say  
2 that. I can't say that to Your Honor.

3           So I think what we would like to have you do is give  
4 us a sense about your schedule, some ideas of when you would  
5 be --

6           THE COURT: Here's my problem. Judge Tagliotti  
7 settled \$7 million of the case I'm currently in, and it got  
8 longer after the settlement was reached. So, instead of us  
9 being able to finish before Christmas, which was the  
10 anticipated thing when I had all the parties in the case, it  
11 looks like we're going to go into mid January.

12          MR. BICE: All right.

13          THE COURT: If you tell me when you're going to be  
14 done, I'll take a break from that trial, if I need, because  
15 I'd love to have a break from that trial, because it's a bench  
16 trial --

17          MR. BICE: All right.

18          THE COURT: -- or, alternatively, I can find you  
19 some time that works with you. My May stack next year got a  
20 little easier, since the CSD entities filed bankruptcy and Mr.  
21 Peek's preferential trial setting is not on there. But your  
22 Whittemore case is still on that. I have --

23          MR. PEEK: Well, Your Honor, respectfully, on that  
24 there's still parties in that that aren't in bankruptcy.

25          THE COURT: Okay. So are you telling me you don't

1 think it's stayed?

2 MR. PEEK: I don't think that the case against the  
3 individuals that are not in bankruptcy or the entities that  
4 are not in bankruptcy are stayed. But I don't want to -- I  
5 don't want to address that with the Court --

6 THE COURT: Max, can you set a status check.

7 You don't have to. Max will set a status check, and  
8 we'll talk to everybody about that.

9 MR. PEEK: Thank you, Your Honor.

10 THE COURT: Because I understand what you're saying.

11 MR. PEEK: Yes. Thank you.

12 THE COURT: All right.

13 MR. PEEK: I didn't want you to vacate that.

14 MR. BICE: I would like -- I would like to get this  
15 jurisdictional issue on for hearing prior to then, in any  
16 event.

17 THE COURT: Well, when do you want -- when are you  
18 going to be done with discovery? That's all I want to know.  
19 When are you going to be done with discovery?

20 MR. BICE: Understood. I think that we will be  
21 available to go with an evidentiary hearing in this matter  
22 sometime in early February, would be my belief, Your Honor.  
23 We've got the month of November, month of December, and  
24 January. I would certainly hope that we are through all of  
25 these -- the depositions, the document production, and the



1 various motions and be able to hold a hearing on this matter  
2 in early February.

3 THE COURT: All right. Mr. Mark Jones, you're new  
4 to the case. You've got a lot of stuff you have to review to  
5 catch up, you and the other people in your office. If we're  
6 looking at scheduling something in February or March are you  
7 going to be up to speed?

8 MR. JONES: Your Honor, thank you. There's no  
9 question I would be up to speed, and we'll very diligently  
10 review that. There is a lot that I do not know at this point,  
11 but we have thought and discussed this long and hard, and to  
12 us it's most important to not come back and ask you for  
13 additional time.

14 THE COURT: You don't know how many times I've been  
15 asked for additional time in this case.

16 MR. JONES: Realistically, then, we have -- we  
17 believe that because -- and, again, I was ready to discuss the  
18 Macau situation this morning. We think realistically that  
19 it's probably the end of March when we're ready for the  
20 hearing, again, taking into consideration all of the various  
21 things that we're going to be doing in the meantime.

22 I would love to say we've thought long and hard  
23 about it and that's --

24 THE COURT: Well, I'm actually just trying to get a  
25 realistic estimate from you so I can find a place to plug you

1 in. That's really all I'm trying to do.

2 MR. JONES: Okay. That's where we are, Your Honor.

3 THE COURT: Because my prior estimate of this, even  
4 though people would tell me two, three days, is it's a week.  
5 And so I'm trying to find a week where I can just set aside  
6 for you guys, because we have some complicated issues to  
7 resolve, and I don't want you to be rushed.

8 Mr. Peek.

9 MR. PEEK: Your Honor, I don't -- I don't like to be  
10 rushed, either.

11 THE COURT: And I'm always rushing you, because you  
12 take a long time.

13 MR. PEEK: You know that I need to be prodded from  
14 time to time, Your Honor. And I do. And I did, of course,  
15 have a script here about what we've done to date and what we  
16 have to do to date, but I anticipate a number of issues that  
17 are going to arise as we proceed with discovery down the road  
18 and the questions come up about depositions. For example, the  
19 plaintiffs have asked for the deposition of Mr. Adelson. He's  
20 already been deposed once. There were a number of issues that  
21 were raised during the course of that deposition that I want  
22 to address with the Court.

23 THE COURT: He had some health issues, if I recall  
24 correctly.

25 MR. PEEK: He did, Your Honor. But those weren't

1 really -- certainly they delayed the time the deposition took  
2 place, the commencement of it and the termination of it at the  
3 end of the day, but there were certainly a number of issues  
4 that arose during the course of that deposition that I think  
5 need to be addressed to the Court in motion practice. So  
6 those are kinds of things that -- I'm not trying to delay us.  
7 I want to have --

8 THE COURT: File them.

9 MR. PEEK: I want to have this hearing. I will,  
10 Your Honor. But until yesterday, when they asked for the  
11 deposition of Mr. Adelson, I didn't think they wanted to go  
12 forward with it. So that certainly is something we need to  
13 address with the Court, because we believe there's, you know,  
14 nothing more to be gained from the deposition of Mr. Adelson  
15 that hasn't already been done. They have a different view of  
16 discovery that the Court allowed than I do, and certainly  
17 we're going to have to come back to the Court and discuss that  
18 with the Court. So I'm telling the Court and advising the  
19 Court that we are going to come back to you with those issues.

20 Mr. Jacobs's deposition hasn't been taken yet. We  
21 asked for it. He didn't appear for the date noticed. There  
22 was a calendaring issue, apparently, at the Pisanelli Bice  
23 office, so it didn't go forward. We have issues that are  
24 going to be brought up with respect to that deposition.

25 They've asked me for depositions of others. I'm

1 going to try to give them dates. So there are a number of  
2 things that I don't think that will take much time. I'm going  
3 to try to work them out with plaintiffs. And I think, like  
4 Mr. Jones says, we can be ready to go at the end of March,  
5 first of April of next year, which I think is a month  
6 different than what Mr. Bice would like to have. Because I'm  
7 like Mr. Jones. I don't want to come back here and say, we're  
8 not done; because we're going to go to Macau, and we're going  
9 to look at documents in Macau. So whether or not there's  
10 anything there that relates to jurisdictional discovery that  
11 you've allowed them to take will be -- only can be found out  
12 when you go there.

13 THE COURT: Okay.

14 MR. BICE: Your Honor, I --

15 THE COURT: Mr. Bice.

16 MR. BICE: Yes. Thank you. Your Honor, my  
17 observation would be I think it sounds like a couple of  
18 months' difference. And, you know, we don't need to, you  
19 know, retrace a lot of history. I could go over issues with  
20 Mr. Adelson's deposition, but I don't think that would be  
21 productive for today's purposes.

22 Nonetheless, we have -- we start a long jury trial  
23 Mr. Peek is involved in with Sands and Suen at the end of  
24 March. That jury trial starts --

25 THE COURT: That's in front of Judge Bare; right?

1 MR. BICE: That jury trial starts March the 25th,  
2 and it's a firm date in front of Judge Bare. And that trial  
3 is going to go, if it goes anything like the last one -- this  
4 is over the Suen --

5 THE COURT: Long time. Yeah. No, I know. It was  
6 in 12 when it went last time.

7 MR. BICE: It went for 28 trial days then. I think  
8 it'll be shorter this time around. But, nonetheless, that's  
9 going to consume all of the end of March and all of the  
10 beginning of April for sure. So I don't -- I think -- you  
11 know, we will work with them to make something work, but I  
12 think it needs to occur prior to that, because that's going to  
13 basically consume that month and a half. So if they want to  
14 look at something earlier in March, later in February, we can  
15 work on that to try and work around people's schedules.

16 THE COURT: Anything else you guys want to tell me.

17 MR. BICE: No, Your Honor.

18 THE COURT: All right. Mr. Peek, I need you to file  
19 your discovery motions. Can you get them filed in the next  
20 week or so?

21 MR. PEEK: Aspirationally, yes, Your Honor.

22 THE COURT: Okay.

23 MR. PEEK: Realistically I'm not sure. But  
24 aspirationally, yes.

25 THE COURT: That's why I said week or so. Send

1 those over on an OST. I'm going to try and look through the  
2 items that are in the February stack. And looking at it right  
3 now, I have another case involving Macau that's on the  
4 February stack, and so I'm trying to see where I can move some  
5 things around to make it work.

6 MR. BICE: Okay.

7 MR. PEEK: And, Your Honor, Mr. Bice does make a  
8 good point, is that his firm and my firm will certainly be --

9 THE COURT: Busy.

10 MR. PEEK: -- busy in March in the Suen case. It  
11 does start the end of March. And I think Mr. Bice is correct.  
12 Both of us do not believe it will go the 29 trial days that it  
13 went before in front of Judge Leavitt, but it's certainly  
14 going to be at least a three- to four-week trial.

15 THE COURT: Well, I was going to --

16 MR. PEEK: And it will consume a couple weeks in --  
17 at least two or three weeks in advance to get prepared for  
18 that trial.

19 THE COURT: Right. I was going to give you the week  
20 of April 8th, but that won't work with the --

21 MR. PEEK: Mr. Bice is correct. That won't work.

22 THE COURT: No. So I have to look for other places  
23 to see where I can slide you in.

24 Okay. I'm going to schedule a status check on the  
25 Newton case that's separate and apart. So if you'll let Mr.

1 McCrea know I'm going to schedule that, and then we'll try and  
2 figure out the unstayed part of that.

3 Mr. Mark Jones.

4 MR. PEEK: And then, Your Honor, are you -- you're  
5 not setting something right now on this evidentiary hearing,  
6 but you're going to bring us back here sometime when --

7 THE COURT: I've got to figure out where I can --  
8 I've got to give you a firm setting on this, which is  
9 unfortunate for me, because it means I have to give you  
10 priority over other things. But I've got to get this done.  
11 So I have to see on the February, and then, if that doesn't  
12 work, the stack that starts on April 15th, where within those  
13 groups that I can find a week that I can set aside for you.  
14 Part of the problem is that Neil Beller or Dominic Gentile  
15 case that was in front of you is not going to be a short case.

16 MR. PEEK: I can see that, Your Honor, dealing with  
17 the cab companies and the strip clubs, it's not going to be  
18 pretty.

19 THE COURT: Or short.

20 MR. PEEK: Or short. And neither is the Whittemore  
21 case or the CSD case going to be pretty or short at the end of  
22 May, whichever one does go. So --

23 THE COURT: And then I'll have CityCenter in  
24 between.

25 MR. PEEK: I just don't want to come back, Your

5. It is in this context that the Court has ruled that SCL must produce certain information relevant to whether the Court has jurisdiction over SCL. In general, what is requested is information that shows the relationship between SCL and LVSC, see Annex 1 (March 8 Court Order). To determine its jurisdiction, the Court is not interested in information relevant to the merits of the allegations in the lawsuit or about individuals. SCL's obligation at this moment is to determine only whether there are any additional documents in Macau that are relevant – solely and exclusively – to the Court's jurisdictional question.

6. Because the Court is at this stage interested only in the relationship between SCL and LVSC, it is believed that most, if not all, of these types of documents are located in the United States of America and therefore have already been produced to the Court by LVSC, but that can be confirmed only after VML reviews its documents in Macau.

7. If SCL does not comply with the Court's Order, the Court may impose sanctions over SCL, including but not limited to entering a ruling that the Court has jurisdiction over SCL.

8. As noted above, VML is an indirect subsidiary of SCL and the majority of its share capital is indirectly held by SCL. Therefore VML has a significant interest in SCL being dismissed from the Jacobs Lawsuit. In addition, it also seems clear that the interest of VML, in avoiding adverse consequences to SCL, which may occur if SCL is unable to comply with the Court's Order, is legitimate.

9. In this context, VML intends to retain a group of Macau lawyers, registered with the Macau Lawyers Association, and a Hong Kong Law Firm, to work together and to review the documents that are in the possession of VML in Macau, to determine whether VML has any documents in Macau that are relevant to the question whether the Court has jurisdiction over SCL. For this purpose, the retained Hong Kong Law Firm will enter into a consultancy



agreement with VML, in terms similar to those contained in the document hereto attached as Annex 2.

10. VML understands that if it were a party to a pending lawsuit in a Macau court then VML could review its documents for the purposes of preparing its defense without the need to notify OPDP or to request authorization to process any personal data contained in such documents. However, due to the special nature of this case, given the circumstance that VML is not a party to the lawsuit and that the lawsuit is outside Macau, and also in light of the previous communications between VML and OPDP, VML believes it is appropriate to notify the OPDP before commencing the review of the data herein described.

In light of the above, VML deems that, pursuant to subparagraph 5) of article 6 of the PDPA, the data review process herein described, carried out by Macau lawyers and the Hong Kong Law Firm, and the exercise of processing of VML's data that might contain some personal data, corresponds to a legitimate right of VML; necessary because that is the only way in which VML is able to determine whether it has documents in Macau that may be relevant to the defense of SCL, and that in the present case the interests or fundamental rights, freedoms and guarantees of the data subjects will not be compromised by the mere cataloging review by counsel and thus should not prevent such limited review.

Therefore, pursuant to article 21, paragraph 1 of Law 8/2005, VML hereby notifies the OPDP of its intent to conduct the data processing exercise as herein described.

In case OPDP has a different interpretation of the application of the PDPA and believes that the data review exercise herein described is subject to its pre-approval – with which VML does not agree but would concede in case that is the interpretation of the OPDP – then, pursuant



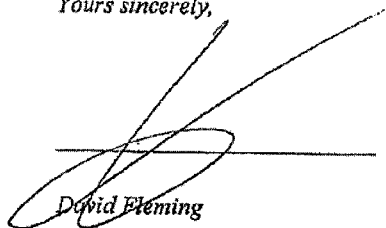
*to Article 22, paragraph 4 of Law 8/2005, this letter serves as a request for OPDP's approval to conduct the data review process herein described.*

*Because of the Court's upcoming evidentiary hearing, and the potential volume of VML materials that may need to be reviewed, VML hereby requests that OPDP consider this request as a matter of urgency.*

*Enclosed: 2 documents*

*To be enclosed: translation to Portuguese of the 2 documents enclosed*

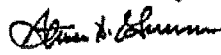
*Yours sincerely,*



*David Fleming*

*General Counsel*

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CLERK OF THE COURT

1 **ORDER**

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Attorneys for Plaintiff Steven C. Jacobs

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

STEVEN C. JACOBS,

Plaintiff,

v.

LAS VEGAS SANDS CORP., a Nevada  
corporation; SANDS CHINA LTD., a  
Cayman Islands corporation; DOES I  
through X; and ROE CORPORATIONS  
I through X,

Defendants.

Case No.: A-10-627691  
Dept. No.: XI

**ORDER REGARDING PLAINTIFF  
STEVEN C. JACOBS' MOTION TO  
CONDUCT JURISDICTIONAL  
DISCOVERY and DEFENDANT SANDS  
CHINA LTD.'s MOTION FOR  
CLARIFICATION**

**AND RELATED CLAIMS**

Date and Time of Hearings:  
September 27, 2011 at 4:00 p.m.  
October 13, 2011 at 9:00 a.m.

Plaintiff Steven C. Jacobs' ("Jacobs") Motion to Conduct Jurisdictional Discovery  
("Motion") came before the Court for hearing at 4:00 p.m. on September 27, 2011. James J.  
Pisanelli, Esq., and Debra L. Spinelli, Esq., of the law firm PISANELLI BICE PLLC, appeared on  
behalf of Jacobs. Patricia L. Glaser, Esq., of the law firm Glaser Weil Fink Jacobs Howard  
Avchen & Shapiro LLP, appeared on behalf of Defendant Sands China Ltd. ("Sands China").  
J. Stephen Peck, Esq., of the law firm Holland & Hart LLP, appeared on behalf of Defendant

1 Las Vegas Sands Corp. ("LVSC"). The Court considered the papers filed on behalf of the parties  
2 and the oral argument of counsel, and good cause appearing therefor:

3 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Motion to Conduct  
4 Jurisdictional Discovery is GRANTED IN PART and DENIED IN PART as follows:

5 1. GRANTED as to the deposition of Michael A. Leven ("Leven"), a Nevada  
6 resident, who simultaneously served as President and COO of Las Vegas Sands Corp. ("LVSC")  
7 and CEO of Sands China (among other titles), regarding the work he performed for Sands China,  
8 and work he performed on behalf of or directly for Sands China while acting as an employee,  
9 officer, or director of LVSC, during the time period of January 1, 2009, to October 20, 2010;<sup>1</sup>

10 2. GRANTED as to the deposition of Sheldon G. Adelson ("Adelson"), a Nevada  
11 resident, who simultaneously served as Chairman of the Board of Directors and CEO of LVSC  
12 and Chairman of the Board of Directors of Sands China, regarding the work he performed for  
13 Sands China, and work he performed on behalf of or directly for Sands China while acting as an  
14 employee, officer, or director of LVSC, during the time period of January 1, 2009, to October 20,  
15 2010;

16 3. GRANTED as to the deposition of Kenneth J. Kay ("Kay"), LVSC's Executive  
17 Vice President and CFO, who, upon Plaintiff's information and belief, participated in the funding  
18 efforts for Sands China, regarding the work he performed for Sands China, and work he  
19 performed on behalf of or directly for Sands China while acting as an employee, officer, or  
20 director of LVSC, during the time period of January 1, 2009, to October 20, 2010;

21 4. GRANTED as to the deposition of Robert G. Goldstein ("Goldstein"), a Nevada  
22 resident, and LVSC's President of Global Gaming Operations, who, upon Plaintiff's information  
23 and belief, actively participates in international marketing and development for Sands China,  
24 regarding the work he performed for Sands China, and work he performed on behalf of or directly  
25 for Sands China while acting as an employee, officer, or director of LVSC, during the time period  
26 of January 1, 2009, to October 20, 2010;

27 <sup>1</sup> This time period was agreed upon and ordered by the Court in the Stipulation and Order  
28 Regarding ESI Discovery entered filed on June 23, 2011, and is also relevant to the limited  
jurisdictional discovery permitted herein.

1 5. GRANTED as to a narrowly tailored NRCP 30(b)(6) deposition of Sands China in  
2 the event that the witnesses identified above in Paragraphs 1 through 4 lack memory knowledge  
3 concerning the relevant topics during the time period of January 1, 2009, to October 20, 2010;

4 6. GRANTED as to documents that will establish the date, time, and location of each  
5 Sands China Board meeting (including the meeting held on April 14, 2010, at 9:00 a.m. Macau  
6 Time/April 13, 2010, at 6:00 p.m. Las Vegas time), the location of each Board member, and how  
7 they participated in the meeting during the period of January 1, 2009, to October 20, 2010;

8 7. GRANTED as to documents that reflect the travels to and from  
9 Macau/China/Hong Kong by Adelson, Leven, Goldstein, and/or any other LVSC employee for  
10 any Sands China related business (including, but not limited to, flight logs, travel itineraries)  
11 during the time period of January 1, 2009, to October 20, 2010;

12 8. DENIED as to the calendars of Adelson, Leven, Goldstein, and/or any other LVSC  
13 executive who has had meetings related to Sands China, provided services on behalf of  
14 Sands China, and/or travelled to Macau/China/Hong Kong for Sands China business during the  
15 time period of January 1, 2009, to October 20, 2010;

16 9. GRANTED as to documents and/or communications related to Michael Leven's  
17 service as CEO of Sands China and/or the Executive Director of Sands China Board of Directors  
18 without payment, as reported to Hong Kong securities agencies, during the time period of  
19 January 1, 2009, to October 20, 2010;

20 10. GRANTED as to documents that reflect that the negotiation and execution of the  
21 agreements for the funding of Sands China occurred, in whole or in part, in Nevada, during the  
22 time period of January 1, 2009, to October 20, 2010;

23 11. GRANTED as to contracts/agreements that Sands China entered into with entities  
24 based in or doing business in Nevada, including, but not limited to, any agreements with BASE  
25 Entertainment and Bally Technologies, Inc., during the time period of January 1, 2009, to  
26 October 20, 2010;

27 12. GRANTED as to documents that reflect work Robert Goldstein performed for  
28 Sands China, and work he performed on behalf of or directly for Sands China while acting as an

1 employee, officer, or director of LVSC, during the time period of January 1, 2009, to October 20,  
2 2010, including (on Plaintiff's information and belief) global gaming and/or international player  
3 development efforts, such as active recruitment of VIP players to share between and among  
4 LVSC and Sands China properties, and/or player funding;

5 13. GRANTED as to all agreements for shared services between and among LVSC  
6 and Sands China or any of its subsidiaries, including, but not limited to, (1) procurement services  
7 agreements; (2) agreements for the sharing of private jets owned or made available by LVSC; and  
8 (3) trademark license agreements, during the time period of January 1, 2009, to October 20, 2010;

9 14. DENIED as to documents that reflect the flow of money/funds from Macau to  
10 LVSC, including, but not limited to, (1) the physical couriering of money from Macau to  
11 Las Vegas; and (2) the Affiliate Transfer Advice ("ATA"), including all documents that explain  
12 the ATA system, its purpose, how it operates, and that reflect the actual transfer of funds;

13 15. GRANTED as to all documents, memoranda, emails, and/or other correspondence  
14 that reflect services performed by LVSC (including LVSC's executives) on behalf of  
15 Sands China, including, but not limited to the following areas: (1) site design and development  
16 oversight of Parcels 5 and 6; (2) recruitment and interviewing of potential Sands China  
17 executives; (3) marketing of Sands China properties, including hiring of outside consultants;  
18 (4) negotiation of a possible joint venture between Sands China and Harrah's; and/or (5) the  
19 negotiation of the sale of Sands China's interest in sites to Stanley Ho's company, SJM, during the  
20 time period of January 1, 2009, to October 20, 2010;

21 16. GRANTED as to all documents that reflect work performed on behalf of Sands  
22 China in Nevada, including, but not limited, documents that reflect communications with BASE  
23 Entertainment, Cirque du Soleil, Bally Technologies, Inc., Harrah's, potential lenders for the  
24 underwriting of Parcels 5 and 6, located in the Cotal Strip, Macau, and site designers, developers,  
25 and specialists for Parcels 5 and 6, during the time period of January 1, 2009 to October 20, 2010;

26 17. DENIED as to documents, including financial records and back-up, used to  
27 calculate any management fees and/or corporate company transfers for services performed and/or  
28 provided by LVSC to Sands China, including who performed the services and where those

1 services were performed and/or provided, during the time period where there existed any formal  
2 or informal shared services agreement;

3 18. GRANTED as to all documents that reflect reimbursements made to any LVSC  
4 executive for work performed or services provided related to Sands China, during the time period  
5 of January 1, 2009, to October 20, 2010;

6 19. GRANTED as to all documents that Sands China provided to Nevada gaming  
7 regulators, during the time period of January 1, 2009 to October 20, 2010; and

8 20. DENIED as to the telephone records for cellular telephones and landlines used by  
9 Adelson, Leven, and Goldstein that indicate telephone communications each had with or on  
10 behalf of Sands China.

11 IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the parties  
12 are to abide by the Nevada Rules of Civil Procedure as it relates to the disclosure of experts, if  
13 any, for purposes of the evidentiary hearing on personal jurisdiction over Sands China.

14 In addition, Defendant Sands China's Motion for Clarification of Jurisdictional Discovery  
15 Order on Order Shortening Time ("Motion for Clarification") came before the Court for hearing  
16 on 9:00 a.m. on October 13, 2011. James J. Pisanelli, Esq., and Debra L. Spinelli, Esq., of the  
17 law firm PISANELLI BICE PLLC, appeared on behalf of Jacobs. Patricia L. Glaser, Esq., of the  
18 law firm Glaser Weil Fink Jacobs Howard Avchen & Shapiro LLP, appeared on behalf of  
19 Defendant Sands China, and J. Stephen Peek, Esq., of the law firm Holland & Hart LLP, appeared  
20 on behalf of Defendant LVSC. The Court considered the papers filed on behalf of the parties and  
21 the oral argument of counsel, and good cause appearing therefor:  
22  
23  
24  
25  
26  
27  
28

PISANELLI BICE PLLC  
3883 HOWARD HUGHES PARKWAY, SUITE 800  
LAS VEGAS, NEVADA 89169

1 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Motion for  
2 Clarification is GRANTED IN PART as follows:

3 1. The parties are only permitted to conduct discovery related to activities that were  
4 done for or on behalf of Sands China; and

5 2. This is an overriding limitation on all of the specific items requested in Jacob's  
6 Motion to Conduct Jurisdictional Discovery.

7 DATED: March 8, 2012

8  
9  
10 THE HONORABLE ELIZABETH GONZALEZ  
EIGHTH JUDICIAL DISTRICT COURT

11 Respectfully submitted by:

12 PISANELLI BICE PLLC

13 By:

14 James J. Pisanelli, Esq., Bar No. 4027  
15 Todd L. Bice, Esq., Bar No. 4534  
16 Debra L. Spinelli, Esq., Bar No. 9695  
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20 Attorneys for Plaintiff Steven C. Jacobs

21 Approved as to form by:

22 HOLLAND & HART

23 By:

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26 9555 Hillwood Drive, Second Floor  
27 Las Vegas, NV 89134

28 Attorneys for Las Vegas Sands Corp.  
and Sands China, Ltd.



Doc. 2



Short-form Consultancy Services  
Agreement

The Venetian Macao – Resort -  
Hotel

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Venetian Macau Limited  
(name of the other party)

HKEX 76974\_2 (05/2009)

APP0502

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# Short Form Consultancy Services Agreement

Date

## Parties

Name	Venetian Macau Limited
(in Portuguese)	Venetian Macau, S.A.
(in Chinese)	威尼斯人澳門股份有限公司
Short form name	Owner
	a public limited liability company, with head office in Macau, Estrada da Baía de Nossa Senhora da Esperança, The Venetian Macao Resort Hotel, Executive Offices – L2, Taipa, registered with the Macau Commercial Registration Office under the number SO 15702

Name	Consultant
Short form name	[name]
Description	

## Background

- A The Owner wishes to appoint the Consultant to perform the Services in accordance with the terms and conditions of this Agreement.
- B The Consultant has agreed to accept the appointment and perform the Services on the terms and conditions of this Agreement.

Owner's initials / Consultant's initials

## Agreed terms

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### 1. Defined terms & interpretation

#### 1.1 Definitions

In this Agreement, except where the context requires otherwise:

**Agreement** means the contract between the Owner and the Consultant constituted by this document entitled 'Short Form Consultancy Services Agreement', including the Schedules, as amended in writing by the parties from time to time.

**Basic Services** means the services and related activities to be performed by the Consultant as described in Schedule 2, Section 1 and elsewhere in this Agreement.

**Commencement Date** means [date] or such effective date as specified in the respective Schedules.

**Confidential Information** means all information and materials:

- (a) disclosed, provided or otherwise made accessible by the Owner to the Consultant in the course of performing the Services relating to the Consultant's delivery of the Services, upon execution of the Agreement, including, but not limited to personal data as defined in Appendix A, the policies, services, processes, trade secrets, know-how, data, information, procedures, methods, formulations, facilities, products, plans, affairs, transactions, organisations, business connections and clients of the Owner and its related bodies corporate expressly indicated as confidential by Owner to Consultant before disclosure; and
- (b) prepared or developed by Consultant, on behalf of the Owner in the course of performing the Services.

**Consultant** means

**Data Controller** means Venetian Macau Ltd

**Data Processor** means [name]

**Fee** means the fee agreed between the parties for the provision of the Basic Services and specified in Schedule 1, Section 2.

**FCPA** means the Foreign Corrupt Practices Act of the United States of America.

**Intellectual Property Right** means any patent, registered design, trademark or name, copyright or other protected right.

**NGCR** means the Nevada Gaming Control Regulations of the United States of America.

**Owner** means Venetian Macau Limited.

**Matter** means the lawsuit filed against Las Vegas Sands Corp. and Sands China Ltd. by Steven C. Jacobs in the District Court of Nevada

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Owner's initials

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Consultant's initials

**Reimbursable Expenses** means the reasonable business related costs and expenses referred to in Schedule 1, Section 3 wholly and necessarily incurred by the Consultant in performing the Services.

**Services** means the Basic Services.

**Statutory Authority** means the Macau government authorities having jurisdiction over the Statutory Requirements.

Deleted

**Statutory Requirements** means all Macau permissions, consents, legislation, rules and regulations required for or relating to the Services.

## 1.2 Interpretation

In this Agreement, unless the contrary intention appears:

- (a) headings are for ease of reference only and do not affect the meaning of this Agreement;
- (b) the singular includes the plural and vice versa and words importing a gender include other genders;
- (c) other grammatical forms of defined words or expressions have corresponding meanings;
- (d) a recital, schedule or annexure, or a description of the parties forms part of this Agreement;
- (e) a reference to this Agreement includes a reference to that agreement as novated, altered or replaced from time to time;
- (f) a reference to a party includes its executors, administrators, successors and permitted assigns;
- (g) a reference to 'including', 'includes' or 'include' must be read as if it is followed by '(without limitation)';
- (h) a reference to a clause, paragraph, or schedule is to a clause, paragraph or schedule to this Agreement and a reference to the Agreement includes any schedule;
- (i) words and expressions importing natural persons include partnerships, bodies corporate, associations, governments and governmental and local authorities and agencies;
- (j) any remedy, power or entitlement given to the Owner and Consultant in any clause of the Agreement is in addition to any remedy, power or entitlement which the Owner and Consultant may have under any other clause or clauses of this Agreement or under general principles of law;
- (k) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Agreement or any part of it or any document containing any of the provisions of this Agreement; and

Owner's initials

Consultant's initials

- (l) a reference to a right or obligation of any two or more persons confers that right or imposes that obligation, as the case may be, jointly and severally.

## 2. Consultant's general obligations

The Consultant must:

- (a) use all reasonable efforts to comply with all written instructions and directions of the Owner in relation to the Services including but not limited to the undertaking regarding protection of Personal Data set out in Appendix A;
- (b) perform the Services with all the skill, care and diligence to be expected of a properly qualified, professional and competent expert fully experienced in carrying out services of a similar nature, scope and complexity to the Services;
- (c) comply with all Statutory Requirements in carrying out the Services;
- (d) at all times employ staff with appropriate qualifications and experience to carry out the Services on the Consultant's behalf;

## 3. Owner's obligations

The Owner must:

- (a) pay the Consultant in accordance with the provisions in Schedule 1;
- (b) give or cause to be given to the Consultant timely directions, instructions, decisions and information sufficient to define the Services required and facilitate the provision of the Services by the Consultant in accordance to this Agreement; and

## 4. Exclusivity, confidentiality and publicity

- (a) The Consultant must not without the Owner's earlier written approval disclose to any third party any Confidential Information.
- (b) The Consultant must use its best efforts to protect the confidentiality of all Confidential Information, including the following:
  - (i) using the Confidential Information for the sole purpose of performing its obligations under this Agreement;
  - (ii) limiting the dissemination of the Confidential Information only to those of its employees who have a need to know it to perform the tasks required; and
  - (iii) turning over the Confidential Information to the Owner within 10 days of the Owner's written request.

Owner's initials

Consultant's initials

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- (c) The Consultant must if required by subpoena, court, or administrative order to disclose any of the Confidential Information, give immediate written notice to the Owner to the attention of General Counsel, Venetian Macau Limited, Estrada da Baía de Nossa, Senhora da Esperança, s/n, Executive Office LG2, The Venetian Macao Hotel Resort, Taipa, Macau SAR China and use its best efforts to facilitate the Owner in interposing all objections the Owner may have to the disclosure.
- (d) This Agreement imposes no obligation upon the Consultant with respect to Confidential Information which: (i) is or becomes public knowledge through no fault of the Consultant; (ii) was in the Consultant's possession before receipt from the Owner and was not subject to a duty of confidentiality; (iii) is rightfully received by the Consultant without any duty of confidentiality; (iv) is disclosed generally to a third party by the Owner without a duty of confidentiality on the third party; or (v) is independently developed by the Consultant without use of the Confidential Information.
- (e) The duties under this clause survive any termination, expiration or non-renewal of this Agreement.

## 5. Regulatory authorities, anti corruption and certificate of compliance

### 5.1 Cooperation with Owner's compliance committee

- (a) The Consultant acknowledges that the Owner conducts a business that is subject to and exists because of a privileged licence issued by authorities having jurisdiction over gaming regulation and other matters.
- (b) The Consultant further acknowledges that such authorities may revoke, suspend, limit or restrict any registrant, licensee or person if they are associated with an unsuitable person or entity.
- (c) If the Consultant is called forward by relevant authorities for determination of the Owner's suitability to hold a privileged licence, the Consultant must cooperate fully with the relevant authority and must, if requested by the relevant authority or the Owner, terminate its relationship with any person or entity that might be detrimental to the Owner's ability to hold a privileged licence.
- (d) If any person or entity connected with the Consultant fails to cooperate with or is found to be unsuitable by a relevant authority or if the Owner is advised by a relevant authority of concern(s) regarding a relationship between the Consultant and any person or entity, the Consultant must immediately terminate its relationship with that person or entity, without the Owner incurring any liability to or recourse by the Consultant.
- (e) If the Consultant fails to cooperate with or is found unsuitable by a relevant authority or if the Owner, in its reasonable opinion, determines that its privileged licence could be adversely affected by its association with the Consultant or its

Owner's initials

Consultant's initials

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sub-consultants, without reference to any other clause in this Agreement, the Owner may immediately terminate this Agreement without further liability to or recourse by the Consultant except for payments due to Consultant which shall become immediately payable upon termination.

## 5.2 United States of America Legal Compliance

- (a) The Owner and Consultant must comply fully with the undertaking in clause 5.2(d) (Compliance Undertaking) and take no actions that could subject the Owner and Consultant to liability (including any debt, obligation or loss) under the FCPA and the NGCR.
- (b) The Owner and Consultant must ensure that it and its employees, agents, consultants or affiliates comply fully with the Compliance Undertaking and do not directly or indirectly take any actions which could subject the Owner and Consultant to any adverse action by its regulatory authorities under the FCPA or the NGCR.
- (c) The Owner and the Consultant confirms their understanding that the Owner and Consultant are committed to conducting their business in accordance with high ethical standards and in compliance with the laws of the FCPA and the NGCR and all Statutory Requirements of Macau and the United States of America. The Owner and Consultant also acknowledges and understands that they are at all times subject to the FCPA and under the FCPA, they may be held liable if they violate the Compliance Undertaking.
- (d) The Owner and Consultant undertakes that they (including its officers, directors, employees, agents and any other third parties acting on its behalf) will not directly or indirectly through any third party or person pay, offer, promise or authorise payment of any monies or anything of value to any official for the purpose of improperly inducing or rewarding favourable treatment or advantage in connection with this Agreement. For the purpose of this clause 5.2(d), 'official' includes any official, agent, or employee, or the close relative of any official, agent, or employee, of the government of Macau, any department, agency, or any entity that is wholly owned or controlled by the government of Macau, any international public organisation, any recognised political party in Macau or any candidate for political office in Macau.

## 6. Dispute resolution

- (a) Save and except for any dispute, difference or claim arising out of or in connection with the breach of any of the undertakings on personal data in Appendix A which shall be determined by a Macau Court, any dispute, difference or claim arising out of or in connection with the Agreement, if not settled by agreement, may be referred to arbitration to be settled in accordance with the United Nations Commission on International Trade Law Arbitration Rules (UNCITRAL Rules) in

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Owner's initials

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Consultant's initials

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force at the date of the Agreement and as may be amended by the rest of this clause 6.

- (b) The place of arbitration will be in Macau. The language to be used in the arbitration will be English. There will be a single arbitrator. If the parties are unable to agree on an arbitrator, the arbitrator must be appointed by the Secretary-General for the time being of the Hong Kong International Arbitration Centre.
- (c) All payments due to Consultant remains payable during the dispute resolution proceedings.

## 7. Termination

### 7.1 Termination by Owner and Consultant

The Owner and Consultant may at any time, in their absolute discretion, upon not less than 30 days written notice, terminate or suspend the this Agreement in relation to some or all of the Consultant's obligations under this Agreement, or (ii) upon written notice if the Owner or Consultant breaches any material term of this Agreement and such breach remains uncorrected for 15 business days following written notice. Upon termination, Consultant will be entitled to be paid for all work performed, including fees and expenses, up to the effective date of termination.

## 8. Miscellaneous

- (a) A party giving notice or notifying under this Agreement must do so in writing directed to the recipient's address specified below, as varied by any notice and hand delivered or sent by prepaid post or facsimile to that address. All notices, statements, demands, requirements or other communications and documents required or permitted to be given, served or delivered to either party under this Agreement must be in writing in the English language.

Owner	Consultant
Attention:	General Counsel
Address:	Venetian Macau Ltd, Estrada da Baia de Nossa, Senhora da Esperança, s/n, Executive Office LG2, The Venetian Macao Hotel Resort, Taipa Macao SAR China
Telephone:	(853) 2888 3311

Owner's initials

Consultant's initials



Facsimile: (853) 2888 3381 Facsimile:

The Owner and the Consultant shall each notify the other of a change in address.

- (b) All communications regarding the day to day execution of the Matter between the Owner and the Consultant must be confirmed in writing.
- (c) Subject to Clause 6, the parties agree to the non-exclusive jurisdiction of the courts of Macau (SAR) for legal proceedings related to this Agreement.
- (d) Unless otherwise stated in this Agreement, this Agreement shall be governed by and interpreted in accordance with the laws of Macau (SAR).
- (e) This Agreement
  - (i) may not be varied except by an agreement in writing signed by both parties;
  - (ii) must, if any part of it is declared invalid, void or unenforceable by an arbitrator or by a court of competent jurisdiction, be construed as if the invalid, void or unenforceable part had not been inserted and the remaining part shall continue in full force and effect;
  - (iii) (or any provision in it) will not be waived by the failure of a party to insist upon a strict performance of any of its terms or provisions;
  - (iv) and the agreements referred to in it constitute the entire agreement and understanding between the parties relating to its subject matter, superseding all prior agreements or undertakings, oral or written; and
- (f) clauses 4, 5 and 6 shall survive the termination of this Agreement.
- (g) in the event of discrepancy or divergence between the terms of this Agreement and the terms stipulated in any of Appendix A, the letter or meaning of the Appendix shall prevail.

#### 9. Changes required by Macau law

To the extent that any amendment to this Agreement is required by Macau law or by any Statutory Authorities, the parties agree:

- (a) to amend this Agreement but only to the extent required to comply with Macau law or with any binding guideline, guidance, directive, interpretation, rule or regulation of the Macau government or any Statutory Authorities;
- (b) that this Agreement is a binding agreement and neither the entry into any required amendments to this Agreement nor the failure to amend this Agreement to the extent required by Macau law or by any Statutory Authorities will give either party

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Owner's initials                      Consultant's initials

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the right to terminate this Agreement unless otherwise terminated under Clause 7 herein; and

any dispute arising under or in connection with this clause will be resolved in accordance with clause 6.

## 10. Ownership Rights

(a) **Ownership Rights.** Any inventions, designs, intellectual property or other derivative works of Consultant Information, will vest in and be the exclusive property of Consultant ("Consultant Derivative Work"). Any inventions, designs, intellectual property or other derivative works of Owner Information will vest in and be the exclusive property of Owner ("Owner Derivative Work").

(b) **Pre-Existing Work.** Any pre-existing proprietary or Confidential Information of Consultant or its licensors used to perform the Services, or included in any Deliverable, including but not limited to software, appliances, methodologies, code, templates, tools, policies, records, working papers, know-how, data or other intellectual property, written or otherwise, including Derivative Works will remain the exclusive property of Consultant and its licensors (collectively, "Consultant Information"). Any Owner pre-existing information, including but not limited to any Owner's proprietary and Confidential Information of a similar nature to Consultant Information provided to Consultant by Owner will remain the exclusive property of Owner or its licensors ("Owner Information").

(c) **Retention.** Owner acknowledges that Consultant provides similar services to other clients and that nothing in this Agreement will be construed to prevent Consultant from carrying on such business.

Owner's initials

Consultant's initials

Signing page  
EXECUTED as an agreement

Signed for and on behalf of Venetian  
Macau Limited by  
in the presence of

Signed for and on behalf of [name]  
By in the presence of

\_\_\_\_\_  
Signature of director / authorised signatory / witness

\_\_\_\_\_  
Name of director / authorised signatory / witness (print)

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name of director (print)

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Owner's initials

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## Schedule 1 - Fee Payment

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### 1. Section 1 - General provisions

- (a) The Owner must pay to the Consultant for the performance of the Consultant's obligations in accordance with this Agreement:
  - (i) the Fee; and
  - (ii) the Reimbursable Expenses.
- (b) The Fee is deemed to be inclusive of all applicable taxes and imposts and all fees, charges, costs, expenses and disbursements which may be incurred by the Consultant in connection with the Services other than the Reimbursable Expenses.
- (c) Payment will be made within 45 days after the receipt of the Consultant's invoice by the Owner.

### 2. Section 2 - Rates for Basic Services

The Fee for the Basic Services is:

[fees]

### 3. Section 3 - Reimbursable Expenses

Any other disbursements, costs and expenses incurred by the Consultant in the execution of its duties under this Agreement require the prior written approval of the Owner, and unless such prior written approval is given, the Owner is not liable to reimburse the Consultant such disbursements, costs or expenses which have not been approved in writing.

Owner's Initials

Consultant's Initials

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## Schedule 2 - The Services

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### 1. Section 1 - Basic Services

- (a) The Consultant must provide contractors to review and analyse potentially personal data and documents potentially responsive to discovery requests
- (b) The anticipated duration for the provision of the Basic Services is 45 days. The anticipated duration is indicative only and not guaranteed.

Owner's initials

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## Appendix A

### PERSONAL DATA UNDERTAKING

For the purposes of Article 15 of the Macau Personal Data Protection Act, approved by the Law no. 8/2005,

#### BACKGROUND

- (A) The Data Controller wishes to appoint the Data Processor to perform the Services when required and in accordance with this Agreement.
- (B) The Data Processor has agreed to accept the appointment on the terms of this Agreement.
- (C) This undertaking sets forth the terms under which the Data Processor should provide the Services to the Data Controller;
- (D) In addition, this undertaking is to ensure the protection and security of data passed from the Data Controller to the Data Processor for processing, or accessed by the Data Processor on the authority of the Data Controller for processing, or otherwise received by the Data Processor for processing, on the Data Controller's behalf;
- (E) Articles 15 to 18 of the Macau Personal Data Protection Act, approved by the Law 8/2005, place certain obligations upon a data controller to ensure that any data processor it engages provides sufficient guarantees that the processing of the data carried out on its behalf is secure;
- (F) This undertaking exists to ensure that there are sufficient security measures in place and that the processing complies with obligations equivalent to those of Articles 15 to 18 of the Macau Personal Data Protection Act, approved by the Law 8/2005.

#### IT IS AGREED

##### 1. DEFINITIONS AND INTERPRETATION

###### 1.1. In this undertaking:

"Act" means the Personal Data Protection Act, approved by Law 8/2005;

"Data" means any information of whatever nature that, by whatever means, is provided to the Data Processor by the Data Controller, is accessed by the Data Processor on the authority of the Data Controller or is otherwise received by the Data Processor on the Data Controller's behalf, and shall include, without limitation, any Personal Data;

"Facilities" is defined in Clause 5.1;

"Data Subject", "Process/Processing of Personal Data", "Controller", "Processor", "Personal Data" and "Special Security Measures" shall have the same meanings as are assigned to those terms in the Act;

"OPDP" means the Office for Personal Data Protection of Macau;

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"Schedule" means the schedule annexed to and forming part of this undertaking for all legal purposes identifying the Data and setting forth the purposes of the Services;

"Services" is defined in Clause 3.1;

"Technical and organizational security measures" means those measures aimed at protecting personal data against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

1.2. In this undertaking references to a person include an individual, a corporate body and an unincorporated association of persons.

## 2. APPLICATION OF THIS UNDERTAKING

2.1. This undertaking, and the Services it governs, shall apply to:

- 2.1.1. All Data sent by the Data Controller to the Data Processor for Processing;
- 2.1.2. All Data accessed by the Data Processor on the authority of the Data Controller for Processing; and
- 2.1.3. All Data otherwise received by the Data Processor for Processing on the Data Controller's behalf.

## 3. SERVICES

3.1. The Data Processor agree to Process the Data mentioned in Clause 2 in accordance with the terms and conditions set out in this Undertaking (the "Services").

3.2. When providing the Services, the Data Processor agrees that it shall:

- 3.2.1. Process the Data at all times in accordance with the Act and solely for the purposes specified in the Schedule and for no other purpose or in any other manner except with the express prior written consent of the Data Controller; the details of the processing, the categories of personal data and the data subjects are specified in the Schedule;
- 3.2.2. Process the Data only on behalf of the Data Controller and in compliance with its written instructions and these undertakings; if Data Processor cannot provide such compliance for whatever reasons, it agrees to inform promptly the Data Controller of their inability to comply, in which case the Data Controller is entitled to immediately suspend the processing of data and terminate the contract, without any further compensation to the Data Processors;
- 3.2.3. In a manner consistent with the Act and with any guidance issued by the OPDP, implement appropriate technical and organizational measures to safeguard the Data from unauthorized or unlawful

Owner's Initials \_\_\_\_\_ Consultant's Initials \_\_\_\_\_

Processing or accidental loss, destruction or damage, and that having regard to the state of technological development and the cost of implementing any measures, such measures shall ensure a level of security appropriate to the harm that might result from unauthorized or unlawful processing or accidental loss, destruction or damage and to the nature of the Data to be protected;

- 3.2.4. Ensure that each of their employees, agents and subcontractors are made aware of their obligations under this undertaking with regard to the security, protection and confidentiality of the Data and shall require that they enter into binding obligations with the Data Processor in order to maintain the levels of security, protection and confidentiality provided for in this Undertaking;
  - 3.2.5. Not divulge the Data whether directly or indirectly to any person, firm or company or otherwise without the express prior written consent of the Data Controller except to their employees, agents and subcontractors who are engaged in the Processing of the Data and are subject to the binding obligations referred to in this Undertaking or except as may be required by any Macau law or regulation;
  - 3.2.6. In the event of the exercise by Data Subjects of any of their rights under the Act in relation to the Data, inform the Data Controller as soon as possible, and the Data Processor further agree to assist the Data Controller with all data subject information requests which may be received from any Data Subject in relation to any Data;
  - 3.2.7. In the event that the Data Processor receives a request for any information contained in the Data pursuant to any laws or regulations in the United States of America or in any other foreign jurisdiction, not to respond to the person making such request but to immediately inform the Data Controller;
  - 3.2.8. Not Process or transfer the Data outside of Macau except with the express prior written authority of the Data Controller or in compliance with the Act; and
- 3.3. The Data Processor further agrees and warrants:
- 3.3.1. That the legislation applicable to the Data Processor do not prevent it from fulfilling the instructions received from the Data Controller and its obligations under this Undertaking and that in the event of a change in this legislation which is likely to have a substantial adverse effect on the warranties and obligations provided by this Undertaking, they will promptly notify the change to the Data Controller as soon as they become aware, in which case the Data Controller is entitled to immediately suspend the processing of data and/or terminate this Agreement;

Owner's Initials

Consultant's Initials



3.3.2. That they have implemented the technical and organizational security measures specified in the Schedule before the processing of the Data begins;

3.3.3. That they will promptly notify the Data Controller about:

3.3.3.1. Any legally binding request for disclosure of the personal data by a local or foreign law enforcement authority;

3.3.3.2. Any accidental or unauthorized access;

3.3.3.3. To deal promptly and properly with all inquiries from the Data Controller relating to their processing of the personal data subject to the processing and to abide by the advice of the OPDP with regard to the processing of the data.

#### 4. DATA PROCESSING FACILITIES

5.1. The Data Processor will provide the Services at the facilities located in Macau provided by the Data Controller (the "Facilities").

5.2. The parties hereby agree that the Facilities may at any time be subject to an audit which shall be carried out by the Data Controller or an inspection by the OPDP.

5.3. The Data Processor hereby warrants and agrees that the processing activities may at any time be subject to an audit which shall be carried out by the Data Controller or an inspection by the OPDP.

#### 5. LIABILITY

6.1. The parties hereby acknowledge and agree that they are both subject to Macau laws and might be held liable for any breach of Macau laws namely for the breach of any provision of the Act.

6.2. The Data Processor hereby agrees and warrants that it shall be responsible in relation to any Data Subject who has suffered damage as a result of any direct breach of the obligations of the Data Processor referred to in this Agreement and the Act.

#### 6. ASSIGNMENT

The Data Processor shall not assign any of the Services to be performed on behalf of the Data Controller under this Agreement without the consent of the Data Controller.

#### 7. OBLIGATIONS AFTER TERMINATION OF PERSONAL DATA PROCESSING SERVICES

Owner's initials

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## **EXHIBIT AA**

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To whom this may concern,

The abovementioned official letter has been well received.

This is in connection with the letter from your company (Venetian Macau Limited) stating that the local court in Nevada, US would be trying a civil case (Proceedings No.: A627691-B) involving Steven C. Jacob and Sands China Limited (hereinafter referred to as "SCL") with "Steven C. Jacob v. Las Vegas Sands Corp.; Sands China Ltd; Sheldon G. Adelson, et al." as the case name. In order to deliberate on whether it has jurisdiction over the abovementioned case, the court has requested SCL to provide information evidencing its relationship with "Las Vegas Sands Corporation" (hereinafter referred to as "LVSC"). Since your company believes that there may be documents in Macau which are significant to SCL's preparation of its own defense in the abovementioned case, your company intends to engage a lawyer in Macau, and to engage a law firm in Hong Kong which shall collaborate with that lawyer in inspecting the documents and information at your company's headquarters in Macau through the signing and provision of a contract of service. Your company believes that the abovementioned acts of document inspection and the treatment of personal data in connection therewith comply with the stipulations of Article 6, Item (5) of Macau's *Personal Data Protection Act* (Act 8/2005), and accordingly shall give notice to our Office pursuant to Article 21, No. 1 of that Act, or, in cases where our Office deems that a notice shall not be given, request the granting of permission by our Office in accordance with the stipulations of Article 22, No. 1, Item (4)<sup>1</sup> of that Act. As a public authority as defined under Article 79, No. 3 of the *Macau Civil Code* and the *Personal Data Protection Act*, our Office is responsible for monitoring and coordinating the compliance with and implementation of the *Personal Data Protection Act* by virtue of the responsibilities conferred upon it by Chief Executive's Dispatch No. 83/2007 and Dispatch No. 6/2010.

Pursuant to the stipulations of Article 4, No. 1, Items (5) and (6) of the *Personal Data Protection Act*, the "entity responsible for processing personal data" refers to "a natural person or legal person, public entity, department or any other body which decides, individually or jointly with others, upon the purposes and means of the processing of personal data", while

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<sup>1</sup> The original version of the incoming letter reads "nos termos do disposto na alínea 4) do artigo 22.º da Lei 8/2005."

"subcontractor" refers to "a natural person or legal person, public entity, department or any other body which is authorized by an entity responsible for processing personal data to process personal data."

In accordance with the content specified in the letter from your company, your company intends to inspect the documents and information at your company's headquarters through engaging a lawyer in Macau and a law firm in Hong Kong which shall collaborate on such inspection, in order to provide evidence of the relationship between SCL and LVSC. It is thus clear that your company has the control and decision rights regarding the processing of the abovementioned information, including the decision of engaging a lawyer in Macau and a law firm in Hong Kong which shall collaborate to inspect such documents and information. Consequently, your company is an entity responsible for processing personal data, while the lawyer in Macau and the law firm in Hong Kong, which are authorized, are subcontractors.

It should be noted that, based upon the fact that your company has authorized a law firm in Hong Kong to inspect documents containing personal data, as well as the fact that the specimen contract intended to be signed with the law firm in Hong Kong as provided by your company indicates that the services to be provided by such law firm shall include "defining the scope of the document disclosure requirements relating to the civil proceedings filed by Steven C. Jacob against Las Vegas Sands Corp. and Sands China Limited with the local court in Nevada, US and making responses thereto; and inspecting and analyzing all relevant documents under a mechanism complying with Macau's laws (including but not limited to Macau's *Personal Data Protection Act* (Act 8/2005))," our Office deems that the information relating to the documents containing personal data entailed in this case which an institution registered outside Macau has been authorized to inspect has been transferred to places outside Macau (including Hong Kong), and that under such circumstances, your company shall be allowed to proceed only when the stipulations of Article 19 or 20 of the *Personal Data Protection Act* are observed.

In view of the stipulations of Articles 19 and 20 of the *Personal Data Protection Act*, our Office deems that your company may only authorize a law firm in Hong Kong to inspect relevant documents subject to compliance with the stipulations of Article 20, No. 1, Item (1) or (2) of that

Act and upon giving notice to our Office. However, since your company has provided our Office with no information evidencing that your company has obtained the express consent of the parties relating to such information, nor any contract of employment signed between your company and its employees or such information as contracts signed between your company and its clients, our Office cannot deem that your company's authorization of a law firm in Hong Kong to inspect relevant documents complies with relevant stipulations of the *Personal Data Protection Act*.

In addition, the letter from your company states that it thereby notifies our Office of its act of engaging a lawyer for document inspection pursuant to the stipulations of Article 21, No. 1 of the *Personal Data Protection Act*, but that in cases where our Office deems that a notice shall not be given, it shall request the granting of permission by our Office in accordance with the stipulations of Article 22, No. 1, Item (4)<sup>2</sup> of that Act.

Article 21, No. 1 of the *Personal Data Protection Act* stipulates the following: "*The entity responsible for processing personal data or its representative (if any) shall notify the public authority in writing, within 8 days from the commencement of processing, of one or a series of totally or partially automated processing operations intended to achieve one or more interconnected purposes.*" The situations in which notification is exempted are stipulated in No. 2 and No. 4 of that Article.

In view of the abovementioned legal stipulations, it is clear that the responsible entity shall give notifications and make declarations based upon the various purposes of personal data processing, rather than in connection with discrete, individual operations of personal data processing. In this case, as an entity responsible for processing personal data, your company shall give notifications and make declarations with respect to automated processing with one or more interconnected purposes, and shall not notify our Office of merely one of the procedures (i.e. engaging a lawyer to inspect information) within an individual activity. Moreover, your company has not provided the information necessary for notification and declaration, such as an indication of the types of information being processed, in accordance with the stipulations of

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<sup>2</sup> The original version of the incoming letter reads "nos termos do disposto na alínea 4) do artigo 22.º da Lei 8/2005."

Article 23 of the *Personal Data Protection Act*. Therefore, our Office cannot regard your company's previous letter as a fulfillment of its notification obligations.

Further, Article 22, No. 1, Item (4) of the *Personal Data Protection Act* stipulates that the use of personal data for purposes other than those of data collection shall be subject to permission by our Office. No inconsistency therefore exists between the notification obligations as stipulated in Article 21, No. 1 the *Personal Data Protection Act* and the application for permission as stipulated in Article 22, where the two Articles are concerned with different treatments of personal data. Consequently, an application for permission shall be directed to our Office pursuant to the stipulations of Article 22, No. 1, Item (4) and Article 23 of that Act in cases where personal data are used for purposes other than those of data collection, notwithstanding the fact that your company has effected notification and declaration with our Office in accordance with Article 21, No. 1 of that Act. Given that your company has provided neither sufficient information nor an account of the original purposes of data collection or the necessity of using personal data for purposes other than those of data collection, our Office cannot examine or approve the application for permission.

Based upon the foregoing, our Office shall archive your company's previous notification, declaration and application for permission, and we hereby recommend that your company re-examine its personal data processing situation, clearly define its need to fulfill notification and declaration obligations and to apply for permission, and provide our Office with statutory information for our examination and approval pursuant to the stipulations of Article 23 of the *Personal Data Protection Act*. Notifications and declarations may be effected and applications for permission may be made through submitting to us a *Declaration of Personal Data Processing*, which can be downloaded from the website of our Office (<http://www.gdp.gov.mo>).

Should your company wish to appeal against the decision of our Office, an objection may be directed to our Office within 15 days upon receipt of this official letter of reply in accordance with the stipulations of Article 149 of the *Approved Code of Administrative Procedures* (Decree-Law No. 57/99/M of October 11); alternatively, an optional hierarchical appeal may be lodged to

the Chief Executive within the designated period for filing a judicial appeal in connection with relevant acts in accordance with the stipulations of Articles 155 and 156 of that Decree-Law.

In addition, your company may also file a judicial appeal with the Administrative Court within the period as stipulated in Article 25 of the *Approved Code of Administrative Proceedings* (Decree-Law No. 110/99/M of December 13).

Yours faithfully,

APP0524

PA1563



澳門特別行政區政府  
Governo da Região Administrativa Especial de Macau  
個人資料保護辦公室  
Gabinete para a Protecção de Dados Pessoais

LD11-2012-187

澳門氹仔望德聖母灣大馬路  
澳門威尼斯人度假村酒店  
威尼斯人澳門股份有限公司  
負責人先生 / 女士 台啓

來函編號 Sua referência	來函日期 Sua comunicação de	來函編號 Nossa referência	澳門郵政信箱 C. Postal	號 - Macau
N.Ref.:LD1671-2012	14/11/2012	1682/GPDP/2012	29/11/2012	
N.Ref.:LD1749-2012	28/11/2012			

印件:  
Assunto

關於通知/許可之申請

負責人先生 / 女士:

上述公函收悉。

關於 貴公司（威尼斯人澳門股份有限公司）來函，指在美國內華達州地方法院即將審理一宗涉及 Steven C. Jacob 與 Sands China Limited（下稱“SCL”）的民事訴訟案件（卷宗編號 A627691-B），訴訟案件名稱爲“Steven C. Jacob v. Las Vegas Sands Corp.; Sands China Ltd; Sheldon G. Adelson, et al.”。該法院爲審議是否具有上述訴訟案件的司法管轄權，要求 SCL 提供資料證明其與“Las Vegas Sands Corporation”（下稱 LVSC）之間的關係。由於 貴公司相信在澳門可能存有一些對 SCL 在上述訴訟案件中爲辯護作準備具有重要性的文件，故打算聘請澳門律師，並透過簽署提供勞務合同的方式，聘請一間香港律師樓與澳門律師合作在澳門 貴公司總部查閱文件資料。對於上述查閱文件的行爲和相關的個人資料處理，貴公司認爲符合澳門第 8/2005 號法律（《個人資料保護法》）第 6 條（五）項的規定，因此，根據該法律第 21 條第 1 款向本辦公室作出通知，但如本辦公室認爲不屬於通知的情況，則按照同一法律第 22 條第 1 款（四）項<sup>1</sup>的規定，請求本辦公室發出許可的事宜。本辦公室作爲《澳門民法典》第 79 條第 3 款及《個人資料保護

<sup>1</sup> 來函的原文爲“nos termos do disposto na alínea 4) do artigo 22.” da Lei 8/2005.”。

地址：澳門新馬路804號中華廣場13樓A-F座  
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個人資料保護辦公室 格式一  
GPDP - Modelo 1

APP0525  
A-4 表格程序 2012年11月  
Formato A-4 Insp. Nov. 2012

個人資料保護辦公室 - Gabinete para a Protecção de Dados Pessoais

PA1564





澳門特別行政區政府  
Governo da Região Administrativa Especial de Macau  
個人資料保護辦公室  
Gabinete para a Protecção de Dados Pessoais

頁碼號 2  
Fdg. n.º  
公函編號 1682/GPDP/2012  
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Data

法》所指的公共當局，根據第 83/2007 號及第 6/2010 號行政長官批示所賦予的職責，負責監察、協調對《個人資料保護法》的遵守和執行。經本辦公室分析後，茲回覆如下：

根據《個人資料保護法》第 4 條第 1 款（五）及（六）項之規定，負責處理個人資料的實體是指“就個人資料處理的目的和方法，單獨或與他人共同作出決定的自然人或法人，公共實體、部門或任何其他機構”；次合同人是指“受負責處理個人資料的實體的委託而處理個人資料的自然人或法人，公共實體、部門或任何其他機構”。

按照 貴公司的來函所指，為證明 SCL 與 LVSC 之間的關係，貴公司擬透過聘請澳門律師和一間香港律師樓合作在 貴公司總部查閱文件資料。可見，貴公司對上述資料的處理具有操控權和決定權，包括決定聘請澳門律師和一間香港律師樓合作查閱文件資料，故 貴公司為負責處理個人資料的實體，而受委託的澳門律師和一間香港律師樓則為次合同人。

值得注意的是，由於 貴公司委託一間香港律師樓查閱載有個人資料的文件，且根據 貴公司提供的擬與香港律師樓簽署的合同樣本，當中指出香港律師樓將提供的服務包括：“就有關 Steven C. Jacob 針對 Las Vegas Sands Corp. 及金沙中國有限公司於美國內華達州地方法院提出的民事訴訟中的文件透露要求界定範圍並作出回應；在一套符合澳門法律（包括但不限於澳門個人資料保護法，第 8/2005 號法律）的機制下查閱及分析所有相關文件”，基於，本辦公室認為，委託在澳門以外註冊的機構查閱本案涉及的載有個人資料的文件，相關資料已被轉移到澳門以外的地方（包括香港），在此情況下，貴公司須遵守《個人資料保護法》中第 19 或 20 條的規定方可處理。

綜觀《個人資料保護法》第 19 及 20 條的規定，本辦公室認為，貴公司僅可能符合該法律第 20 條第 1 款（一）或（二）項規定的前提下，並經向本辦公

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澳門特別行政區政府  
Governo da Região Administrativa Especial de Macau  
個人資料保護辦公室  
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室作出通知後，才可委託一間香港律師樓查閱相關文件。然而，由於 貴公司並沒有向本辦公室提供資料，證明 貴公司已取得資料當事人的明確同意；又沒有提供 貴公司與員工簽署的僱傭合同，以及 貴公司與客戶簽署的合同等資料，故本辦公室不能認為 貴公司委託一間香港律師樓查閱相關文件，符合《個人資料保護法》的相關規定。

另一方面， 貴公司於來函中表示，根據《個人資料保護法》第 21 條第 1 款的規定，就聘請律師查閱文件的行為向本辦公室作出通知。但如本辦公室認為不屬於通知的情況，則按照同一法律第 22 條第 1 款（四）項<sup>2</sup>的規定，請求本辦公室發出許可。

根據《個人資料保護法》第 21 條第 1 款的規定：“負責處理個人資料的實體或如有代表人時其代表人，應從處理開始起八日期限內以書面形式，將為了實現一個或多個相互關聯的目的而進行的一個或一系列、全部或部分自動化處理，通知公共當局”。而同一條文第 2 及第 4 款則規定了豁免通知的情況。

從上述法律規定可知，負責實體應根據不同目的之個人資料處理作通知申報，而非針對單一個別的個人資料處理操作。本案中， 貴公司作為負責處理個人資料的實體應就一個或多個相互關聯目的之自動化處理作通知申報，不應單純就個別活動的其中一個程序（即聘請律師查閱資料）通知本辦公室。再者， 貴公司並沒有根據《個人資料保護法》第 23 條的規定，提供通知申報所需的資訊，例如指出所處理的資料種類，故本辦公室未能視 貴公司是次來函為通知義務的履行。

此外，《個人資料保護法》第 22 條第 1 款（四）項規定，在與收集資料的目的不同的情況下使用個人資料，須經本辦公室許可。由此可見，《個人資料保護法》第 21 條第 1 款規定的通知義務，與此條文規定的申請許可不存在任何矛盾

<sup>2</sup> 來函的原文為 “nos termos do disposto na alínea 4) do artigo 22.º da Lei 8/2005.”  
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澳門特別行政區政府  
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之處，兩條文分別針對不同的個人資料處理，因此，即使 貴公司已根據該法律第 21 條第 1 款向本辦公室作出通知申報，但如涉及在與收集資料的目的不同的情況下使用個人資料，亦應根據同一法律第 22 條第 1 款（四）項及第 23 條的規定，向本辦公室申請許可。由於 貴公司沒有提供足夠的資料，亦沒有說明原本收集資料的目的及與收集的目的不同使用個人資料的必要性，故本辦公室未能審批許可申請。

基於上述，本辦公室將 貴公司是次的通知申報及許可申請作歸檔處理，建議 貴公司重新審視個人資料處理的情況，釐清 貴公司履行通知申報義務及許可申請的需要，並根據《個人資料保護法》第 23 條的規定，向本辦公室提供法定資訊以作審批。 貴公司可透過遞交《個人資料處理申報表》作通知申報及申請許可，有關表格可於本辦公室網頁下載（<http://www.gdpd.gov.mo>）。

如 貴公司對本辦公室的決定不服，可按照經十月十一日第 57/99/M 號法令核准之《行政程序法典》第 149 條規定，在接收本回覆公函之日起計 15 日內向本辦公室提出聲明異議，或根據同一法令第 155 條及第 156 條之規定，在為有關行為提起司法上訴所定之期間內向行政長官閣下提出任意訴願。

此外， 貴公司亦可按照經十二月十三日第 110/99/M 號法令核准之《行政訴訟法典》第 25 條規定的期限，向行政法院提起司法上訴。

本辦公室聯絡人：廖先生或何先生，電話：28716066。

肅此，順頌

台祺！

主任

陳海帆

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澳門特別行政區政府  
Governo da Região Administrativa Especial de Macau  
個人資料保護辦公室  
Gabinete para a Protecção de Dados Pessoais

Ofício 1682/GPD/2012

個人資料保護辦公室 啟  
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DL Reg. 81/2011 de 4/7  
Revista DL Imp. - Abv. 8411

LD11-2012-187

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APP0529

PA1568

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*Ann L. Quinn*

CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\*\*\*\*\*

STEVEN JACOBS

Plaintiff

vs.

LAS VEGAS SANDS CORP., et al..

Defendants

CASE NO. A-627691

DEPT. NO. XI

**Transcript of  
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**HEARING ON MOTION FOR PROTECTIVE ORDER**

THURSDAY, DECEMBER 6, 2012

APPEARANCES:

FOR THE PLAINTIFF:

TODD BICE, ESQ.  
DEBRA SPINELLI, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.  
JON RANDALL JONES, ESQ.  
MARK JONES, ESQ.

COURT RECORDER:

JILL HAWKINS  
District Court

TRANSCRIPTION BY:

FLORENCE HOYT  
Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.

RECEIVED

DEC 11 2012

CLERK OF THE COURT

PA1569

1 LAS VEGAS, NEVADA, THURSDAY, DECEMBER 6, 2012, 8:32 A.M.

2 (Court was called to order)

3 THE COURT: Now if I could go to Sands-Jacobs, who  
4 for some reason some of you thought you were coming at 8:20.

5 MR. PEEK: Your Honor, I think you did, actually,  
6 when we just had the one singular motion say 8:20 for just  
7 that one singular motion. I think that's where the confusion  
8 arose. But everything else got set at 8:30.

9 THE COURT: And I'm happy to have you at 8:20, but  
10 that means you all have to come at 8:20.

11 MR. PEEK: Everything else got set at 8:30, so I --

12 THE COURT: I know it did. That's what I thought  
13 until I was told that Sands-Jacobs thought they were going  
14 now, they were all sitting at the front tables. And then I  
15 came in.

16 Mr. Jones. Both Mr. Joneses.

17 MR. MARK JONES: Your Honor, good morning.

18 MR. RANDALL JONES: Since we had the first motion, I  
19 was wondering if we would be -- if it would be appropriate if  
20 we addressed the Court first.

21 THE COURT: If you'd like.

22 MR. RANDALL JONES: I would like if the Court would  
23 like.

24 THE COURT: Okay.

25 MR. RANDALL JONES: Thank you. Your Honor, as you

1 know, I have not been before you on this case as of yet. And  
2 while I'm a protracted -- and I think the Court can relate to  
3 this -- what seemed to be an interminable trial in front of  
4 Judge Johnson --

5 THE COURT: Yeah, but I'm worse.

6 MR. RANDALL JONES: I will defer to the Court.

7 -- I thought it was important that I appear today  
8 and talk about this. I think there are some important issues.  
9 Well, I guess I want to say a couple of things first to the  
10 Court, since this is my first appearance in this case.

11 THE COURT: You know there's been a history.

12 MR. RANDALL JONES: I do. And that's actually what  
13 I want to address. I want to assure this Court -- and this is  
14 an important point that I really want to make -- our clients,  
15 respective clients, the two defendants, heard the Court, and I  
16 want to make sure the Court is aware that we have -- we  
17 believe we have taken very decisive action to make sure that  
18 we are addressing the Court's concerns that were raised in  
19 September and even before, and that we are doing what we  
20 believe we can to make sure that we accomplish what I  
21 understand to be your goal, to make sure we get this  
22 evidentiary hearing done, the jurisdictional hearing done as  
23 soon as possible. And we are, as I said, taking a number of  
24 different actions to do that. And since it's been my  
25 understanding that the Court hasn't been made aware of some of

1 these things, I want to just briefly describe a few of the  
2 things that have happened since -- well, actually even a bit  
3 before we got involved. But the clients have now, since June,  
4 produced over 148,000 pages of documents at a cost of about  
5 \$2.3 million. That's through the present time. Within weeks  
6 of that September hearing new counsel was retained to address  
7 these concerns, the Court's concerns, not just my firm and my  
8 brother Mark's firm, but also Mayor Brown, within weeks of  
9 that happening -- and I would have gone, as well, but I was  
10 tied up in my trial -- Mike Lackey of Mayor Brown and Mark  
11 Jones flew to Macau to meet with the government officials and  
12 try to make sure we addressed their concerns so we could get  
13 moving on that document production or make sure that we could  
14 even get that document production.

15 And also the other I think piece of that puzzle as I  
16 understand it was make sure that the depositions that the  
17 Court had allowed, the four depositions, to take place. And I  
18 know there's some issues related to that that are going to be  
19 heard this morning, the scope of those depositions, but three  
20 of those four depositions have occurred, and the last one is  
21 scheduled for the 18th of this month.

22 And so I just want to make that comment up front  
23 that we -- our firm is committed, as I know is Mr. Peek and  
24 Mayor Brown, to getting this case in a place that you want it  
25 to be so we can get this done.



1 THE COURT: Well, I've got an order from the Nevada  
2 Supreme Court dated August 26, 2011, where they told me to do  
3 something. I'm trying really hard to do it.

4 MR. RANDALL JONES: And I know this Court has a lot  
5 of other things on its plate, and so we're committed, and I  
6 just want to tell you that here, that we are committed to  
7 trying to make sure that we do what you want us to do.

8 The concern that I have -- and I want to just  
9 mention this briefly, and then I'm going to turn this over to  
10 Mr. Peek, because he's going to argue the details of the first  
11 motion for protective order. But there have been problems.  
12 It's not all one sided, and I want the Court to be aware of  
13 that.

14 THE COURT: Well, I know. Because I got two phone  
15 calls earlier in the week.

16 MR. RANDALL JONES: Well, and had to put things on  
17 on shortened time. And that's --

18 THE COURT: That's okay, though. That's what I'm  
19 supposed to do. I'm supposed to help.

20 MR. RANDALL JONES: Sure. And that's what I want to  
21 make sure you know. We want your help, and we need your help.  
22 We believe that essentially what's happening here is that the  
23 plaintiff is essentially trying to pile on from the hearing in  
24 September, and now they're asking to relitigate issues or  
25 reconsider improperly issues that have been decided by this

1 Court instead of moving this forward, that they are not  
2 following the proper discovery procedures. So in a sense  
3 they're trying to distract this Court from their own discovery  
4 lapses, if you will, by trying to focus on something -- on  
5 past history. And the Court's addressed that. And we need  
6 your help, and we're here today as part of that process to ask  
7 your help to make sure this process is balanced, that it's  
8 fair to both sides, that both sides are afforded procedural  
9 due process so that when we have the jurisdictional hearing  
10 that it's fair to both sides.

11 And so we need your help in doing that, but I just  
12 want to reiterate we are committed to making sure that we get  
13 this process done. But in the meantime we need this Court to  
14 stop what we believe to be the overly broad and essentially  
15 harassing discovery that the plaintiff is trying to accomplish  
16 here, and make sure that, as I said, it's fair to both sides.

17 So with that I will turn this over to Mr. Peek. And  
18 I appreciate you allowing me to address the Court, since this  
19 is my first opportunity to do that.

20 THE COURT: Sure.

21 MR. RANDALL JONES: Thank you.

22 THE COURT: Mr. --

23 MR. BICE: Your Honor --

24 THE COURT: Yes, Mr. Bice.

25 MR. BICE: Is this an argument on the motion, or --

1 because I'm going to respond to these assertions when people  
2 just get up and address the Court. So I --

3 THE COURT: You can go after me Peek.

4 MR. BICE: Okay. That's fine. Thank you.

5 THE COURT: And you can respond to both of them at  
6 the same time.

7 MR. BICE: I will. Thank you.

8 THE COURT: Okay. Mr. Peek.

9 MR. PEEK: Thank you, Your Honor.

10 MS. SPINELLI: Can you let us know which motion.  
11 Sorry.

12 THE COURT: I'm on the motion for protective order  
13 related to the four witnesses that I said could go. And then  
14 later I'm going to do the motion on the administrative  
15 proceeding, and then I'm going to do your motion, which is can  
16 we do some more discovery on the sanctions issue and set an  
17 evidentiary hearing on December 27th.

18 MS. SPINELLI: Thank you, Your Honor.

19 THE COURT: How's that for a plan?

20 MR. BICE: Thank you.

21 MR. PEEK: I didn't know we were actually going to  
22 set an evidentiary hearing on the 27th, but --

23 THE COURT: No. That's what they asked. That's the  
24 motion.

25 MR. PEEK: Your Honor, this is Las Vegas Sands and

1 Sands China Limited's motion for protective order with respect  
2 to the scope of the discovery. And I'm not trying to  
3 relitigate, as plaintiff suggests, issues related to general  
4 or transient jurisdiction. I'm here more to talk about the  
5 perception of the plaintiffs of the scope of jurisdictional  
6 discovery that the Court allowed and the defendants'  
7 perception of the scope of the discovery that has been  
8 allowed.

9 THE COURT: And, for the record, we're talking  
10 about the four witnesses that I specifically identified in my  
11 March 8th, 2012, where I gave what I believed was fairly clear  
12 instructions on what the breadth of those depositions were  
13 given the stay that is in place on the jurisdictional --

14 MR. PEEK: And I agree, Your Honor. We certainly  
15 have had --

16 THE COURT: That's where we are.

17 MR. PEEK: That's what -- that's what we're here to  
18 discuss.

19 THE COURT: So let's turn to page 2 of that order  
20 and talk about what it really means.

21 MR. PEEK: Okay.

22 THE COURT: Or you could give me your argument, Mr.  
23 Peek.

24 MR. PEEK: I'd like to make my argument, Your Honor.  
25 And I'm happy to turn to page 2, if you'd like.

1 THE COURT: It's okay.

2 MR. PEEK: You've told us on a number of occasions  
3 that the scope of discovery should be narrowly confined to  
4 jurisdiction and shouldn't go into the merits, and you've  
5 reiterated what the Supreme Court order has said. The issue  
6 that we have here is where do we draw that line. And we had  
7 some discussions on Tuesday as to where do we draw that line.  
8 We know that the plaintiff has --

9 THE COURT: And I drew it short of the substance of  
10 why he was terminated.

11 MR. PEEK: That is correct. Your Honor. But there  
12 are other issues related to not just short of why he was  
13 terminated, but also all of the things he did during the  
14 course of his employment that don't go to the who, the where,  
15 and the what.

16 The plaintiff has three theories, as we know. We  
17 know he had transient jurisdiction, we know he has specific  
18 jurisdiction, and we know he has general jurisdiction.  
19 Transient jurisdiction, I don't think we need discovery on  
20 that, because that's just an issue of the services of the  
21 summons and complaint upon Mr. Leven when he was here in the  
22 United States and what role he was. And they've taken Mr.  
23 Leven's deposition.

24 Certainly you know we've argued about specific  
25 jurisdiction, we argued again earlier this week. I get the

1 message from the Court that the Court is going to say is that  
2 they're going to be allowed to ask questions about the who,  
3 the where, and the what, in other words, where were you when  
4 you did an act, what act did you undertake, and who undertook  
5 that act and what role he took that at.

6           We haven't -- you know, we had a disagreement in Mr.  
7 Adelson's deposition. We resolved that. We had a  
8 disagreement in Mr. Leven's deposition -- we had two  
9 disagreements in Mr. Leven's deposition. As you said, I was  
10 not really surprised, because I thought I was right when I  
11 made my objection, but you did sustain one of those  
12 objections, and you overruled one of my objections. And that  
13 was an objection the first time of the when, when was it in  
14 Singapore did Mr. Adelson and Mr. Leven discuss termination.

15           But I want to look really at the deposition of Mr.  
16 Adelson. And we know and I've cited to the pages and the  
17 lines within the deposition where we have seen disagreements  
18 and where I had instructed him not to answer under 30(b) and  
19 then the 30(b)(3) to come back to this Court.

20           Mr. Adelson testified that Leven had the power to  
21 negotiate a resolution with Jacobs when he was terminated.  
22 But instructed him not to answer more questions to explore the  
23 extent of his settlement authority. Mr. Adelson testified  
24 that he had a conversation with Mr. Leven about his  
25 dissatisfaction with Jacobs at the road show in London. I

1 instructed him not to answer questions about what precisely  
2 his concerns were, because that goes to the merits.

3           So that's certainly -- the who, the where, and the  
4 what was part of that examination, but the substance of the  
5 why was not to be part of that. It's not relevant as to  
6 substance of the why he was terminated, what the basis and  
7 what the grounds were.

8           Your Honor, as Mr. Jones has said, we've produced  
9 over -- since June, of course -- a hundred and some-odd  
10 thousand, but over 200,000 documents have been produced by  
11 plaintiffs for this theory of both general jurisdiction and  
12 specific jurisdiction. And we understand now that the  
13 plaintiffs are pursuing an agency theory. They're pursuing an  
14 agency theory of Las Vegas Sands Corporation, when it  
15 undertook acts, was being directed by its subsidiary, it's  
16 71-percent-owned subsidiary, to take those -- take on those  
17 acts on behalf of Sands China Limited. They gave up, Your  
18 Honor, the alter ego claim. Maybe they are going to revive  
19 it. I don't know. But that seems to be from the -- their own  
20 presentation to the Court in September and even from their  
21 papers now as to what they're going to be undertaking. They  
22 cite, of course, to the Doe versus Unical case, which is the  
23 agency issue.

24           Moving on to Mr. Goldstein, again I instructed Mr.  
25 Goldstein not to answer when they were getting into the

1 merits. They seemed to think that Mr. Goldstein was being  
2 directed by somebody in Macau -- I guess that would have been  
3 Mr. Jacobs, because Mr. Jacobs was the CEO and the president  
4 of Sands China Limited, that he was directing Mr. Goldstein to  
5 undertake certain actions so therefore the agency theory is  
6 that there is a presence in Nevada of Sands China Limited by  
7 Mr. Jacobs directing Mr. Goldstein to take acts or by  
8 directing Mr. Adelson to take acts. I don't think, Your  
9 Honor, that that theory -- well, if they want to pursue that  
10 theory, that's their theory.

11 But the point is, Your Honor, they argue that -- in  
12 their opposition -- that we seem to be focused and have a  
13 disagreement on specific jurisdiction. That is not where the  
14 disagreement lies. The disagreement lies on them getting into  
15 the merits. And I -- you know, and I've also asked that Mr.  
16 Adelson, Mr. Leven -- now Mr. Leven, who was deposed on  
17 Tuesday, and Mr. Goldstein, who have all been deposed for a  
18 day, not be required to come back. Because, if you look at  
19 the transcript of both the Goldstein and the Adelson  
20 deposition you will see that they wasted an awful lot of time  
21 in areas that really don't go to their one single theory now  
22 of agency. And we need to move on, as Mr. Jones said, get  
23 this case set for an evidentiary hearing, as we're directed by  
24 the Court, and not fuss around now that they have 200,000  
25 pages, three depositions, and one to go. Thank you, Your



1 Honor.

2 THE COURT: Thank you.

3 Mr. Mark Jones, is there something you want to add  
4 before I hear from Mr. Bice?

5 MR. MARK JONES: Just one point, Your Honor.

6 THE COURT: Okay.

7 MR. MARK JONES: The only thing I would like to add  
8 to this issue, Your Honor, is some context and remind the  
9 Court that the only claim for relief against Sands China  
10 Limited in this case is a claim for an alleged breach of a  
11 stock options agreement. And we would submit that there is no  
12 relations between plaintiff's questions regarding the details  
13 and the whys of his termination and his attempts to establish  
14 personal jurisdiction.

15 THE COURT: Thank you.

16 MR. MARK JONES: Thank you.

17 THE COURT: Mr. Bice.

18 MR. BICE: Yes, Your Honor. Good morning.

19 THE COURT: 'Morning.

20 MR. BICE: There seems to be from our end a rather  
21 large disconnect between what's presented this morning and  
22 actually what their motion says. If you read their motion,  
23 which I know the Court has done, the motion is all about a  
24 regurgitation of something that we've argued I think this will  
25 be at least fourth time, might be the fifth. I've sort of

1 lost track. This is the argument that Ms. Glaser made. Ms.  
2 Glaser made it again, seeking what she called clarification.  
3 Then when Munger Tolles & Olson entered the case they made the  
4 argument again, and then when Mr. Peek took on the role of  
5 representing both defendants they made the argument again, and  
6 now we have another set of new counsel, and the argument has  
7 returned. And so I don't want to -- I'm not going to waste a  
8 lot of your time rehashing that whole history about this  
9 argument about specific jurisdiction, which, let's be clear,  
10 that is what this dispute is really all about.

11 But since this is a court of law, I do want to just  
12 sort of talk about the law for a minute. Let's remember what  
13 the Supreme Court's actual order says. What it is says is  
14 that you are directed -- "You shall stay the underlying action  
15 except for matters relating to a determination of personal  
16 jurisdiction." That stay was sought, as we all remember, by  
17 Sands China, claiming that it had -- and I don't remember the  
18 number, Your Honor, was it -- a certain number of terabytes of  
19 documents in Macau that it was going to have to review that it  
20 didn't think it should have to review, it was burdensome,  
21 onerous, while it was contesting jurisdiction. That's the  
22 basis for the stay request.

23 So the Nevada Supreme Court didn't say that it  
24 stayed jurisdictional discovery, and it didn't say that there  
25 would be some other standard than the traditional rules under

1 Rule 26 and the traditional discovery mechanisms that apply to  
2 that jurisdictional discovery.

3           So let's remember what the standard is about  
4 discovery. Unlike a trial which we're addressing on the  
5 merits, we're going to have an evidentiary hearing on  
6 jurisdiction. So the rule is is the discovery being sought  
7 reasonably calculated to lead to admissible evidence that will  
8 be admissible at that jurisdictional hearing. That's the  
9 legal standard that we apply, are the questions designed to  
10 elicit testimony that could very well be admissible and  
11 determinative ultimately of the question of jurisdiction.  
12 That's the legal standard that governs. And that, of course,  
13 is being completely glossed over here by the defendants.

14           We have our -- again, I don't need to belabor our  
15 explanation for jurisdiction. We've asserted that there's  
16 agency, we've asserted that it's Sands China does here. No,  
17 we have not abandoned the alter ego theory. We've asserted  
18 specific and transient, as well. Now, they don't identify  
19 really what it is -- any specific questions, contrary to the  
20 argument about what they claim we shouldn't be allowed to get  
21 into it, but most of it seems to turn on this issue about,  
22 well, how much detail can one get into relative to the  
23 termination.

24           And that's important, Your Honor, because you've got  
25 to remember in a jurisdictional issue -- and this is the

1 dispute we had when Munger Tolles got into this case. When  
2 they came into the case they made this offer to us. They  
3 said, well, we'll stipulate to certain facts. But what they  
4 wanted to stipulate to were just sort of some basic facts  
5 about Mr. Adelson and Mr. Leven participated in board meetings  
6 via phone from Las Vegas, those sorts of things. And our  
7 objection to that was and the reason we said no to that was  
8 what matters in jurisdiction is magnitude, context, what is  
9 the substance of the contact. It's not just the, to use Mr.  
10 Peek's terminology, the who, the what -- or the who, the  
11 where, and the what. It's actually more than that. It is the  
12 who, the where and the what, but it's also and what was done  
13 relative to that contact, what is the substance of the  
14 contact, not just, well, Mr. Leven was in Las Vegas and talked  
15 about the termination, you can't get into anything else  
16 because we don't want to get into the merits of the case.

17           Your Honor, unquestionably, especially when you're  
18 talking about specific jurisdiction, merits and facts that go  
19 to merits and facts that go to jurisdiction are likely going  
20 to overlap. No one is disputing that's going to be an  
21 overlap. But that doesn't mean that the default is, okay, if  
22 there's an overlap then you don't get into it. No. If  
23 there's an overlap, we should be allowed to get into it,  
24 because we're allowed to develop the factual record to  
25 establish the jurisdiction of what would be admissible in the

1 evidentiary hearing. And that's all we are trying to  
2 accomplish here. Remember, they got the stay on the theory  
3 that they shouldn't have to produce all these documents. It's  
4 not burdensome or onerous to have to answer questions. And  
5 these are Las Vegas Sands executive who say they shouldn't  
6 have to answer questions that go to their activities in Nevada  
7 on behalf of Las Vegas -- or on behalf of Sands China Limited.  
8 And that's why, Your Honor, the stay shouldn't be extended to  
9 protect them from having to answer questions that will lead to  
10 the admissible evidence that goes to the question of  
11 jurisdiction, especially in the context of specific  
12 jurisdiction.

13           Let me give you an example of that, Your Honor. We  
14 had the story from Mr. Leven, and Mr. Peek made a point of it  
15 in his brief. Well, Mr. Leven said that he talked about  
16 termination with Mr. Adelson in Singapore. Ah. So that's it.  
17 So now you don't need to know any more. Well, yes, we do,  
18 Your Honor, because that was a month before the termination,  
19 and there was a month of activities by Mr. Leven. And guess  
20 where we believe he likely undertook those activities. Right  
21 out of Las Vegas before the termination was hatched. The  
22 letter was drafted here. Who all was involved in that? Who  
23 all reviewed it? Those are the specifics, because we need to  
24 understand the context and we need to understand the magnitude  
25 of the contact, where is the situs of the termination, where

1 was it hatched, executed, where did all of the things occur  
2 relative to it and what was the substance of it. It's not  
3 enough to just say, well, Mr. Leven said Singapore so now you  
4 just have to live with that answer. No. And that's what, of  
5 course, they want to do. And the answer is, no, that's not  
6 right. The law turns upon not just the who, the where, and  
7 the what, but the magnitude, the substance of it.

8           And so under the rules, Your Honor, if there's some  
9 question about, okay, well, maybe it goes to jurisdiction,  
10 maybe it goes to merits both, well, then we're entitled to do  
11 that discovery as long as it's reasonably calculated to lead  
12 to evidence that would aid us in establishing the  
13 jurisdictional facts. And that's all we have tried to  
14 accomplish relative to the depositions of these witnesses.  
15 And we have, of course, been obstructed in doing so. And  
16 that's why -- you know, I hear them telling us, you know,  
17 we're late on other things. Mr. Adelson's deposition was  
18 September the 6th, Your Honor. We're here now three months  
19 later over this issue? Because our point is we want and are  
20 entitled to develop the facts that are relevant to  
21 jurisdictional discovery.

22           And we've also brought a counter motion in this, Your  
23 Honor, for production of some travel records, because we have  
24 Mr. Adelson claiming he -- you know, he's travelling all over  
25 the world. He doesn't want to acknowledge that he's doing

1 business in Nevada -- or doing these events from Nevada. I  
2 don't know, and I'll address this as part of our other motion,  
3 Your Honor. I don't think we sufficiently highlighted it to  
4 you, but, you know, Mr. Adelson in his New York defamation  
5 claim, this is what he has to say about Nevada.

6 This has to do with the prostitution issue, Your  
7 Honor.

8 THE COURT: Your Honor, Mr. Bice is under a  
9 protective order in the Jacobs-Adelson case with respect to  
10 the Adelson deposition. He knows that. He negotiated it.  
11 And this is not to be part and parcel of a publication.

12 MR. BICE: They withdrew their -- there is no  
13 confidentiality designations on that order.

14 MR. PEEK: This is -- you're reading from the  
15 Adelson deposition in --

16 MR. BICE: No.

17 MR. PEEK: Oh. I apologize. I thought you were  
18 reading from the Adelson deposition in the Florida case.

19 MR. BICE: Well, first of all, I'm not. But second  
20 of all, even if I was --

21 MR. PEEK: I'm addressing the Court, Your Honor.

22 THE COURT: I understand.

23 MR. PEEK: Yeah.

24 MR. BICE: Mr. Adelson's counsel has withdrawn any  
25 confidentiality designations of Mr. Adelson's deposition

1 transcript in Florida. So --

2 THE COURT: The Florida deposition?

3 MR. BICE: Yes.

4 THE COURT: Well, but, see, I'm not the Florida  
5 judge.

6 MR. BICE: I understand.

7 THE COURT: And I'll get to that in a minute on the  
8 administrative hearing.

9 MR. BICE: But all I'm quoting here, Your Honor,  
10 is --

11 MR. PEEK: What I don't know is whether he's reading  
12 from the Florida deposition or from the --

13 THE COURT: The deposition that's protected or the  
14 deposition that's no longer protected. Interesting question,  
15 Mr. Peek.

16 MR. PEEK: I'm unaware of the fact that it was --  
17 that it's no longer protected. But that's fine.

18 THE COURT: How about I don't need to worry about  
19 what's happening in New York right now.

20 MR. PEEK: And Florida.

21 THE COURT: Florida I have to worry about, but I  
22 don't need to really worry about that.

23 MR. BICE: I agree with you. All I wanted to point  
24 out to the Court is in his brief what he says is, "Mr. Adelson  
25 promulgates these policies and conducts his business from



1 Nevada, the state where he manages his personal funds." This  
2 is about his casino. "Indeed, the defamatory statements  
3 attack Mr. Adelson's casino business, which he unquestionably  
4 oversees from his residence in Nevada." This all -- this is  
5 his position --

6 THE COURT: Okay.

7 MR. BICE: -- in another court.

8 THE COURT: I don't think that's new information to  
9 us here.

10 MR. BICE: Well, it seemed to be when we deposed Mr.  
11 Adelson, because he had, of course, an altogether different  
12 story about how he couldn't tell us where he was at. That's  
13 why we've asked for the travel records.

14 THE COURT: Well, at some point in time we'll get to  
15 an actual evidentiary hearing, and I'll weigh testimony and  
16 make determinations on credibility.

17 MR. BICE: Right. So that's -- that's why we've  
18 asked for the countermotion for the travel records, Your  
19 Honor.

20 THE COURT: I understood that.

21 MR. BICE: So now let me just briefly address Mr.  
22 Jones. I guess --

23 THE COURT: Mr. Mark Jones, or Mr. Randall Jones?

24 MR. BICE: Mr. Randall Jones's I guess opening  
25 introduction.

1 THE COURT: At least I don't have Jim Randall here,  
2 too, because then I get truly confused.

3 MR. PEEK: Or Justin.

4 THE COURT: Or Justin Jones, yes.

5 MR. BICE: Mr. Jones says that we are filing these  
6 motions I guess as some cover for our own discovery lapses --  
7 of course, he doesn't tell us what those are -- and that both  
8 sides have to be afforded procedural due process. We  
9 absolutely agree with that, and in fact we were the one -- as  
10 Mr. Jones doesn't know, we're the ones who weren't being  
11 afforded that at all at the conduct of the defendants when  
12 they were concealing information from us and from the Court  
13 for over a year.

14 They've also boasted to the Court about how much  
15 money they have spent producing documents since June. By our  
16 count, Your Honor, I think more than half of what they  
17 produced to us are in fact Mr. Jacobs's documents, the  
18 documents that we submitted to Advance Discovery and that they  
19 have reviewed. And that process, as Your Honor might know,  
20 has taken way longer than they had claimed it was going to.  
21 And all the money that they have incurred is because, as you  
22 will recall, Ms. Glaser -- and I think they have stuck to this  
23 position -- is they were going to review every piece of paper  
24 for privilege and produce a privilege log. Of course, our  
25 position was, and you might recall, was they were doing that

1 because that would inevitably delay the process. They  
2 insisted that that's not why they were doing it. But that's  
3 where they're incurring all their expense. They could have  
4 conducted a search of the documents, had they wanted to,  
5 relative -- by word terms, and then produced the documents.  
6 But I don't think a party can intentionally undertake a  
7 process that slows it down and then ask to be patted on the  
8 back for having incurred a lot of expense in a process that  
9 they wanted to undertake to simply give us our own documents.  
10 And that's really what has been going on since July of this  
11 year, Your Honor.

12 THE COURT: Thank you.

13 Mr. Peek, anything on the countermotion only?

14 MR. PEEK: I know you've said countermotion only,  
15 Your Honor, but there is --

16 THE COURT: I did.

17 MR. PEEK: And I understand that. But may I, with  
18 the Court's permission, correct some statements by Mr. Bice,  
19 who --

20 THE COURT: You can keep it under five minutes.

21 MR. PEEK: I can keep it all under five minutes.

22 Mr. Bice and I were apparently not at the same deposition of  
23 Mike Leven when he asked Mike Leven after the where were you  
24 in Singapore all of the questions about the then conversation  
25 Mr. Leven had with the individual members of the board of

1 directors of Sands China Limited, where he was when that  
2 happened. He must not have been at the same deposition I was  
3 when he asked Mr. Leven who drafted the letter, where was the  
4 letter drafted, and did you carry it to Macau with you, did  
5 you have it in your possession when you went to Macau. I  
6 guess he wasn't at the same deposition I was with Mr. Adelson  
7 when he asked Mr. Adelson the very same questions. So when he  
8 says that I've been obstructive, I have allowed those types of  
9 questions. It is the questions that go beyond that where I  
10 have not -- where I have said, no, you're getting into merits.

11           When he talks about scope of discovery, remember,  
12 the Court set the scope of discovery, so you don't have the  
13 very broad standard of Rule 26. And also, Your Honor, the  
14 Supreme Court order talking about evidentiary hearing set  
15 forth that which was going to be heard at the evidentiary  
16 hearing. The Court knows that, and he's not trying to go  
17 beyond that by this broad scope, travel records.

18           What they now say is, we need to know where he was.  
19 Mr. Adelson testified, I was in the air many times, I was at  
20 my home in France many times, I was at my home in Tel Aviv  
21 many of those times, I was at my home in Nevada on many of  
22 those occasions, I was at my home in Boston on many of those  
23 occasions when I had phone calls, when I talked to Mr. Jacobs,  
24 when I talked to somebody else about activities of Sands China  
25 Limited. Those travel records that you allowed them to have

1 were travel records of what trips and when -- what trips do  
2 you take to Macau and Hong Kong, that's all. Now they want  
3 broader records. They talk about wanting international  
4 travel, they now want to talk about having calendars. That's  
5 one of those areas where the Court denied them discovery into  
6 calendars, specifically said in its order of March 8th, no  
7 calendars. So now they're trying to go back and relitigate  
8 that very same issue when they were denied access to  
9 calendars. They now want to change the scope of discovery to  
10 all international travel that each of the individuals had, as  
11 opposed to travel to Macau and as opposed to travel to Hong  
12 Kong, as opposed to travel to China. Those are the three  
13 areas in which they sought discovery, Your Honor.

14 THE COURT: And you've produced those records.

15 MR. PEEK: I have produced -- well, Your Honor, with  
16 the travel records -- I have produced those related to others,  
17 but with respect to Mr. Adelson and Mr. Leven I have not  
18 produced the individual travel records. I have, as I said,  
19 Your Honor, in my papers and as I said given that a  
20 spreadsheet of the number of times they travelled to Macau in  
21 2010, 2009, number of times they've travelled through Hong  
22 Kong 2009-2010. That we had a dispute over back in March.  
23 But they came to this Court and said four weeks ago, we're  
24 ready to go. Haven't raised an issue at all about the  
25 specific days, the specific flight logs until just now, Your

1 Honor.

2 So they say on the one hand, we're ready to go; on  
3 the other, we're not. But they asked Mr. Adelson, they asked  
4 Mr. Leven, they asked Mr. Goldstein those very same questions  
5 about travel and where were you when certain things occurred,  
6 where were you when you did this activity, where were you when  
7 you did this activity. Mr. Adelson said, I can't tell you  
8 where I was specifically when that helped, I could have been  
9 in Vegas, I could have in the air, because I have wi-fi  
10 connection, satellite connection in my airplanes, I could have  
11 been in France, I could have been in Tel Aviv, I could have  
12 been in Boston. And we've said, Your Honor, in terms of the  
13 stipulation we'll stipulate that in terms of when he went to  
14 board meetings he was in Las Vegas.

15 But, Your Honor, getting to those specific travel  
16 records it's coming now too late to do that. They should have  
17 brought this motion to compel a long time ago, as opposed to  
18 the last minute. We've given them the information that the  
19 Court allowed them to have with respect to trips to Macau,  
20 trips to Hong Kong, trips to China. Thank you.

21 THE COURT: Thank you.

22 The countermotion is granted in part. It is granted  
23 as to those travel records that were ordered in paragraph 8 of  
24 my March 8th, 2012, order, which were the travel records for  
25 the four individuals that I've previously identified, as well

1 as any other LVSC executives that were having meetings related  
2 to Sands China.

3 Now, with respect to the protective order, I said on  
4 Tuesday when I spoke to you that my concern was navigating the  
5 stay that the Nevada Supreme Court has told me to enter  
6 related to discovery in the jurisdictional portion of this  
7 case. As a result, after a lot of briefing we entered the  
8 March 8th, 2012, order to govern the discovery in that case.

9 So while, Mr. Bice, I agree with you that typically  
10 we would have a broader discovery, we don't, because I've  
11 already limited the discovery in this case based on my  
12 interpretation of the stay order the Nevada Supreme Court has  
13 issued in the writ that was sent to me.

14 For that reason I'm going to grant the protective  
15 order in part. We are not going to inquire into the substance  
16 of any determinations, but the process of the decision making,  
17 the who, what, where, when, how, why, and then the  
18 implementation of the decision making --

19 MR. PEEK: Your Honor, you said why. Did you --

20 THE COURT: Sorry. I didn't mean why. "But not  
21 why" is what it says in my notes.

22 MR. PEEK: Okay. Thank you.

23 THE COURT: Who, what, where, how, when, and the  
24 implementation of those decisions. Because it's not just how  
25 a decision was made, it's also how the decision was

PISANELLO & BICE PLLC  
3883 HOWARD HUGHES PARKWAY, SUITE 800  
LAS VEGAS, NEVADA 89169

1 **REQUEST NO. 21:**

2 Please identify and produce all documents that reflect communications by and between  
3 Sands China and/or LVSC (and/or any individual and/or entity acting for or on Sands China's  
4 behalf) and site designers, developers, and specialists for Parcels 5 and 6, during the time period  
5 of January 1, 2009 to October 20, 2010.

6 **REQUEST NO. 22:**

7 To the extent not produced in response to the preceding requests, please identify and  
8 produce all documents, memoranda, emails, and/or other correspondence that reflect services  
9 performed by LVSC (including LVSC's executives and/or employees and/or consultants and/or  
10 agents) for or on behalf of Sands China, during the time period of January 1, 2009, to October 20,  
11 2010, including, but not limited to, Yvonne Mao, directions given to Mr. Yueng and/or Eric Chu  
12 relating to Hengquin Island, Chu Kong Shipping ("CKS"), the basketball team, the Adelson  
13 Center in Beijing, and investigations related to the same; negotiations with Four Seasons,  
14 Sheraton and Shangri-La; bonus and remuneration plans; outside counsel's review of Leonel  
15 Alves, Foreign Corrupt Practices Act issues and his suitability to serve as counsel for Sands  
16 China Limited; International Risk reports on Cheung Chi Tai, Charles Heung, and others  
17 commissioned in response to the Reuters' article alleging organized crime; and collection  
18 activities relating to patrons and junkets with large outstanding debts due Sands China and/or its  
19 subsidiaries.

20 **REQUEST NO. 23:**

21 Please identify and produce all documents that reflect reimbursements made to any LVSC  
22 executive and/or employee and/or consultant for work performed or services provided for or on  
23 behalf of Sands China, during the time period of January 1, 2009, to October 20, 2010.  
24  
25  
26  
27  
28



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LAS VEGAS, NEVADA 89169

1 **REQUEST NO. 24:**

2 Please identify and produce all documents that Sands China provided to Nevada gaming  
3 regulators, during the time period of January 1, 2009 to October 20, 2010.

4 DATED this 23rd day of December, 2011.

5 PISANELLI BICE PLLC

6 By: /s/ Debra L. Spinelli

7 James J. Pisanelli, Esq., Bar No. 4027

8 Todd L. Bice, Esq., Bar No. #4534

9 Debra L. Spinelli, Esq., Bar No. 9695

3883 Howard Hughes Parkway, Suite 800  
Las Vegas, Nevada 89169

10 Attorneys for Plaintiff Steven C. Jacobs

PISANELLO RICE PLLC  
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LAS VEGAS, NEVADA 89169

**RECEIPT OF COPY**

RECEIPT OF COPY of the above and foregoing PLAINTIFF'S FIRST REQUEST  
FOR PRODUCTION OF DOCUMENTS TO SANDS CHINA, LTD. (Nos. 1-24) is hereby  
acknowledged this 27<sup>th</sup> day of December, 2011, by:

GLASER, WEIL, FINK, JACOBS,  
HOWARD, AVCHEN & SHAPIRO, LLP

By: \_\_\_\_\_  
Patricia Glaser, Esq.  
Stephen Ma, Esq.  
Craig Marcus, Esq.  
Andrew D. Sedlock, Esq.  
3763 Howard Hughes Parkway, Suite 300  
Las Vegas, NV 89169

HOLLAND & HART

By: J. Stephen Peck *JS*  
J. Stephen Peck, Esq.  
Brian G. Anderson, Esq.  
9555 Hillwood Drive, Second Floor  
Las Vegas, NV 89134

10:15 a.m.

---

## **EXHIBIT M**

APP0338

PA1471

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July 17, 2012

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RONALD K. MEYER  
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DRAUDY S. PHILLIPS  
GEORGE H. GARVEY  
WILLIAM D. TCHKO  
ROBERT B. KNAUSS  
STEPHEN M. KRISTOVICH  
JOHN W. SPIEGEL  
TERRY C. SANCHEZ  
STEVEN M. PERRY  
MARK B. HELM  
JOSEPH D. LEE  
MICHAEL R. DOYEN  
MICHAEL E. SOLOFF  
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KRISTIN LINSLEY MYLES  
MARC T.G. DWORESKY  
JEROME C. ROTH  
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GARY T. VINCENT  
TED DANE  
STUART H. SENATOR

MARTIN D. BERN  
DANIEL P. COLLINS  
RICHARD E. DROVIAN  
ROBERT L. DELL ANGELO  
BRUCE A. ABBOTT  
JONATHAN E. ALTMAN  
MARY ANN TODD  
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DAVID B. GOLDMAN  
KEVIN S. HASUDA  
HOJOUN HWANG  
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PIETER A. DIETHE  
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GREGORY J. WEINGART  
TAMARLIN J. GOOLEY  
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J. MARTIN WILLIAMS  
RICHARD ST. JOHN  
ROHIT K. SINGLA  
LUIB U  
CAROLYN HOECKER LUEDTKE  
C. DAVID LEE  
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BLANCA PRADA YOUNG  
RANDALL D. SOMMER  
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MANUEL F. CASIAN  
ROSEMARIE T. RING  
JOSEPH J. YBARRA  
KATHERINE K. HUBAND  
MICHELLE T. FRIEDLAND  
TODD J. ROSEN

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MEUNDA EADES LAMONNE  
SETH GOLDMAN  
EUSAN R. SZABO  
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BENJAMIN W. HOWELL  
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M. LANCE JASPER  
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RACHEL L. STEIN  
AHI BRAZ  
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JOHN M. RAPPAPORT  
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Re: *Jacobs Discovery*

Dear Debbie:

We write to confirm your conversation with Henry Weissmann on June 28, 2012, and to clarify LVSC's procedure for collecting documents potentially responsive to Plaintiff's request for production of documents relating to personal jurisdiction.

In providing this response, we are not waiving any attorney-client work product, or other privileges. Our initial pool of documents for jurisdictional discovery consisted of documents previously culled through the application of merits search terms and date limiters (which overlapped with the relevant period for jurisdictional discovery). To find documents within this pool responsive to the jurisdictional discovery requests, we applied the jurisdictional search terms set forth in the table sent to you on June 26, 2012. As that table indicates, we applied the search terms to documents for custodians Messrs. Adelson, Leven, Chiu, Goldstein, Kay, and Ms. Yurcich and Ms. Murray, and de-duped within each custodian set (for deduplication purposes only, we treated Adelson/Yurcich and Leven/Murray as single custodians for some of the data). With respect to Request for Production 6, which seeks documents relating to Mr. Leven's role as special advisor, director, and/or CEO of SCL, we applied more targeted search terms for the period during which Mr. Leven was only a special advisor (up to July 23, 2010), and broader search terms for the period during which he was the CEO.

APP0339

PA1472

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Debra L. Spinelli, Esq.

Pisanelli Bice PLLC

July 17, 2012

Page 2

We applied a different procedure for some of the documents belonging to custodian Kay. We determined that Kay likely would possess documents potentially responsive to RFP 7 (documents reflecting the location of the negotiation and execution of agreements related to the funding of SCL). The search terms we ran for RFP 7 on Kay returned approximately 1,400 documents. At the time we ran the jurisdictional search terms, however, we had already reviewed a significant number of Kay documents for merits responsiveness. We determined that these merits-responsive documents were also responsive to RFP 7. Thus, rather than review and produce the 1,400 documents derived from search terms, we instead produced the Kay documents already determined to be responsive on the merits. After determining that the 1,400 documents were largely duplicative of the merits documents, we did not review those documents further, except insofar as they hit on other jurisdictional search terms.

In addition to the above procedures, we added documents to our review pool through several other methods. In lieu of search terms, we worked to identify certain specific categories of potentially responsive documents: (a) copies of the shared services agreements; (b) records concerning SCL/VML contracts with entities or persons that are based in or that do business in Nevada; (c) "connected transactions" reports, which disclose all the accounting entries for services LVSC provides to SCL under the shared services agreement; and (d) travel records reflecting all businesses travel by LVSC employees to Hong Kong, Macau, or mainland China during the relevant period. We also obtained 68 documents from custodian Michael Merlin pertaining to contracts with Bally's. We added any documents potentially responsive to jurisdiction that we discovered during the course of reviewing documents on the merits to the extent that those documents were not captured for some reason by our search terms. And we made a good faith attempt to identify specific items in our Rule 16.1 production likely to be responsive to the pending jurisdictional discovery requests.

As you know, our review of documents for responsiveness to Plaintiff's document request is ongoing.

The next stage of our review is of Mr. Jacobs's ESI. Our procedure for culling this review set differs significantly from the above in that we did not apply search terms to document sets to which merits search terms had already been applied. Instead, we applied date limiters and a modified set of search terms (also provided to you on June 26, 2012) to all emails across the custodians listed on the schedule attached hereto that had been sent to or received by Mr. Jacobs, and, to the extent possible, deduped within and across all custodians. We applied those same date limiters and search terms to all emails of which Mr. Jacobs was custodian, identified any unique documents that had not already been discovered among the other custodians, and added those to the review set as well. We also have approximately 1,800 non-email documents of which Mr. Jacobs is custodian. We are in the process of finalizing search terms to apply to this set, which we will provide to you when they are complete.

Finally, at the deposition of Mr. Kostrinsky on July 5, 2012, questions were posed about emails between Mr. Jacobs and attorneys who represented Mr. Jacobs. We do not know

APP0340

PA1473

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Debra L. Spinelli, Esq.  
Pisanelli Bice PLLC  
July 17, 2012  
Page 3

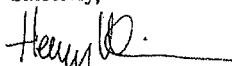
whether the emails for which Mr. Jacobs was the custodian contain privileged communications between Mr. Jacobs and his counsel.

To address concerns with Plaintiff's privileged or otherwise irrelevant communications, we propose to identify, segregate and not review any emails that contain the following search terms, which we took from your July 2, 2012 email: (seth w/3 farber) OR (howard w/3 adler) OR (dewey w/25 (associates OR partners OR assistants)) OR lebeouf OR (dl.com). Please advise if you believe we should use any other search terms, or if you have any other comments on this approach. I note that your July 2, 2012 email references "Documents prepared at the direction of counsel: Doc. No. 673." Please advise if this document or others prepared at the direction of Mr. Jacobs' counsel existed as of July 23, 2010 and, if so, how we should search for such documents. In addition to searches for privileged communications, we propose to identify, segregate and not review any emails that contain any of the other search terms included in your July 2, 2012 email.

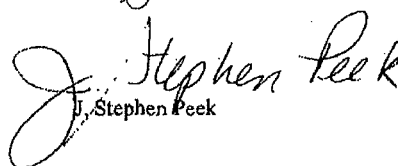
As Messrs. Owens and Schneider explained to you on July 9, 2012, as an alternative to MTO running search terms for privileged or irrelevant documents, if Plaintiff prefers, we will ask Advanced Discovery to run the search terms mentioned above, segregate any of Mr. Jacobs' documents that hit upon those terms, and return the remaining documents to us. This would likely add time to the process of our review and production, but we are willing to proceed in this manner if that is your preference. We understand that Plaintiff likely will prefer to have Advanced Discovery run the search terms. If that the case, please confirm at your earliest convenience.

In making these proposals, of course, we reserve the right to contend that the documents that hit on the search terms are not privileged.

Sincerely,



Henry Weissmann

  
J. Stephen Peek

HW:v

APP0341

PA1474

Schedule of Custodians  
Page 1 of 4

SCHEDULE OF CUSTODIANS

Abboud, Andy  
Accounting  
Adelson, Sheldon  
Anderson, Jason  
Ault, Shirley  
Banks, Mia  
Bell, Jonathan  

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Bennett, Anne  
Bowman, Denise  
Briggs, Daniel  
Bruce, Bonnie  
Burge, Jeff  
Carlos, Mary Ann  
Casino Accounting  
Catletti, Anthony  
Chao, Coco  
Chiu, Larry  
Collection\_Share  
Compliance Department  

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Coningford, Edward  
Cootey, Steve  
Corporate L3 Archive  
Cruger, Gus  
Cupp, Sandra  
Davenport, Ken  
Dempsey, Shirley  
Destura, Jeanette  
Dimond, Kirsten/Gillerist, Paul  
Eitnier, Dan  
Feldman, Ian  
Flood, Mike  
Flynn, Kathy  
Forman, Charles  
Garcia, Andrew  
Garner, Lisa  
Gartrell, Roberta  
Gethers, Guy  
Gethers, Linda  
Giardina, Kris  
Godby, Kirk  
Goldstein, Robert  

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Gonzalez, Alberto  
Green, Penny

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APP0342

PA1475

Schedule of Custodians

Page 2 of 4

Grumelot, Christi  
Gutjahr, John  
Guzman, Maria  
Hamblin, Stephen  
Hampton, Kip  
Harris, Darrin  
Helderman, Jessica  
Henry, Scott  
Hernishin, Gary  
Host Share  

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Howland, Russ  
Hubert, Lisa  
Hyman, Gayle  
Inbound Production  
Ingram, Renee  
Jackson, Alicia  
Jacobs, Steve  
Jaeger, Dean  
Juan, Joywela  
Kallifetz, Lonnie  
Kay, Kenneth  
Kennedy, Jack  

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Kibblewhite, Bob  
Knauff, Barry  
Koo, George  
Kostrinsky, Michael (paper docs only)  
Kraus, Frederick  
Kwok, Yiu  
Lax, Michael  
Lee, Penny  
Lentz, Norine  
Leven, Michael  
Levy, Franklin  
Lu, Bruce  
Lukatz, Yasmin  
LVS Misc  
Mallari, Rosa  
Mao, Yvonne  
Marketing  
Maxheimer, Jack  
McCabe, Kimberly  
McCreary, Gary  
Merlin, Michael  
Miluevic, Millie  

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Minerd, Rod  
Morrow, Peter

18002848.1

APP0343

PA1476



Schedule of Custodians

Page 3 of 4

Murray, Patricia  
Murray, Patricia/Weidner, William  
Nagel, Brian  
Nikitaeva, Inna  
Notare, Kathryn  
Notaro, Tim  
O'Neal, Judee  
Ono, Jennifer  
Pelkey, Mike  
Petrozza, Chad  

---

Pfeiffer, Julie  
Poe, Jenny  
Price, Danny  
Punsalan, Cynthia  
Pusateri, Paul  
Quartieri, Michael  
Quidato, Joel  
Rameriz, Ginny  
Randall, Teri  
Raphaelson, Ira  
Raviv, Daniel  
Rebosa, Fitzgerald  

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Reese, Ron  
Reisler, Norbert  
Riojas, Susan  
Rivera, Viola  
Robinson, Rachel  
Rodriguez, Hector  
Ross, Jeff  
Rozek, Robert  
Rubenstein, Robert  
Rumyantzen, Sergey  
Sales, Anna  
Santagelo, Michael  
Schwartz, Jeff  
Seery, Jeff  
Sharepoint  
Shonty, Jeffrey  
Siegel, Irwin  
Sigel, Todd  
Smith, Cecil  
Stephens, Jeff  
Stone, Bradley  
Studd, Kristi  

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Surveillance Group  
Table Games Admin

18002848.1

APP0344

PA1477

Schedule of Custodians

Page 4 of 4

Table Shift Manager

Tan, Wee

Thomas, Lizzy

Toth, Gail

Treasury Dept

Tuoto, Steve

Umbarger, Fay

Vazquez, Sarfina

Vry, Cynthia

Waters, Susan

Weidner, William

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Weinrot, Daniel

Wetzel, Carol

Wheeler, Larry

Wheelock, Sharon

Widdon, Tony

Winchester, Aron

Wolf, Wayne

Yang, Nan

Yanulavich, Christi

Yurcich, Betty

Zarebaj, John

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## EXHIBIT W

APP0440

PA1479

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July 30, 2012

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WILLIAM D. TEMKO  
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MICHAEL E. SOLOFF  
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ONALLEY N. MILLER  
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HENRY WEISSMANN  
KEVIN S. ALLRED  
BART H. WILLIAMS  
JEFFREY A. HEINTZ  
JUDITH T. KIRKAND  
KRISTIN LINSLEY MYLES  
MARC T.O. DWORSHY  
JEROME C. ROTH  
STEPHEN D. ROSE  
GARTH T. VINCENT  
TED DAHE  
STUART N. SCHATOR

MARTIN D. BERN  
DANIEL P. COLLINS  
RICHARD E. BRODYAN  
ROBERT L. DELL ANGELO  
BRUCE A. ABBOTT  
JOHNATHAN E. ALTMAN  
HARRY ANI TODD  
MICHAEL J. O'BULLIVAN  
KELLY M. KHALIL  
DAVID E. GOLDSTEIN  
KEVIN B. NASUDA  
HOWARD HWANG  
DAVID C. DIWILLI  
PETER A. DETRE  
PAUL J. WATFORD  
DANA B. STROETER  
CARL H. MOOR  
DAVID H. FRY  
LISA J. BERNIER  
MALCOLM A. HENRICK  
BRENDAN J. HEYDARE  
TAMERLIN J. GUDLEY  
JAMES C. RUTEN  
C. HARRIS WILKIN  
RICHARD ST. JOYK  
RONIT K. SINGLA  
LUI LI  
CAROLYN HOCHER LUETKE  
C. DAVID LEE  
MARK M. RIM  
BRETT J. RODDA  
BEAN EKOVIETZ  
FRED A. ROWLEY, JR.  
KATHERINE M. FORSTER  
BLANCA FROMM YOUNG  
RANDALL G. SOMMER  
MARIA BETERMAN  
MAHUEL F. CACHAN  
ROSEMARIE T. REIN  
JOSEPH J. YABARA  
KATHERINE K. HUANG  
MICHELLE T. FRIEDLAND  
TODD J. ROSEN

TRUC T. DO  
HELENE EADES LEMONE  
SETH GOLDBACH  
SUSAN R. SZABO  
LINDSAY D. HASKILL  
BRIAN R. HOCHLUMER  
GRANT A. DAVIS-BENNY  
JOHNATHAN H. BLAVIN  
KAREN J. DYKMAN  
LEMA O. MYAKE  
ANDREW W. SONG  
VICTORIA C. ROSEN  
KALYN J. CHEN  
BRAD SCHNEIDER  
HARRAH NUN  
MISTY M. SANFORD  
AIMEE FENBERG  
KATHERINE KU  
KIMBERLY A. QIN  
SHOSHANA C. BANNETT  
DEREK J. KAUFMAN  
MARGUS J. SPIEGEL  
BETHANY W. KRISTOVICH  
WILLIAM F. GAHO  
HENRY C. ORREN  
BEAUKIN W. HOWELL  
JACOB B. WIELKAMP  
ERIC P. TUTTLE  
HEATHER E. TAKAHASHI  
KEITH R.D. HAMILTON, II  
SORAYA G. KELLY  
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JEFFREY Y. WU  
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A PROFESSIONAL CORPORATION

Via EMAIL/U.S. MAIL

Todd Bice, Esq.  
Pisanelli Bice PLLC  
3883 Howard Hughes Pkwy, Suite 800  
Las Vegas, NV 89169

Re: *Jacobs v. Las Vegas Sands Corp. et al.*

Dear Counsel:

After speaking with my colleagues, I understand that the parties engaged in productive meet and confer sessions last week, and I appreciate your cooperation in narrowing areas of disagreement. However, I wanted to respond to your comments, reported to me, concerning Sands China Limited's review and production of documents currently in Macau.

As you know, Las Vegas Sands Corporation has conducted and is continuing to conduct an extensive review of the ESI and other documents in Nevada for responsiveness to jurisdictional discovery. During our meet and confer session on May 23, 2012, we made clear SCL's position that it should not be required to carry out a comparable review of documents currently in Macau as part of jurisdictional discovery, and that we objected to doing so. We explained that such a review would be unduly burdensome, particularly given the limitations imposed by the Macau Personal Data Protection Act on the review and production of such documents. We also explained how such review and production was unreasonable in light of the extensive review and production of Las Vegas Sands Corporation documents, which we believed and still believe should be sufficient for a determination of plaintiff's theory of personal jurisdiction, which after all focuses on SCL's contacts with Nevada. We agreed to consider further your specific request that we review and produce Mr. Jacobs' ESI. Following the hearing

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APP0441

PA1480

MUNGER, TOLLES & OLSON LLP

Todd Bice, Esq.

July 30, 2012

Page 2

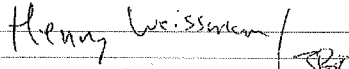
on May 28, we have put in place a process to review and produce Mr. Jacobs' ESI. As we have previously discussed with you, that process involves the review of documents in the United States in the first instance.

To be clear, SCL has not refused to search for or produce any documents that are responsive to Plaintiff's document requests. On the contrary, where it has identified responsive documents that did not raise data privacy concerns and that were not within Las Vegas Sands Corporation's possession, SCL has produced those documents. SCL, for example, has produced accounting records reflecting all transactions between Las Vegas Sands Corporation and SCL pursuant to the shared services agreement during the relevant period. SCL's objection instead is to conducting a review of documents in Macau similar to what Las Vegas Sands Corporation is currently doing with respect to documents in Nevada.

I understand that during the meet and confer sessions last week, you asserted that it was SCL's burden to file a motion for protective order several months ago. We respectfully disagree with that assertion. You have known our position for more than two months, and have had ample opportunity to raise this issue with us in a meet and confer session or with the Court.

As always, we are willing to meet and confer with you on this issue, and determine whether we can reach an agreeable resolution or narrow our disagreement. I will be available to discuss these matters starting on August 2, 2012, when I return to the United States. I look forward to speaking with you about this and other issues.

Sincerely,

  
Henry Weissmann

HW:jo

cc: Brad D. Brian, Esq.  
John B. Owens, Esq.  
Brad R. Schneider, Esq.  
Steve Peek, Esq.

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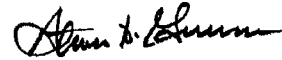
APP0442

PA1481

## EXHIBIT X

APP0443

PA1482



CLERK OF THE COURT

**STMT**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

STEVEN C. JACOBS,

Plaintiff,

vs.

LAS VEGAS SANDS CORP., a Nevada  
corporation; et al.,

Defendants,

AND ALL RELATED CLAIMS.

CASE NO.: A627691-B  
DEPT. NO.: XII

**DEFENDANT'S LAS VEGAS SANDS  
CORP.'S AND SANDS CHINA  
LIMITED'S STATEMENT ON  
POTENTIAL SANCTIONS**

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THE COURT: Here in the States?

MR. PEEK: -- Sands, as well.

THE COURT: Well, you can take the position

MR. PEEK: Well, we are told that by the --

THE COURT: It's okay.

MR. PEEK: Office of Data Privacy

THE COURT: You can take the position --

MR. PEEK: -- counsel, Your Honor. And I'll we'll brief  
that with the Court. Again--

THE COURT: And then I'll decide.

Tr. 55:5-19. (Ex. D at APP00154). Defendant thereby disclosed that there were documents in Nevada that were potentially subject to Macau's data privacy law, i.e., that documents had come from Macau.

*Second*, Defendants voluntarily disclosed, during a stay of merits discovery and before the close of jurisdictional discovery, the transfer of ESI for which Plaintiff was the custodian, and will produce non-privileged documents from that collection that are responsive to Plaintiff's discovery requests. Plaintiff thus has not been prejudiced by Defendants' conduct.

*Third*, Defendants' representations and arguments concerning the PDPA were correct. The Macau government is currently investigating SCL's Macau subsidiary, Venetian Macau Limited ("VML"), for potential violations of the PDPA in connection with the very transfers that prompted this hearing.

*Finally*, Defendants' conduct shows that a severe sanction is not necessary to serve any deterrent function. After the Court first raised its concerns, Defendants immediately began an investigation into not only the transfer of the ESI for which Plaintiff was the custodian but also other transfers of potentially relevant data. Defendants filed a report with the Court disclosing their initial findings to the Court. Defendants, moreover, have apologized to the Court.

1 **I. ANY SANCTIONS MUST BE JUST AND REASONABLY PROPORTIONATE**

2 In selecting an appropriate sanction, the Nevada Supreme Court has explained that  
3 “[d]espite the district court’s broad discretion to impose sanctions, ‘[a] district court may only  
4 impose sanctions that are *reasonably proportionate* to the litigant’s misconduct.’” *Emerson v.*  
5 *Eighth Judicial Dist. Ct.*, 127 Nev. Adv. Op. 61, 263 P.3d 224, 230 (2011) (quoting *Heinle v.*  
6 *Heinle*, 777 N.W.2d 590, 602 (N.D. 2010)) (second alteration in original and emphasis added).  
7 “Proportionate sanctions are those which are roughly proportionate to sanctions imposed in  
8 similar situations or for analogous levels of culpability.” *Id.* (internal quotations omitted and  
9 emphasis added).

10 In the sections below, Defendants discuss the range of potential sanctions available to the  
11 Court with these principles in mind.

12 **II. THE YOUNG FACTORS COUNSEL AGAINST IMPOSING A SEVERE**  
13 **SANCTION ON DEFENDANTS OR THEIR COUNSEL**

14 In *Young v. Johnny Ribeiro Building*, 106 Nev. 88, 787 P.2d 777 (1990), the Supreme  
15 Court identified several factors that are relevant to determining the appropriate sanction for  
16 discovery violations. As this Court has noted, while *Young* addresses sanctions under NRCP 37  
17 and therefore is not controlling here, the *Young* factors are relevant in choosing an appropriate  
18 sanction for any type of litigation misconduct.

19 “*Young* set out eight, non-exhaustive factors that a court may consider before ordering  
20 dismissal with prejudice as a discovery sanction: (1) the degree of willfulness of the offending  
21 party; (2) the extent to which the non-offending party would be prejudiced by a lesser sanction;  
22 (3) the severity of dismissal relative to the severity of the abusive conduct; (4) whether evidence  
23 has been irreparably lost; (5) the feasibility and fairness of alternative and less severe sanctions,  
24 such as an order deeming facts relating to improperly lost or destroyed evidence to be admitted  
25 by the offending party; (6) the policy favoring adjudication on the merits; (7) whether sanctions  
26 unfairly operate to penalize a party for the misconduct of his or her attorney; and (8) the need to  
27 deter both the parties and future litigants from similar abuses.” *GNLV Corp. v. Service Control*  
28 *Corp.*, 111 Nev. 866, 900 P.2d 323 (1995).

1 In *Young*, the Supreme Court held that a heightened standard of review applies where a  
2 district court dismisses an action with prejudice as a sanction for violating a discovery order. *Id.*  
3 at 779. Subsequently, the Supreme Court stated that “[d]ismissal for failure to obey a discovery  
4 order should be used only in *extreme situations*; if less drastic sanctions are available, they  
5 should be utilized.” *Nevada Power Co. v. Fluor Illinois*, 108 Nev. 638, 837 P.2d 1354, 1359  
6 (1992) (emphasis added).

7 In *Young*, the Supreme Court affirmed a district court dismissal of a complaint as a  
8 sanction where plaintiff had fabricated key evidence. *Id.* at 794 (noting that the fabricated  
9 evidence was “highly relevant to the determination” of plaintiff’s claims). Likewise, in *Foster v.*  
10 *Dingwall*, 126 Nev. Adv. Op. 6, 227 P.3d 1042, 1049 (2010), Supreme Court upheld a district  
11 court’s decision to strike parties’ pleadings as a sanction for repeated and abusive discovery  
12 violations, including their violation of a sanctions order that expressly warned of terminating  
13 sanctions if the parties failed to comply. *Id.* at 1049 (concluding that appellants’ “continued  
14 discovery abuses and failure to comply with the district court’s first sanction order evidence their  
15 willful and recalcitrant disregard of the judicial process”). Other cases have involved similarly  
16 abusive or flagrant misconduct. See, e.g., *Stubli v. Big D Intern. Trucks, Inc.*, 107 Nev. 309, 314,  
17 810 P.2d 785, 788 (1991) (affirming dismissal of action pursuant to NRCP 37 based on counsel’s  
18 willful loss of evidence in product defect case where defense experts opined that the discarded  
19 evidence made it impossible for them to establish their defense theory).

20 The Supreme Court has also affirmed sanctions short of dismissal, such as striking a  
21 defendant’s affirmative defenses. But even in these cases, the Supreme Court has required a  
22 showing of serious and prejudicial misconduct. In *Clark County School Dist. v. Richardson*  
23 *Const., Inc.*, 123 Nev. 382, 168 P.3d 87 (2007), for example, a defendant’s employee submitted  
24 an affidavit to the district court attesting that all relevant files had been produced to the plaintiff.  
25 *Id.* at 391. At trial, however, the employee testified that at least one file existed that had not been  
26 produced. *Id.* The next day, the employee turned over 1,700 documents to the court, “500 to  
27 700 of which had not been previously produced, even though they were subject to NRCP 16.1  
28 production provisions and were relevant to the litigation.” *Id.* This untimely disclosure resulted

1 in a one-week delay of the trial. *Id.* The Supreme Court held that the district court did not abuse  
2 its discretion in striking the defendant's affirmative defenses as a sanction. *Id.* at 391-92.

3 And in *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. Adv. Op. 26, 235 P.3d 592,  
4 (2010), the district court found that the defendant had engaged in a pattern of discovery  
5 misconduct for the purpose of delaying trial. *Id.* at 595. The district court found that continuing  
6 the trial date was not an appropriate remedy "since the prejudice was extreme and  
7 inappropriate." *Id.* at 595-96. The district court emphasized that the plaintiffs included "a 14-  
8 year-old who had been in a persistent vegetative state for the past two years together with the  
9 estates of three dead plaintiffs." *Id.* at 596. After analyzing the *Young* factors, the district court  
10 sanctioned the defendant by striking its answer as to liability—a sanction that the Supreme Court  
11 held was within the district court's discretion. *Id.*

12 By contrast, in *GNLV*, the Supreme Court held that a district court abused its discretion in  
13 dismissing a defendant's cross-claim as a sanction for the defendant's destruction of evidence, a  
14 bath mat involved in a slip-and-fall accident. 900 P.2d at 326. In reversing, the Supreme Court  
15 emphasized that there was no evidence that the defendant had intentionally or deliberately  
16 destroyed the bath mat, all evidence concerning the bath mat was not lost, and "lesser sanction  
17 could have been imposed without substantial prejudice to" the cross-claim defendant. *Id.* The  
18 Supreme Court also cited the policy in favor of adjudicating cases on the merits. *Id.*

19 Here, an analysis of the *Young* factors makes clear that a case-concluding sanction (or, as  
20 Plaintiff has recently requested,<sup>3</sup> striking SCL's defense of personal jurisdiction) would be unjust  
21 and disproportionate. Instead, there are sanctions the Court could impose, such as an oral  
22 reprimand and/or a monetary penalty—either of which would be quite sufficient to deter a  
23 repetition of the conduct that has caused the Court's concerns.

24 1. *Degree of willfulness.* There are a number of mitigating factors that counsel  
25 against a harsh sanction. Most importantly, Defendants' representations and arguments  
26 regarding the PDPA and its application to relevant documents in Macau, even if found  
27

28 <sup>3</sup> Plaintiff Steve C. Jacobs Brief on Duty and Sanctions at 7 (filed Sept. 7, 2012)  
("Plaintiff's Brief").

1 inadequate, were fundamentally truthful and accurate. LVSC's counsel, moreover, expressly  
2 disclosed to the Court and opposing counsel that the PDPA potentially applied to documents that  
3 were in LVSC's possession in Nevada, which could only have been the case if documents  
4 containing personal data had previously been transferred from Macau to the United States.  
5 Further, Defendants voluntarily disclosed the Subject Transfers,<sup>4</sup> a factor that strongly militates  
6 against a finding that Defendants acted willfully. If Defendants or their counsel can be faulted, it  
7 is for not disclosing these transfers in more detail earlier. But that failure is far more akin to the  
8 negligence in *GNLV* than the fabrication of evidence in *Young*.

9       2. *Prejudice to Plaintiff.* This factor is critical: the Supreme Court has never upheld  
10 a severe sanction in the absence of prejudice to the non-offending party. Here, Plaintiff has not  
11 suffered any prejudice, let alone the "extreme and inappropriate" prejudice that was found in  
12 cases such as *Bahena*. In sharp contrast to *Clark*, for example, Defendants disclosed the Subject  
13 Transfers of ESI well before trial, while a stay on merits discovery was in place and the parties  
14 were still in the midst of jurisdictional discovery. LVSC will review ESI for which Plaintiff was  
15 the custodian and produce non-privileged documents that are responsive to Plaintiff's document  
16 requests. Thus, the Subject Transfers from Macau to Nevada, and their representations and  
17 disclosures concerning the PDPA and data transfers, have not impaired Plaintiff's ability to  
18 pursue his claims.

19       3. *The severity of dismissal relative to the severity of the abusive conduct.*  
20 Defendants respectfully submit that their conduct, even if found to have fallen short of the  
21 Court's expectations, still does not rise to the level of "abusive conduct." As Defendants have  
22 explained, and as the Macau government's recent actions and statements make absolutely clear,  
23 the PDPA is a real statute that presents real obstacles to the review and production of the vast  
24 amount of relevant data that remains in Macau subject to PDPA scrutiny. Indeed, Defendants'  
25 Macau subsidiary is under investigation by the Macau authorities for the very transfer that  
26 prompted this hearing. Imposing a severe sanctions on Defendants or their counsel under these

27  
28 <sup>4</sup> As defined in Defendants' Statement Regarding Hearing on Sanctions (Aug. 27, 2012)  
at 2 n. 1.

1 circumstances would be needlessly punitive and harsh.

2 4. *Whether evidence has been irreparably lost.* This factor is not applicable.  
3 Although Plaintiff has accused Defendants of losing relevant evidence, there is no spoliation  
4 issue currently before the Court. Defendants note, however, that they made a ghost image of  
5 Plaintiff's hard drive three days after Plaintiff's termination -- employing essentially the same  
6 technology that Plaintiff himself claims to have used to make a copy of the hard drive on his  
7 personal laptop. There has also been testimony that in November 2010, Michael Kostrinsky may  
8 have removed a foil envelope from Macau, and that the foil envelope and its contents are  
9 currently unaccounted for. That issue is also not before the Court. And in any event, there is no  
10 evidence in the record that this foil envelope contained any data or documents that are relevant to  
11 this case.

12 5. *The feasibility and fairness of alternative sanctions.* This factor strongly weighs  
13 against imposing severe sanctions. First, this Court could impose an oral admonishment (private  
14 or on the record) against the parties or their counsel. *See, e.g., Williams v. State*, 103 Nev. 106,  
15 112, 734 P.2d 700, 704 (1987) (noting that "attorneys who cannot conform to the proper norms  
16 of professional behavior, whether inside or outside the courtroom, should recognize they are  
17 assuming the risk of formal, public censure in our opinions"); *Yates v. State*, 103 Nev. 200, 206,  
18 734 P.2d 1252, 1256 (1987) (noting that a trial court can impose a range of sanctions for attorney  
19 misconduct, including "a reprimand, delivered on the spot or deferred until the jury has been  
20 excused from the courtroom"). An oral admonishment is not a mere slap on the wrist. As the  
21 Fifth Circuit has explained:

22 Judges are prone to forget the sting of public criticism delivered  
23 from the bench. Such criticism, while potentially constructive, can  
24 also damage a lawyer's reputation and career. The judge should  
25 take care, therefore, that what is said is commensurate with the  
26 violation. There is a distinction between bad practice and lack of  
27 integrity. Being guilty of the former does not invariably justify a  
28 charge of the latter. At the same time, enforcing Rule 11 is the  
judge's duty, albeit unpleasant. A judge would do a disservice by  
shying away from administering criticism or reproval where called  
for.

*Thomas v. Capital Sec. Services, Inc.*, 836 F.2d 866, 878 (5th Cir. 1988) (internal quotation

1 marks omitted). Given the publicity this case has garnered, any criticism by the Court is bound  
2 to be widely-reported, amplifying the “sting” of this sanction and possibly influencing jury  
3 deliberations.

4 As an alternative or in addition to an admonishment, this Court might choose to impose a  
5 monetary penalty for litigation misconduct. In *Thomas v. City of North Las Vegas*, 122 Nev. 82,  
6 96, 127 P.3d 1057 (2006), for example, an attorney falsely represented to the Supreme Court that  
7 the appellant had “abandoned its appeal” rather than face Rule 11 sanctions. *Id.* at 1067. The  
8 Supreme Court found that this was a “gross misrepresentation” that warranted sanctions. *Id.*  
9 (noting that while “zealous advocacy is the cornerstone of good lawyering and the bedrock of a  
10 just legal system . . . zeal cannot give way to unprofessionalism, noncompliance with court rules,  
11 or, most importantly, to violations of the ethical duties of candor to the courts and to opposing  
12 counsel”). Accordingly, the Supreme Court sanctioned the lawyer \$1,000 for his “egregious and  
13 improper” advocacy, while “remind[ing] him of his duty to practice law in a professional and  
14 honest manner.” *Id.*

15 Similarly, in *Sobol v. Capital Management Consultants, Inc.*, 102 Nev. 444, 726 P.2d 335  
16 (Nev. 1986), the Supreme Court found that appellee had “blatantly misrepresented” to the Court  
17 the stipulated facts in the case and had also quoted language from a case as though it were the  
18 holding of the case, when in fact the language came from the dissent. The Supreme Court found  
19 that appropriate sanction was for appellee to pay \$5,000 to the Clark County Law Library  
20 Contribution Fund. See also *Greene v. State*, 113 Nev. 157, 170-171, 931 P.2d 54, 62 (1997),  
21 *overruled on other grounds by Byford v. State*, 116 Nev. 215, 235-36, 994 P.2d 700, 713-14  
22 (2000) (fining a prosecutor \$250 as a sanction for repeatedly ignoring district court’s  
23 admonitions regarding his opening statement); *McGuire v. State*, 100 Nev. 153, 159, 677 P.2d  
24 1060, 1065 (1984) (fining a prosecutor \$500 for “extreme and outrageous” misconduct that  
25 required two new trials).

26 Nevada district courts have also imposed monetary fines for serious litigation  
27 misconduct. In *Feldgreber v. Arbuckle Drive Homeowner Ass’n, Inc.*, 2011 WL 3556662  
28 (Eighth Judicial Dist. Nev. July 27, 2011), for example, the president and owner of the defendant

1 falsely testified at his deposition that certain subpoenaed documents had been destroyed in a fire  
2 and that electronic copies were lost when defendant's server crashed. The defendant's closing  
3 argument revealed that it did have documents responsive to the subpoena. Plaintiff moved for a  
4 new trial and sanctions, including striking defendant's answer. After holding an evidentiary  
5 hearing, the district court found that defendant's president had "lied to the Court" and failed to  
6 comply with discovery orders to produce documents. Applying the *Young* factors, the trial court  
7 concluded that a fine, rather than striking the defendant's answer, was an appropriate sanction,  
8 emphasizing that the evidence withheld would not have made a difference at trial.  
9 Accordingly, the court ordered defendants and its president to both pay \$500 to the Legal Aid  
10 Center of Nevada.

11 Here, the conduct of Defendants and their counsel is far less culpable than that of the  
12 sanctioned litigants in *Thomas, Sobol, and Feldgreber*.

13 6. *The policy of adjudicating cases on the merits.* This factor weighs decisively in  
14 favor of a less severe sanction in this case. See *GNLV*, 900 P.2d at 326. As Defendants have  
15 acknowledged, their statements could have been clearer and more detailed. But their failure in  
16 this regard was at most an honest mistake, and it does not change the reality that Defendants'  
17 statements and arguments concerning the PDPA and data transfers were fundamentally well-  
18 grounded in fact and law. The PDPA is a genuine and substantial issue in this case, one with  
19 which the parties and the Court will have to grapple. Under these circumstances, it would be  
20 unjust to impose sanctions that would impair Defendants' ability to present a defense to  
21 Plaintiff's claims.

22 7. *Whether sanctions unfairly operate to penalize a party for the misconduct of his*  
23 *or her attorney.* Defendants respectfully reserve the right to address this factor at the conclusion  
24 of the evidentiary hearing if appropriate.

25 8. *The need to deter both the parties and future litigants from similar abuses.* An  
26 oral admonishment and/or fine would provide more than enough deterrence. In *Feldgreber*, with  
27 respect to this factor, the district court noted that it would "impress upon [defendant and its  
28 president] the importance of fully participating in the discovery process." 2011 WL 3556662 at



1 \*3. The Nevada Supreme Court, moreover, has implicitly found that a \$1,000 to \$5,000 fine is  
2 sufficient deterrent against egregious breaches of the duty of candor. Here, Defendants  
3 respectfully submit that their conduct and that of their counsel does not approach the culpability  
4 of counsel in *Thomas* and *Sobol*. And they can assure the Court that they will endeavor to meet  
5 the Court's expectations, and adhere to the highest professional standards of conduct, going  
6 forward in this case.

7  
8 **III. ANALOGOUS CASES FROM OTHER JURISDICTIONS CONFIRM THAT AN**  
9 **ADMONISHMENT OR FINE WOULD BE PROPORTIONATE**

10 Case law from other jurisdictions, involving conduct analogous to that alleged here,  
11 confirms that an oral admonishment or monetary fine would be "roughly proportionate" to any  
12 litigation misconduct that the Court finds here. See *Emerson*, 263 P.3d at 230.

13 The federal district court decision in *Travel Sentry, Inc. v. Tropp*, 669 F. Supp. 2d 279  
14 (E.D.N.Y. 2009), is particularly instructive. There, plaintiff violated discovery obligations, and  
15 its counsel breached the duty of candor, by failing to disclose that they had obtained relevant  
16 documents from a former Transportation Security Administration (TSA) official. *Id.* at 281.  
17 Some of the documents contained sensitive security information ("SSI"), the unauthorized  
18 disclosure of which is unlawful. *Id.* Plaintiff failed to produce the documents in response to  
19 Defendant's document requests—and falsely represented that it had produced all responsive,  
20 non-privileged documents. *Id.* at 281. At the same time, Plaintiff sought to obtain some of the  
21 documents from the TSA (i.e., those helpful to its case), without disclosing that it already had the  
22 documents it was requesting. Plaintiff obtained several discovery extensions by representing that  
23 it needed more time to obtain these documents from the TSA. Ultimately, "[c]ornered by its own  
24 deception," plaintiff had to disclose that it already had the documents it was purportedly seeking.  
25 *Id.* at 282.

26 The district court affirmed a magistrate judge's imposition of a \$10,000 fine, finding that  
27 Plaintiff and its counsel had committed "flagrant and willful" violations of its discovery  
28 obligations and misled the court. *Id.* at 287 (plaintiff's attorneys "knew that they were  
misleading the court (as well as [defendant] and TSA), and made no attempt to correct the false

1 impressions that their statement left").<sup>5</sup> While Plaintiff sought to excuse its conduct by claiming  
2 that it had been trying to reconcile the conflict between its discovery obligations and national  
3 security, the court emphasized the Plaintiff "never alerted TSA that agency security had been  
4 breached . . . . Nor did it seek assistance of the Court." *Id.* at 285. At the same time, the court  
5 concluded that more serious sanction, such as evidentiary preclusion, was not warranted. *Id.* at  
6 283.

7 *Travel Sentry* bears some similarity to this case—more so than any other case that  
8 Defendants have found. Yet the differences between the conduct of Plaintiff and its counsel in  
9 *Travel Sentry*, and the conduct of Defendants here, is marked. First, plaintiff's counsel in *Travel*  
10 *Sentry* misled opposing counsel by falsely asserting that it had produced all non-privileged,  
11 responsive documents, despite the fact that it was withholding the TSA documents. Defendants  
12 never made any such representation to Plaintiff; the Supreme Court imposed a stay on non-  
13 jurisdictional discovery before Defendants' Rule 16.1 disclosures were complete, and  
14 jurisdictional discovery is ongoing. Nor did Defendants seek an extension of discovery or any  
15 other relief from the Court based on the representation that LVSC did not have possession of ESI  
16 for which Plaintiff was the custodian. On the contrary, Defendants disclosed the Subject  
17 Transfers while merits discovery was stayed and while the parties were still in jurisdictional  
18 discovery.

19 Second, unlike the plaintiff in *Travel Sentry* (who never approached the court with its  
20 concerns about documents containing SSI), Defendants *did* apprise the Court and opposing  
21 counsel early in the case about the PDPA and its potential application to documents in *Nevada*.  
22 See SRHS at 21. When LVSC expressly raised this point at the June 9, 2011, the Court  
23 responded that the issue was not ripe. See 6/9/11 Hr'g Tr. at 55:5-19. In light of the stay, which  
24 remains in place, and absent any inquiry by Plaintiff as to the nature of the Macau documents in  
25

26 <sup>5</sup> The court also ordered plaintiff and plaintiff's counsel to pay defendants' attorney fees  
27 and expenses incurred in connection with additional merits discovery and the defendant's  
28 sanctions motion. *Travel Sentry*, 669 F. Supp. 2d at 283. Here, Defendants' conduct has not  
necessitated additional discovery and it would be inappropriate for the Court to award Plaintiff  
any attorney's fees.

1 LVSC's possession, Defendants had a reasonable basis for believing that they did not have an  
2 obligation to specifically identify the Subject Transfers earlier than they did. While this decision  
3 may be questioned, it is certainly less blameworthy than the calculated misconduct at issue in  
4 *Travel Sentry*.

5 Third, Defendants' contemporaneous actions corroborate, rather than undercut, its stated  
6 concerns with disclosure of the Subject Transfers. While the *Travel Sentry* plaintiff never raised  
7 any purported national security concerns with the TSA (calling into question whether those  
8 concerns were truly legitimate), Defendants reached out to the Macau agency responsible for  
9 enforcing the PDPA, OPDP, to discuss how LVSC and SCL could comply with their obligation  
10 to respond to the SEC subpoena and discovery in this action without running afoul of Macau  
11 law. Indeed, far from trying to hide behind the PDPA as a barrier to discovery, Defendants have  
12 devoted more than a year attempting to persuade the OPDP to allow them to transfer documents  
13 out of Macau to comply with discovery in this case. As reflected in the OPDP's August 8, 2012  
14 letter, the OPDP rejected Defendants' arguments and advised that they could not even review  
15 documents in Macau in connection with this case. In short, Defendants' conduct in this case was  
16 far less egregious than the conduct that warranted a fine of \$10,000 in *Travel Sentry*.

17 Other courts have imposed monetary and non-monetary sanctions of equivalent severity  
18 for conduct that was more culpable than Defendants in this case. In *Merkle v. Guardianship of*  
19 *Jacoby*, 912 So.2d 595 (Fla. App. 2 Dist. 2005), appellant, an attorney, failed to inform the  
20 appellate court that he had settled the case, rendering the appeal moot. *Id.* The attorney admitted  
21 that the reason he failed to disclose the settlement "was to gain a perceived tactical advantage in  
22 matters unrelated to the" case on appeal. *Id.* at 599. The court found that the attorney's "selfish  
23 desire to pursue a purely personal agenda in disregard of his duty of candor to this court required  
24 us to put aside our work on the cases of litigants with genuine controversies—many of whom are  
25 serving lengthy prison sentences—and spend our limited time and resources to review, research  
26 and prepare an opinion in a case that should have been dismissed." *Id.* at 601-2. The court  
27 further emphasized that the attorney had "failed to make any expression of regret or to apologize  
28 for his actions." *Id.* at 602 (noting that Merkle had chosen "to adopt a posture of defiance rather

1 than contrition"). As a sanction, the court imposed a \$500 fine, required the attorney to pay the  
2 costs of proceedings to determine whether the case was moot, and ordered the attorney to obtain  
3 "a minimum of fifteen continuing legal education hours in appellate practice and procedure in  
4 addition to the continuing legal education" he would otherwise be required to undertake.

5 As *Merkle* illustrates, in assessing an appropriate sanction, courts often take into account  
6 the response of a party or counsel after the issue of sanctions is raised. See, e.g., *Resolution*  
7 *Trust Corp. v. Williams*, 162 F.R.D. 654, 658-660 (D. Kan. 1995) (holding that reprimand was  
8 the "least severe sanction" the court could impose as deterrence where plaintiff and its counsel  
9 knowingly withheld documents and their response to sanctions motion was "inadequate,  
10 inappropriate and unprofessional"). Here, Defendants and their counsel have expressed their  
11 regret for failing to meet the Court's expectations. SRHS at 2-3. And after the Court expressed  
12 its concerns, Defendants immediately began investigating the circumstances surrounding the  
13 transfer of ESI for which Plaintiff was the custodian and other data transfers from Macau to the  
14 United States. Defendants filed a report of their initial findings, which they later supplemented.  
15 See Defendants' Joint Statement on Data Transfers; SRHS. If an oral admonishment or fine is a  
16 proportionate sanction for unrepentant litigants who deliberately mislead or conceal information  
17 from a court, any greater sanction here would be disproportionate for what amounts to an honest  
18 mistake driven by legitimate and reasonable concerns over the implications of Macau law.

19  
20 **IV. THE COURT SHOULD NOT AWARD PLAINTIFF ATTORNEY'S FEES**

21 Plaintiff's Brief erroneously asserts that the Court should award attorney's fees "in  
22 addressing the production of his hard drive and related information (including all fees and costs  
23 charged by Advanced Discovery)" as well as fees "for filings, hearings and related advocacy  
24 about the fraudulently asserted Macau Privacy Data Protection Act [sic]." Brief at 7:7-10. This  
25 request should be denied.

26 First, Plaintiff does not demonstrate that the Court has the authority to award attorney's  
27 fees as a sanction in this situation. Plaintiff has not filed a motion for sanctions. Instead, this  
28 Court has made clear that it has set the sanctions hearing pursuant to EDCR 7.60—a provision

1 that, as Defendants have explained, “must be construed as coextensive with Rule 11 because  
2 Nev. R. [Civ.] P. 83 permits district courts to adopt local rules only if such rules are ‘not  
3 inconsistent’ with the Nevada Rules of Civil Procedure.” DSHS at 8 (citing *Nevada Power Co.*  
4 *v. Fluor Illinois*, 108 Nev. 638, 837 P.3d 1354, 1359 n.4 (1992)).

5 Rule 11 provides, in relevant part, that a sanction may consist of “an order to pay a  
6 penalty into court, or, *if imposed on a motion* and warranted for effective deterrence, an order  
7 directing payment to the movant of some or all of the reasonable attorney’s fees and other  
8 expenses incurred as a direct result of the violation.” Nev. R. Civ. P. 11(c)(2) (emphasis added).  
9 The italicized language indicates that Rule 11 authorizes the award of attorney’s fees only where  
10 a party moves for sanctions, not where, as here, the Court has ordered a sanctions hearing *sua*  
11 *sponte*. Federal courts have uniformly adopted this reading of Rule 11 of the Federal Rules of  
12 Civil Procedure for this reason. *See Marlin v. Moody Nat. Bank, N.A.*, 533 F.3d 374, 379 (5th  
13 Cir. 2008) (noting that “[s]anctions imposed on the district court’s initiative, as in this instance,  
14 are limited to nonmonetary sanctions or a monetary penalty payable to the court”); *Northwest*  
15 *Bypass Group v. U.S. Army Corps of Engineers*, 2008 WL 2679630, at \*2 (D. N.H. 2008)  
16 (agreeing with “the unanimity of circuit authority” in concluding that “absent a Rule 11(c)(2)  
17 motion,” an order awarding attorney’s fees as a sanction was “issued in error”). Thus, awarding  
18 attorney’s fees as a sanction would be inconsistent with the plain language of Rule 11.<sup>6</sup>

19 Second, if the Court were to construe Plaintiff’s Brief as tantamount to a motion for  
20 sanctions, Plaintiff has not met his burden of demonstrating an entitlement to fees. In *Fluor*, the  
21 Supreme Court made clear that attorney’s fees and costs imposed as a sanction must relate  
22 specifically to the misconduct. *See Fluor*, 837 P.3d at 1360-61 (holding that a district court erred  
23 in imposing as a sanction all attorney’s fees incurred by the other party rather than those fees and  
24 costs associated with the violation of the discovery order).

25  
26 <sup>6</sup> EDCR 7.60(b) states that the “court may, after notice and an opportunity to be heard,  
27 impose upon an attorney or a party any and all sanctions which may, under the facts of the case,  
28 be reasonable, including the imposition of fines, costs *or attorney’s fees*...” (emphasis added).  
Because EDCR 7.60(b) cannot go beyond Rule 11, EDCR 7.60(b) should be construed to permit  
the imposition of attorney’s fees only upon motion by the opposing party.

1 Plaintiff has not shown that either category of work for which he seeks fees was caused  
2 by Defendants' conduct at issue. The fees associated with the appointment of Advanced  
3 Discovery were caused by the Court's concerns with respect to the integrity of the data in  
4 Plaintiff's possession. Plaintiff has an obligation to preserve data in his possession regardless of  
5 what data Defendants possess. Even if Defendants had specifically identified the Subject  
6 Transfers earlier, Plaintiff would still have been required to deliver the data in his control to  
7 Advanced Discovery. Moreover, Plaintiff has not shown that the data in his possession is  
8 entirely duplicative of the Subject Transfers, as he suggests. See Br. at 6:25-26. Based on the  
9 volume of data Plaintiff deposited with Advanced Discovery, it appears that the data in his  
10 possession is not limited to his own emails.

11 Nor has Plaintiff shown an entitlement to the fees incurred for advocacy related to the  
12 PDPA. The PDPA is a real statute, and its application to documents in Macau was, is and will be  
13 an issue that must be addressed in this case. Plaintiff certainly has not withdrawn his demands  
14 that Defendants search the vast quantity of data that remains in Macau and produce any  
15 responsive documents. The PDPA was not "fraudulently asserted," Br. at 7:10,<sup>7</sup> and the time  
16 spent by Plaintiff on this issue would have been incurred regardless of whether Defendants had  
17 specifically identified the Subject Transfers earlier.

18 For these reasons, an award of attorney's fees or costs would be inappropriate.

19 **V. CONCLUSION**

20 Defendants respectfully submit that any sanction imposed against them in this case  
21 should be in the nature of an oral reprimand and/or a monetary fine payable to the Court or to an  
22 appropriate charity.  
23  
24  
25

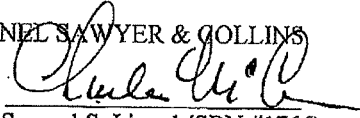
26  
27 <sup>7</sup> Defendants question how Plaintiff's counsel can assert that the PDPA is fraudulent,  
28 given that the same counsel represent Wynn Resorts, which has been investigated by OPDP for  
violations of the PDPA, and which likely will face PDPA issues in connection with the Okada  
litigation.

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DATE: September 11, 2012

LIONEL SAWYER & COLLINS

By:

  
Samuel S. Lionel (SBN #1766)  
Charles H. McCrea, Jr. (SBN #104)  
1700 Bank of America Plaza  
300 South Fourth Street  
Las Vegas, Nevada 89101

Attorneys for Defendants/Counterclaimants  
(limited appearance)

1 CERTIFICATE OF SERVICE

2 Pursuant to Nevada Rule of Civil Procedure 5(b), I hereby certify that I am an employee  
3 of LIONEL SAWYER & COLLINS and that on this 11<sup>th</sup> day of September, 2012, I caused  
4 documents entitled DEFENDANTS LAS VEGAS SANDS CORP.'S AND SANDS CHINA  
5 LIMITED'S STATEMENT ON POTENTIAL SANCTIONS to be served as follows:  
6

7 ☒ by depositing same for mailing in the United States Mail, in a sealed envelope  
8 addressed to:

9 James J. Pisanelli, Esq.  
10 Debra L. Spinelli, Esq.  
11 Todd L. Bice, Esq.  
12 PISANELLI & BICE  
13 3883 Howard Hughes Parkway, Suite 800  
14 Las Vegas, Nevada 89169

J. Stephen Peek, Esq.  
Robert J. Cassity, Esq.  
HOLLAND & HART  
9555 Hillwood Drive, 2<sup>nd</sup> Floor  
Las Vegas, Nevada 89134

Facsimile No. 702.669.4650

13 Facsimile No. 702.214.2101

14  
15 Brad D. Brian, Esq.  
16 Henry Weissmann, Esq.  
17 John B. Owens, Esq.  
18 MUNGER TOLLES & OLSON LLP  
19 355 S. Grand Avenue  
20 Los Angeles, California 90071

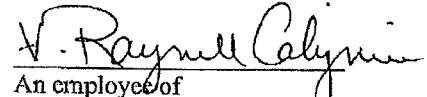
21 Facsimile No. 213.683.5180

22 ☒ pursuant to Nev. R. Civ. P. 5(b)(2)(D) to be sent to the facsimile numbers  
23 indicated above.

24 ☐ to be hand delivered to:

25 and/or

26 ☒ by the Court's ECF System through Wiznet.

27   
28 An employee of  
LIONEL SAWYER & COLLINS

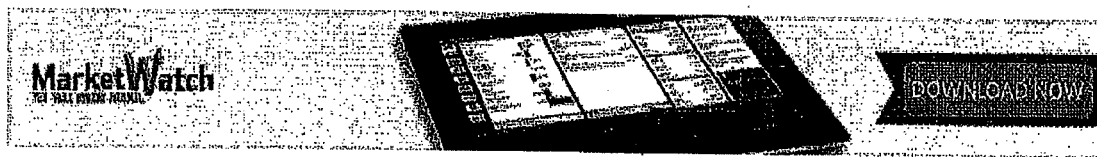


# EXHIBIT 1

# EXHIBIT 1

APP0462

PA1501



**THE WALL STREET JOURNAL**  
WSJ.com

September 5, 2012, 1:34 PM ET

## Study Says Data Privacy #1 Obstacle in Multinational Probes

By C.M. Matthews

Data privacy is the biggest challenge for lawyers and accountants conducting multinational investigations or cross-border litigation, according to a study released Wednesday.

The study found that 54% of those questioned said that data privacy was the greatest obstacle when handling these types of investigations or engagements.

The study, published by business advisory firm FTI Consulting Inc., surveyed 114 legal and accounting professionals who have handled e-discovery matters for either multinational investigations or cross-border litigation.

The findings come amid an uptick in investigations under the U.S. Foreign Corrupt Practices Act and the U.K. Bribery Act, both of which prohibit bribery abroad to win business.

"Multinational investigations such as FCPA matters present complex challenges for legal teams, including data privacy laws, time pressures and language barriers," Craig Earnshaw, a managing director in the Technology practice at FTI Consulting in its London office, said in a news release.

Nearly half of the respondents said they had conducted investigations requiring data collection in China, which presents a litany of challenges because of its complicated data privacy laws.

Respondents also said that multinational investigations were costly enterprises with 48% reporting they had spent more than \$500,000 on such matters, and, most thought things would only get tougher with 76% predicting an increase in data privacy requirements in the coming years.

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APP0463

PA1502

# **EXHIBIT Y**

APP0464

PA1503

Government of the Macao Special Administrative Region

Office for Personal Data Protection

CONFIDENCIAL  
GPDP

To: Responsible Sir or Madam  
The Venetian Macao, Venetian Cotai Limited  
The Venetian ® Macao-Resort-Hotel  
Estrada da Baia de N. Senhora da  
Esperanca, s/n  
Taipa, Macao

Rec'd Letter Number	Rec'd Letter Date	Sent Letter Number	Macao Postal Number
N.Ref.:LD0903-2012	6/27/2012	0957/GPDP/2012	08/08/2012

Re: The Venetian Macao Venetian Cotai Limited's Intent to Transfer Personal Data to a Designation Other Than Macao Special Administrative Region

Responsible Sir or Madam:

The above mentioned letter was received.

In regards to your company's ("The Venetian Macao Venetian Cotai Limited, VML") letter, it indicated that in order to respond to the requests from "United States Securities and Exchange Commission" (hereinafter referred to as "SEC") and "United States Department of Justice" (hereinafter referred to as "DOJ"), your company has an intent to transfer your company's and/or Sands China Limited's (hereinafter referred to as "SCL") current and former employees' personal data and transaction records in the storage forms of emails, electronic records, and paper forms to "Las Vegas Sands Corporation" (hereinafter referred to as LVSC) in the United States and SCL to be convenient to further submit to SEC, DOJ, and one or more United States Courts. This office has mailed letter numbered 1090/GPDP/2011 to your company on October 28, 2011 to state the

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APP0465

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position of this office held. Therefore, on June 27, 2012, this office again received your company letter. After our analysis, our responses are as follows.

1. Applicability of "Personal Data Protection Act"

In accordance with your company's provided data, the intended data to be transferred to the United State include (1) your company's current and former employees and directors' names, company addresses, telephone numbers, and email addresses; (2) names, company addresses, telephone numbers, and email addresses for those employees of the entities that had business relations with your company and/or SCL; (3) associated emails and data (Metadata) of the individuals mentioned at (1) and (2) above; (4) Copies of the documents that were produced, transferred, or received by your company's current and former employees and directors when they executed in their positions held. Because the above mentioned information related to data that are readily identified or identifiable to a natural person, in accordance with the definition of Macau's Law number 8/2005, the "Personal Data Protection Act" Article 4 item 1.1, they are personal data.

In accordance with the "Personal Data Protection Act" Article 4 and item 1.3, processing of personal data shall mean *"any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or*

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combination, blocking, erasure or destruction." (Underline is added for this letter). Your company is considered an entity that is responsible for processing personal data. Referring to above mentioned processing of personal data, your entity is not a natural person, which is defined at "Personal Data Protection Act" Article 3 Item 2, in the course of a purely personal or household activity. Therefore, in accordance with the same Act Article 3 Item 1, the "Personal Data Protection Act" is applicable.

In addition, this office is a public bureau defined by "the Macau Civil Code" Article 79 Item 3 and the "Personal Data Protection Act". It exercises the duties authorized by Laws of 8/2005, 83/2007, and 6/2010 that were designated by the Chief Executive. Its responsibilities are to monitor and coordinate the compliances and executions of the "Personal Data Protection Act". Therefore, this office has the authority and legal fundamental basis to determine whether the "Personal Protection Act" is applicable to this case.

2. The Personal Data Processing Entity and the Data Recipient

In accordance with the "Personal Protection Act" Article 4 Item 1 and Item 8, the personal data processing entity means *"the natural or legal person, public entity, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data"*; data recipient means *"a natural or legal person, public entity, agency or any other body to whom data are disclosed, whether a third party or not; however,*

*authorities which may receive data in the framework of a law or a statutory regulation with organizational nature shall not be regarded as recipients".*

In this case, because your company has the rights to control and the rights to decide the above mentioned data, which includes the decisions to transfer data to other companies, this is a responsible personal data processing entity. Then, LVSC and SCL, which are told about such data, are merely data recipients. Additionally, because your company does not directly submit the above mentioned data to SEC, DOJ, and one or more United States Courts, these agencies are not data recipients in this case.

### 3. Legitimacy of Processing Personal Data

The "Personal Data Protection Act" Article 6 through Article 8 defined the legitimacy of processing personal data. Except for those personal data considered as sensitive data defined at the "Personal Data Protection Act" Article 7 and those personal data considered as suspicion of illegal activities, criminal and administrative offenses defined at the "Personal Data Protection Act" Article 8, all other personal data should be processed in the criteria for making data processing legitimate defined at "Personal Data Protection Act" Article 6.

Even though your company indicated that the personal data that are intended to transfer do not include sensitive data, your company listed four kinds of data and they were merely types of documents, which did not specify data's types and contents. This office cannot rule out the inclusions of sensitive data or data considered as suspicion of illegal

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activities, criminal and administrative offenses. Therefore, just as those stated at the letter numbered 1090/GPDP/2011, which was sent to you on October 28, 2011 by this office, your company should separate different types of data and then obtain the legitimacy of the data for each different type in accordance with the "Personal Data Protection Act" Article 6 through Article 8. Then you could process the data accordingly. Hereby, this office reiterates the following:

(i) Legitimacy of Ordinary Data

In accordance with the "Personal Data Protection Act" Article 6, *"Personal data may be processed only if the data subject has unambiguously given his consent or if processing is necessary: (1) for the performance of a contract or contracts to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract or a declaration of his will to negotiate; (2) for compliance with a legal obligation to which the controller is subject; (3) in order to protect the vital interests of the data subject if the latter is physically or legally incapable of giving his consent; (4) for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed; (5) for pursuing the legitimate interests of the controller or the third party to whom the data are disclosed, except where such interests should be*

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APP0469

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*overridden by the interests for fundamental rights, freedoms and guarantees of the data subject."*

In this case, your company's goal is to assist LVSC and SCL to respond to the requests made by SEC and DOJ. When processing the data other than sensitive data and data considered as suspicion of illegal activities, criminal and administrative offenses (ordinary data), your company is only possible to obtain the consents from the data subjects or meet the legitimacies defined at Article 6 items 1, 2 or 5.

In regards to the consents from the data subject, it will be analyzed at number 4 below.

Because your company did not provide this office the employees' employment contracts or contracts between your company and your customers, currently there are no information that demonstrate your company's meeting legitimacy defined at Article 6 Item 1.

Additionally, the legal obligation defined at Article 6 Item 2, in general, does not include the responsible processing entity to fulfill its legal obligation to process personal data outside the Macau Special Administrative Region. Also, in accordance with the "Macau Special Administrative Region Casino Gambling or

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PA1509

CONFIDENTIAL  
GDP

Date: 08/08/2012

Other Gambling Operation Designated Contract"<sup>1</sup> (hereinafter referred as "Designated Contract") that was signed by the Galaxy Casino, S.A. and the Macau Special Administrative Region, in Article 3 and 4, "This Designated Contract is only subject to the laws of the Macau Special Administrative Region." "The contracted company must obey the applied laws of the Macau Special Administrative Region and give up and release the compelled obligations and activities that were quoted by the laws of the jurisdictions other than the Macau Special Administrative Region." Therefore, based on the above mentioned the goal to process related personal data, your company does not qualify the legitimacy of the Article 6 Item 2. Also, this must be emphasized that for the same reason when collecting personal data, no one is able to foresee your company's goal to process personal data is to "fulfill the legal obligations of the laws outside the Macau Special Administrative Region." The practice of you company qualified as "the use of personal data for purposes not giving rise to their collection." In accordance with the same Law Article 22 Item 1, it must be monitored in advance by this office.

To qualify the legitimacy defined by Article 6 Item 5, your company must prove that the interests for fundamental rights, freedom and guarantees of the

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<sup>1</sup> According to 207/2004 signed by the Chief Executive, the Galaxy Casino S.A. assigned the above mentioned contract to its sub-concession the Venation Macau Venetian Cotal Limited.

data subject are not overridden by your company's interests and the related process is necessary. Currently there is no data that could demonstrate the interests for fundamental rights, freedom and guarantees of the data subject are not overridden by your company's interests. Therefore, your company again does not qualify the legitimacy defined by Article 6 Item 5.

(ii) Legitimacy of the Processing of Sensitive Data

In regards to the related processing of sensitive data, your company may qualify the legitimacy defined by Article 7 Item 2.3 and 3.4. In regards to the explicit consent referred by Article 7 Item 2.3, it will be analyzed at number 4 below.

If the processing of data was due to the legal claims referred by Article 7 and Item 3.4, the processing of the related data then met the "necessary" condition. Also, in general, it also refers to the legal claims inside the Macau Special Administrative Region. For the legal claims outside the Macau Special Administrative Region, it is viewed as case by case and it is analyzed in detail in connection with other existent applicable laws of the Macau Special Administrative Region, especially to analyze the essentiality of the related process. Therefore, in this case, your company and the related data subject are not the parties in the legal claims. It has no essentiality to disclose the related

the processing of data. As a result, your company does not qualify for the legitimacy defined by Article 7 Item 3.4.

(iii) Legitimacy of Processing Data that Contain Suspicion of Illegal Activities,  
Criminal and Administrative Offenses

In regards to the "Personal Data Protection Act" Article 8 suspicion of illegal activities, criminal and administrative offenses, the Article states, *"1. Central registers relating to persons suspected of illegal activities, criminal and administrative offences and decisions applying penalties, security measures, fines and additional penalties may only be created and kept by public services vested with that specific responsibility by a legal provision or a statutory regulation with organizational nature, subject to observance of procedural and data protection rules in force. 2. The processing of personal data relating to persons suspected of illegal activities, criminal and administrative offences and decisions applying penalties, security measures, fines and additional penalties may be carried out, subject to observance of the rules for the protection of data and the security of information, when such processing is necessary for pursuing the legitimate purposes of the controller, provided the fundamental rights and freedoms of the data subject are not overriding. 3. The processing of personal data for the purposes of police investigations shall be restricted to the processing necessary to prevent a specific danger or to prosecute a particular offence and to exercise the*

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*responsibilities provided for in a legal provision, in a statutory regulation with organizational nature, or in the terms of instruments of international law or inter-regional agreements applicable in the MSAR."*

Because your company is not a public service agency as mentioned at Item 1 above and is also not a police investigation agency as mentioned at Item 3 above, in this case, your company is only possible to qualify the guidelines defined at Item 2 above. However, again, your company must prove that the interests for fundamental rights, freedom and guarantees of the data subject are not overridden by your company's interests and the related process is necessary. Currently there is no data that could demonstrate the interests for fundamental rights, freedom and guarantees of the data subject are not overridden by your company's interests. Therefore, your company again does not qualify the legitimacy defined by Article 8 Item 2.

### 3. The Data Subject's Consent

In regards to the legitimate condition of the data subject's consent, in accordance with the "Personal Data Protection Act" Article 4 Item 1.9, the data subject's consent shall mean any "freely" "given specific" and "informed" indication of his or her wishes by which the data subject signifies his or her agreement to personal data relating to him or her being processed. The importance of "freely" refers that the data subject is able to make choices on his or her own. Even refusal to consent,

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CONFIDENTIAL  
GPDP

Date: 08/08/2012

there will be no adverse consequences. For example, in the employment relation, it is particularly important to pay special attentions to whether the data subject is influenced by his or her employer and might not freely make choices. On the other hand, the consent could be withdrawn freely. Once the data subject withdrew his or her consent, the responsible entity then does not qualify for the legitimate condition and cannot further process the data. "Specific" shall mean relevant consent, which means that the process of personal data was specifically designated for one specific purpose. In this case, the consent was specifically designated for the specific purpose of your company's assistance with LVSC and SCL to respond to SEC and DOJ in the United States. If the consent articulated beyond this purpose, it then cannot be considered as a "Specific" consent.

In regards to processing of the sensitive data, it requires the data subject's "explicit consent".

Additionally, the data subject could only express consents to his or her own personal data. Another word, the data subject's consent could only apply to the processing of his or her own data and cannot represent others to address consents unless this individual obtained a valid and legit power of attorney for others or met other existent legal conditions.

Therefore, only if you company obtained data subject's valid consents, the data then could be processed.

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APP0475

PA1514

4. Transferring Data Outside of Macau

The "Personal Data Protection Act" Article 19 and Article 20 have provided guidelines in regards to transfer of personal data to a destination outside the Macau Special Administrative Region. However, your company's letter stated that transferring above mentioned personal data from Macau to the United States is in compliance with the guidelines defined at the "Personal Data Protection Act" Article 19 and Article 20.

However, in accordance with this office's letter numbered 1090/GPDP/2011 dated October 28, 2011 and part 2 and part 3 of the letter, if your company obtained the data subject's consent or explicit permit, according to the "Personal Data Protection Act" Article 20 Item 1, the related personal data could be transferred to a destination outside Macau. It is necessary to notify this office so. Additionally, if the transfer of personal data is under the condition defined at the "Personal Data Protection Act" Article 20 Item 3, which states a transfer of personal data that is necessary for the protection of defense, public security and public health, and for the prevention, investigation and prosecution of criminal offences, should be governed by special legal provisions or by the international conventions and regional agreements to which the Macau Special Administrative Region is the named party. Other than the two conditions stated above, in this case, because your company

does not have the legitimacies to process personal data, it is not even applicable to mention transferring personal data to a destination outside Macau.

You company does not qualify for the legitimate conditions stated at the "Personal Data Protection Act" Article 6 through Article 8 to process personal data. However, your last letter considered your transferring personal data from Macau to the United States to be in compliance with the guidelines defined at "Personal Data Protection Act" Article 19 and Article 20. Your company's claim lacks legal basis.

Even so, in order to assist your company to further understand this office's decision, this office provides the following analysis in regards to your references of the "Personal Data Protection Act" Article 19 and Article 20 as your related basis.

The "Personal Data Protection Act" Article 19 states that the transfer of personal data to a destination outside the Macao Special Administrative Region may only take place subject to compliance with this Act and provided the legal system in the destination to which they are transferred ensures an adequate level of protection.

Your company believed that even though your company did not directly respond to the subpoena from SEC or did not have the legal obligations pertaining to Jacob's case. However, your company's parent company has such legal obligations. Because these two are closely associated, the United States then asked the parent company to provide all company data of its subsidiaries. Therefore, your company's

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Date: 08/08/2012

transferring related data is suitable to the guidelines defined at the "Personal Data Protection Act" Article 6 Item 2. Additionally, as a data processing entity, your company should have your appropriate interests not to bear any legal liabilities that might be resulted in harmful consequences in the events that SCL and/or LVSC fail to provide information related to Jacob's case. Also, the third party data recipients (the first is SCL and LVSC, the second is SEC, DOJ, and defendant, then thereafter might be one or more courts) have the same appropriate interests in their civil and criminal investigations, in SEC and DOJ cases, in civil litigations, and in the defendant's case. They could obtain the related information in the hearing of Jacob's court case. Under the circumstance, also based on point 11 in your letter pertaining to the protection of the confidential data, the interests to the protected data under the "Personal Data Protection Act" do not take precedence over the legitimate interests stated above. Therefore, you company transferring the related data is suitable with the guidelines defined at the "Personal Data Protection Act" Item 5. And the intended recipient destination is the United States, which has suitable protection and legal system. Therefore, in this case, the intent to transfer related data to the United States is suitable with the guidelines defined at the "Personal Data Protection Act" Article 19 Item 1.

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APP0478

PA1517

At first, it is necessary to point out that as an authorized public bureau, as of today, this office has never declared the legal systems of any counties or regions to be suitable for personal data protection.

Additionally, as they have been clearly stated at Part 2 and Part 3, your company's transferring personal data to the United States does not qualify for the legitimate conditions defined at the "Personal Data Protection Act" Article 6 Item 2 and Item 5. Hereby, it is unnecessary to reiterate. But, it has to be emphasized that the provision stated at the "Personal Data Protection Act" Article 19 Item 1 as "only take place subject to compliance with this Act" is not only referring to the legitimate conditions defined at Article 6 but also to compliance with regulations of data processing, data subjects' interests, and safety and confidentiality of the process, etc. If processing sensitive data or data that contain suspicion of illegal activities, criminal and administrative offenses, your company should obtain the legitimacies defined at Article 7 or Article 8 separately in accordance with the different types of the data. Then you could process.

Therefore, your company's claim is invalid by stating your intent to transfer related data to the United States being in compliance with the guidelines defined at "Personal Data Protection Act" Article 19 Item 1.

On the other hand, the law also states that a transfer of personal data to a destination in which the legal system does not ensure an adequate level of

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protection may be allowed on the condition that this office is notified by the personal data processing entity or obtained the permission from this office. The conditions include:

- (1) Compliance with the guidelines defined at Item 1, which states that the data subject has given unambiguous consent or is necessary for the performance of a contract, is necessary or legally required on important public interest grounds, or for the establishment, exercise of defense of legal claims, or is necessary in order to protect the vital interests of the data subjects. Then in accordance with Article 23, notifying this office.
- (2) Compliance with the guidelines defined at Item 2, which states that the controlling entity adduces adequate safeguards with respect to the protection of the privacy and fundamental rights and freedoms of individuals and has already obtained this office's permission.
- (3) Compliance with the guidelines defined at Item 3, which states that a transfer of personal data which is necessary for the protection of defense, public security and public health, and for the prevention, investigation and prosecution of criminal offenses, shall be governed by special legal provisions or by the international conventions and regional agreements which the Special Administrative Region is the named party.

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APP0480

PA1519

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After a comprehensive review of the guidelines defined at Article 20 Item 1, in this case, your company intends to transfer personal data to the United States in order to assist LVSC and SCL to respond the requests made by SEC and DOJ in the United States. Because of the failure to obtain the explicit consents of the data subjects and the lack of basis for the essentiality to execute a contract or to protect the vital interests of the data subjects, your company is only possible to be in compliance to the guidelines defined at Item 1.3 to transfer the related data.

Your company's letter indicated that even though the legal systems in the United States are not equipped to an adequate level of personal data protection, the related data are transferred to the United States and are under the investigations of SEC and DOJ. It is necessary to protect the interests in the Jacob's case. Therefore, it is in compliance with the "Personal Data Protection Act" Article 20 Item 1. Even though your company did not specify in detail on which sub item under Article 20 Item 1, based on the demonstrated information, it is believed that the sub item is Article 20 Item 1.3, which states that it is necessary or legally required on important public interest grounds, or for the establishment, exercise of defense of legal claims. Also after notifying this office, the personal data could be transferred to a destination without adequate level of personal data protection.

Please pay attention to the "Personal Data Protection Act" Article 20 Item 1. The main concern is the interests of the data subjects, not the responsible personal

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APP0481

PA1520

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data processing controlling entity, especially not the interests of the data recipients. Furthermore, your company is not the one of the parties in the litigation and has no obligation to provide evidential documents and it is not affirmative that it is legally required to transfer the data. Therefore, your company's claim that it is legally required to protect the rights and to transfer the related data to the United States in the investigation conducted by SEC and DOJ in related Jacob's litigation is actually not in compliance with the guidelines defined by the said Article said Item sub item 3.

Your company mentioned in your letter number 11 for the procedures of confidentiality that included the requirements of Freedom of Information Act ("FOIA") in the United States. Also mentioned, the "Protective Order" in the related Jacob's litigation is sufficiently protected in compliance with the guidelines defined by the "Personal Data Protection Act" Article 20 item 2.

For this claim, it is necessary to point out that in Article 20 Item 2 the legislature designated this office to issue permits. The purpose is to allow this office's required involvements and to monitor in advance. It is not difficult to understand that the condition for this office to issue "permit" is the process of the personal data processing controlling entity to be in compliance with the "Personal Data Protection Act". However, just what have mentioned earlier in this letter, unless your company obtained the data subjects' consents or explicit permissions to transfer the related personal data outside Macau or the related data transfers met

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APP0482

PA1521

the conditions defined at the "Personal Data Protection Act" Article 20 Item 3.

Otherwise, your company is not considered properly processing the personal data.

This office is impossible to permit these personal data to be transferred to a destination outside Macau.

Additionally, if your related data transfer met the conditions defined at "Personal Data Protection Act" Article 20 Item 3, which states that a transfer of personal data which is necessary for the protection of defense, public security and public health, and for the prevention, investigation and prosecution of criminal offenses, shall be governed by special legal provisions or by the international conventions and regional agreements which the Special Administrative Region is the party.

Hereby, to remind your company again, in the case of the responsible personal data processing controlling entity's failure to comply with the obligations in the "Personal Data Protection Act" Article 6 through 9, 19 and 20, in accordance with the same Act Article 33 Item 2, it is punishable with a fine of MOP8,000 to MOP80,000. Also, if data are improperly transferred, it might be a violation of professional secrecy defined at the "Personal Data Protection Act" Article 18. In accordance with the Article 41, it might be a crime. If the data misappropriates or uses personal data for other purposes, in accordance with Article 37 Item 1.3, it might be a crime. In the meantime, regardless it is either an administrative offense

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or a crime, it may be ordered in additional penalty according to Article 43, which includes temporary or permanent prohibition of processing data, publication of the judgments, and public warning, etc.

At last, this office believes that the transfer of those related to the juridical litigation documents in this case should be resolved by the means of international juridical assistance.

The contact person for this office: Mr. Lio or Mr. Ho, Telephone: 28716066

Sincerely

Director

Chan Hoi Fan

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APP0484

PA1523

# **EXHIBIT Z**

APP0465

PA1524





14 NOV 2012

Exma. Senhora Coordenadora do  
Gabinete de Protecção de Dados Pessoais  
Avenida da Praia Grande, n. 804  
Edif. China Plaza, 13  
Andar, A-F, Macau

Assunto: Notificação sobre revisão de documentos com dados pessoais na  
RAEM  
N/ Ref.: LD1671-2012

Exmo. Senhora Coordenadora:

“Venetian Macau S.A.”, em Chinês “威尼斯人澳門股份有限公司” e em Inglês “Venetian Macau, Limited”, sociedade comercial com sede em Macau, na Estrada da Baía de Nossa Senhora da Esperança, The Venetian Macao Resort Hotel, Executive Offices – L2, Taipa, registada na Conservatória do Registos Comercial e de Bens Móveis de Macau sob o número SO 15702, na sequência do V/ ofício com a referência 0957/GPDP/2012 de 8 de Agosto p.p. e da reunião de 6 de Novembro p.p., vem, neste acto representada por David Fleming, expor a V. Exa. o seguinte:

1. Conforme foi referido na nossa carta de 27 de Junho p.p. com a ref. No. LD0903-2012 e na reunião de 6 de Novembro p.p., a Sands China Limited (“SCL”) é Ré num processo cível pendente no *District Court of Clark County*, em Nevada (o “Tribunal”) sob o nome *Steven C. Jacobs v. Las Vegas Sands Corp.; Sands China Ltd; Sheldon G. Adelson, et al.*, processo no.



A627691-B (o "Processo *Jacobs*"). A Venetian Macau S.A. ("VML") é uma sociedade constituída em Macau, subconcessionária de jogos de fortuna e azar, detida indirecta e maioritariamente pela SCL.

2. A VML acredita que pode ter em sua posse, em Macau, documentos que podem ser relevantes para a preparação da defesa da SCL no Processo *Jacobs*. No entanto, para confirmar a existência ou inexistência de tais documentos, a VML necessita de rever certa documentação que está na sua sede.

3. A presente carta serve para notificar o V/ Gabinete das circunstâncias que envolvem a revisão de documentos necessária para determinar se a VML tem em sua posse documentos relevantes para a defesa da SCL no Processo *Jacobs* e explicar as razões pelas quais acreditamos que a mesma é consistente com o disposto na Lei de Protecção de Dados Pessoais, a Lei 8/2005. Caso assim não se entenda – o que não se concede mas se admite por mera cautela – a presente carta sempre servirá para, alternativamente, requerer a V. Exa. autorização para proceder ao processamento de dados pessoais necessariamente envolvido no processo de revisão de documentos que aqui será descrito.

4. Neste momento, no âmbito do Processo *Jacobs*, o Tribunal está em fase de determinar se tem competência pessoal (*jurisdiction*) sobre a SCL. Brevemente, em data que ainda não foi formalmente decidida, o Tribunal conduzirá uma audiência probatória (*evidentiary hearing*) durante a qual serão submetidas por ambas as partes provas para o Tribunal avaliar e decidir a questão da competência pessoal (*jurisdiction*) do Tribunal sobre a SCL. Se o Tribunal determinar que tem competência pessoal sobre a SCL no Processo *Jacobs*, os autos prosseguirão os seus termos contra a SCL. Se o Tribunal determinar que não tem competência pessoal sobre a SCL, a SCL será absolvida do processo e a acção prosseguirá os seus termos apenas contra a Las Vegas Sands Corporation ("LVSC").

5. É neste contexto, que o Tribunal ordenou que a SCL apresentasse determinada informação relevante para aferir se o Tribunal tem competência pessoal sobre a SCL. Genericamente, o que se pede é informação que demonstre a relação entre a SCL e a LVSC, ver Anexo 1 (*Court Order* de 8 de Março p.p.). Para determinar a sua competência, o Tribunal não pretende analisar documentos que possam ser relevantes para o mérito da acção ou relativos a pessoas determinadas. A obrigação da SCL neste momento é apenas de determinar se existem documentos adicionais em Macau relevantes – única e exclusivamente – para a questão da competência do Tribunal.

6. Na medida em que, nesta fase, o Tribunal está interessado na relação entre a SCL e a LVSC apenas, estamos em crer que a maioria dos documentos, se não todos, que possam ser relevantes para a questão da competência estejam já nos Estados Unidos, e como tal tenham já sido apresentados em juízo pela LVSC, mas tal apenas poderá confirmar-se depois de a VML ter feito a revisão dos documentos em sua posse em Macau.

7. Se a SCL não cumprir com a ordem do Tribunal, poder-lhe-ão ser impostas sanções, nomeadamente, o Tribunal pode decidir ter competência pessoal sobre a SCL.

8. Ora, como se expôs *supra*, a VML é uma subsidiária indirecta detida maioritariamente pela SCL. Como tal, tem todo o interesse em que a SCL seja absolvida neste Processo *Jacobs*. Afigura-se também claro que o interesse da VML em prevenir consequências adversas para a SCL, que podem verificar-se caso a SCL não cumpra com a ordem do Tribunal, é um interesse legítimo.

9. Neste contexto, a VML pretende contratar advogados de Macau, inscritos na Associação de Advogados de Macau, e uma firma de advogados de Hong Kong, para trabalharem juntos e reverem os documentos que estão em posse da VML, em Macau, para que

possam determinar se existem documentos em Macau relevantes para a questão da competência do Tribunal sobre a SCL. Para o efeito, a firma de advogados de Hong Kong deverá celebrar com a VML um contrato de prestação de serviços de consultadoria em termos semelhantes aos termos constantes do documento que ora se junta como Anexo 2.

10. A VML não descarta o facto de que se fosse parte num litígio em Macau, a revisão de documentos para efeitos de preparação da sua defesa em Tribunal, não careceria de notificação ou de pedido de autorização para o processamento dos dados pessoais constantes dos respectivos documentos. No entanto, atendendo à natureza especial do presente caso, e à circunstância de a VML não ser parte no processo e o litígio estar a correr termos fora de Macau, e ainda na sequência dos contactos que foram anteriormente estabelecidos pela VML com o V/ Gabinete, consideramos apropriado notificar o V/ Gabinete antes de iniciar a revisão de documentos aqui descrita.

Em face de todo o exposto, consideramos que, nos termos do disposto na alínea 5) do artigo 6.º, da Lei de Protecção de Dados Pessoais (Lei 8/2005), o exercício de revisão de documentos aqui descrito, levado a cabo por advogados de Macau conjuntamente com a firma de advogados de Hong Kong, e o processamento de dados pessoais possivelmente constantes dos documentos em causa, corresponde ao exercício de um direito legítimo por parte da VML, necessário, na medida em que apenas se o mesmo for levado a cabo se poderá determinar se existem documentos relevantes para a defesa da SCL em Macau, e que no presente caso os interesses ou os direitos, liberdades e garantias dos titulares dos dados não saíram comprometidos pela simples revisão e catalogação da informação por advogados e, como tal, tais interesses ou direitos, liberdades e garantias não devem prevalecer sobre o interesse da VML.



Assim, vem a VML, nos termos do disposto no artigo 21.º, n.º 1 da Lei 8/2005, notificar V. Exa. da sua intenção de conduzir o exercício de processamento de dados *supra* descrito.

No entanto, caso assim não se considere – o que não se concede mas se admite por mera cautela – requiere-se, mui respeitosamente, V. Exa. se digne autorizar o exercício de processamento de dados *supra* descrito, nos termos do disposto na alínea 4) do artigo 22.º da Lei 8/2005.

Requer-se ainda a V. Exa. Se digne conferir carácter de urgência ao presente pedido na medida em que a audiência probatória será agendada para breve e atendendo ao potencial volume de documentação da VML que necessita de ser revista.

Junta: 2 documentos

Protesta junta: tradução para Português dos 2 documentos ora juntos

Com os melhores cumprimentos,

General Counsel

Venetian Macau Limited





(Translation from Portuguese to English, for reference only)

*Dear Coordinator of the  
Office for Personal Data Protection  
Avenida da Praia Grande, n. 804  
Edif. China Plaza, level 13, A-F, Macau*

*Re: Notification about review of documents with personal data in Macau SAR  
Our Ref.: LD1671-2012*

*Dear Coordinator,*

*"Venetian Macau S.A.", in Chinese "威尼斯人澳門股份有限公司" and in English "Venetian Macau, Limited", a limited liability company, with its head office in Macau, Estrada da Bata de Nossa Senhora da Esperança, The Venetian Macao Resort Hotel, Executive Offices – L2, Taipa, registered with the Macau Commercial Registration Office under the number SO 15702, following your letter ref. 0957/GPDP/2012 of 8 August p.p. and the meeting of 6 November p.p., hereby represented by David Fleming, informs as follows:*

*1. As we have referred to in our letter dated 27 June p.p. ref. no. LD0903-2012 and during the meeting held on the 6 November 2012, Sands China Ltd. ("SCL") is a named defendant in a civil lawsuit pending in the District Court of Clark County, Nevada (the "Court")*

*captioned Steven C. Jacobs v. Las Vegas Sands Corp.; Sands China Ltd; Sheldon G. Adelson, et al., case No. A627691-B (the "Jacobs Lawsuit"). Venetian Macau Limited ("VML") is a company incorporated in Macau, sub-concessionaire for the operation of games of fortune and chance, indirectly owned by SCL.*

2. *VML believes it may have in its possession, in Macau, documents that might be relevant for the preparation of the defense of SCL in the Jacobs Lawsuit. However, to confirm whether or not these documents exist, in Macau, VML needs to review information located in its headquarters.*

3. *This letter serves to notify OPDP of the circumstances that involve VML's review of its documents to determine whether VML has in its possession documents relevant to the defense of SCL in the Jacobs Lawsuit, and to explain the reasons why VML believes that this document review is consistent with the Personal Data Protection Act ("PDPA"), approved by Law 8/2005. In case the OPDP has a different understanding of the PDPA – with which we do not agree but concede – this letters serves – alternatively – to request authorization from OPDP for VML to process the personal data which may be contained in the information that will be reviewed, as herein below described.*

4. *The Court in the Jacobs lawsuit is in the process of determining whether it has jurisdiction in that case over SCL. In the near future, at a date that has not yet been formally determined, the Court will conduct an evidentiary hearing during which the parties will submit evidence relevant to the question of the Court's jurisdiction over SCL. If the Court determines that it has jurisdiction over SCL in the Jacobs lawsuit, the proceedings will continue against SCL. If the Court determines that it does not have jurisdiction over SCL, SCL will be dismissed from the lawsuit and the lawsuit will proceed against only the Las Vegas Sands Corporation ("LVSC").*

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

LAS VEGAS SANDS CORP., a Nevada  
corporation, and SANDS CHINA LTD., a  
Cayman Islands corporation

Petitioners,

vs.

CLARK COUNTY DISTRICT COURT, THE  
HONORABLE ELIZABETH GONZALEZ,  
DISTRICT JUDGE, DEPT. 11,

Respondents,

and

STEVEN C. JACOBS,

Real Party in Interest.

Electronically Filed  
Apr 08 2013 09:13 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court  
District Court Case Number  
A627691-B

**APPENDIX TO PETITION  
FOR WRIT OF  
PROHIBITION OR  
MANDAMUS  
RE MARCH 27, 2013  
ORDER**

**Volume IX of XIII  
(PA1416 – 1662)**

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**APPENDIX TO EMERGENCY PETITION FOR WRIT OF  
PROHIBITION OR MANDAMUS RE MARCH 27, 2013 ORDER  
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3/6/2013	Reply In Support of Plaintiff's Renewed Motion for NRCP 37 Sanctions	XIII	PA2229 - 56
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**APPENDIX TO EMERGENCY PETITION FOR WRIT OF PROHIBITION OR  
MANDAMUS TO PROTECT PRIVILEGED DOCUMENTS  
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7/26/2011	Answer of Real Party in Interest Steven C. Jacobs to Petition for Writ of Mandamus, or in the Alternative, Writ of Prohibition (without exhibits)	I	PA178 - 209
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2/25/2013	Appendix to Defendants' Opposition to Plaintiff's Renewed Motion for NRCP 37 Sanctions (Excerpt) <b>NOTE: EXHIBITS O AND P FILED UNDER SEAL (Bates PA2119-2159A Submitted Under Seal)</b>	XII	PA1949 - 2159A
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5/17/2011	Defendant Sands China Ltd.'s Motion to Stay Proceedings Pending Writ Petition on OST(without exhibits)	I	PA141 - 57
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9/11/2012	Defendants Las Vegas Sands Corp.'s and Sands China Limited's Statement on Potential Sanctions	VII	PA1158 - 77
11/27/2012	Defendants' Motion for a Protective Order on Order Shortening Time	VIII	PA1392 - 1415
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## **CERTIFICATE OF SERVICE**

Pursuant to Nev. R. App. P. 25, I certify that I am an employee of MORRIS LAW GROUP; that, in accordance therewith, I caused a copy of the **APPENDIX TO PETITION FOR WRIT OF PROHIBITION OR MANDAMUS RE MARCH 27, 2013 ORDER** to be served as indicated below, on the date and to the addressee(s) shown below:

### **VIA HAND DELIVERY**

Judge Elizabeth Gonzalez  
Eighth Judicial District Court of  
Clark County, Nevada  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89155

### **Respondent**

### **VIA ELECTRONIC AND U.S. MAIL**

James J. Pisanelli  
Todd L. Bice  
Debra Spinelli  
Pisanelli Bice  
3883 Howard Hughes Parkway, Suite 800  
Las Vegas, Nevada 89169

**Attorneys for Steven C. Jacobs, Real Party in Interest**

DATED this 5th day of April, 2013.

By: /s/ PATRICIA FERRUGIA

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CLERK OF THE COURT

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25 *Attorneys for Sands China, LTD.*

26 **DISTRICT COURT**  
27 **CLARK COUNTY, NEVADA**

**FILE WITH  
MASTER CALENDAR**

28 STEVEN C. JACOBS,

Plaintiff,

v.

LAS VEGAS SANDS CORP., a Nevada  
corporation; SANDS CHINA LTD., a Cayman  
Islands corporation; SHELDON G. ADELSON,  
in his individual and representative capacity;  
DOES I-X; and ROE CORPORATIONS I-X,

Defendants.

AND ALL RELATED MATTERS.

CASE NO.: A627691-B

DEPT NO.: XI

Date: n/a

Time: n/a

**DEFENDANT SANDS CHINA LTD.'S  
MOTION FOR A PROTECTIVE ORDER  
ON ORDER SHORTENING TIME**

Defendant Sands China Ltd. ("SCL" and/or "Defendant") moves this Court pursuant to Rule 26(c), this Court's March 8, 2012 Order, and the Nevada Supreme Court's Order Granting SCL's Petition for Writ of Mandamus, for a protective order with respect to the scope of its

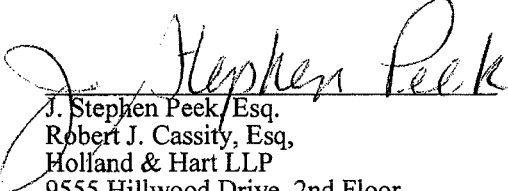
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PA1416

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1 obligation to search electronically stored information ("ESI") that is located in Macau.

2 DATED December 4, 2012.

3   
4 J. Stephen Peek, Esq.  
5 Robert J. Cassity, Esq.,  
6 Holland & Hart LLP  
7 9555 Hillwood Drive, 2nd Floor  
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*Attorneys for Sands China, Ltd.*

#### EX PARTE APPLICATION FOR ORDER SHORTENING TIME


16 As set forth in the Affidavit of J. Stephen Peek, Esq. below, good cause exists to hear  
17 Defendant Sands China Ltd.'s Motion for a Protective Order on an order shortening time. Plaintiff  
18 Steven C. Jacobs ("Plaintiff" and/or "Jacobs") has brought a Motion for Sanctions pursuant to  
19 NRCP 37 against SCL on the theory that SCL is violating its ongoing discovery obligations,  
20 including a supposed obligation to extensively search ESI in Macau. A hearing on Plaintiff's  
21 Motion for Sanctions is scheduled for December 27, 2012. However, Plaintiff's Motion for  
22 Sanctions jumps the gun. As explained below, the parties have a significant dispute about the  
23 *scope* of SCL's obligation to search ESI in Macau, in light of the limited nature of the  
24 jurisdictional discovery the Court has allowed and the extensive document production that has  
25 already been completed based on searches of ESI on LVSC's servers (including ESI for which  
26 Messrs. Adelson and Leven or their secretaries are the custodians) and of the Jacobs ESI that was  
27 transferred from Macau to the United States in 2010. Unless and until that dispute is resolved  
28 *and* unless and until SCL violates whatever order this Court might enter, Plaintiff's Motion for  
Sanctions is hopelessly premature.

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1 On November 30, 2012, Plaintiff moved, on an order shortening time, for both discovery  
2 and an evidentiary hearing on his Motion for Sanctions. That motion has been set for Thursday,  
3 December 6, 2012 at 8:30 a.m. The Court should not rule on that Motion until it has an  
4 opportunity to consider SCL's Motion for a Protective Order, which SCL believes should obviate  
5 the need to hold any hearing at all on Plaintiff's Motion for Sanctions.

6 SCL's request for an order shortening time is made in good faith and is not made for any  
7 improper purpose, and accordingly SCL requests that this Motion be heard on an order shortening  
8 time.

9 DATED December 4, 2012.

10  
11   
12 J. Stephen Peek, Esq.  
13 Robert J. Cassity, Esq.,  
14 Holland & Hart LLP  
15 9555 Hillwood Drive, 2nd Floor  
16 Las Vegas, Nevada 89134

17 *Attorneys for Las Vegas Sands Corp. and Sands*  
18 *China Ltd.*

19 and

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26 Las Vegas, Nevada 89169

27 *Attorneys for Sands China, Ltd.*

28  
**DECLARATION OF J. STEPHEN PEEK, ESQ.**

I, J. STEPHEN PEEK, ESQ., being duly sworn, state as follows:

1. I am one of the attorneys for Sands China Ltd. ("SCL") in this action. I make this  
Declaration in support of Defendant Sands China Ltd.'s Motion for a Protective Order in  
accordance with EDCR 2.34 and in support of its Ex Parte Application for an Order Shortening  
Time. I have personal knowledge of the facts stated herein, except those facts stated upon

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1 information and belief, and as to those facts, I believe them to be true. I am competent to testify  
2 to the matters stated herein.

3 2. Plaintiff has taken the position, in correspondence and in a number of meet-and-  
4 confer sessions, that SCL and its indirect parent corporation, Las Vegas Sands Corporation  
5 ("LVSC") each has an independent obligation to produce any and all documents in its possession,  
6 custody or control that are responsive to the Requests for Production of Documents ("RFPs") that  
7 Plaintiff served on each Defendant. In addition, Plaintiff has interpreted those RFPs in an  
8 extremely broad manner, as requiring each Defendant to produce *every* document necessary to  
9 show *every* detail of *every* contact SCL had with the State of Nevada during the period from  
10 January 1, 2009 to October 20, 2010, whether directly or indirectly through LVSC. To date,  
11 Defendants have together produced over 168,000 pages of documents in response to Plaintiff's  
12 jurisdictional discovery at a cost we estimate to exceed \$ 2.3 million.<sup>1</sup> Nevertheless, Plaintiff still  
13 claims that the production is deficient because certain "electronic records" (including ESI in  
14 Macau) have not been searched. See Pl. Motion for Sanctions at 6.

15 3. In meet-and-confer sessions and letters sent to Plaintiffs' counsel in May and June  
16 2012, prior counsel for SCL made SCL's position clear that the production efforts of both  
17 Defendants must be viewed collectively and that, in light of the extensive production LVSC has  
18 provided, the documents SCL has already produced, and SCL's commitment to produce  
19 documents from the Jacobs ESI in the United States, SCL has no obligation to search ESI in  
20 Macau for purposes of jurisdictional discovery. Nevertheless, as a precautionary measure, SCL  
21 agreed to search ESI in Macau for which Jacobs was the custodian to ensure that there are no  
22 responsive documents that were not captured by the search of the Jacobs ESI in the United States.  
23 SCL also offered, as late as October 30, 2012, when new counsel appeared for SCL, to meet and  
24 confer with Plaintiff about ESI production in Macau.

25 4. Plaintiff ignored SCL's offer to meet and confer about that issue, but has also not  
26 brought a motion to compel, as SCL suggested it should do more than four months ago. Instead,

27  
28 <sup>1</sup> This is a rough (but conservative) estimate that represents our current best guess of how much has  
been spent on searching, reviewing and producing documents and the associated privilege logs.

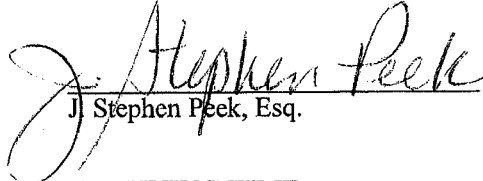
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1 Plaintiff has brought a Motion for Sanctions, in which he argues that SCL's failure to search its  
2 ESI in Macau (as opposed to the Jacobs ESI in the United States, which has been searched and  
3 from which over 15,000 pages of documents have been produced) was sanctionable. Indeed,  
4 Plaintiff cited the efforts of SCL's new counsel to meet and confer on the issue of ESI in Macau  
5 as evidence of SCL's supposed bad faith discovery conduct. Pl. Motion for Sanctions at 4.

6 5. In light of Plaintiff's Motion for Sanctions, it is clear that the parties are at an  
7 impasse and that additional efforts to meet and confer concerning the scope of SCL's remaining  
8 discovery obligations would not be fruitful. Accordingly, SCL has brought this Motion for a  
9 Protective Order to obtain a ruling from the Court that it is *not* required to search ESI in Macau  
10 except ESI for which Jacobs was the custodian.

11 6. SCL's request for an order shortening time is made in good faith and is not made  
12 for any improper purpose, and SCL specifically requests that the Court hear this Motion on an  
13 order shortening time.

14 7. I declare under penalty of perjury that the foregoing is true and correct.

15  
16   
17 J. Stephen Peek, Esq.

18 **ORDER SHORTENING TIME**

19 The Court having reviewed the Ex Parte Application for Order Shortening Time, and good  
20 cause appearing,

21 IT IS HEREBY ORDERED that the foregoing **DEFENDANT SANDS CHINA LTD.'S**  
22 **MOTION FOR A PROTECTIVE ORDER** shall be heard on shortened time on the 6<sup>th</sup> day of  
23 Dec, 2012, at the hour of 8 : 30 (a.m.) p.m. in Department XI of the Eighth Judicial  
24 District Court.

25 DATED this 4<sup>th</sup> day of Dec, 2012.



27 DISTRICT COURT JUDGE

28 



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1                   **MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF**  
2                   **DEFENDANT SANDS CHINA LTD.'S**  
3                   **MOTION FOR A PROTECTIVE ORDER**

4                   **I.**

5                   **INTRODUCTION**

6                   In his recently-filed Motion for Sanctions (at 6), Plaintiff accuses Defendants of failing to  
7 follow through on the promises Defendants made to the Court on June 28, 2012, to re-double their  
8 efforts to fully comply with their discovery obligations. In fact, Defendants have done exactly  
9 what they told the Court they would do — and much more. As explained in greater detail below,  
10 Defendants have, as promised, produced responsive documents (i) from the Jacobs ESI that was  
11 transferred in 2010 to the United States from Macau and (ii) based on a new search of emails on  
12 LVSC's server between a long list of LVSC custodians and Jacobs. In addition, although  
13 Defendants do not believe they were required to do so, LVSC searched new custodians and  
14 applied expanded search terms to custodians whose ESI it had already searched in an effort to  
15 address Jacobs' assertions that there were inadequacies in the existing document production. As a  
16 result of all of these efforts, Defendants have produced approximately 148,000 additional pages of  
17 documents to Plaintiff since the June 28 status hearing, at an estimated cost in excess of \$2  
18 million.<sup>2</sup> The *only* discovery task that Defendants promised to do that they have yet to complete  
19 is a search of ESI in Macau for which Jacobs was the custodian to determine whether there are  
20 any additional responsive documents still in Macau that for some reason were not in the Jacobs  
21 ESI that was transferred to the U.S. SCL always made clear that searching ESI in Macau for  
22 which Jacobs was the custodian would be the last task it undertook, and it is that task to which  
23 SCL has now turned.

24                   In his Motion for Sanctions, Plaintiff simply ignores Defendants' extensive document  
25 production over the course of the last several months and tries to twist the one piece that remains

26                   <sup>2</sup> Defendants estimated that it would take until Labor Day to review and produce the documents in  
27 the Jacobs ESI in the United States and to conduct the further Jacobs-related email review on the LVSC  
28 servers using Defendants' original search terms. 6/28/12 H'rng Tr., attached hereto as Ex. A, at 13.  
Defendants made that deadline. Production continued thereafter because Defendants expanded their search  
terms after meet-and-confer sessions with Plaintiff and applied those terms over all custodians whose ESI  
had previously been reviewed.

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1 to be completed (the Macau search of the Jacobs ESI) into a total failure to comply with SCL's  
2 discovery obligations. But as Jacobs well knows, that is not true. For months, the parties have  
3 had a dispute — which Plaintiff does not even acknowledge in his Motion for Sanctions — about  
4 whether SCL has an obligation to search its ESI for documents beyond those for which Jacobs  
5 was the custodian. SCL has consistently argued that it does not. SCL's position is based on a  
6 variety of factors, including the nature of Plaintiff's requests, which focus on interactions between  
7 LVSC and SCL and the activities of Messrs. Adelson and Leven (whose ESI resides on LVSC  
8 servers); the fact that LVSC has engaged in extensive production efforts that, in Defendants'  
9 view, go far beyond its obligations; and the enormous burden of conducting a review of ESI in  
10 Macau that is likely to be entirely duplicative and unnecessary to Jacobs' efforts to prove his case  
11 on jurisdiction. To give a simple example, for purposes of the limited jurisdictional discovery the  
12 Court ordered, SCL should not be required to search its ESI in order to identify and produce  
13 emails to or from LVSC employees when LVSC has already produced those very same emails.  
14 Yet Plaintiff has taken the position that each Defendant must produce all documents in its  
15 possession, custody or control that are responsive to Plaintiff's incredibly broad interpretation of  
16 his document requests and that SCL is, accordingly, required to duplicate all of the efforts LVSC  
17 has already undertaken in Las Vegas in Macau.

18 Plaintiff has refused to talk about any lesser proposal, despite SCL's stated willingness to  
19 do so. Indeed, Plaintiff's counsel simply ignored attempts by SCL's new counsel to meet and  
20 confer about ESI in Macau. Although SCL has suggested on more than one occasion that Plaintiff  
21 should bring a motion to compel if he disagrees with SCL's understanding of the scope of its  
22 discovery obligations, Plaintiff failed to file such a motion. It was not until Plaintiff filed his  
23 Motion for Sanctions that it became apparent that the parties are at an impasse on this issue.  
24 Accordingly, SCL now brings this Motion for a Protective Order, seeking a determination that it  
25 has no obligation to conduct any ESI searches in Macau — apart from running the precautionary  
26 Jacobs ESI comparison it has already promised to perform — on the off-chance that it might find  
27 a document that could be deemed responsive to one or more of Plaintiff's requests that has not  
28 already been produced.

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As demonstrated in greater detail below, the Court should grant SCL's motion pursuant to NRCp 26(c) because Defendants have together fully responded to all of the jurisdictional discovery the Court allowed and because requiring SCL to conduct further searches of ESI in Macau (apart from searches of the Jacobs ESI) would likely yield only duplicative and cumulative documents that Jacobs does not need and that, in any event, could not as a matter of law support his claim that this Court has general jurisdiction over SCL.

## II.

### BACKGROUND FACTS AND PROCEDURAL HISTORY

#### A. The Court's Order on Jurisdictional Discovery

In September 2011, shortly after the Nevada Supreme Court issued its Order on SCL's Petition for Mandamus, Jacobs' counsel moved for leave to conduct jurisdictional discovery. Plaintiff's counsel asked the Court to allow them to take depositions of four individuals who reside in Nevada (Messrs. Adelson, Leven, Goldstein and Kay) and to seek fifteen categories of documents. In the hearing on Plaintiff's motion, Jacobs' counsel stated that he had "*tried to narrowly confine what it is that we want to do*" with respect to jurisdictional discovery. 9/27/11 H'ring Tr., attached hereto as Ex. B, at 20 (emphasis added). One purpose of the discovery, Plaintiff's counsel said, was to determine whether SCL's "primary officers [whom he identified as Mr. Adelson and Mr. Leven] are directing the management and control of that company from the offices [of LVSC] here on Las Vegas Boulevard." *Id.* at 21. In support of that theory, Plaintiff sought documents that would enable him to determine whether two or more directors attended SCL Board meetings while located in Las Vegas, *id.* (Request #6<sup>3</sup>) and when and how often the deponents and other LVSC employees traveled to China on SCL-related business (Request #7). Plaintiff also sought documents related to Michael Leven's service as acting CEO of Sands China and/or Executive Director of the SCL Board (Request #9).

Plaintiff's counsel argued that he also needed discovery to "see what Sands China is doing in Nevada." *Id.* at 24. He emphasized that Jacobs was not pursuing an alter ego theory under

<sup>3</sup> References herein to Plaintiff's Requests are to the numbered paragraphs in the Court's March 8 Order, attached hereto as Ex. C, in which the Court granted Plaintiff's request to take discovery with respect to eleven categories of documents.

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1 which LVSC's contacts with the forum would be attributed to SCL. *Id.* at 23-24. Instead,  
 2 Plaintiff's counsel said he was trying to determine what SCL did "on its own" in Nevada, whether  
 3 through its own officers, directors or employees, or through LVSC, supposedly acting as SCL's  
 4 agent. *Id.* at 26. In support of these theories, Plaintiff asked for contracts that SCL had entered  
 5 into with entities based in or doing business in Nevada, including shared services and other  
 6 agreements between SCL and LVSC, as well as documents reflecting work performed by or on  
 7 behalf of SCL in Nevada. *See* Requests # 10, 11, 13, and 16. Plaintiff also sought documents  
 8 reflecting services performed by LVSC or its executives on behalf of SCL, as well as documents  
 9 reflecting amounts (if any) that SCL paid to LVSC executives to reimburse them for work  
 10 performed for SCL. *See* Requests # 12, 15, and 18.

11 The Court granted all of these requests, which were limited to the time period of January  
 12 1, 2009 to October 20, 2010, while denying four other requests.<sup>4</sup> When SCL subsequently sought  
 13 clarification of the Court's ruling, the Court imposed as an "overriding limitation" on all  
 14 discovery that "[t]he parties are permitted to conduct discovery related to activities that were done  
 15 for or on behalf of Sands China." *See* March 8, 2012 Order at 6.<sup>5</sup> As SCL understands this  
 16 limitation, Plaintiff is not entitled to discovery into activities that LVSC executives or employees  
 17 engaged in on behalf of LVSC itself, which would include LVSC's supervisory activities as  
 18 SCL's parent; instead, Plaintiff can only seek discovery into the actions of individuals acting  
 19 directly for SCL (such as Messrs. Adelson or Leven, when they were wearing their SCL "hats")  
 20 or LVSC executives or employees who were acting for or on behalf of SCL, pursuant to (for  
 21 example) a shared services agreement.<sup>6</sup>

22  
 23 <sup>4</sup> The Court also allowed Plaintiff to seek documents that SCL provided to the Nevada Gaming  
 24 Commission during the period from January 1, 2009 to October 20, 2010. This category is not at issue  
 25 because SCL has never conducted a gaming business in Nevada and thus does not provide documents to  
 the Gaming Commission. *See* Sands China Ltd.'s Response to Plaintiff's First Request for Production,  
 attached hereto as Ex. D, at 29.

26 <sup>5</sup> Although the Court's Order was not entered until March 8, 2012, it provided this clarification in a  
 hearing held on October 13, 2011.

27 <sup>6</sup> Plaintiff's theory appears to be that LVSC acted as SCL's agent when it provided products and  
 28 services pursuant to the Shared Services Agreement between LVSC and SCL. Defendants disagree. That  
 Agreement did not purport to create an agency relationship, nor did it give SCL the right to control the  
 manner in which LVSC performed the services in question. Without control, there is no principal-agent

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## B. Plaintiff's Discovery Requests

The Court's Order granting in part Plaintiff's Motion for Jurisdictional Discovery was not self-executing. *See* 10/13/11 H'ring Tr., attached hereto as Ex. E, at 65 ("You're going to have to do formal discovery requests. . . let's not assume that just because I said you can do these things . . . that that means that [Defendants] have to immediately respond. They don't"). Although Plaintiff knew in mid-October that he would have to serve discovery requests on Defendants, it was not until more than two months later that Plaintiff finally propounded Requests for Production of Documents ("RFPs") separately to SCL and LVSC, on December 23 and 27, 2011. Those RFPs (attached hereto as Exs. F and G) were broader in a number of respects than the Court's Order granting discovery.

SCL and LVSC served timely objections and responses to the RFPs on January 23 and 30, 2012 respectively. *See* Exs. H and I hereto. Plaintiff responded by attacking Defendants' objections, demanding an immediate meet-and-confer, and threatening a prompt motion to compel. *See* Exs. J and K hereto. Among many other things, Plaintiff's counsel took the position that LVSC and SCL each had an independent obligation to produce all documents in its possession, custody or control that were responsive to the requests, even if those documents were completely duplicative. *See* 2/1/12 Letter from D. Spinelli to S. Peek, Ex. K hereto, at 1 (LVSC's response that the information sought by certain Requests could be derived from documents that SCL would produce, such as SCL Board minutes, was "insufficient" because LVSC supposedly had an independent duty to produce those documents). Notwithstanding the statements made in Plaintiff's initial letters, Plaintiff chose not to file a motion to compel. Instead, the parties did what they are supposed to do under the Nevada rules — they met and conferred repeatedly about their differences in an attempt to resolve them without seeking the Court's assistance.

On March 7, 2012, Munger Tolles sent a letter to Plaintiff's counsel offering detailed stipulations about the facts sought by Plaintiff in his RFPs as an alternative to the lengthy (and

(continued)  
 relationship. *See Hunter Mining Labs., Inc. v. Management Assistance, Inc.*, 763 P.2d 350, 352 (Nev. 1988) ("In an agency relationship, the principal possesses the right to control the agent's conduct"). However, for discovery purposes Defendants have assumed that any services LVSC provided to SCL in Nevada pursuant to the Shared Services Agreement would be deemed to have been provided "for or on behalf of SCL."

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likely contentious) discovery process that appeared to be in the offing. *See* Ex. L hereto.<sup>7</sup> Three weeks later, Plaintiff turned down SCL's offer to stipulate, stating that, although he "appreciated" the effort to streamline the proceedings, he wanted to proceed with discovery on each and every one of his RFPs. *See* Ex. O hereto. Thus, for example, Plaintiff was not content with a stipulation that Messrs. Leven and Adelson attended all telephonic Board meetings during the period in question from Las Vegas or with a stipulation as to how many trips Messrs. Adelson or Leven had made to China on SCL business during the relevant period. Plaintiff stated that the proposed stipulations were insufficient because he wanted to know not only the date, time and location of SCL Board meetings, but also what was on the agenda and what was being discussed at SCL Board meetings. Similarly, Plaintiff declined to stipulate to the seemingly simple RFP seeking information about the trips that Messrs. Adelson, Leven, Goldstein and others made to China during the period in question, on the ground that he was entitled to "*any* document referencing the travel, which will likely include information as to what they were doing and why." T. Bice 3/28/12 Letter to J. Owens, Ex. O hereto, at 2 (emphasis added). Munger Tolles responded a week later by withdrawing the proposed stipulations, but noting that SCL would be producing documents during the week of April 9 (following the Court's entry of a negotiated protective order) and that SCL hoped to revisit the possibility of short-cutting discovery through stipulations after document production began. *See* Ex. P hereto.

### C. Defendants' Document Production in April and May

SCL did in fact produce documents in April. Those documents related to the location and attendees at Board meetings (#6 of the March 8 Order), to Mr. Leven's appointments by the SCL Board (#9) and included contracts SCL had entered into directly with entities that are located or do business in Nevada (#11), contracts between SCL and LVSC (#13), and documents relating to

<sup>7</sup> Munger Tolles' March 7, 2012 Letter took another request the Court had allowed (#18) out of play. The Court permitted Plaintiff to seek documents reflecting reimbursements made to any LVSC executive for work performed or services provided related to SCL, during the relevant time period. SCL explained that "LVSC reimburses its employees for business-related travel relating to providing services for SCL," but that "LVSC does not otherwise reimburse its employees for any services performed for SCL." *See* March 7 Letter at 9. SCL subsequently produced "connected transaction reports," which disclose all the accounting entries for services LVSC provided to SCL under their shared services agreement. *See* July 17, 2012 Munger Tolles Letter, Ex. M hereto, at 2; Index to SCL Doc. Production, Ex. N hereto.

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1 services performed by LVSC executives on behalf of SCL (#15). *See* SCL's First Supplemental  
 2 Response to Plaintiff's RFPs, attached hereto as Ex. D. LVSC also produced documents, on a  
 3 rolling basis. A letter from Munger Tolles dated July 17, 2012, attached hereto as Ex. M, at 1-2,  
 4 explains in detail the process LVSC initially used to electronically search the LVSC database for  
 5 responsive documents prior to the May 24, 2012 status check.

6 At meet-and-confer sessions held during the spring, Defendants' counsel took the position  
 7 that their document production efforts should be evaluated on a collective basis. Many of the  
 8 categories of documents the Court allowed were aimed at LVSC or at communications between  
 9 LVSC and SCL; SCL took the position that it was not required to conduct duplicative searches in  
 10 order to locate and produce (for example) the SCL end of an email that had been sent to someone  
 11 at SCL by an LVSC executive (or vice versa).<sup>8</sup> *See, e.g.*, Letter dated May 18, 2012, attached  
 12 hereto as Ex. Q, at 1-2. Similarly, SCL's view was that it was not required to produce agreements  
 13 between SCL and LVSC that LVSC had already produced. Plaintiff disagreed, consistently  
 14 arguing that SCL and LVSC had independent obligations to search and produce the very same  
 15 universe of documents. While continuing to argue the point, *Plaintiff never filed a motion to*  
 16 *compel asking the Court to resolve this dispute.*

#### 17 **D. Jacobs' Electronic Media**

18 While LVSC and SCL were producing documents on a rolling basis, the parties were also  
 19 still negotiating over the deposit with the Court-appointed ESI vendor, Advanced Discovery, of  
 20 the electronic media Jacobs had taken with him when he left Macau. In December 2011, the  
 21 Court ordered Jacobs to produce to Advanced Discovery by December 9, 2011, a full mirror  
 22 image of all electronic storage devices that were in his possession, custody or control when he  
 23 was terminated. *See* Order Regarding November 22, 2011 Status Conference, attached as Ex. R  
 24 hereto. Nevertheless, it was not until more than five months later, shortly before the May 24,

25  
 26 <sup>8</sup> For example, LVSC was best situated to produce documents reflecting work Mr. Goldstein  
 27 performed for SCL as an employee, officer or director of LVSC (#12), as well as documents reflecting  
 28 work performed by LVSC on behalf of SCL (#15). That was also true with respect to Plaintiff's request for  
 documents relating to Mr. Leven's service as acting CEO or Executive Director of SCL (#9). Mr. Leven  
 did not have a Macau ("mo.com") email address, but instead used his Las Vegas Sands email address for  
 both LVSC and SCL business. Mr. Adelson ESI was also located on the LVSC server.

1 2012 status check, that Jacobs submitted any of his electronic media (the “Jacobs Collection”) to  
2 Advanced Discovery to be imaged.

3 **E. The May 24, 2012 Status Check**

4 When the parties appeared at the May 24 status check, LVSC’s counsel reported that  
5 LVSC was still producing documents but that it was close to completing its production efforts.  
6 Munger Tolles reported that all SCL had left to produce was responsive documents for which  
7 Jacobs was the custodian. Mr. Weissmann acknowledged that SCL had not yet searched the  
8 Jacobs ESI, stating that the search would involve an elaborate process and that SCL was waiting  
9 to conduct its own search until the Jacobs Collection held by Advanced Discovery could be  
10 searched. 5/24/12 H’ring Tr., attached hereto as Ex. S, at 12-14. The Court responded that this  
11 kind of “staggered” approach to discovery was improper, expressed her disappointment that  
12 discovery was proceeding so slowly and that the parties had not yet reached the deposition stage,  
13 and vacated the June hearing date. *Id.* at 14-15. The Court then instructed the parties to return for  
14 another status on June 28 and asked for status reports to be filed before that hearing. *Id.* at 20.

15 **F. The June 28, 2012 Status Check**

16 In their June 27 Joint Status Conference Statement, attached hereto as Ex. T, Defendants  
17 explained that they believed they had substantially completed their document production, with the  
18 exception of documents for which Jacobs was the custodian. Defendants stated that they had  
19 produced close to 20,000 pages of documents at a cost of well over \$300,000. *Id.* at 2, 4.  
20 Defendants also described their plan to review the Jacobs ESI. The first step was to review the  
21 Jacobs ESI in the United States. Defendants disclosed that Jacobs’ emails and other ESI had been  
22 transferred from Macau to the United States in 2010; Defendants promised to search and produce  
23 responsive documents from this collection. *Id.* at 5 (¶ 1). They also promised to search the  
24 emails of a large number of LVSC custodians who either received email from Jacobs or sent  
25 email to him during the relevant period with search terms designed to yield potentially relevant  
26 documents. *Id.* (¶ 2). Finally, as a precautionary measure, SCL said that it would take the results  
27 of this production and run searches on its subsidiary’s (VML’s) servers in Macau to see if there  
28 was any ESI for which Jacobs was the custodian in Macau that was not also in the United States.



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1 *Id.* at 6 (¶ 4). If so, SCL's proposal was to attempt to obtain permission from the Macau  
 2 authorities (the Office for Personal Data Protection or "OPDP"), to the extent it was necessary to  
 3 do so, to transfer that data to the United States for production to Jacobs. *Id.* at 6-7 (¶ 5).

4 In his Status Memorandum on Jurisdictional Discovery, also filed on June 27, attached as  
 5 Ex. U hereto, Plaintiff reported on the status of the Jacobs Collection, noting that he was  
 6 scheduled to provide his search terms to cull out his own privileged/private materials by July 2.  
 7 Plaintiff then discussed at length Defendants' disclosure that the Jacobs ESI had been transferred  
 8 to the United States in 2010. *Id.* at 3. Plaintiff asked the Court to establish a "prompt time period"  
 9 for Defendants to review and produce documents from the Jacobs ESI in the United States and  
 10 then to set a date for the evidentiary hearing — without any suggestion that Plaintiff thought that  
 11 SCL was required to undertake additional searches of ESI in Macau. *Id.* at 2. The final portion of  
 12 Plaintiff's Memorandum was devoted to an attack on the completeness of Defendants' document  
 13 production. That portion of Plaintiff's status report was supported by a Declaration from Jacobs  
 14 claiming that there were many categories of documents relating to LVSC's contacts with SCL  
 15 that should have been produced, but had not been. Although it was clear that Jacobs' Declaration  
 16 had been *drafted* to support a motion to compel, Plaintiff chose not to file a motion to compel,  
 17 either then or later.<sup>9</sup>

18 At the June 28 status hearing, SCL's counsel noted that until Plaintiff filed his status  
 19 report, SCL had "never heard about" any of Jacobs' specific complaints about documents that  
 20 were supposedly "missing" from Defendants' production. 6/28/12 H'rg Tr., attached hereto as  
 21 Ex. A, at 10. He noted that the appropriate way to deal with such issues was through the meet-  
 22 and-confer process and, if the issues could not be resolved, by filing a motion to compel. *Id.* at  
 23 12. The Court agreed, stating "[i]t is the appropriate way, you're absolutely right." *Id.*; *see also*  
 24 *id.* at 12-13 (noting that the Court had marked as a court exhibit a table Defendants had prepared  
 25 with respect to their production to quickly respond to Jacobs' Declaration, "but I anticipate  
 26 always that issues related to compelling documents will be handled by a motion").

27  
 28 <sup>9</sup> When it was served, Jacobs' Declaration was captioned as being in support of a motion to compel.  
 When it was filed, it became simply a Declaration.

1 SCL's counsel also explained its plan for producing the Jacobs ESI going forward. He  
 2 started by explaining that on May 29, 2012, the OPDP had informed SCL that it could produce  
 3 documents from the Jacobs ESI that had been transferred to the United States without violating  
 4 the Macau Personal Data Protection Act (the "MPDPA") — although it might still face penalties  
 5 for the original transfer of those documents from Macau to the United States in 2010.<sup>10</sup> *Id.* at 4-5.  
 6 In light of the OPDP's letter, SCL's counsel promised that "[w]e are going to double and redouble  
 7 our efforts to move this thing along and review the Jacobs documents that are in the United States  
 8 and get those documents that are responsive to jurisdiction produced as quickly as we can." *Id.* at  
 9 12.<sup>11</sup> He then noted that SCL had authorized counsel to

10 increase staffing, increase the expense, and get it done. And we think that we can get  
 11 all of the documents, other than documents in Macau — and we have to decide what  
 12 the Court is going to do with that, because documents in Macau are a whole different  
 13 situation and involve legal issues that may or may not have to be resolved on the  
 14 jurisdictional issue. But we think we can get through all of the Jacobs documents and  
 15 all of the other documents in the United States by Labor Day and get those produced  
 16 so that if, Your Honor — if there's no discovery disputes and discovery motions, we  
 17 think we'd be in a position to have a hearing in October. That's our best bet.

18 *Id.* at 13-14.

#### 19 **G. Defendants' Post-June 28 Document Production**

20 Although the Court knows what happened thereafter with respect to the sanctions hearing,  
 21 it has yet to hear the full story of what happened with discovery after June 28 — because until  
 22 recently neither side asked for the Court's assistance with respect to any discovery disputes. After  
 23 the June 28 hearing, Defendants' counsel engaged in numerous meet-and-confer sessions with  
 24 Plaintiff's counsel in an effort to agree on a set of expanded search terms that LVSC could use to  
 25 search the custodians whose documents had already been searched and a long list of custodians

26 <sup>10</sup> As the Court knows, the OPDP has initiated an investigation into the original transfer. *See*  
 27 Defendants' Statement Regarding Investigation by Macau Office of Personal Data Protection, filed on  
 28 8/7/12 and attached hereto as Ex. V.

<sup>11</sup> At page 6 of his recently-filed Motion for Sanctions, Plaintiff quotes SCL's counsel as saying that  
 SCL was going to "double and re-double its efforts" and then claims that counsel was promising to review  
 documents *in Macau*. But, as the full quotation shows, the promise was to review and produce documents  
 from the Jacobs ESI that was *in the United States*. SCL made no promises at all with respect to Macau  
 and in fact reiterated the difficulties of producing documents that were located in Macau. *See* 6/28/12  
 H'rng Tr., Ex. A hereto, at 13.

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1 who traded emails with Jacobs during the relevant period. Eventually, Plaintiff's counsel simply  
 2 refused to discuss search terms further, taking the position (as they do in Plaintiff's Motion for  
 3 Sanctions) that Defendants should choose their own search terms and run their searches.  
 4 Eventually, LVSC did just that.

5 LVSC unilaterally expanded its original search by adding four additional custodians and  
 6 increasing the scope of the search terms used to identify potentially relevant information. LVSC  
 7 also used the expanded search terms it generated to (i) identify responsive documents in the  
 8 Jacobs ESI that had been transferred to the United States in 2010 and (ii) to identify emails on the  
 9 LVSC server that were sent to or from a large number of LVSC custodians. *See also* Munger  
 10 Tolles July 17, 2012 Letter, Ex. M hereto (explaining in detail the process Defendants intended to  
 11 follow). This process has recently been completed, with documents produced to Plaintiff and  
 12 privilege logs submitted. *In total, Defendants have now produced more than almost 168,000*  
 13 *pages of documents in response to Plaintiff's jurisdictional discovery requests — an enormous*  
 14 *undertaking that has cost more than \$2.3 million.*<sup>12</sup>

15 In his Motion for Sanctions (at 6), Plaintiff claims that "LVSC and Sands China have still  
 16 to this day conducted no search of numerous electronic files both in Macau and Las Vegas." But  
 17 Plaintiff offers no explanation of *which* electronic files he thinks should have been searched or  
 18 *what* documents he believes are missing. More importantly, Plaintiff does not even try to explain  
 19 in what way the massive document production he has received fails to provide him with the  
 20 evidence he needs in order to make whatever arguments he intends to make on the jurisdictional  
 21 issue. As the Court noted in June, *if* Plaintiff has a complaint about the scope of Defendants'  
 22 production, the appropriate way to handle it is by seeking a meet-and-confer and then, if an  
 23 impasse is reached, bringing a motion to compel. Plaintiff cannot leap over those basic steps and  
 24 seek sanctions simply because he claims that there are electronic files that have yet to be  
 25 searched.

26 Although Plaintiff complains in his sanctions motion in a generalized way about SCL's

27 <sup>12</sup> In addition, Defendants had produced approximately 36,000 pages of documents to Plaintiff before  
 28 discovery was stayed in the summer of 2011; many of those documents are also responsive to Plaintiff's  
 jurisdictional discovery requests.

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1 failure to review ESI in Macau, the fact is that Plaintiff has known for six months that SCL's  
 2 position was and is that Jacobs is the only Macau custodian whose ESI SCL needed to search. In a  
 3 July 30 letter, attached hereto as Ex. W, memorializing the parties' discussions of this issue,  
 4 Munger Tolles explained that a broader review based on a larger group of custodians would be  
 5 unduly burdensome and would be unreasonable and unnecessary in light of (i) the extensive  
 6 review and production LVSC had done of documents showing the interaction between executives  
 7 at LVSC's headquarters in Las Vegas (including Messrs. Adelson and Leven) and SCL and (ii)  
 8 Defendants' agreement to produce responsive documents from the Jacobs ESI, beginning with the  
 9 ESI that LVSC had transferred to the United States. SCL's counsel noted that Plaintiff had  
 10 suggested during meet-and-confer sessions that SCL should take the initiative to resolve the  
 11 dispute as to the scope of SCL's remaining discovery obligations by seeking a protective order;  
 12 SCL responded that Plaintiff should file a motion to compel — a step Plaintiff never bothered to  
 13 take.

#### 14 **H. SCL Retains New Counsel Following the Court's September 14 Order**

15 That was the state of play in October 2012, when the undersigned new counsel substituted  
 16 for Munger Tolles as counsel for SCL. Shortly thereafter, Mark Jones, along with Mr. Peek,  
 17 attempted to meet and confer with Plaintiff's counsel about discovery of ESI in Macau. As  
 18 Plaintiff admits, his counsel took the position that there was nothing to discuss. *See* Pl. Motion  
 19 for Sanctions, at 4. Accordingly, SCL's new counsel took steps to complete the discovery that  
 20 SCL had promised of the Jacobs ESI in Macau — a process that SCL had *always* said would  
 21 come *after* the review and production of the Jacobs ESI that LVSC transferred to the United  
 22 States from Macau in 2010.

23 SCL recognizes that in its sanctions Order the Court told SCL that it could not rely on the  
 24 MPDPA as a basis for objecting to the production of documents. Nor has SCL done so:  
 25 Defendants have produced all responsive documents in the Jacobs ESI in the United States  
 26 without making any objections based on the MPDPA. However, we do not read the Court's Order  
 27 as prohibiting SCL from attempting to comply with the procedures the OPDP requires under the  
 28 MPDPA *before* producing documents from Macau that raise data privacy issues. That is what

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1 SCL's new counsel have done.

2 As SCL has previously reported, in August 2012, SCL received the OPDP's long-awaited  
3 response to its request to transfer data to the United States in order to respond to document  
4 requests in this case and other matters. *See* Defs. Statement on Potential Sanctions, filed 9/11/12,  
5 Ex. X hereto, at 12; *see also* the OPDP's August 8, 2012 letter attached as Ex. Y hereto. In that  
6 letter, the OPDP not only rejected SCL's request, but stated that SCL's own lawyers could not  
7 even *review* documents in Macau that are subject to the MPDPA to determine whether they are  
8 responsive to U.S. discovery requests or subpoenas. *Id.*

9 After the status check on October 30, 2012, Mark Jones and Michael Lackey of Mayer  
10 Brown LLP immediately flew to Macau to meet with the OPDP, along with in-house counsel for  
11 SCL and its operating subsidiary VML, in an attempt to convince the OPDP to allow counsel  
12 retained by VML to review documents so it can be determined (as SCL had said it would do all  
13 along) whether there are any unique responsive documents in Macau for which Jacobs was the  
14 custodian. *See* Ex. Z hereto, which is a copy of the written request SCL and VML submitted.  
15 On November 29, SCL received a response from the OPDP, a copy of which is attached hereto as  
16 Ex. AA, which gives SCL's subsidiary (VML) permission to review documents containing  
17 personal data by automated means so long as that review is conducted by either VML's in-house  
18 lawyers in Macau or by external Macau lawyers. Those lawyers would be responsible for  
19 identifying personal information and either obtaining the individual's consent to transferring the  
20 data or redacting it before the documents identified through the electronic search could be  
21 provided to external SCL lawyers in Hong Kong, who would review them for responsiveness,  
22 privilege, and other allowable restriction. By following the procedure OPDP has prescribed, SCL  
23 hopes to be able to discharge both its obligations to this Court and to the government of its home  
24 jurisdiction.

25 For the reasons outlined below, SCL's remaining obligations to search for responsive  
26 documents in Macau should be limited to what SCL has already agreed to do — search ESI for  
27 which Jacobs was the custodian to ensure that all responsive documents have in fact been  
28 produced from that collection.

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III.

LEGAL ANALYSIS

NRCP 26(b)(2) provides that the Court “shall” limit discovery if it determines that

(i) the discovery sought is unreasonably cumulative or duplicative or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or (iii) the discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, limitations on the parties’ resources, and the importance of the issues at stake in the litigation.

In this case, all three of these reasons combine to support SCL’s motion for a protective order against Plaintiff’s apparent demand for open-ended discovery of SCL’s ESI in Macau. First, Plaintiff has had “ample opportunity” to obtain the information he seeks in discovery; indeed, Defendants together have produced documents that fully responded to all of the discovery the Court permitted. Second, any additional ESI discovery in Macau would likely be “cumulative or duplicative” of the discovery Plaintiff has already received from LVSC. Finally, the burden and expense of requiring SCL to search its ESI in Macau beyond the ESI for which Jacobs was the custodian would be wholly unjustified not only because it would likely produce only duplication, but also because Plaintiff already has all of the evidence he needs (and more) to make whatever arguments he chooses to make on the limited issue of jurisdiction.

Plaintiff convinced the Court to grant him jurisdictional discovery by representing that he was seeking discovery that was “narrowly confine[d]” to particular jurisdictional theories and could be quickly completed. 9/27/11 H’rng Tr., attached hereto as Ex. B, at 20. Yet once the hearing date had been postponed and his discovery requests were finally served, Plaintiff took a remarkably expansive view of what he was entitled to seek, asking not only for documents that would enable him to identify SCL’s contacts with Nevada, but also all of the *details* concerning those contacts — details that have little or no relevance to the jurisdictional analysis. Notwithstanding their disagreement with Plaintiff’s view of the scope of discovery the Court permitted, Defendants expanded their searches and have now produced almost 168,000 pages of documents in response to Plaintiff’s requests for jurisdictional discovery at a cost we estimate to

1 exceed \$2.3 million. In addition, in accordance with the Court's March 8 Order, Defendants have  
2 presented Messrs. Adelson, Goldstein and Leven for deposition (with Mr. Kay scheduled for  
3 December 18). Yet Plaintiff is still not satisfied, although he has refused to engage in any meet-  
4 and-confer process or to file a motion to compel seeking specific categories of documents that he  
5 claims have yet to be produced. For the reasons outlined below, it is clearly time to call an end to  
6 further disputes over discovery — as well as sanctions motions — and to finally get to the hearing  
7 the Nevada Supreme Court ordered this Court to conduct.

8 **A. Plaintiff Has Obtained All Relevant Discovery**

9 Defendants have produced all contracts between SCL and LVSC during the period in  
10 question, including a shared services agreement pursuant to which LVSC provided SCL with  
11 certain procurement and other services. These documents fully responded to Request #13 (for all  
12 agreements for shared services between SCL or its subsidiaries and LVSC). SCL also produced  
13 the handful of contracts it had during the period in question with Nevada entities other than  
14 LVSC. *See* Request #11 (for contracts SCL entered into with Nevada entities). SCL told Plaintiff  
15 that it had never filed any documents before the Nevada Gaming Commission (Request #19), had  
16 not executed any contracts for financing in Nevada (Request #10) (although it acknowledged that  
17 LVSC had been involved in certain of SCL's funding efforts), and had never reimbursed LVSC  
18 executives directly for their work for SCL (Request # 18) (although SCL produced documents  
19 showing the compensation it had paid to LVSC for those services). In addition, Defendants  
20 produced travel records showing business travel by LVSC executives to Hong Kong, Macau or  
21 mainland China during the relevant period (Request #7). Defendants also produced documents  
22 showing where SCL's in-person Board meetings were held and who attended telephonic meetings  
23 (Request #1); Defendants offered to stipulate that Messrs. Adelman and Leven attended all  
24 telephonic meetings from Las Vegas. Munger Tolles, March 7 Letter, Ex. L hereto, at 1.

25 Two other requests (#9 and #12) sought documents reflecting the activities of Michael  
26 Leven and Robert Goldstein for or on behalf of SCL. LVSC produced documents for which Mr.  
27 Leven and Mr. Goldstein were custodians and thus should have captured all of the responsive  
28 documents for these requests as well.

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1 That leaves only the two broadest (and largely overlapping) requests (#15 and #16), in  
2 which Plaintiff was allowed to seek documents reflecting (i) services performed by LVSC on  
3 behalf of SCL during the relevant period, including but not limited to services relating to five  
4 specific activities and (ii) services performed on behalf of SCL in Nevada, including  
5 communications with a number of non-LVSC entities based in Nevada. To answer these  
6 requests, LVSC initially searched ESI for which Messrs. Adelson, Leven, Goldstein, Kay, and  
7 Chiu (also an LVSC executive) were custodians; in terms of Macau custodians, it has been clear  
8 since June 2012 that SCL planned to search only the ESI for which Jacobs was the custodian.  
9 This limitation of custodians was reasonable. Plaintiff himself argued in seeking jurisdictional  
10 discovery that “the three key witnesses in this entire debate I would argue are Mr. Jacobs and  
11 these two gentlemen [Messrs. Adelson and Leven].” 9/27/11 H’rng Tr., Ex. B hereto, at 19-20.  
12 Limiting ESI searches to the documents held by key individuals is widely accepted as an  
13 appropriate practice to enable the parties to “balanc[e] the cost, burden, and need for  
14 electronically stored information.” THE SEDONA CONFERENCE, SEDONA PRINCIPLES ADDRESSING  
15 ELECTRONIC DOCUMENT PRODUCTION, Principle 2 (2d ed. 2007) (“SEDONA PRINCIPLES”). See  
16 SEDONA PRINCIPLES, Cmt. 6(b) (explaining that it is preferable to “collect[] electronically stored  
17 information from repositories used by key individuals rather than generally searching through an  
18 entire organization’s electronic information system”).

19 After Jacobs filed his Declaration on June 27, LVSC attempted to meet and confer with  
20 Plaintiff to agree on an expanded list of custodians and search terms for the ESI on LVSC’s server  
21 that would capture documents that Plaintiff claimed should have been produced. Ultimately,  
22 Plaintiff declined to continue efforts to reach an agreement and so Defendants applied their own  
23 list of expanded search terms, to an expanded list of custodians in the LVSC data base (including  
24 custodians who corresponded with Jacobs) and to the Jacobs ESI that had been transferred to the  
25 U.S. in 2010. That is precisely what courts have suggested parties should do when the other side  
26 refuses to agree on custodians and search terms. See, e.g., *Treppel v. Biovail Corp.*, 233 F.R.D.  
27 363, 374 (S.D.N.Y. 2006) (holding that defendant “should have proceeded unilaterally, producing  
28 all responsive documents located by its search” when plaintiff refused to stipulate to a search



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1 methodology). Having refused to participate in efforts to craft appropriate search terms, Plaintiff  
 2 should not be heard to claim now that any search using those terms was inadequate.

3 In any event, neither in his Motion for Sanctions nor in his communications with  
 4 Defendants has Plaintiff offered any specific complaints about the adequacy of Defendants'  
 5 discovery responses. Before the June 28 status, Jacobs provided this Court with a Declaration  
 6 listing a variety of documents that he claimed should have been produced in response to his RFPs,  
 7 but were "missing" from the production. By contrast, Plaintiff's recently-filed Motion for  
 8 Sanctions is devoid of *any* specific complaint about documents or categories of documents that  
 9 have not been produced. That silence, in and of itself, confirms that Defendants have discharged  
 10 their obligation to provide Plaintiff with the documents this Court allowed him to request.

11 **B. Searches Of Other Custodians' ESI In Macau Would Produce Only Duplication**

12 In his Motion for Sanctions (at 6), Plaintiff claims that Defendants "have still to this day  
 13 conducted no search of numerous electronic files both in Macau and Las Vegas." But what files?  
 14 And what custodians? Under the Sedona Principles, electronic discovery is supposed to be  
 15 tailored to avoid "unreasonable overbreadth, burden, and cost" to the responding party, SEDONA  
 16 PRINCIPLES, cmt. 6(b); *see also So. Capitol Enters., Inc. v. Conseco Servs., LLC*, No. 04-705,  
 17 2008 U.S. Dist. LEXIS 87618, at \*7 (M.D. La. Oct. 24, 2008) (denying in part motion for further  
 18 discovery because "the likely benefit that could be obtained from [further discovery on the topic  
 19 was] outweighed by the burden and expense of requiring defendants to renew their attempts to  
 20 retrieve the electronic data."). Thus, "[d]iscovery should not be permitted to continue indefinitely  
 21 merely because a requesting party can point to undiscovered documents and electronically stored  
 22 information when there is no indication that the documents or information are relevant to the case,  
 23 or further discovery is disproportionate to the needs of the case." SEDONA PRINCIPLES, cmt. 6(b);  
 24 *see also Rimkus Consulting Grp., Inc. v. Cammarata*, 688 F. Supp. 2d 598, 613 (S.D. Tex. 2010)  
 25 ("Whether . . . discovery conduct is acceptable in a case depends on what is reasonable, and that  
 26 in turn depends on whether what was done—or not done—was proportional to that case and  
 27 consistent with clearly established applicable standards"); *Daugherty v. Murphy*, No. 1:06-cv-  
 28 0878-SEB-DML, 2012 WL 4877720, at \*7 (S.D. Ind. Nov. 23, 2010) (denying plaintiffs' motion

1 to compel because the time and expense involved in additional discovery outweighed the benefits  
2 to be gained from the additional discovery and “its importance to the issues to be resolved” in the  
3 case at bar). Here, there is no reason to believe that still more searches would turn up new  
4 documents or information that would be relevant to the narrow jurisdictional issue, which is the  
5 *only* issue that is now before the Court.

6 Specifically, there is no reason to believe that searching the ESI in Macau of custodians  
7 other than Jacobs would lead to the identification of additional, non-cumulative documents that  
8 would be relevant to the issue of jurisdiction. Certainly, it would make no sense to force SCL to  
9 go through the considerable expense of searching its emails so that it could produce the other half  
10 of emails to or from LVSC executives or emails to or from Messrs. Adelson or Leven. Plaintiff’s  
11 theory is that SCL was run by Messrs. Adelson and Leven from Las Vegas or that LVSC  
12 executives acted on behalf of SCL in Nevada to such an extent that SCL should be deemed to be  
13 “present” here. While we disagree with that theory as a matter of law, the fact that Plaintiff  
14 himself focuses on SCL’s interactions with LVSC and on Messrs. Adelson and Leven, whose ESI  
15 resides on the LVSC server, means that virtually all of what Jacobs himself claims he needs to  
16 support his jurisdictional arguments should already have been produced as a result of LVSC’s  
17 extensive production efforts. In addition, Plaintiff has the contracts and other information  
18 outlined above from SCL, as well as the documents Defendants have produced from the Jacobs  
19 ESI that was transferred to the U.S. in 2010 and by searching emails between Jacobs and a long  
20 list of LVSC custodians. Finally, as a result of the Court’s September 14, 2012 Order, Jacobs is  
21 also free to use anything (other than the documents as to which Defendants have claimed  
22 privilege) that he brought back with him from Macau to support his jurisdictional arguments.  
23 There is no reason to believe, nor does Plaintiff even argue, that a search of ESI in Macau would  
24 yield any previously unproduced documents that would not be merely cumulative of the  
25 documents Jacobs already has.

26 **C. Even If There Were Unique Documents Yet To Be Found In Macau, The Cost**  
27 **Of Searching For Them Far Outweighs Any Need Plaintiff Could Claim.**

28 We do not know what kind of search Plaintiff thinks SCL is required to conduct of ESI in

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 Las Vegas, Nevada 89134

Macau because Plaintiff's counsel refused to discuss that issue with SCL's new counsel. Accordingly, it is extremely difficult to estimate how much it would cost to conduct a broader search in Macau than the search SCL has agreed to undertake (ESI for which Jacobs was the custodian). But it is a good guess that conducting a broad search of even a few additional custodians' ESI in Macau would be extremely costly. In deciding whether SCL should be required to bear that expense, in addition to the more than \$2.3 million Defendants estimate they have already spent on jurisdictional discovery, the Court should consider what, if any, benefit the additional discovery would yield in terms of improving Plaintiff's ability to present his case on jurisdiction.<sup>13</sup> The answer to that question is "none."

Plaintiff's theory is that SCL was doing business in Nevada at the time he brought this lawsuit and thus could be sued by any plaintiff based on events that occurred anywhere in the world. As explained in Defendants' Motion for a Protective Order filed on November 26, 2012, the standard for general jurisdiction is high: a company is not deemed to be "present" in a State unless it has a high level of systematic and continuous contacts with the forum. As Wright & Miller notes, "the defendant must be engaged in longstanding business in the forum state, such as marketing or shipping products, or performing services or maintaining one or more offices there; activities that are less extensive than that will not qualify for general in personam jurisdiction." 4 *Federal Practice and Procedure* § 1067.5, at 507. Given this standard, whatever non-duplicative emails are in Macau could not possibly make any difference to the jurisdictional analysis. After all, it is activity *in Nevada* that counts toward the jurisdictional analysis — *not* what SCL was doing in Macau. And Plaintiff already has all of the evidence he needs concerning SCL's contacts with Nevada.

<sup>13</sup> See *Chen-Oster v. Goldman Sachs*, No. 10 Civ. 6950 (LBS) (JCF), 2012 WL 3964742, at \*14 (S.D.N.Y. Sept. 10, 2012) (holding that defendant was not required to search an older database because "the burden of extracting the requested information from the older PeopleSoft database at this time outweighs the benefit"); *Daugherty*, 2012 WL 4877720, at \*7 (granting motion for a protective order and holding that additional discovery was not warranted after weighing the "heavy time and expense to create" the sought-after information against "the benefits of that discovery and its importance to the issues to be resolved" in the case); *U.S. ex rel McBride v. Halliburton Co.*, 272 F.R.D. 235,241 (D.D.C. 2011) (denying plaintiff's motion to compel further discovery because the utility of further discovery was outweighed by its cost).

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1 That is particularly true since the U.S. Supreme Court has held that purchases from the  
2 forum of goods and services to be used elsewhere do not provide a basis for general jurisdiction.  
3 In *Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 415 (1984), the plaintiff  
4 tried to sue a helicopter company in Texas for an accident that occurred in South America on the  
5 ground that the defendant purchased 80% of its helicopters in Texas and had sent its employees  
6 there for training and thus should be deemed to have been “doing business” in Texas. The  
7 Supreme Court rejected that argument, holding that “mere purchases [made in the forum state],  
8 even if occurring at regular intervals, are not enough to warrant a State’s assertion of [general]  
9 jurisdiction over a nonresident corporation in a cause of action not related to those purchase  
10 transactions.” *Id.* at 418. So too, in this case, no matter how many goods and services SCL may  
11 have been purchasing from LVSC or other Nevada-based entities for use in Macau, those  
12 activities would not provide a basis for a finding general jurisdiction over SCL in Nevada.

13 Plaintiff does not complain in his Motion for Sanctions that he lacks the evidence  
14 necessary to support his jurisdictional theories. That in and of itself demonstrates that the  
15 additional expense SCL would be forced to incur if it were required to search the ESI of  
16 additional custodians would yield no benefit. So too does the way in which Plaintiff has  
17 conducted the depositions he has taken so far. The Court may recall that in May 2012 Plaintiff  
18 complained that he should not be forced to take those depositions because he did not yet have all  
19 of the ESI for each witness. By the time Plaintiff took Mr. Adelson’s deposition on September 6,  
20 2012, he had all of Mr. Adelson’s ESI. Yet he showed Mr. Adelson only *two* documents — the  
21 shared services agreement between SCL and LVSC and the letter Mr. Adelson signed terminating  
22 Jacobs as SCL’s CEO. Similarly, when Mr. Goldstein was deposed on November 6, 2012,  
23 Plaintiff’s counsel used only nineteen of the documents that had been produced. In each case,  
24 Plaintiff’s counsel seemed far more eager to explore the merits of Jacob’s claims with the  
25 witnesses than his jurisdictional theories.

26 Basic principles of proportionality dictate that discovery should come to an end once it is  
27 clear that the cost of conducting more searches far outweighs any conceivable benefit those  
28 searches might create. *See U.S. ex rel McBride*, 272 F.R.D. at 240-41 (denying further discovery

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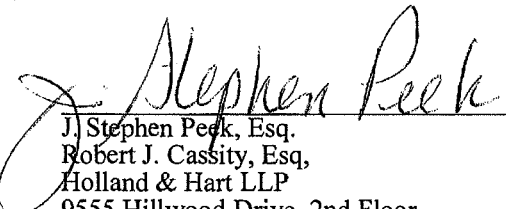
1 after "consider[ing] whether (1) the discovery sought is unreasonably cumulative or  
2 duplicative...; (2) the party seeking the discovery has had ample opportunity to obtain the sought  
3 information by earlier discovery; or (3) the burden of the discovery outweighs its utility."). We  
4 are long past that point in this case.

5 IV.

6 CONCLUSION

7 For the foregoing reasons, SCL urges the Court to enter an order providing that SCL has  
8 no obligation to search the ESI in Macau of custodians other than Jacobs or to use any more  
9 expansive search terms on the Jacobs ESI in Macau than was used to search the Jacobs ESI that  
10 was transferred to the United States in 2010.

11 DATED December 4, 2012.

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17 Las Vegas, Nevada 89134

18 *Attorneys for Las Vegas Sands Corp. and Sands  
19 China Ltd.*

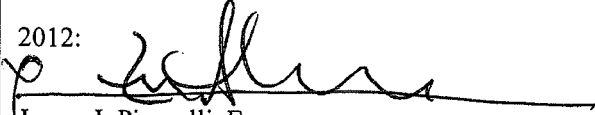
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28 *Attorneys for Sands China, Ltd.*

**RECEIPT OF COPY**

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2012:

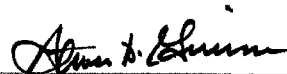
  
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14 *Attorneys for Sands China, LTD.*

15 DISTRICT COURT  
16 CLARK COUNTY, NEVADA

17 STEVEN C. JACOBS,

18 Plaintiff,

19 v.

20 LAS VEGAS SANDS CORP., a Nevada  
corporation; SANDS CHINA LTD., a Cayman  
21 Islands corporation; SHELDON G. ADELSON,  
in his individual and representative capacity;  
22 DOES I-X; and ROE CORPORATIONS I-X,

23 Defendants.  
24 /

25 AND ALL RELATED MATTERS.

CASE NO.: A627691-B  
DEPT NO.: XI

Date: n/a  
Time: n/a

APPENDIX OF EXHIBITS TO  
DEFENDANT SANDS CHINA LTD.'S  
MOTION FOR A PROTECTIVE ORDER

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Las Vegas, Nevada 89134


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B	September 27, 2011 Hearing Transcript for Hearing on Plaintiff's Motion to Conduct Jurisdictional Discovery	APP0043-0096
C	March 8, 2012 (NOE dated March 13, 2012) Order Regarding Plaintiff Steven C. Jacobs' Motion to Conduct Jurisdictional Discovery and Defendant Sands China Ltd.'s Motion for Clarification	APP0097-0105
D	April 13, 2012, Defendant Sands China Ltd.'s First Supplemental Responses to Plaintiff's First Request for Production of Documents (Nos. 1-24)	APP0106-0115
E	October 13, 2011 Hearing Transcript on Hearing on Sands China's Motion in Limine and Motion for Clarification of Order	APP0116-0224
F	December 27, 2011 Plaintiff's First Request for Production of Documents to Las Vegas Sands Corp. (Nos. 1-24)	APP0225-0236
G	December 27, 2011 Plaintiff's First Request for Production of Documents to Sands China Ltd. (Nos. 1-24)	APP0237-0248
H	January 23, 2012, Defendant Sands China Ltd.'s Responses to Plaintiff's First Request for Production of Documents (Nos. 1-24)	APP0249-0279
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V	August 7, 2012 Defendants' Statement Regarding Investigation by Macau Office of Personal Data Protection	APP0429-0439
W	July 30, 2012 Munger Tolles letter to Pisanelli Bice	APP0440-0442
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1	Exhibit	Description	Page Number
2	X	September 11, 2012 Defendants Las Vegas Sands Corp.'s and Sands China Limited's Statement on Potential Sanctions	APP0443-0463
3	Y	August 8, 2012 Response from OPDP	APP0464-0484
4	Z	November 14, 2012 VML and SCL written request to OPDP	APP0485-0518
5	AA	November 29, 2012 OPDP response to SCL	APP0519-0529

6 DATED December 4, 2012.

7   
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15 -and-

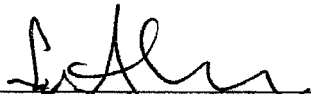
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Receipt of **APPENDIX OF EXHIBITS TO DEFENDANT SANDS CHINA LTD.'S**  
**MOTION FOR A PROTECTIVE ORDER** is hereby acknowledged this 4th day of December,  
2012:

  
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*Attorney for Plaintiff*

---

## **EXHIBIT F**

APP0225

PA1447

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5 3883 Howard Hughes Parkway, Suite 800  
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6 Telephone: (702) 214-2100  
Facsimile: (702) 214-2101

7 Attorneys for Plaintiff Steven C. Jacobs

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 STEVEN C. JACOBS,

11 Plaintiff,

12 v.

13 LAS VEGAS SANDS CORP., a Nevada  
corporation; SANDS CHINA LTD., a  
14 Cayman Islands corporation; DOES I  
through X; and ROE CORPORATIONS  
15 I through X,

16 Defendants.

17 AND RELATED CLAIMS  
18

Case No.: A-10-627691  
Dept. No.: XI

19 **PLAINTIFF'S FIRST REQUEST FOR**  
**PRODUCTION OF DOCUMENTS TO**  
**LAS VEGAS SANDS CORP. (Nos. 1-24)**

19 TO: DEFENDANT LAS VEGAS SANDS CORP.; and

20 TO: J. Stephen Peek, Esq. and Brian G. Anderson, Esq., HOLLAND & HART, its Attorneys

21 Pursuant to Rule 34 of the Nevada Rules of Civil Procedure, Plaintiff Steven C. Jacobs  
22 ("Jacobs" and/or "Plaintiff") requests that Defendant Las Vegas Sands Corp. ("LVSC") produce  
23 for inspection and copying the documents described in these papers. Production shall occur  
24 within thirty (30) days of service hereof, at the offices of PISANELLI BICE PLLC, 3883 Howard  
25 Hughes Parkway, Suite 800, Las Vegas, Nevada, 89169.

PISANELLI BICE PLLC  
3883 HOWARD HUGHES PARKWAY, SUITE 800  
LAS VEGAS, NEVADA 89169

**DEFINITIONS AND INSTRUCTIONS**

A. Definitions

1. Communication. The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

2. Document. The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Rule 34(a) of the Nevada Rules of Civil Procedure.

This term encompasses any written or paper material in LVSC's possession, under its control, available at the request of any of its agents or attorneys and includes without limitation any written or graphic matter of every kind or description, however produced or reproduced, whether in draft, in final, original or reproduction, signed or unsigned, and regardless of whether approved, sent, received, redrafted or executed, including but not limited to written communications, letters, correspondence, memoranda, notes, records, business records, photographs, tape or sound recordings, contracts, agreements, notations of telephone conversations or personal conversations, diaries, desk calendars, reports, computer records, data compilations of any type or kind, or materials similar to any of the foregoing, however denominated and to whomever addressed. "Document" shall exclude exact duplicates when originals are available, but shall include all copies made different from originals by virtue of any writings, notations, symbols, characters, impressions or any marks thereon.

3. Person. The term "person" is defined as any natural person or business, legal or governmental entity or association.

4. The terms "concerning," "related to," and "relating to" include "refer to," "summarize," "reflect," "constitute," "contain," "embody," "mention," "show," "compromise," "evidence," "discuss," "describe," "pertaining to" or "comment upon."

5. All/Each. The terms "all" and "each" shall be construed as all and each.

6. And/Or. The connectives "and/or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses that might otherwise be construed to be outside of its scope.

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LAS VEGAS, NEVADA 89169

1       7.     Number. The use of the singular form of any word includes the plural and vice  
2     versa.

3       8.     You or Your. The terms "You" and/or "Your" are synonymous and mean  
4     "Las Vegas Sands Corp." and/or "LVSC," a defendant in this Action, and/or any of its subsidiary  
5     entities and/or any other affiliated entities, as well as its owners, shareholders, officers,  
6     employees, attorneys, accountants, agents, investigators, and/or anyone else acting on its behalf  
7     and/or its direction and instruction.

8       9.     Sands China. The term "Sands China" means "Sands China, Ltd.," a defendant in  
9     this Action, and/or any of its pre-incorporation, pre-spin-off, pre-IPO identities (e.g., LISTCO,  
10    NEWCO), subsidiary entities and/or any other affiliated entities, as well as its owners,  
11    shareholders, officers, employees, attorneys, accountants, agents, investigators, and/or anyone  
12    else acting on its behalf and/or its direction and instruction.

13    10.    Action. The term "Action" refers to the above-captioned matter entitled *Steven C.*  
14    *Jacobs v. Las Vegas Sands Corp., et al.*, commenced in the Eighth Judicial District Court, Clark  
15    County, Nevada, Case No. A-10-627691.

16    11.    Parcels 5 and 6. The term "Parcels 5 and 6" refers to parcels of property owned by  
17    Sands China located on the Cotai Strip.

18    B.     Instructions.

19       1.     If You contend that any document responsive to these requests is privileged or  
20    otherwise beyond the scope of Rule 26 of the Nevada Rules of Civil Procedure, please identify  
21    the document with the following information:

- 22           a.    The type of document (e.g., report, letter, notes, notice, contract, etc.);
- 23           b.    The number of pages it comprises;
- 24           c.    The name of the person(s) who prepared or authored the document;
- 25           d.    The name of the person(s) to whom the document was addressed,  
26    distributed, and/or shown;
- 27           e.    The date on the document purporting to reflect the date the document was  
28    prepared or transmitted;

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- 1 f. The general description of the subject matter of the document; and, if  
2 applicable,  
3 g. The name of the person(s) who asked that the document be prepared.
- 4 2. If You contend that only a portion of any document responsive to these requests is  
5 privileged or otherwise not subject to production, please produce a copy of the document  
6 redacting the privileged or objectionable portion. With respect to the redacted portion, to the  
7 extent that the produced portion of the document does not do so, You should provide the same  
8 information which would be provided if the entire document were withheld as privileged.
- 9 3. These requests reach all documents that are within Your possession, custody or  
10 control if You have the legal right to obtain it, whether or not You now have physical possession  
11 of it. Thus, You must obtain and produce all documents within the possession or custody of  
12 people or entities over which You have control, such as attorneys, agents or others. If You have  
13 knowledge of the existence of documents responsive to these requests but contend that they are  
14 not within Your possession, custody or control, please provide the following information:
- 15 a. A description of the documents, including in the description as much detail  
16 as possible;  
17 b. The identity of the person or entity, including his, her or its address,  
18 believed by You to have possession or custody of the document or any  
19 copies of them at this time; and  
20 c. A description of the efforts, if any, You have made to obtain possession or  
21 custody of the documents.
- 22 4. These requests to produce shall be deemed to be continuing, and any additional  
23 documents relating in any way to these requests to produce or Your original responses that are  
24 acquired subsequent to the date of responding to these requests, up to and including the time of  
25 trial, shall be furnished to Plaintiff promptly after such documents are acquired as supplemental  
26 responses to these requests to produce.
- 27  
28

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LAS VEGAS, NEVADA 89169

**REQUESTS**

**REQUEST NO. 1:**

Please identify and produce all documents that reflect the date, time, and location of each Sands China Board meeting (including the meeting held on April 14, 2010, at 9:00 a.m. Macau Time/April 13, 2010, at 6:00 p.m. Las Vegas time), the location of each Board member who participated in each and every meeting, and the manner/method by which each Board member participated in each and every meeting, during the period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 2:**

Please identify and produce all documents that reflect the travels to and from Macau/China/Hong Kong by Sheldon G. Adelson for work performed on behalf of or directly for Sands China (including, but not limited to, flight logs, travel itineraries) during the time period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 3:**

Please identify and produce all documents that reflect the travels to and from Macau/China/Hong Kong by Michael A. Leven for work performed on behalf of or directly for Sands China (including, but not limited to, flight logs, travel itineraries) during the time period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 4:**

Please identify and produce all documents that reflect the travels to and from Macau/China/Hong Kong by Robert G. Goldstein for work performed on behalf of or directly for Sands China (including, but not limited to, flight logs, travel itineraries) during the time period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 5:**

To the extent not produced in response to the preceding requests, please identify and produce all documents that reflect the travels to and from Macau/China/Hong Kong by any LVSC executive and/or employee for work performed on behalf of or directly for Sands China (including, but not limited to, flight logs, travel itineraries) during the time period of January 1, 2009, to October 20, 2010.



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**REQUEST NO. 6:**

Please identify and produce all documents and/or communications that reflect and/or are related to Michael A. Leven's service as CEO of Sands China and/or the Executive Director of Sands China Board of Directors, and/or the Special Assistant to the Board during the time period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 7:**

Please identify and produce all documents that reflect the location of the negotiation and/or execution of agreements related to the funding of Sands China, during the time period of January 1, 2009, to October 20, 2010, including, but not limited to, the raising of pre-IPO funds, the IPO, underwriting for sites 5 & 6, loan refinancing and/or covenant relief/term modifications pre-IPO, the services of Bank of China to bring in high net worth investors/gamblers to buy the Four Seasons Serviced Apartments, and the written proposal of Leonel Alves to obtain strata-title for the Four Seasons Apartments involving Beijing government officials.

**REQUEST NO. 8:**

Please identify and produce all contracts/agreements that LVSC and/or any LVSC employee, executive, and/or consultant (acting for or on behalf of Sands China) entered into with individuals and/or entities based in or doing business in Nevada, including, but not limited to, any agreements with BASE Entertainment and Bally Technologies, Inc., construction, design, signage, retail mall operations, and/or banking during the time period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 9:**

Please identify and produce all documents that reflect work Robert G. Goldstein performed for or on behalf of Sands China, during the time period of January 1, 2009, to October 20, 2010, including global gaming and/or international player development efforts, such as active recruitment of VIP players to share between and among LVSC and Sands China properties, details concerning trips with Larry Chu into China to recruit new VIP players, dinners and/or meetings with Chung Chi Tai, Charles Heung Wah Keung, and/or other VIP promoters,

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1 player funding, the transfer of player funds, and the use of Venetian Marketing Services Limited  
2 ("VMSL") and/or other entities to secure players and facilitate money transfers.

3 **REQUEST NO. 10:**

4 Please identify and produce all agreements for shared services between and among LVSC  
5 and Sands China or any of its subsidiaries, including, but not limited to, (1) procurement services  
6 agreements; (2) agreements for the sharing of private jets owned or made available by LVSC; and  
7 (3) trademark license agreements, during the time period of January 1, 2009, to October 20, 2010.

8 **REQUEST NO. 11:**

9 Please identify and produce all documents, memoranda, emails, and/or other  
10 correspondence that reflect services performed by LVSC (including LVSC's executives and/or  
11 employees and/or consultants and/or agents) for or on behalf of Sands China, related to and/or  
12 concerning site design and development oversight of Parcels 5 and 6, during the time period of  
13 January 1, 2009, to October 20, 2010.

14 **REQUEST NO. 12:**

15 Please identify and produce all documents, memoranda, emails, and/or other  
16 correspondence that reflect services performed by LVSC (including LVSC's executives and/or  
17 employees and/or consultants and/or agents) for or on behalf of Sands China, related to and/or  
18 concerning recruitment and interviewing of potential Sands China executives, during the time  
19 period of January 1, 2009, to October 20, 2010.

20 **REQUEST NO. 13:**

21 Please identify and produce all documents, memoranda, emails, and/or other  
22 correspondence that reflect services performed by LVSC (including LVSC's executives and/or  
23 employees and/or consultants and/or agents) for or on behalf of Sands China, related to and/or  
24 concerning marketing of Sands China properties, including its frequency program, the issuance of  
25 "Chairman's Club" cards by Sheldon G Adelson to Cheung Chi Tai, Jack Lam and others, credit  
26 limits, floor layouts, the removal of Cheung Chi Tai, Charles Heung Wah Keung, and others from  
27 the Guarantor list of VIP promoters, nightclub operations and approval, including but not limited  
28

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1 to Lotus Night Club, and/or the hiring of outside consultants, during the time period of January 1,  
2 2009, to October 20, 2010.

3 **REQUEST NO. 14:**

4 Please identify and produce all documents, memoranda, emails, and/or other  
5 correspondence that reflect services performed by LVSC or the involvement of LVSC executives  
6 (including LVSC's executives and/or employees and/or consultants and/or agents) for or on behalf

7 of Sands China, related to and/or concerning negotiation of a possible joint venture between  
8 Sands China and Harrah's, during the time period of January 1, 2009, to October 20, 2010.

9 **REQUEST NO. 15:**

10 Please identify and produce all documents, memoranda, emails, and/or other  
11 correspondence that reflect services performed by LVSC or the involvement of LVSC executives  
12 (including LVSC's executives and/or employees and/or consultants and/or agents) for or on behalf  
13 of Sands China, related to and/or concerning the negotiation of the sale of Sands China's interest

14 in sites to Stanley Ho's company, SJM, during the time period of January 1, 2009, to October 20,  
15 2010.

16 **REQUEST NO. 16**

17 Please identify and produce all documents that reflect communications by and between  
18 LVSC (and/or any individual and/or entity acting for or on Sands China behalf) and BASE  
19 Entertainment during the time period of January 1, 2009 to October 20, 2010.

20 **REQUEST NO. 17:**

21 Please identify and produce all documents that reflect communications by and between  
22 LVSC (and/or any individual and/or entity acting for or on Sands China's behalf) and Cirque de  
23 Soleil during the time period of January 1, 2009 to October 20, 2010.

24 **REQUEST NO. 18:**

25 Please identify and produce all documents that reflect communications by and between  
26 LVSC (and/or any individual and/or entity acting for or on Sands China's behalf) and Bally  
27 Technologies, Inc. during the time period of January 1, 2009 to October 20, 2010.

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**REQUEST NO. 19:**

Please identify and produce all documents that reflect communications by and between LVSC (and/or any individual and/or entity acting for or on Sands China's behalf) and Harrah's during the time period of January 1, 2009 to October 20, 2010.

**REQUEST NO. 20:**

Please identify and produce all documents that reflect communications by and between LVSC (and/or any individual and/or entity acting for or on Sands China's behalf) and any potential lenders for the underwriting of Parcels 5 and 6, during the time period of January 1, 2009 to October 20, 2010.

**REQUEST NO. 21:**

Please identify and produce all documents that reflect communications by and between LVSC (and/or any individual and/or entity acting for or on Sands China's behalf) and site designers, developers, and specialists for Parcels 5 and 6, during the time period of January 1, 2009 to October 20, 2010.

**REQUEST NO. 22:**

To the extent not produced in response to the preceding requests, please identify and produce all documents, memoranda, emails, and/or other correspondence that reflect services performed by LVSC (including LVSC's executives, employees, consultants, and/or agents) for or on behalf of Sands China, during the time period of January 1, 2009, to October 20, 2010, including, but not limited to, Yvonne Mao, directions given to Mr. Yueng and/or Eric Chu relating to Hengqin Island, Chu Kong Shipping ("CKS"), the basketball team, the Adelson Center in Beijing, and investigations related to the same; negotiations with Four Seasons, Sheraton and Shangri-La; bonus and remuneration plans; outside counsel's review of Leonel Alves, Foreign Corrupt Practices Act issues and his suitability to serve as counsel for Sands China Limited; International Risk reports on Cheung Chi Tai, Charles Heung, and others commissioned in response to the Reuters' article alleging organized crime; and collection activities relating to patrons and junkets with large outstanding debts due Sands China and/or its subsidiaries.

1 **REQUEST NO. 23:**

2 Please identify and produce all documents that reflect reimbursements made to any LVSC  
3 executive and/or employee and/or consultant for work performed or services provided for or on  
4 behalf of Sands China, during the time period of January 1, 2009, to October 20, 2010.

5 **REQUEST NO. 24:**

6 Please identify and produce all documents that Sands China provided to Nevada gaming  
7 regulators, during the time period of January 1, 2009 to October 20, 2010.

8 DATED this 23rd day of December, 2011.

9 PISANELLI BICE PLLC

10 By: /s/ Debra L. Spinelli

11 James J. Pisanelli, Esq., Bar No. 4027

12 Todd L. Bice, Esq., Bar No. #4534

13 Debra L. Spinelli, Esq., Bar No. 9695

3883 Howard Hughes Parkway, Suite 800  
Las Vegas, Nevada 89169

14 Attorneys for Plaintiff Steven C. Jacobs  
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LAS VEGAS, NEVADA 89169

RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing PLAINTIFF'S FIRST REQUEST  
FOR PRODUCTION OF DOCUMENTS TO LAS VEGAS SANDS CORP. (Nos. 1-24) is  
hereby acknowledged this 27<sup>th</sup> day of December, 2011, by:

GLASER, WEIL, FINK, JACOBS,  
HOWARD, AVCHEN & SHAPIRO, LLP

By: \_\_\_\_\_  
Patricia Glaser, Esq.  
Stephen Ma, Esq.  
Craig Marcus, Esq.  
Andrew D. Sedlock, Esq.  
3763 Howard Hughes Parkway, Suite 300  
Las Vegas, NV 89169

HOLLAND & HART

12/27/11

By: G. Stephen Peek / GA  
G. Stephen Peek, Esq.  
Brian G. Anderson, Esq.  
9555 Hillwood Drive, Second Floor  
Las Vegas, NV 89134 10:15 a.m.

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## **EXHIBIT G**

APP0237

PA1459

PISANELLI BICE PLLC  
3883 HOWARD HUGHES PARKWAY, SUITE 800  
LAS VEGAS, NEVADA 89169

1 **RPD**  
James J. Pisanelli, Esq., Bar No. 4027  
2 JJP@pisanellibice.com  
Todd L. Bice, Esq., Bar No. #4534  
3 TLB@pisanellibice.com  
Debra L. Spinelli, Esq., Bar No. 9695  
4 DLS@pisanellibice.com  
**PISANELLI BICE PLLC**  
5 3883 Howard Hughes Parkway, Suite 800  
Las Vegas, Nevada 89169  
6 Telephone: (702) 214-2100  
Facsimile: (702) 214-2101

7 Attorneys for Plaintiff Steven C. Jacobs

8 **DISTRICT COURT**  
9  
10 **CLARK COUNTY, NEVADA**

11 **STEVEN C. JACOBS,**

12 Plaintiff,

13 v.

14 **LAS VEGAS SANDS CORP.,** a Nevada  
corporation; **SANDS CHINA LTD.,** a  
15 Cayman Islands corporation; **DOES 1**  
through **X;** and **ROE CORPORATIONS**  
1 through **X,**

16 Defendants.

17 **AND RELATED CLAIMS**

Case No.: A-10-627691  
Dept. No.: XI

**PLAINTIFF'S FIRST REQUEST FOR  
PRODUCTION OF DOCUMENTS TO  
SANDS CHINA, LTD. (Nos. 1-24)**

19 **TO: DEFENDANT SANCS CHINA, LTD.; and**

20 **TO: Patricia Glaser, Esq., Stephan Ma, Esq., Craig Marcus, Esq., Andrew D. Sedlock, Esq.;**  
21 **GLASER WEIL, FINK, JACOBS, HOWARD, AVCHEN & SHAPIRO, LLP, its**  
22 **Attorneys**

23 Pursuant to Rule 34 of the Nevada Rules of Civil Procedure, Plaintiff Steven C. Jacobs  
24 ("Jacobs" and/or "Plaintiff") requests that Defendant Sands China Ltd. produce for inspection and  
25 copying the documents described in these papers. Production shall occur within thirty (30) days  
26 of service hereof, at the offices of PISANELLI BICE PLLC, 3883 Howard Hughes Parkway,  
27 Suite 800, Las Vegas, Nevada, 89169.



PISANELIBICE PLC  
3883 HOWARD HUGHES PARKWAY, SUITE 800  
LAS VEGAS, NEVADA 89169

**DEFINITIONS AND INSTRUCTIONS**

**A. Definitions**

1. **Communication.** The term "communication" means the transmittal of information (in the form of facts, ideas, inquiries or otherwise).

2. **Document.** The term "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Rule 34(a) of the Nevada Rules of Civil Procedure. This term encompasses any written or paper material in Sands China Ltd.'s possession, under its control, available at the request of any of its agents or attorneys and includes without limitation any written or graphic matter of every kind or description, however produced or reproduced, whether in draft, in final, original or reproduction, signed or unsigned, and regardless of whether approved, sent, received, redrafted or executed, including but not limited to written communications, letters, correspondence, memoranda, notes, records, business records, photographs, tape or sound recordings, contracts, agreements, notations of telephone conversations or personal conversations, diaries, desk calendars, reports, computer records, data compilations of any type or kind, or materials similar to any of the foregoing, however denominated and to whomever addressed. "Document" shall exclude exact duplicates when originals are available, but shall include all copies made different from originals by virtue of any writings, notations, symbols, characters, impressions or any marks thereon.

3. **Person.** The term "person" is defined as any natural person or business, legal or governmental entity or association.

4. The terms "concerning," "related to," and "relating to" include "refer to," "summarize," "reflect," "constitute," "contain," "embody," "mention," "show," "compromise," "evidence," "discuss," "describe," "pertaining to" or "comment upon."

5. **All/Each.** The terms "all" and "each" shall be construed as all and each.

6. **And/Or.** The connectives "and/or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery requests all responses that might otherwise be construed to be outside of its scope.

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1       7.     Number. The use of the singular form of any word includes the plural and vice  
2 versa.

3       8.     You, Your, and/or Sands China. The terms "You," "Your," and "Sands China" are  
4 synonymous and mean "Sands China, Ltd.," a defendant in this Action, and/or any of its  
5 pre-incorporation, pre-spin-off, pre-IPO identities (e.g., LISTCO, NEWCO), subsidiary entities  
6 and/or any other affiliated entities, as well as its owners, shareholders, officers, employees,  
7 attorneys, accountants, agents, investigators, and/or anyone else acting on its behalf and/or its  
8 direction and instruction.

9       9.     Action. The term "Action" refers to the above-captioned matter entitled *Steven C.*  
10 *Jacobs v. Las Vegas Sands Corp., et al.*, commenced in the Eighth Judicial District Court, Clark  
11 County, Nevada, Case No. A-10-627691.

12       10.   Parcels 5 and 6. The term "Parcels 5 and 6" refers to parcels of property owned by  
13 Sands China located on the Cotai Strip.

14 B.     Instructions.

15       1.     If You contend that any document responsive to these requests is privileged or  
16 otherwise beyond the scope of Rule 26 of the Nevada Rules of Civil Procedure, please identify  
17 the document with the following information:

- 18           a.    The type of document (e.g., report, letter, notes, notice, contract, etc.);
- 19           b.    The number of pages it comprises;
- 20           c.    The name of the person(s) who prepared or authored the document;
- 21           d.    The name of the person(s) to whom the document was addressed,  
22                 distributed, and/or shown;
- 23           e.    The date on the document purporting to reflect the date the document was  
24                 prepared or transmitted;
- 25           f.    The general description of the subject matter of the document; and, if  
26                 applicable,
- 27           g.    The name of the person(s) who asked that the document be prepared.

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1           2.     If You contend that only a portion of any document responsive to these requests is  
2 privileged or otherwise not subject to production, please produce a copy of the document  
3 redacting the privileged or objectionable portion. With respect to the redacted portion, to the  
4 extent that the produced portion of the document does not do so, You should provide the same  
5 information which would be provided if the entire document were withheld as privileged.

6           3.     These requests reach all documents that are within Your possession, custody or  
7 control if You have the legal right to obtain it, whether or not You now have physical possession  
8 of it. Thus, You must obtain and produce all documents within the possession or custody of  
9 people or entities over which You have control, such as attorneys, agents or others. If You have  
10 knowledge of the existence of documents responsive to these requests but contend that they are  
11 not within Your possession, custody or control, please provide the following information:

12           a.     A description of the documents, including in the description as much detail  
13 as possible;

14           b.     The identity of the person or entity, including his, her or its address,  
15 believed by You to have possession or custody of the document or any  
16 copies of them at this time; and

17           c.     A description of the efforts, if any, You have made to obtain possession or  
18 custody of the documents.

19           4.     These requests to produce shall be deemed to be continuing, and any additional  
20 documents relating in any way to these requests to produce or Your original responses that are  
21 acquired subsequent to the date of responding to these requests, up to and including the time of  
22 trial, shall be furnished to Plaintiff promptly after such documents are acquired as supplemental  
23 responses to these requests to produce.

24                               REQUESTS

25           REQUEST NO. 1:

26           Please identify and produce all documents that reflect the date, time, and location of each  
27 Sands China Board meeting (including the meeting held on April 14, 2010, at 9:00 a.m. Macau  
28 Time/April 13, 2010, at 6:00 p.m. Las Vegas time), the location of each Board member who

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1 participated in each and every meeting, and the manner/method by which each Board member  
2 participated in each and every meeting, during the period of January 1, 2009, to October 20, 2010.

3 **REQUEST NO. 2:**

4 Please identify and produce all documents that reflect the travels to and from  
5 Macau/China/Hong Kong by Sheldon G. Adelson for work performed on behalf of or directly for  
6 Sands China (including, but not limited to, flight logs, travel itineraries) during the time period of  
7 January 1, 2009, to October 20, 2010.

8 **REQUEST NO. 3:**

9 Please identify and produce all documents that reflect the travels to and from  
10 Macau/China/Hong Kong by Michael A. Leven for work performed on behalf of or directly for  
11 Sands China (including, but not limited to, flight logs, travel itineraries) during the time period of  
12 January 1, 2009, to October 20, 2010.

13 **REQUEST NO. 4:**

14 Please identify and produce all documents that reflect the travels to and from  
15 Macau/China/Hong Kong by Robert G. Goldstein for work performed on behalf of or directly for  
16 Sands China (including, but not limited to, flight logs, travel itineraries) during the time period of  
17 January 1, 2009, to October 20, 2010.

18 **REQUEST NO. 5:**

19 To the extent not produced in response to the preceding requests, please identify and  
20 produce all documents that reflect the travels to and from Macau/China/Hong Kong by any LVSC  
21 executive and/or employee for work performed on behalf of or directly for Sands China  
22 (including, but not limited to, flight logs, travel itineraries) during the time period of January 1,  
23 2009, to October 20, 2010.

24 **REQUEST NO. 6:**

25 Please identify and produce all documents and/or communications that reflect and/or are  
26 related to Michael A. Leven's service as CEO of Sands China and/or the Executive Director of  
27 Sands China Board of Directors, and/or the Special Assistant to the Board during the time period  
28 of January 1, 2009, to October 20, 2010.

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**REQUEST NO. 7:**

Please identify and produce all documents that reflect the location of the negotiation and execution of agreements related to the funding of Sands China, during the time period of January 1, 2009, to October 20, 2010, including, but not limited to, the raising of pre-IPO funds, the IPO, underwriting for sites 5 & 6, loan refinancing and/or covenant relief/term modifications pre-IPO, the services of Bank of China to bring in high net worth investors/gamblers to buy the Four Seasons Serviced Apartments, and the written proposal of Leonel Alves to obtain strata-title for the Four Seasons Apartments involving Beijing government officials.

**REQUEST NO. 8:**

Please identify and produce all contracts/agreements that Sands China (and/or any individual and/or entity acting for or on behalf of Sands China) entered into with individuals and/or entities based in or doing business in Nevada, including, but not limited to, any agreements with BASE Entertainment and Bally Technologies, Inc., construction, design, signage, retail mall operations, and/or banking during the time period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 9:**

Please identify and produce all documents that reflect work Robert G. Goldstein performed for or on behalf of Sands China, during the time period of January 1, 2009, to October 20, 2010, including global gaming and/or international player development efforts, such as active recruitment of VIP players to share between and among LVSC and Sands China properties, details concerning trips with Larry Chu into China to recruit new VIP players, dinners and/or meetings with Cheung Chi Tai, Charles Heung Wah Keung, and/or other VIP promoters, player funding, the transfer of player funds, and the use of Venetian Marketing Services Limited ("VMSL") and/or other entities to secure players and facilitate money transfers.

**REQUEST NO. 10:**

Please identify and produce all agreements for shared services between and among LVSC and Sands China or any of its subsidiaries, including, but not limited to, (1) procurement services agreements; (2) agreements for the sharing of private jets owned or made available by LVSC; and (3) trademark license agreements, during the time period of January 1, 2009, to October 20, 2010.

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**REQUEST NO. 11:**

Please identify and produce all documents, memoranda, emails, and/or other correspondence that reflect services performed by LVSC (including LVSC's executives and/or employees and/or consultants and/or agents) for or on behalf of Sands China, related to and/or concerning site design and development oversight of Parcels 5 and 6, during the time period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 12:**

Please identify and produce all documents, memoranda, emails, and/or other correspondence that reflect services performed by LVSC (including LVSC's executives and/or employees and/or consultants and/or agents) for or on behalf of Sands China, related to and/or concerning recruitment and interviewing of potential Sands China executives, during the time period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 13:**

Please identify and produce all documents, memoranda, emails, and/or other correspondence that reflect services performed by LVSC (including LVSC's executives and/or employees and/or consultants and/or agents) for or on behalf of Sands China, related to and/or concerning marketing of Sands China properties, including its frequency program, the issuance of "Chairman's Club" cards by Sheldon G Adelson to Cheung Chi Tai, Jack Lam and others, credit limits, floor layouts, the removal of Cheung Chi Tai, Charles Heung Wah Keung, and others from the Guarantor list of VIP promoters, nightclub operations and approval, including but not limited to Lotus Night Club, and/or the hiring of outside consultants, during the time period of January 1, 2009, to October 20, 2010.

**REQUEST NO. 14:**

Please identify and produce all documents, memoranda, emails, and/or other correspondence that reflect services performed by LVSC or the involvement of LVSC executives (including LVSC's executives and/or employees and/or consultants and/or agents) for or on behalf of Sands China, related to and/or concerning negotiation of a possible joint venture between Sands China and Harrah's, during the time period of January 1, 2009, to October 20, 2010.

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1 **REQUEST NO. 15:**

2 Please identify and produce all documents, memoranda, emails, and/or other  
3 correspondence that reflect services performed by LVSC (including LVSC's executives and/or  
4 employees and/or consultants and/or agents) for or on behalf of Sands China, related to and/or  
5 concerning the negotiation of the sale of Sands China's interest in sites to Stanley Ho's company,  
6 SJM, during the time period of January 1, 2009, to October 20, 2010.

7 **REQUEST NO. 16:**

8 Please identify and produce all documents that reflect communications by and between  
9 Sands China and/or LVSC (and/or any individual and/or entity acting for or on Sands China's  
10 behalf) and BASE Entertainment during the time period of January 1, 2009 to October 20, 2010.

11 **REQUEST NO. 17:**

12 Please identify and produce all documents that reflect communications by and between  
13 Sands China and/or LVSC (and/or any individual and/or entity acting for or on Sands China's  
14 behalf) and Cirque de Soleil during the time period of January 1, 2009 to October 20, 2010.

15 **REQUEST NO. 18:**

16 Please identify and produce all documents that reflect communications by and between  
17 Sands China and/or LVSC (and/or any individual and/or entity acting for or on Sands China's  
18 behalf) and Bally Technologies, Inc. during the time period of January 1, 2009 to October 20,  
19 2010.

20 **REQUEST NO. 19:**

21 Please identify and produce all documents that reflect communications by and between  
22 Sands China and/or LVSC (and/or any individual and/or entity acting for or on Sands China's  
23 behalf) and Harrah's during the time period of January 1, 2009 to October 20, 2010.

24 **REQUEST NO. 20:**

25 Please identify and produce all documents that reflect communications by and between  
26 Sands China and/or LVSC (and/or any individual and/or entity acting for or on Sands China's  
27 behalf) and any potential lenders for the underwriting of Parcels 5 and 6, during the time period of  
28 January 1, 2009 to October 20, 2010.