

IN THE SUPREME COURT OF THE STATE OF NEVADA

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*Attorneys for Real Party in Interest
Steven C. Jacobs*

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,
DEPARTMENT 11,

Respondents,

and

STEVEN C. JACOBS,

Real Party in Interest.

Electronically Filed
Jul 03 2013 09:10 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

Sup. Ct. Case No. 63444

District Court Case No.
A-10-627691

**REAL PARTY IN INTEREST,
STEVEN C. JACOBS' APPENDIX
TO OPPOSITION TO
EMERGENCY MOTION UNDER
NRAP 27(e) TO STAY THE
DISTRICT COURT'S JUNE 19, 2013,
ORDER**

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice, and that on this 2nd day of July, 2013, I efiled and sent via email and United States Mail, postage prepaid, a true and correct copy of the above and foregoing **REAL PARTY IN INTEREST, STEVEN C. JACOBS' APPENDIX TO OPPOSITION TO EMERGENCY MOTION UNDER NRAP 27(e) TO STAY THE DISTRICT COURT'S JUNE 19, 2013, ORDER VOLUME I OF I** properly addressed to the following:

J. Stephen Peek, Esq.
Robert J. Cassity, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134

J. Randall Jones, Esq.
Mark M. Jones, Esq.
KEMP, JONES & COULTHARD, LLP
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, NV 89169

Steve Morris, Esq.
Rosa Solis-Rainey, Esq.
MORRIS LAW GROUP
300 South Fourth Street, Suite 900
Las Vegas, NV 89101

SERVED VIA HAND-DELIVERY ON JULY 3, 2013

The Honorable Elizabeth Gonzalez
Eighth Judicial District Court, Dept. XI
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

/s/ Kimberly Peets
An employee of Pisanelli Bice, PLLC

**Glaser Weil Fink Jacobs
Howard & Shapiro LLP**

10250 Constellation Blvd.
19th Floor
Los Angeles, CA 90067
310.553.3000 TEL
310.556.2920 FAX

November 23, 2010

Direct Dial
(310) 282-6217
Email
Pglaser@glaserweil.com

VIA FACSIMILE TRANSMISSION AND U.S. MAIL

Donald Campbell, Esq.
Campbell & Williams
700 South Seventh Street
Las Vegas, NV 88101

Re: Las Vegas Sands Corp., et al. adv. Jacobs

Dear Mr. Campbell:

This law firm represents Sands China Ltd. together with its subsidiaries (the "Company"). While we will be responding in due course to what we believe, to be kind, an ill-advised complaint filed in the above referenced matter, we address here a matter of immediate concern to our client. We have reason to believe, based on conversations with existing and former employees and consultants for the Company, that Mr. Jacobs has stolen Company property including but not limited to three reports he, while working for the Company, received from Mr. Steve Vickers of International Risk Ltd.

We urge Mr. Jacobs to avoid the "I don't know what you're talking about" charade and return such reports (and any copies thereof) of which most if not all, have been watermarked. Of course, to the extent he has other Company property, such property must also be returned immediately. If we do not receive the reports within the next five (5) business days, we will be forced to seek Court intervention either in Las Vegas or Macau.

On a related matter, we hereby demand and advise Mr. Jacobs (and any consulting company with which he is or was associated) to retain all of his/their files and his wife's files related to the Company and Las Vegas Sands Corp. Also, we remind Mr. Jacobs and his wife to preserve (a) all electronic mail and information about electronic mail (including message contents, header information, and logs of electronic mail system usage including both personal and business electronic mail accounts; (b) all databases (including all records and fields and structural information in such databases); (c) all logs of activity on computer systems that may have been used to process or store electronic data; (d) all word processing files and file

Donald Campbell, Esq.
Campbell & Williams
November 23, 2010
Page 2

fragments; and (e) all other electronic data in each case relating to the Company or Las Vegas Sands Corp.

To minimize the risk of spoliation of relevant electronic documents, Mr. Jacobs (and any consulting company with which he is or was associated) and his wife should not modify or delete any electronic data files relating to the Company or Las Vegas Sands Corp. that are maintained on on-line storage and/or direct access storage devices unless a true and correct copy of each such electronic data file has been made and steps taken to ensure that such copy will be preserved and accessible.

Obviously, no one should alter or erase such electronic data and should not perform any other procedures (such as data compression and disc de-fragmentation or optimization routines) that may impact such data on any stand-alone computers and/or network workstations unless a true and correct copy has been made of such active files and of completely restored versions of such deleted electronic files and fragments and unless copies have been made of all directory listings (including hidden files) for all directories and subdirectories containing such files, and unless arrangements have been made to preserve copies.

Finally, any and all steps necessary to preserve relevant evidence created subsequent to this letter should be taken.

This letter is written without waiver of or prejudice to any and all of our client's rights and remedies.

Very truly yours,



Patricia Glaser
of GLASER, WEIL, FINK, JACOBS, HOWARD & SHAPIRO, LLP

PLG:jam

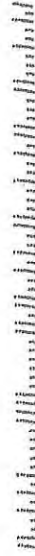
Glaser Weil Fink Jacobs
Howard & Shapiro LLP

10250 Constellation Blvd.
19th Floor
Los Angeles, CA 90067



Donald Campbell, Esq.
Campbell & Williams
700 South Seventh Street
Las Vegas, NV 88101

Barcode





CAMPBELL
& WILLIAMS
ATTORNEYS AT LAW

VIA FACSIMILE

November 30, 2010

Patricia Glaser, Esq.
Glaser Weil Fink Jacobs
Howard & Shapiro
10250 Constellation Blvd.
Los Angeles, California 90067

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

Dear Ms. Glaser:

We are in receipt of your letter dated November 23, 2010, which was received shortly before the Thanksgiving Holiday. Before turning to the substance contained therein, let me begin by stating "nice to meet you, too."

Moving on . . . please be advised that my firm and I have been consumed in another piece of commercial litigation that has been proceeding on an expedited basis with a myriad of court hearings and deadlines throughout the month of November and continuing into December. You may confirm the existence and breakneck pace of the litigation about which I speak with your local counsel, Stephen Peek and Justin Jones, as they represent one of the parties in the action. As such, I have not had an opportunity to address the contents of your letter with my client, Mr. Jacobs. I do, however, anticipate being able to discuss this matter with him in detail early next week.

Meanwhile, you may assist us in avoiding your self-coined "I don't know what you're talking about" charade" by describing in more detail the "three reports" referenced in your letter. It has been our experience that wrongfully terminated corporate executives are often—and properly—in possession of a multitude of documents received during the ordinary course of their employment. Contrary to the allegations contained in your letter, that does not mean the documents were "stolen." Thus, in order to determine whether Mr. Jacobs possesses the reports you want "returned immediately," it would help to know exactly what you are talking about.

700 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89101
PHONE: 702/382-8222
FAX: 702/382-0340

APP000004

Patricia Glaser, Esq.
November 30, 2010
Page 2

Finally, insofar as Mr. Jacobs is in possession of any other documents or evidence related to Sands China, Ltd. and Las Vegas Sands, Corp. we have previously instructed him, as we instruct any client, to preserve all such materials in whatever form they exist.

This letter is written without waiver of or prejudice to any and all of our client's rights and remedies.

Very truly yours,

CAMPBELL & WILLIAMS


Donald J. Campbell, Esq.

DJC:mp

APP000005

**Glaser Weil Fink Jacobs
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10250 Constellation Blvd.
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Los Angeles, CA 90067
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December 3, 2010

Direct Dial
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Pglaser@glaserweil.com

VIA FACSIMILE TRANSMISSION AND U.S. MAIL

Donald Campbell, Esq.
Campbell & Williams
700 South Seventh Street
Las Vegas, NV 88101

Re: Las Vegas Sands Corp., et al. adv. Jacobs

Dear Mr. Campbell:

We received your November 30, 2010 letter, and appreciate the exigencies of a big caseload; however, we trust that you now have had sufficient time to discuss the matters addressed in our prior letter with your client.

Additionally, we presume that after speaking with your client, you are now well aware of the specific identity and content of the reports from Mr. Steve Vickers referenced in my prior letter, and require no further explanation. As you can now assuredly appreciate, these reports are far from ministerial and are not those you improperly characterized as merely "documents received during the ordinary course of [Jacobs] employment." This information is the sole property of your client's former employer and must be returned immediately.

To the extent that you need any further clarification, your client has improperly acquired, and must now return, the report detailing the investigation commissioned from Mr. Vickers regarding certain Macau government officials, as well as the two reports relating to the background investigations of Cheung Chi Tai and Heung Wah Keong.

As stated in my prior letter, these reports have been watermarked to identify your client as the recipient, and your client has wrongfully obtained these reports in direct contravention of our client's rights. We do not wish to argue with you at this time about the particulars of how or why your client is in possession of these reports, but only demand that they be returned immediately, along with any and all copies.

Donald Campbell, Esq.
Campbell & Williams
December 3, 2010
Page 2

Finally, we appreciate your assurances that your client is preserving all relevant information in this case, and we expect that such preservation will extend to all evidence created subsequent to the receipt of this letter.

This letter is written without waiver of or prejudice to any and all of our client's rights and remedies.

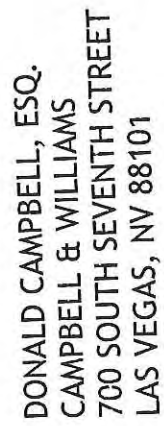
Very truly yours,



Patricia Glaser
of GLASER, WEIL, FINK, JACOBS, HOWARD & SHAPIRO, LLP

PLG:jam

III MERITAS LAW FIRMS WORLDWIDE



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1. 中国人口现状	1000000000
2. 中国人口增长	1000000000
3. 中国人口分布	1000000000
4. 中国人口结构	1000000000
5. 中国人口素质	1000000000
6. 中国人口政策	1000000000
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9. 中国人口预测	1000000000
10. 中国人口研究	1000000000
11. 中国人口统计	1000000000
12. 中国人口调查	1000000000
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19. 中国人口理想	1000000000
20. 中国人口梦想	1000000000



CAMPBELL
& WILLIAMS
ATTORNEYS AT LAW

Via E-Mail
Pglaser@glaserwell.com

January 11, 2011

Patricia Glaser
Glaser, Weil, Fink, Jacobs, et al.
10250 Constellation Blvd., 19th Floor
Los Angeles, California 90067

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

Dear Ms. Glaser:

I am in receipt of your e-mailed letter sent to us last Friday evening. As I am presently out of state, I wanted to get you a quick response.

The original materials forwarded to you were sent directly by Mr. Jacobs. There was no Heung Wah Keong report found by Mr. Jacobs in any files currently in his possession. This is not to say that a copy of such a report might not later be located, but Mr. Jacobs feels confident he has conducted a review which has been fairly exhaustive and, accordingly, thinks the likelihood of his possession of the same is remote.

Mr. Jacobs does, however, maintain possession of a copy of those original reports which he forwarded to your attention. Mr. Jacobs respectfully declines your request that he destroy them. Instead, it is his intention to preserve all such copies which are likely to be of evidentiary value in any future legal proceedings.

Sincerely yours,

CAMPBELL & WILLIAMS

Donald J. Campbell

Donald J. Campbell, Esq.

Dictated but not read to avoid delay

DJC:mp

700 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89101
PHONE: 702/388-5322
FAX: 702/388-0340

APP000009

Exhibit 13

Exhibit 13

From: Law, David

Sent: Wednesday, May 12, 2010 12:50 PM

To: Hu, Christine

Cc: Melo, Luis; Poon, Jeffrey; Kwok, Kerwin; Toh, Benjamin

Subject: USD4.8million company check to be couriered over to US

Christine,

We spoke today. After discussion with Jeffrey and also Kerwin today, we had decided that it would be better for this signed company check of USD4.8million to be couriered over using FEDEX courier company to Freddie Kwok, Kerwin's brother in Venetian Las Vegas to assist us to deposit this check into the BOA Las Vegas USD account instead of myself flying over to Vegas to hand over the check to Freddie as I need to declare the reasons I am in US which would be more risky. I will be couriering the check and the complete documentation to Freddie later today and will be sending an email to the bank officer at BOA Las Vegas informing her on this matter. Thanks,

Regards,

David Law

區域娛樂場商賬管理經理 |

Regional Casino Collection Manager, Finance |

Venetian Macau limited | www.venetianmacao.com |

Email: david.law@venetian.com.mo |

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Facsimile: (702) 382-0540

Attorneys for Plaintiff
Steven C. Jacobs

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVEN C. JACOBS,
Plaintiff,

vs.

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-C
) DEPT. NO. XI
)
)

) **PLAINTIFF'S INITIAL**
) **DISCLOSURES**
)
)
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)

Plaintiff Steven C. Jacobs ("Plaintiff" or "Jacobs"), through his undersigned counsel,
hereby serves his Initial Disclosures pursuant to NRCP 16.1(a)(1):

I. WITNESSES

1. **Steve Jacobs**
c/o Campbell & Williams
700 South Seventh Street
Las Vegas, Nevada 89101
Tel. 702.382.5222



**CAMPBELL
& WILLIAMS**
ATTORNEYS AT LAW
700 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89101
PHONE: 702/382-5222
FAX: 702/382-0540

1 Mr. Jacobs is the plaintiff in this action and has knowledge regarding the claims asserted
2 in his Complaint, his defenses to the allegations asserted in the Counterclaim, and related matters.
3

4 2. **Sheldon Adelson**

c/o Glaser Weil Fink Jacobs

Holland & Hart

Howard & Shapiro

3800 Howard Hughes Pkwy., 10th Fl.

3763 Howard Hughes Pkwy., Ste. 300

Las Vegas, Nevada 89169

Las Vegas, Nevada 89169

Tel. 707.669.4600

Tel. 702.650.7900

Morris Peterson

300 South Fourth Street, #900

Las Vegas, Nevada 89169

Tel. 702.474.9400

11 Mr. Adelson is the Chairman of the Board and CEO of Las Vegas Sands Corp. ("LVSC")
12 and the Chairman of the Board of Sands China Ltd. ("SCL"). Mr. Adelson is expected to have
13 knowledge regarding his defenses to the allegations asserted in the Complaint, the allegations
14 contained in LVSC's Counterclaim, and related matters.
15

16 3. **Michael Leven**

c/o Glaser Weil Fink Jacobs

Holland & Hart

Howard & Shapiro

3800 Howard Hughes Pkwy., 10th Fl.

3763 Howard Hughes Pkwy., Ste. 300

Las Vegas, Nevada 89169

Las Vegas, Nevada 89169

Tel. 707.669.4600

Tel. 702.650.7900

19 Mr. Leven is the President and Chief Operating Officer of LVSC as well as the acting
20 Chief Executive Officer and an Executive Director of SCL. Mr. Leven is expected to have
21 knowledge regarding LVSC's retention and hiring of Mr. Jacobs, Mr. Jacobs's job performance,
22 the conflicts between Mr. Jacobs and Mr. Adelson, and related matters.
23

24 4. **J. Alberto Gonzalez-Pita**

HCP, Inc.

3760 Kilroy Airport Way, Suite 300

Long Beach, California

Cel. 562.243.8927



1 Mr. Gonzalez was General Counsel of LVSC until or about April 30, 2010. Mr. Gonzalez
2 is expected to have knowledge regarding allegations contained in the pleadings including, but not
3 limited to, the issues involving Leonel Alves, LVSC's and SCL's relationship with Cheung Chi
4 Tai, the conflicts between Mr. Jacobs and Mr. Adelson, and related matters.
5

6 5. **Kenneth J. Kay**
7 c/o Holland & Hart
8 3800 Howard Hughes Pkwy., 10th Fl.
9 Las Vegas, Nevada 89169
10 Tel. 707.669.4600

11 Mr. Kay is the Senior Vice-President and Chief Financial Officer of LVSC. Mr. Kay is
12 expected to have knowledge regarding allegations contained in the pleadings including, but not
13 limited to, Mr. Jacobs's job performance, the conflicts between Mr. Jacobs and Mr. Adelson, and
14 related matters.

15 6. **Robert G. Goldstein**
16 c/o Holland & Hart
17 3800 Howard Hughes Pkwy., 10th Fl.
18 Las Vegas, Nevada 89169
19 Tel. 707.669.4600

20 Mr. Goldstein is LVSC's President of Global Gaming Operations. Mr. Goldstein is
21 expected to have knowledge regarding allegations contained in the pleadings including, but not
22 limited to, LVSC's and SCL's relationship with Cheung Chi Tai, the conflicts between Mr.
23 Jacobs and Mr. Adelson, Mr. Jacobs's negotiations with Cirque du Soleil, and related matters.

24 7. **Luis Mesquita de Melo**
25 Address Unknown
26 Tel. 853 66485575

27 Mr. Melo is the former General Counsel of SCL. Mr. Melo is expected to have
28 knowledge regarding allegations contained in the pleadings including, but not limited to, Mr.
Jacobs's job performance and interaction with the SCL Board of Directors, the issues involving
Leonel Alves, the conflicts between Mr. Jacobs and Mr. Adelson, and related matters.



1 8. **Toh Hup Hock (aka "Ben Toh")**
2 c/o Glaser Weil Fink Jacobs
3 Howard & Shapiro
4 3763 Howard Hughes Pkwy., Ste. 300
 Las Vegas, Nevada 89169
 Tel. 702.650.7900

5 Mr. Toh is the Executive Vice-President, Chief Financial Officer and an Executive
6 Director of SCL. Mr. Toh is expected to have knowledge regarding allegations contained in the
7 pleadings including, but not limited to, Mr. Jacobs's job performance, his interaction with the
8 SCL Board of Directors, and related matters.
9

10 9. **Jeffrey Howard Schwartz**
11 c/o Glaser Weil Fink Jacobs Holland & Hart
12 Howard & Shapiro 3800 Howard Hughes Pkwy., 10th Fl.
13 3763 Howard Hughes Pkwy., Ste. 300 Las Vegas, Nevada 89169
 Las Vegas, Nevada 89169 Tel. 707.669.4600
 Tel. 702.650.7900

14 Mr. Schwartz is a Non-Executive Director of SCL and a member of LVSC's Board of
15 Directors. Mr. Schwartz is expected to have knowledge regarding allegations contained in the
16 pleadings including, but not limited to, Mr. Jacobs's job performance, his interaction with the
17 SCL and LVSC Board of Directors, the decision to terminate Mr. Jacobs, and related matters.
18

19 10. **Irwin A. Siegel**
20 c/o Glaser Weil Fink Jacobs Holland & Hart
21 Howard & Shapiro 3800 Howard Hughes Pkwy., 10th Fl.
22 3763 Howard Hughes Pkwy., Ste. 300 Las Vegas, Nevada 89169
 Las Vegas, Nevada 89169 Tel. 707.669.4600
 Tel. 702.650.7900

23 Mr. Siegel is a Non-Executive Director of SCL and a member of LVSC's Board of
24 Directors. Mr. Siegel is expected to have knowledge regarding allegations contained in the
25 pleadings including, but not limited to, Mr. Jacobs's job performance, his interaction with the
26 SCL Board of Directors, the decision to terminate Mr. Jacobs, and related matters.

27 11. **Iain Ferguson Bruce**
28 c/o Glaser Weil Fink Jacobs
 Howard & Shapiro



3763 Howard Hughes Pkwy., Ste. 300
Las Vegas, Nevada 89169
Tel. 702.650.7900

Mr. Bruce is an Independent Non-Executive Director of SCL. Mr. Bruce is expected to have knowledge regarding allegations contained in the pleadings including, but not limited to, Mr. Jacobs's job performance, his interaction with the SCL Board of Directors, the decision to terminate Mr. Jacobs, and related matters.

12. **David Muir Turnbull**
c/o Glaser Weil Fink Jacobs
Howard & Shapiro
3763 Howard Hughes Pkwy., Ste. 300
Las Vegas, Nevada 89169
Tel. 702.650.7900

Mr. Turnbull is an Independent Non-Executive Director of SCL. Mr. Turnbull is expected to have knowledge regarding allegations contained in the pleadings including, but not limited to, Mr. Jacobs's job performance, his interaction with the SCL Board of Directors, the decision to terminate Mr. Jacobs, and related matters.

13. **Chiang Yun**
c/o Glaser Weil Fink Jacobs
Howard & Shapiro
3763 Howard Hughes Pkwy., Ste. 300
Las Vegas, Nevada 89169
Tel. 702.650.7900

Ms. Chiang is an Independent Non-Executive Director of SCL. Ms. Yun is expected to have knowledge regarding allegations contained in the pleadings including, but not limited to, Mr. Jacobs's job performance, his interaction with the SCL Board of Directors, the decision to terminate Mr. Jacobs, and related matters.

14. **Gayle Hyman**
c/o Holland & Hart
3800 Howard Hughes Pkwy., 10th Fl.
Las Vegas, Nevada 89169
Tel. 707.669.4600



CAMPBELL
& WILLIAMS
ATTORNEYS AT LAW

700 SOUTH SEVENTH STREET
LAS VEGAS, NEVADA 89101
PHONE: 702/382-5222
FAX: 702/382-0540

1 Ms. Hyman is the Senior Vice-President and General Counsel of LVSC. Ms. Hyman is
2 expected to have knowledge regarding allegations contained in the pleadings including, but not
3 limited to, Mr. Jacobs's retention and hiring by LVSC, Mr. Jacobs grant and exercise of stock
4 options in LVSC, and related matters.
5

6 15. **Betty Yurcich**
7 c/o Holland & Hart
8 3800 Howard Hughes Pkwy., 10th Fl.
9 Las Vegas, Nevada 89169
10 Tel. 707.669.4600

11 Ms. Yurcich is Mr. Adelson's executive assistant. Ms. Yurcich is expected to have
12 knowledge regarding allegations contained in the pleadings including, but not limited to, Mr.
13 Jacobs's retention and hiring by LVSC, Mr. Jacobs's interaction with Mr. Adelson, and related
14 matters.

15 16. **Irwin Chafetz**
16 c/o Holland & Hart
17 3800 Howard Hughes Pkwy., 10th Fl.
18 Las Vegas, Nevada 89169
19 Tel. 707.669.4600

20 Mr. Chafetz is a member of LVSC's Board of Directors. Mr. Chafetz is expected to have
21 knowledge regarding allegations contained in the pleadings including, but not limited to, Mr.
22 Jacobs's retention and hiring by LVSC, Mr. Jacobs's interaction with the LVSC Board, and
23 related matters.

24 17. **Charles D. Forman**
25 c/o Holland & Hart
26 3800 Howard Hughes Pkwy., 10th Fl.
27 Las Vegas, Nevada 89169
28 Tel. 707.669.4600

Mr. Forman is a member of LVSC's Board of Directors. Mr. Forman is expected to have
knowledge regarding allegations contained in the pleadings including, but not limited to, Mr.



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1 Jacobs's retention and hiring by LVSC, Mr. Jacobs's interaction with the LVSC Board, and
2 related matters.

3
4 18. **George P. Koo**
5 c/o Holland & Hart
6 3800 Howard Hughes Pkwy., 10th Fl.
7 Las Vegas, Nevada 89169
8 Tel. 707.669.4600

9 Mr. Koo is a member of LVSC's Board of Directors. Mr. Koo is expected to have
10 knowledge regarding allegations contained in the pleadings including, but not limited to, Mr.
11 Jacobs's retention and hiring by LVSC, Mr. Jacobs's interaction with the LVSC Board, and
12 related matters.

13 19. **Jason Ader**
14 c/o Holland & Hart
15 3800 Howard Hughes Pkwy., 10th Fl.
16 Las Vegas, Nevada 89169
17 Tel. 707.669.4600

18 Mr. Ader is a member of LVSC's Board of Directors. Mr. Ader is expected to have
19 knowledge regarding allegations contained in the pleadings including, but not limited to, Mr.
20 Jacobs's retention and hiring by LVSC, Mr. Jacobs's interaction with the LVSC Board, and
21 related matters.

22 20. **Antonio Ferreira**
23 c/o Glaser Weil Fink Jacobs
24 Howard & Shapiro
25 3763 Howard Hughes Pkwy., Ste. 300
26 Las Vegas, Nevada 89169
27 Tel. 702.650.7900

28 Mr. Ferreira is the Managing Director of Venetian Macau Limited ("VML"). Mr. Ferreira
is expected to have knowledge regarding allegations contained in the pleadings including, but not
limited to, the roles and responsibilities of the SCL and VML boards of directors, the decision to
terminate Mr. Jacobs, and related matters.



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1 21. **Frederick H. Krauss**
2 c/o Holland & Hart
3 3800 Howard Hughes Pkwy., 10th Fl.
4 Las Vegas, Nevada 89169
5 Tel. 707.669.4600

6 Mr. Krauss is the Vice-President and General Counsel of The Venetian/The Palazzo. Mr.

7 Krauss is expected to have knowledge regarding allegations contained in the pleadings including,
8 but not limited to, Defendants' relationship with Cheung Chi Tai, the licensing and approval
9 process of junkets, FCPA compliance, and related matters.

10 22. **William Bonner**
11 c/o Glaser Weil Fink Jacobs
12 Howard & Shapiro
13 3763 Howard Hughes Pkwy., Ste. 300
14 Las Vegas, Nevada 89169
15 Tel. 702.650.7900

16 Mr. Bonner is the Senior Vice-President in charge of security for SCL. Mr. Bonner is
17 expected to have knowledge regarding allegations contained in the pleadings including, but not
18 limited to, the existence of surveillance reports documenting the activities of Cheung Chi Tai at
19 SCL properties, and related matters.

20 23. **Leonel Alves**
21 Av. Da Praia Grande, 517
22 Edf. Comercial Nam Tung, 20th Floor
23 Macau, China
24 Tel. 853 28378579

25 Mr. Alves is a Macanese attorney that has performed work for SCL. Mr. Alves is
26 expected to have knowledge regarding allegations contained in the pleadings including, but not
27 limited to, FCPA concerns generated by his affiliation with SCL, billing disputes regarding work
28 he performed in connection with the SCL initial public offering, his efforts to obtain strata-title
29 for the Four Seasons apartment hotels contingent upon SCL making payment of \$300 million
30 USD to unidentified persons in Beijing, and related matters.



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1 24. **Jack Lam**
2 Jimei Group
3 Shop 19, 2/F,
4 China Hong Kong City, T.S.T.
 Hong Kong, China
 Tel : (852) 2730 2121

5 Mr. Lam is a junket operator at SCL's Plaza Casino. Mr. Lam is expected to have
6 knowledge regarding allegations contained in the pleadings including, but not limited to, his
7 dealings with Mr. Jacobs and Mr. Adelson regarding contracts at the Four Seasons Hotel in
8 Macau, the approval and licensing process for junket operators, and related matters.
9

10 25. **Cheung Chi Tai**
11 Address Unknown

12 Cheung Chi Tai was a guarantor of the Ho Won junket operating at SCL properties. He is
13 expected to have knowledge regarding allegations contained in the Pleadings including, but not
14 limited to, his relationship with LVSC/SCL executives Adelson, Goldstein, and Larry Chu, as
15 well as related matters.

16 26. **Eric Chen**
17 c/o Glaser Weil Fink Jacobs
18 Howard & Shapiro
19 3763 Howard Hughes Pkwy., Ste. 300
 Las Vegas, Nevada 89169
 Tel. 702.650.7900

20 Mr. Chen is a Vice-President of internal audit for SCL. Mr. Chen is expected to have
21 knowledge regarding allegations contained in the pleadings including, but not limited to, Mr.
22 Jacobs's job performance, amelioration of legacy issues involving blue cards, and related matters.
23

24 27. **Ian Humphries**
25 c/o Glaser Weil Fink Jacobs
26 Howard & Shapiro
 3763 Howard Hughes Pkwy., Ste. 300
 Las Vegas, Nevada 89169
 Tel. 702.650.7900



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1 Mr. Humphries is a Vice-President of construction for SCL. Mr. Humphires is expected
2 to have knowledge regarding allegations contained in the pleadings including, but not limited to,
3 contracts for Sites 5 & 6, projected budgets for Sites 5 & 6, cost overruns for Sites 5 & 6, and
4 related matters.
5

6 28. **Matthew Pryor**
7 c/o Glaser Weil Fink Jacobs
8 Howard & Shapiro
9 3763 Howard Hughes Pkwy., Ste. 300
Las Vegas, Nevada 89169
Tel. 702.650.7900

10 Mr. Pryor is a Vice-President of construction for SCL. Mr. Pryor is expected to have
11 knowledge regarding allegations contained in the pleadings including, but not limited to,
12 contracts for Sites 5 & 6, projected budgets and design specifications for Sites 5 & 6, cost
13 overruns for Sites 5 & 6, and related matters.
14

15 29. **Larry Chu**
16 c/o Holland & Hart
17 3800 Howard Hughes Pkwy., 10th Fl.
Las Vegas, Nevada 89169
Tel. 707.669.4600

18 Mr. Chu is the Senior Vice-President of international marketing for LVSC. Mr. Chu is
19 expected to have knowledge regarding allegations contained in the pleadings including, but not
20 limited to, Defendants' relationship with Cheung Chi Tai, the licensing and approval process of
21 junkets, and related matters.
22

23 30. **Guy Gethers**
24 c/o Holland & Hart
25 3800 Howard Hughes Pkwy., 10th Fl.
Las Vegas, Nevada 89169
Tel. 707.669.4600

26 Mr. Gethers is a Vice-President of international marketing for LVSC. Mr. Gethers is
27 expected to have knowledge regarding allegations contained in the pleadings including, but not
28



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1 limited to, Defendants' relationship with Cheung Chi Tai, the licensing and approval process of
2 junkets, and related matters.

3
4 31. **Stephen Sims**
5 c/o Holland & Hart
6 3800 Howard Hughes Pkwy., 10th Fl.
7 Las Vegas, Nevada 89169
8 Tel. 707.669.4600

9 Mr. Sims is a Vice-President of international marketing for LVSC. Mr. Sims is expected
10 to have knowledge regarding allegations contained in the pleadings including, but not limited to,
11 Defendants' relationship with Cheung Chi Tai, the licensing and approval process of junkets, and
12 related matters.

13 32. **Daniel J. Briggs**
14 c/o Holland & Hart
15 3800 Howard Hughes Pkwy., 10th Fl.
16 Las Vegas, Nevada 89169
17 Tel. 707.669.4600

18 Mr. Briggs is the Vice-President of Investor Relations for LVSC. Mr. Briggs is expected
19 to have knowledge regarding allegations contained in the pleadings including, but not limited to,
20 interviews by Mr. Adelson regarding expansion into Japan, feedback on Jacobs's job performance
21 from institutional investors, and related matters.

22 33. **Abu Sahid Mohammad**
23 Address unknown
24 Kuala Lumpur, Maylasia

25 Mr. Mohammad is a premium direct player at SCL properties and is expected to have
26 knowledge regarding the services offered to VIP direct players versus those playing as part of a
27 junket.

28 34. **Tan Sri Abu/Kiki Barki**
Address unknown
Mainland China



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1 Mr. Abu and Ms. Barki are premium direct players at SCL properties and are expected to
2 have knowledge regarding the services offered to VIP direct players versus those playing as part
3 of a junket.
4

5 35. **David Law**

c/o Glaser Weil Fink Jacobs
Howard & Shapiro
3763 Howard Hughes Pkwy., Ste. 300
Las Vegas, Nevada 89169
Tel. 702.650.7900

6
7
8
9 Mr. Law is an employee in the finance department of SCL. Mr. Law is expected to have
10 knowledge regarding allegations made by LVSC/SCL executives including, but not limited to, the
11 economics of junket versus direct VIP play, and related matters.

12 36. **David Sun**

c/o Glaser Weil Fink Jacobs
Howard & Shapiro
3763 Howard Hughes Pkwy., Ste. 300
Las Vegas, Nevada 89169
Tel. 702.650.7900

13
14
15
16 Mr. Sun is an employee in the finance department of SCL. Mr. Sun is expected to have
17 knowledge regarding allegations made by LVSC/SCL executives including, but not limited to, the
18 economics of junket versus direct VIP play, and related matters.

19 37. **Christine Hu**

c/o Holland & Hart
3800 Howard Hughes Pkwy., 10th Fl.
Las Vegas, Nevada 89169
Tel. 707.669.4600

20
21
22
23 Ms. Hu is believed to be an employee in the compliance department of LVSC. Ms. Hu is
24 expected to have knowledge regarding allegations contained in the pleadings including, but not
25 limited to, the junket licensing and approval process, and related matters.

26 38. **Kim McCabe**

c/o Holland & Hart
3800 Howard Hughes Pkwy., 10th Fl.
Las Vegas, Nevada 89169



1 Tel. 707.669.4600

2 Ms. McCabe is believed to be an employee in the compliance department of LVSC. Ms.
3 McCabe is expected to have knowledge regarding allegations contained in the pleadings
4 including, but not limited to, the junket licensing and approval process, and related matters.
5

6 39. **Kevin Clayton**
7 c/o Glaser Weil Fink Jacobs
8 Howard & Shapiro
9 3763 Howard Hughes Pkwy., Ste. 300
10 Las Vegas, Nevada 89169
11 Tel. 702.650.7900

12 Mr. Clayton is an executive in the marketing department of SCL. Mr. Clayton is expected
13 to have knowledge regarding allegations contained in the pleadings including, but not limited to,
14 the economics of junket versus direct VIP play, contracts with Ogilvy, marketing studies, and
15 related matters.

16 40. **John Chung**
17 c/o Glaser Weil Fink Jacobs
18 Howard & Shapiro
19 3763 Howard Hughes Pkwy., Ste. 300
20 Las Vegas, Nevada 89169
21 Tel. 702.650.7900

22 Mr. Chung is an executive in the player development department of SCL. Mr. Chung is
23 expected to have knowledge regarding allegations contained in the pleadings including, but not
24 limited to, the economics of junket versus direct VIP play and related matters.
25

26 41. **Philip Sanders/Ryan Caldwell/Chris Parker**
27 Waddell & Reed
28 6300 Lamar Avenue
Post Office Box 29217
Shawnee Mission, KS 66201-9217
Tel. 913-236-1993

The foregoing individuals are officers and/or analysts with Waddell & Reed. They are
expected to have knowledge regarding allegations contained in the pleadings including, but not



1 limited to, investment perspectives on SCL, Jacobs's job performance, the VIP direct play
2 strategy, Mr. Adelson's comments regarding the development of Japan, and related matters.

3
4 42. **Xiao Gang**
5 Bank of China
6 Fuxingmennei Avenue
7 Xicheng District
8 Beijing No. 1 100 818

9 The foregoing individual is the Chairman of Bank of China. He is expected to have
10 knowledge regarding allegations contained in the pleadings including, but not limited to, the
11 general financial condition of SCL, the underwriting requirements for Sites 5 & 6, Bank of
12 China's agreement to act as escrow agent for sale of the Four Seasons apartments, and related
13 matters.

14 43. **Ron Reese**
15 c/o Holland & Hart
16 3800 Howard Hughes Pkwy., 10th Fl.
17 Las Vegas, Nevada 89169
18 Tel. 707.669.4600

19 Ms. Reese is the Vice President of Public Relations for LVSC. Mr. Reese is expected to
20 have knowledge regarding allegations contained in the Pleadings including, but not limited to,
21 public comments made by Mr. Adelson in reference to Plaintiff, and related matters.

22 46. Plaintiff reserves the right to call as a witness anyone identified by any other party
23 herein.

24 45. Plaintiff reserves the right to supplement this disclosure as discovery proceeds.

25 **II. DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND**
26 **TANGIBLE THINGS**

27 The following documents are being produced herewith:

- 28 1. Agreement for Services between Venetian Macau Limited and Steve Jacobs
effective May 1, 2009 (Bates Nos. SJ000001 – SJ000003);
2. Letter of Appointment for Executive dated June 16, 2009 (Bates Nos. SJ000004 –
SJ000006);



3. Letter from Sheldon Adelson to Steve Jacobs dated 6/24/09 and attached Nonqualified Stock Option Agreement (**Bates Nos. SJ000007 – SJ000014**);
4. Side letter from Antonio Ferreira to Steve Jacobs dated July 3, 2009 (**Bates Nos. SJ000015 to SJ000016**);
5. Offer Terms and Conditions dated August 3, 2009 (**Bates Nos. SJ000017**);
6. E-mail chain between Gayle Hyman, Michael Leven, and Steve Jacobs dated August 6, 2009 (**Bates Nos. SJ000018**);
7. E-mail from Gayle Hyman to Steve Jacobs dated August 7, 2009 and attached SEC identification form (**Bates Nos. SJ000019 to SJ000024**);
8. SEC Form 3 filed September 14, 2009 (**Bates Nos. SJ000025 to SJ000027**);
9. SCL Equity Award Plan (**Bates Nos. SJ000028 to SJ000066**);
10. LVSC Proxy Statement filed April 23, 2010 (**Bates Nos. SJ000067 to SJ000131**);
11. LVSC Form 10-Q filed May 5, 2010 (**Bates Nos. SJ000132 to SJ000197**);
12. Written Resolution of SCL Remuneration Committee dated May 10, 2010 (**Bates Nos. SJ000198 to SJ000201**);
13. SCL Share Option Grant to Steve Jacobs dated July 7, 2010 (**Bates Nos. SJ000202 to SJ000209**);
14. LVSC Form 8-K dated September 14, 2010 (SCL Interim Report 2010) (**Bates Nos. SJ000210 to SJ000278**);
15. Letter from Donald J. Campbell to Gayle M. Hyman dated September 24, 2010 (**Bates Nos. SJ000279 to SJ000284**);
16. Letter from Gayle M. Hyman to Donald J. Campbell (**Bates Nos. SJ000285 to SJ000286**).

In addition to the foregoing, Plaintiff is in possession of certain electronically stored information ("ESI"). Upon execution of a mutually agreeable ESI Protocol, Plaintiff will begin producing the ESI in his possession on a rolling basis to be completed by July 1, 2011 as set forth in the parties' Joint Status Report dated April 21, 2011. Nothing in these initial disclosures is a representation that any particular document or thing is relevant to any issue in this action or that



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any particular document or thing exists or is in Plaintiff's possession, custody and control.

Plaintiff reserves the right to supplement the foregoing initial disclosures as discovery continues. Plaintiff also reserves the right to use any documents, ESI, or tangible things produced by any other party herein.

III. COMPUTATION OF CATEGORIES OF DAMAGES

Pursuant to NRCP 16.1(a)(1)(C), Plaintiff hereby advises that he has incurred the following damages:

One time fee for relocating to Hong Kong (never paid)	\$ 10,000
Unused PTO	\$ TBD
July 2010 Housing Allowance (never paid)	\$ 12,000
Repatriation Flights (never paid) ¹	\$ 14,284
Container (never paid) ²	\$ 10,000
Prorated Bonus 2010	\$ 379,166
One-Year Severance	\$ <u>1,950,000</u>

Sub-Total \$ 2,375,990

Accelerated vest and right to exercise for 1 year:

- LVSC:	52,000 shares; \$7.73 (strike price)	
	\$55.47 (exercise price) ³	\$ 2,482,480

¹ Plaintiff is searching for the receipts for his return air travel to the United States after his termination, and will produce copies as soon as he locates the same. The figure included above represents Plaintiff's best estimate of the amount. Plaintiff will supplement this disclosure to provide the exact amount.

² Plaintiff is searching for the receipts for the container required to move his belongings back to the United States after his termination, and will produce copies as soon as he locates the same. The figure included above represents Plaintiff's best estimate of the amount. Plaintiff will supplement this disclosure to provide the exact amount.

³ Plaintiff's Term Sheet provides him with one-year from the date of his termination (*i.e.*, July 23, 2010) to exercise his stock options. Where an employer breaches a stock option agreement by failing to permit the optionee to purchase stock, the optionee is entitled to damages based on the difference between the option price and the highest intermediate market price between the date of breach and a reasonable time thereafter. *See, e.g., Rauser v. LTV Electrosystems*, 437 F.2d 800, 803-04 (7th Cir. 1971). Accordingly, Plaintiff has used the highest markets prices for LVSC and SCL stock since the date of his termination when calculating his damages for purposes of these disclosures. Given that Plaintiff would have had until July 23, 2011 to exercise his options but for LVSC's and SCL's wrongful conduct, he reserves the right to



1
2 LVSC: 250,000 shares; \$11.13 (strike price)
\$55.47 (exercise price) \$11,085,000

3 Sub-Total \$13,567,480

4
5 SCL: 2,500,000 shares; \$11.83 HKD (strike price)
\$23.50 HKD (exercise price) \$29,175,000

6 Sub -Total Convert HKD to USD (divide by 7.8) \$ 3,740,384

7 Total \$19,683,854

8
9 These computations are based on documents being produced herewith as Bates Nos.
10 SJ000001 – SJ000286 as well as publicly available information memorializing the historical
11 activity of the stock prices for LVSC and SCL since the date of Plaintiff's wrongful termination
12 through the present. Plaintiff is seeking additional damages for tortious discharge in violation of
13 public policy and defamation including, but not limited to, injury to his reputation, punitive
14 damages, attorney's fees, and costs all according to proof at trial. Plaintiff reserves the right to
15 supplement this disclosure as discovery continues.
16

17 IV. INSURANCE AGREEMENTS

18 Not applicable.

19 DATED this 16th day of May, 2011.

20 CAMPBELL & WILLIAMS

21 By /s/ J. Colby Williams

22 DONALD J. CAMPBELL, ESQ. (#1216)

23 J. COLBY WILLIAMS, ESQ. (#5549)

24 700 South Seventh Street

Las Vegas, Nevada 89101

Telephone: (702) 382-5222

Facsimile: (702) 382-0540

26 Attorneys for Plaintiff

27 Steven C. Jacobs

28 supplement this disclosure to account for any increases in LVSC and SCL stock prior to that
deadline.



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 16th day of May, 2011, I served via e-mail and U.S. Mail, first
3 class postage pre-paid, a true and correct copy of the foregoing **Plaintiff's Initial Disclosures** to the
4 following counsel of record:
5

6 Glaser Weil Fink Jacobs Howard Avchen & Shapiro, LLP
7 Patricia Glaser, Esq.
8 Mark G. Krum, Esq.
9 3763 Howard Hughes Parkway, Suite 300
10 Las Vegas, NV 89169
11 E-Mail: pglasser@glaserweil.com
12 mkrum@glaserweil.com

13 *Attorneys for Defendant Sands China Ltd.*

14 Holland & Hart, LLP
15 J. Stephen Peek, Esq.
16 Justin C. Jones, Esq.
17 3800 Howard Hughes Parkway, 10th Fl.
18 Las Vegas, NV 89169
19 E-Mail: speek@hollandhart.com
20 jcjones@hollandhart.com

21 *Attorneys for Defendant Las Vegas Sands Corp.*

22 Steve Morris, Esq.
23 Morris Peterson
24 300 South Fourth Street, #900
25 Las Vegas, Nevada 89169
26 E-Mail: SM@morrislawgroup.com

27 *Attorneys for Sheldon G. Adelson*

28 s/Lucinda Martinez



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Justin Jones

From: Colby Williams [cww@campbellandwilliams.com]
Sent: Friday, July 08, 2011 4:30 PM
To: Justin Jones; Stephen Ma
Subject: Document Production

Dear Justin/Steve,

As we approach the end of the week, I thought it would be a good idea to update you on the status of our document production. As you know, I have been out of the office all week on vacation but have, nevertheless, been dealing with various work matters including the Jacobs document production.

Steve electronically transferred to our office a significant number of e-mail communications he received during his tenure with Defendants. That file transfer was completed last weekend after I left for vacation. I believe the amount of material constitutes approximately 11 gigs. In addition, Steve has sent us hard copies of various documents that also arrived at our office this week. I have not reviewed those documents and do not yet know the amount of material contained therein.

In anticipation of Bates Stamping and producing these documents to Defendants, I wanted to address a couple of issues.

First, as it relates to the production of communications that Steve may have had with Macau residents, we believe we are authorized to produce those documents to you despite any potential application of the Macau Data Privacy Act. Our basis for that conclusion is that Steve is a U.S. Citizen, he resides in and is located in the U.S. presently, the information is located in the U.S., and the documents are being produced pursuant to the rules governing procedures in a U.S. lawsuit. Given that the Privacy Act permits the "processing" of personal information to effectuate "compliance with a legal obligation to which the controller is subject" *see*, Art. 6, § (2), it appears to us that all parties in the litigation would be authorized to produce documents therein. Nonetheless, since Defendants have raised the issue, we would like to include a provision in the SPO to be submitted to the Court whereby Judge Gonzalez confirms that the Macau Data Privacy Act does not provide a basis for withholding documents in this litigation at least insofar as Steve's production is concerned. With respect to whether the act has any impact on Defendants' production, the parties can debate that issue at a later date if it becomes necessary.

Second, in beginning our review of the e-mails, it appears that Steve was the recipient of a number of e-mails from various attorneys employed by LVSC and SCL during the normal course and scope of his duties with Defendants. While we are certainly entitled to e-mails from attorneys that were sent to Steve during his tenure that are relevant to the claims/defenses in the litigation, we likewise recognize that there may be a number of e-mails from attorneys to Steve that are likely not relevant to this action. Frankly, we have neither the time nor interest to review any attorney authored e-mails that are irrelevant to this action. Thus, after initially reviewing a small portion of the material transferred by Steve in order to determine what it comprises, we have stopped the review process so that we may address this issue with you before discovery begins.

We propose the following: We send the material to our third-party ESI vendor for Bates Stamping. We will then produce all of the documents to you (less any documents for which Steve maintains a privilege, which will be identified in an appropriate log). Defendants will then have a certain amount of time (to be agreed upon by the parties) to advise us as to their position as to the relevance/irrelevance of the attorney-authored communications to Steve and whether any should be withheld and logged by Defendants. In the meantime, we will simply continue the suspension of any review of additional emails between Steve and company lawyers. By engaging in this proposed process, we are, of course, not waiving our right to contest Defendants' positions on relevance and/or the application of any privileges, all of which are expressly reserved.

Please let me know your thoughts about our proposals on these two issues so that we may commence with discovery.
I'll be back in the office on Monday and we can talk then.

Have a good weekend.

Regards,
Colby

J. Colby Williams, Esq.
Campbell & Williams
700 South Seventh Street
Las Vegas, Nevada 89107
Tel. 702.382.5222
Fax. 702.382.0540
email jcw@campbellandwilliams.com

IN THE SUPREME COURT OF THE STATE OF NEVADA

SANDS CHINA LTD.,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,

IN AND FOR THE COUNTY OF

CLARK; AND THE HONORABLE

ELIZABETH GOFF GONZALEZ,

DISTRICT JUDGE,

Respondents,

and

STEVEN C. JACOBS,

Real Party in Interest.

No. 58294

FILED

AUG 26 2011

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER GRANTING PETITION FOR WRIT OF MANDAMUS

This original petition for a writ of mandamus or prohibition challenges a district court order denying petitioner's motion to dismiss for lack of personal jurisdiction.

Petitioner asserts that the district court improperly based its exercise of personal jurisdiction on petitioner's status as a subsidiary of a Nevada corporation with common officers and directors. Real party in interest contends that the district court properly determined that he had established a prima facie basis for personal jurisdiction based on the acts taken in Nevada to manage petitioner's operations in Macau.

The district court's order, however, does not state that it has reviewed the matter on a limited basis to determine whether prima facie grounds for personal jurisdiction exist; it simply denies petitioner's motion to dismiss, with no mention of a later determination after consideration of evidence, whether at a hearing before trial or at trial. While the order refers to the district court's comments at oral argument on the motion, the

transcript reflects only that the district court concluded there were “pervasive contacts” between petitioner and Nevada, without specifying any of those contacts. We have therefore found it impossible to determine the basis for the district court’s order or whether the district court intended its order to be its final decision regarding jurisdiction or if it intended to consider the matter further after the admission of evidence at trial (or an evidentiary hearing before trial).

In MGM Grand, Inc. v. District Court, 107 Nev. 65, 807 P.2d 201 (1991), we held that jurisdiction over a nonresident corporation could not be premised upon that corporation’s status as parent to a Nevada corporation. Similarly, the United States Supreme Court in Goodyear Dunlop Tires Operations, S.A. v. Brown, 131 S. Ct. 2846 (2011), considered whether jurisdiction over foreign subsidiaries of a U.S. parent corporation was proper by looking only to the subsidiaries’ conduct; the Court suggested that including the parent’s contacts with the forum would be, in effect, the same as piercing the corporate veil. Based on the record before us, it is impossible to determine if the district court in fact relied on the Nevada parent corporation’s contacts in this state in exercising jurisdiction over the foreign subsidiary.

Accordingly, having reviewed the petition, answer, reply, and other documents before this court,¹ we conclude that, based on the summary nature of the district court’s order and the holdings of the cases

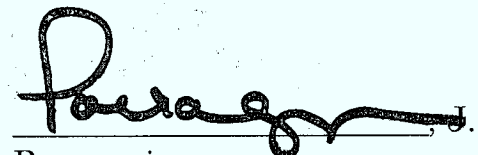
¹Petitioner’s motion for leave to file a reply in support of its stay motion is granted, and we direct the clerk of this court to detach and file the reply attached to the August 10, 2011, motion. We note that NRAP 27(a)(4) was amended in 2009 to permit a reply in support of a motion without specific leave of this court; thus, no such motion was necessary.

cited above, the petition should be granted, in part. We therefore direct the district court to revisit the issue of personal jurisdiction over petitioner by holding an evidentiary hearing and issuing findings regarding general jurisdiction. If the district court determines that general jurisdiction is lacking, it shall consider whether the doctrine of transient jurisdiction, as set forth in Cariaga v. District Court, 104 Nev. 544, 762 P.2d 886 (1988), permits the exercise of personal jurisdiction over a corporate defendant when a corporate officer is served within the state. We further direct that the district court shall stay the underlying action, except for matters relating to a determination of personal jurisdiction, until a decision on that issue has been entered. We therefore

ORDER the petition GRANTED AND DIRECT THE CLERK OF THIS COURT TO ISSUE A WRIT OF MANDAMUS instructing the district court to hold an evidentiary hearing on personal jurisdiction, to issue findings of fact and conclusions of law stating the basis for its decision following that hearing, and to stay the action as set forth in this order until after entry of the district court's personal jurisdiction decision.²


Saitta, J.
Saitta

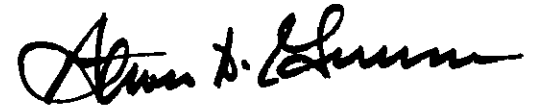

Hardesty, J.
Hardesty


Parraguirre, J.
Parraguirre

²Petitioner's motion for a stay is denied as moot in light of this order.

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Glaser, Weil, Fink, Jacobs, Howard & Shapiro, LLC
Campbell & Williams
Eighth District Court Clerk





CLERK OF THE COURT

ORDR

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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**

Date and Time of Hearings:

September 27, 2011 at 4:00 p.m.

October 13, 2011 at 9:00 a.m.

AND RELATED CLAIMS

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 Peek, Esq., of the law firm Holland & Hart LLP, appeared on behalf of Defendant

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

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;¹

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
28 ¹ This time period was agreed upon and ordered by the Court in the Stipulation and Order
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 Cotai 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:

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
11 EIGHTH JUDICIAL DISTRICT COURT

12 Respectfully submitted by:

13 PISANELLI BICE PLLC

14 By: 

15 James J. Pisanelli, Esq., Bar No. 4027
16 Todd L. Bice, Esq., Bar No. 4534
17 Debra L. Spinelli, Esq., Bar No. 9695
18 Jarrod L. Rickard, Esq., Bar No. 10203
19 3883 Howard Hughes Parkway, Suite 800
20 Las Vegas, Nevada 89169

21 Attorneys for Plaintiff Steven C. Jacobs

22 Approved as to form by:

23 HOLLAND & HART

24 By: 

25 J. Stephen Peek, Esq., Bar No. 1758
26 Brian G. Anderson, Esq., Bar No. 10500
27 9555 Hillwood Drive, Second Floor
28 Las Vegas, NV 89134

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

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STEVEN JACOBS	.	
	.	
Plaintiff	.	CASE NO. A-627691
	.	
vs.	.	
	.	DEPT. NO. XI
LAS VEGAS SANDS CORP., et al..	.	
	.	Transcript of
Defendants	.	Proceedings
.	

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

COURT'S SANCTION HEARING - DAY 3

WEDNESDAY, SEPTEMBER 12, 2012

APPEARANCES:

FOR THE PLAINTIFF:	JAMES J. PISANELLI, ESQ. DEBRA SPINELLI, ESQ. TODD BICE, ESQ.
FOR THE DEFENDANTS:	J. STEPHEN PEEK, ESQ. BRAD D. BRIAN, ESQ. HENRY WEISSMAN, ESQ. JOHN OWENS, ESQ.
FOR HOLLAND & HART	CHARLES McCREA, ESQ. SAMUEL LIONEL, ESQ.
FOR MR. KOSTRINSKY:	JEFFREY A. GAROFALO, ESQ.

COURT RECORDER:	TRANSCRIPTION BY:
JILL HAWKINS	FLORENCE HOYT
District Court	Las Vegas, Nevada 89146

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

APP000042

1 LAS VEGAS, NEVADA, WEDNESDAY, SEPTEMBER 12, 2012, 9:26 A.M.

2 (Court was called to order)

3 MR. PEEK: Your Honor, my apologies for a --

4 THE COURT: Not your problem. I mean, there was a
5 flood yesterday, and I went down and looked at the wall this
6 morning and it was still wet. So it affected the equipment,
7 and I know it affected the people down there. So don't worry
8 about it.

9 MR. PEEK: Thank you.

10 MR. BRIAN: Your Honor, both sides got a message
11 from Mr. Kostrinsky's counsel that he wanted to come back this
12 morning and offer some supplemental or clarifying or
13 correcting testimony. He thought it would be short. I think
14 both of agree that that can -- which should proceed first if
15 that's convenient to the court.

16 THE COURT: Sure. Mr. Kostrinsky, why don't you
17 come on back up.

18 MR. BRIAN: There may be, as you probably
19 anticipate, a privilege issue, but we'll deal with that. But
20 procedurally we all agree.

21 THE COURT: Mr. Garofalo, so nice of you to join us
22 today.

23 MR. GAROFALO: Good morning, Your Honor, Jeff
24 Garofalo for the witness.

25 THE COURT: I had Mr. Lee in the box where you

1 that he used?

2 A I vaguely do recall that, yes.

3 Q So there was one out of four that you currently

4 have?

5 A Yes.

6 Q Okay.

7 A Of the actual systems themselves. May I clarify?

8 Q Sure.

9 A I did recently become aware that another system was

10 located in the May 2011 time period --

11 Q Okay.

12 A -- that was also provided to I believe it was either

13 FTI or Stroz Friedberg to be imaged.

14 Q All right. And so that was in May 2011 an

15 additional -- and this was one of the other original media

16 sources?

17 A I believe it was one of those computers that Mr.

18 Jacobs had access to.

19 Q Okay. So you think that two out of the four of the

20 originals have been found?

21 A Again, that's my understanding from what I can

22 recall at this point.

23 Q All right. Do you know which two were found?

24 A Well, clearly the one I just mentioned, which was

25 apparently a desktop that Mr. Jacobs had used previously. The

1 others I -- the other I don't recall specifically whether that
2 was one of the laptops or desktops. Actually, I believe there
3 is a reference that the desktop computer was not -- was not
4 kept and that that was an item of concern. So clearly it was
5 not that other desktop.

6 Q It was not the desktop that had been located?

7 A Yeah.

8 Q Do you know what happened to the original desktop
9 machine from which the ghost image was created?

10 A Again, I believe that that was being searched for.
11 I can't specifically recollect as to whether or not they
12 managed to find it or not.

13 Q What is the policy of when a computer -- when an
14 employee leaves and the computer is then recycled back into
15 the population? What happens to the -- is the computer first
16 scrubbed before it is recycled?

17 A That is the normal procedure that we would follow.

18 Q So in this particular case if normal procedure was
19 followed and that desktop machine that Mr. Jacobs had used was
20 to be put back into circulation, it would be scrubbed;
21 correct?

22 A That's my understanding, yes.

23 Q And when it would be scrubbed, tell us -- tell Her
24 Honor what happens as a result of that scrubbing.

25 A Essentially all the information on that computer

INDEX

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
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THE COURT'S WITNESSES

Michael Kostrinsky (Video Depo Played, not transcribed)	150		3	4
Justin Jones	9	13		
Manjit Singh	85	94		

* * *

CERTIFICATION

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

AFFIRMATION

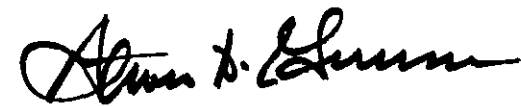
I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**FLORENCE HOYT
Las Vegas, Nevada 89146**

9/13/12

FLORENCE HOYT, TRANSCRIBER

DATE



CLERK OF THE COURT

1 FFCL

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5 STEVEN JACOBS,

6
7 Plaintiff(s),

8 vs

9 LAS VEGAS SANDS CORP, ET AL,

10 Defendants.

)
) **Case No.** 10 A 627691

) **Dept. No.** XI

) **Date of Hearing:** 09/10-12/12
)
)
)
)

11 **DECISION AND ORDER**

12
13 This matter having come on for an evidentiary hearing before the Honorable Elizabeth
14 Gonzalez beginning on September 10, 2012 and continuing day to day, based upon the
15 availability of the Court and Counsel, until its completion on September 12, 2012; Plaintiff
16 Steven Jacobs ("Jacobs") being present in court and appearing by and through his attorney of
17 record, James Pisanelli, Esq., Todd Bice, Esq., and Debra Spinelli, Esq. of the law firm of
18 Pisanelli Bice; Defendant Las Vegas Sands appearing by and through its counsel J. Stephen
19 Peek, Esq. of the law firm of Holland & Hart and counsel for purposes of this proceeding,
20 Samuel Lionel, Esq. and Charles McCrea, Esq., of the law firm of Lionel Sawyer & Collins;
21 Defendant Sands China appearing by and through its counsel J. Stephen Peek, Esq. of the law
22 firm of Holland & Hart, Brad D. Brian, Esq., Henry Weissman, Esq., and John B. Owens, Esq.
23 of the law firm of Munger Tolles & Olson and counsel for purposes of this proceeding, Samuel
24 Lionel, Esq. and Charles McCrea, Esq., of the law firm of Lionel Sawyer & Collins; the Court
25 having read and considered the pleadings filed by the parties and the transcripts of prior
26 hearings; having reviewed the evidence admitted during the trial; and having heard and
27 carefully considered the testimony of the witnesses called to testify; the Court having
28 considered the oral and written arguments of counsel, and with the intent of deciding the
limited issues before the Court related to lack of candor and nondisclosure of information to

1 the Court and appropriate sanctions pursuant to EDCR 7.60. The Court makes the following
2 findings of fact and conclusions of law:

3
4 **I.**
PROCEDURAL POSTURE

5 On August 26, 2011, the Nevada Supreme Court issued a stay of proceedings in this
6 matter pending the conduct of an evidentiary hearing and decision on jurisdictional issues
7 related to Sands China. The Court granted Jacobs request to conduct jurisdictional discovery
8 prior to the evidentiary hearing. The order granting the jurisdictional discovery was ultimately
9 entered on March 8, 2012.

10 **II.**
11 **FINDINGS OF FACT¹**

12 1. Prior to litigation, in approximately August 2010, a ghost image of hard drives
13 of computers used by Steve Jacobs in Macau² and copies of his outlook emails were transferred
14 by way of electronic storage devices (the "transferred data") to Michael Kostrinsky, Esq.,
15 Deputy General Counsel of Las Vegas Sands.³

19 ¹ Counsel for Las Vegas Sands objected on the basis of attorney client privilege to a majority of the
20 questions asked of the counsel who testified during the evidentiary hearing. Almost all of those
21 objections were sustained. While numerous directions not to answer on the basis of attorney client
22 privilege and the attorney work product were made by counsel for Las Vegas Sands, sustained by the
23 Court, and followed by the witnesses, sufficient information was presented through pleadings already in
24 the record and testimony of witnesses without the necessity of the Court drawing inferences related to
25 the assertion of those privileges. See generally, Francis v. Wynn, 127 NAO 60 (2011). The Court also
26 rejects Plaintiff's suggestion that adverse presumptions should be made by the Court as a result of the
27 failure of Las Vegas Sands to present explanatory evidence in its possession and declines to make any
28 presumptions which might arguably be applicable under NRS Chapter 47.

² There is an issue that has been raised regarding the current location of those computers and hard
drives from which the ghost image was made. The Court does not in this Order address any issues
related to those items.

³ According to a status report filed by Las Vegas Sands on July 6, 2012, there were other transfers of
electronically stored data. Based upon testimony elicited during the evidentiary hearing, counsel was
unaware of those transfers prior to the preparation and filing of the status report.

1 2. Kostrinsky requested this information in anticipation of litigation with Jacobs
2 after learning of receipt of a letter by then general counsel for Las Vegas Sands from Don
3 Campbell.

4 3. This transferred data was placed on a server at Las Vegas Sands and was
5 initially reviewed by Kostrinsky.

6 4. The attorneys for Sands China at the Glaser Weil firm were aware of the
7 existence of the transferred data on Kostrinsky's computer from shortly after their retention in
8 November 2010.

9 5. The transferred data was reviewed in Kostrinsky's office by attorneys from
10 Holland & Hart.

11 6. On April 22, 2011, in house counsel for Sands China, Anne Salt, participated in
12 the Rule 16 conference by videoconference and responded to inquiry by the Court related to
13 electronically stored information and confirmed preservation of the data.

14 7. At no time during the Rule 16 conference did Ms. Salt or anyone on behalf of
15 Sands China advise the Court of the potential impact of the Macau Personal Data Privacy Act
16 (MDPA) upon discovery in this litigation.

17 8. Following the Rule 16 conference with the Court, the parties filed a Joint Status
18 Report on April 22, 2011, in which they agreed that the initial disclosure of documents
19 pursuant to NRCP 16.1 would be made by Sands China and Las Vegas Sands prior to July 1,
20 2011. The MDPA is not mentioned in the Joint Status Report as potentially affecting
21 discovery in this litigation.

22 9. Following the Rule 16 conference, no production or other identification of the
23 information from the transferred data was made.

24 10. Beginning with the motion filed May 17, 2011, Sands China and Las Vegas
25 Sands raised the MDPA as a potential impediment (if not a bar) to production of certain
26 documents.
27
28

1 11. At a hearing on June 9, 2012, counsel for Sands China represented to the Court
2 that the documents subject to production were in Macau; were not allowed to leave Macau;
3 and, had to be reviewed by counsel for Sands China in Macau prior to requesting the Office of
4 Personal Data Protection in Macau for permission to release those documents for discovery
5 purposes in the United States.

6 12. At the time of the representation made on June 9, 2012, the transferred data had
7 already been copied; the copy removed from Macau; and reviewed in Las Vegas by
8 representatives of Las Vegas Sands.

9 13. The transferred data was stored on a Las Vegas Sands shared drive totaling 50 –
10 60 gigabytes of information.

11 14. Prior to July 2011, Las Vegas Sands had full and complete access to documents
12 in the possession of Sands China in Macau through a network to network connection.

13 15. Beginning in approximately July 2011, Las Vegas Sands access to Sands China
14 data changed as a result of corporate decision making.

15 16. Prior to the access change, significant amounts of data from Macau related to
16 Jacobs was transported to the United States and reviewed by in house counsel for Las Vegas
17 Sands and outside counsel, and placed on shared drives at Las Vegas Sands.

18 17. At no time did Las Vegas Sands or Sands China disclose the existence of this
19 data to the Court.⁴

20 18. At no time did Las Vegas Sands or Sands China provide a privilege log
21 identifying documents which it contended were protected by the MDPA which was discussed
22 by the Court on June 9, 2011.
23
24
25
26

27 ⁴ While Las Vegas Sands contends that a disclosure was made on June 9, 2011, this is inconsistent with
28 other actions and statements made to the Court including the June 27, 2012 status report, the June 28,
2012 hearing and the July 6, 2012 status report.

19. For the first time on June 27, 2012, in a written status report, Las Vegas Sands and Sands China advised the Court that Las Vegas Sands was in possession of over 100,000 emails and other ESI that had been transferred “in error”.

20. In the June 27, 2012 status report, Las Vegas Sands admits that it did not disclose the existence of the transferred data because it wanted to review the Jacobs ESI.⁵

21. Any finding of fact stated hereinabove that is more appropriately deemed a conclusion of law shall be so deemed.

III. CONCLUSIONS OF LAW

22. The MDPA and its impact upon production of documents related to discovery has been an issue of serious contention between the parties in motion practice before this Court since May 2011.

23. The MDPA has been an issue with regards to documents, which are the subject of the jurisdictional discovery.

24. At no time prior to June 28, 2012, was the Court informed that a significant amount of the ESI in the form of a ghost image relevant to this litigation had actually been taken out of Macau in July or August of 2010 by way of a portable electronic device.

25. EDCR Rule 7.60 provides in pertinent part:

* * *

(b) The court may, after notice and an opportunity to be heard, impose upon an attorney or a party any and all sanctions which may, under the facts of the case, be reasonable, including the imposition of fines, costs or attorney's fees when an attorney or a party without just cause:

* * *

(3) So multiplies the proceedings in a case as to increase costs unreasonably and vexatiously.

⁵ The Court notes that there have also been significant issues with the production of information from Jacobs. On appropriate motion the Court will deal with those issues.

1 26. As a result of the failure to disclose the existence of the transferred data, the
2 Court conducted needless hearings on the following dates which involved (at least in part) the
3 MDPA issues:

4 May 26, 2011

5 June 9, 2011

6 July 19, 2011

7 September 20, 2011⁶

8 October 4, 2011⁷

9 October 13, 2011

10 January 3, 2012

11 March 8, 2012

12 May 24, 2012

13 27. The Court concludes after hearing the testimony of witnesses that the 100,000
14 emails and other ESI were not transferred in error, but was purposefully brought into the
15 United States after a request by Las Vegas Sands for preservation purposes.

16 28. The transferred data is relevant to the evidentiary hearing related to jurisdiction,
17 which the Court intends to conduct.

18 29. The change in corporate policy regarding Las Vegas Sands access to Sands
19 China data made during the course of this ongoing litigation was made with an intent to
20 prevent the disclosure of the transferred data as well as other data.⁸

21 30. The Defendants concealed the existence of the transferred data from this Court.
22
23
24

25 ⁶ This hearing was conducted in a related case, A648484.

26 ⁷ This hearing was conducted in a related case, A648484.

27 ⁸ While the Court recognizes that several other legal proceedings related to certain allegations made by
28 Jacobs were commenced during the course of this litigation including subpoenas from the SEC and DOJ,
this does not excuse the failure to disclose the existence of the transferred data; the failure to identify the
transferred data on a privilege log, or the failure produce of the transferred data in this matter.

1 31. As the transferred data had already been reviewed by counsel, the failure to
2 disclose the existence of this transferred data to the Court caused repeated and unnecessary
3 motion practice before this Court.

4 32. The lack of disclosure appears to the Court to be an attempt by Defendants to
5 stall the discovery, and in particular, the jurisdictional discovery in these proceedings.

6 33. Given the number of occasions the MDPA and the production of ESI by
7 Defendants was discussed there can be no other conclusions than that the conduct was
8 repetitive and abusive.

9 34. The conduct however does not rise to the level of striking pleadings as exhibited
10 in the Foster v. Dingwall, 227 P.3d 1042 (Nev. 2010) or the entry of default as in Goodyear v.
11 Bahena, 235 P.3d 592 (Nev. 2010) cases.⁹

12 35. After evaluating the factors in Ribiero v. Young, 106 Nev. 88 (1990), the Court
13 finds:

14 a. There are varying degrees of willfulness demonstrated by the
15 Defendants and their agents in failing to disclose the transferred data to Plaintiff ranging from
16 careless nondisclosure to knowing, willful and intentional conduct with an intent to prevent the
17 Plaintiff access to information discoverable for the jurisdictional proceedings;¹⁰

18 b. There are varying degrees of willfulness demonstrated by the
19 Defendants and their agents ranging from careless nondisclosure to knowing, willful and
20 intentional conduct in concealing the existence of the transferred data and failing to disclose
21 the transferred data to the Court with an intent to prevent the Court ruling on the
22 discoverability for purposes of the jurisdictional proceedings;
23
24
25

26
27 ⁹ The Court recognizes no factors have been provided to guide in the evaluation of sanctions for conduct
in violation of EDCR 7.60, but utilizes cases interpreting Rule 37 violations as instructive.

28 ¹⁰ As a result of the stay, the court does not address the discoverability of the transferred data and the
effect of the conduct related to the entire case.

1 c. The repeated nature of Defendants and Defendants' agents conduct in
2 making inaccurate representations over a several month period is further evidence of the
3 intention to deceive the Court;

4 d. Based upon the evidence currently before the Court it does not appear
5 that any evidence has been irreparably lost;¹¹

6 e. There is a public policy to prevent further abuses and deter litigants from
7 concealing discoverable information and intentionally deceiving the Court in an attempt to
8 advance its claims; and

9 f. The delay and prejudice to the Plaintiff in preparing his case is
10 significant, however, a sanction less severe than striking claims, defenses or pleadings can be
11 fashioned to ameliorate the prejudice.

12 36. The Court after evaluation of the evidence and testimony, weighing the factors
13 and evaluating alternative sanctions determines that evidentiary and monetary sanctions are an
14 alternative less severe sanction to address the conduct that has occurred in this matter.

15 37. Any conclusion of law stated hereinabove that is more appropriately deemed a
16 finding of fact shall be so deemed.

17 **IV.**

18 **ORDER**

19 Therefore the Court makes the following order:

20 a. For purposes of jurisdictional discovery and the evidentiary hearing related to
21 jurisdiction, Las Vegas Sands and Sands China will be precluded from raising the MDPA as an
22 objection or as a defense to admission, disclosure or production of any documents.¹²
23
24
25

26 ¹¹ There is an issue that has been raised regarding the current location of those computers and hard drives
27 from which the ghost image was made. The Court does not in this Order address any issues related to
those items.

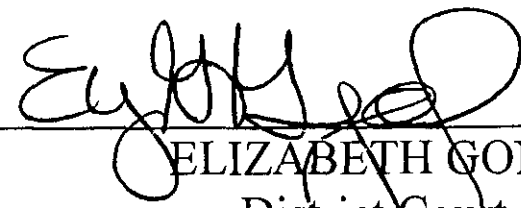
28 ¹² This does not prevent the Defendants from raising any other appropriate objection or privilege.

1 b. For purposes of jurisdictional discovery and the evidentiary hearing related to
2 jurisdiction, Las Vegas Sands and Sands China are precluded from contesting that Jacobs ESI
3 (approx. 40 gigabytes) is not rightfully in his possession.¹³
4

5 c. Defendants will make a contribution of \$25,000 to the Legal Aid Center of
6 Southern Nevada.

7 d. Reasonable attorneys' fees of Plaintiff will be awarded upon filing an
8 appropriate motion for those fees incurred in conjunction with those portions of the hearings
9 related to the MDPA identified in paragraph 26.
10

11 Dated this 14th day of September, 2012

12
13 
14 ELIZABETH GONZALEZ
15 District Court Judge

16 **Certificate of Service**


17 I hereby certify that on or about the date filed, this document was copied through e-
18 mail, or a copy of this Order was placed in the attorney's folder in the Clerk's Office or mailed
19 to the proper person as follows:

20 J. Stephen Peek, Esq. (Holland & Hart)

21 Samuel Lionel, Esq. (Lionel Sawyer & Collins)

22 Brad D. Brian Esq. (Munger Tolles & Olson)

23 James J. Pisanelli, Esq. (Pisanelli Bice)

24
25 
26

27 Dan Kutinac
28

¹³ This does not prevent the Defendants from raising any other appropriate objection or privilege.

COPY

Alma L. Lamm

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

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.

RECEIVED
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CLERK OF THE COURT

APP000057

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 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.
16 * * * * *
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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

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVEN C. JACOBS,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. A-10-627691
)	
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.)	
_____)	
)	
AND RELATED CLAIMS)	
_____)	

VIDEOTAPE AND ORAL DEPOSITION OF MICHAEL LEVEN
LAS VEGAS, NEVADA
TUESDAY, DECEMBER 4, 2012

REPORTED BY: CARRE LEWIS, CCR NO. 497

JOB NO. 169458

APP000062

1 DEPOSITION OF MICHAEL LEVEN,
2 taken at 3883 Howard Hughes Parkway, Suite 800,
3 Las Vegas, Nevada, on Tuesday, December 4, 2012, at
4 9:00 a.m., before Carre Lewis, Certified Court
5 Reporter, in and for the State of Nevada.
6

7 APPEARANCES:

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BY: IRA H. RAPHAELSON, ESQ.

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9 3770 Howard Hughes Parkway, Suite 300

Las Vegas, Nevada 89169

10 (702) 314-7200

11 Also Present:

12 Steven Jacobs

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I N D E X

WITNESS: MICHAEL LEVEN

EXAMINATION

PAGE

By Mr. Bice

8

Michael Leven
Jacobs vs Las Vegas Sands Corporation
Tuesday, December 4, 2012
Carre Lewis, CCR No. 497
E X H I B I T S

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Exhibit 10	E-Mail Re 5 and 6	263

1 Q. Did you carry with you a letter to give to
2 Mr. Jacobs?

3 MR. PEEK: Don't answer that.

4 MR. BICE: Mark this as Exhibit 1, I guess.
5 (Exhibit 1 marked.)

6 BY MR. BICE:

7 Q. I will show you what's been marked as
8 Exhibit 1, Mr. Leven. Have you seen this document
9 before?

10 A. Yes.

11 Q. When is the first time you saw it?

12 A. I don't remember.

13 Q. Did you see it prior to July 23 of 2010?

14 A. Yes.

15 Q. Did you play a role in preparing it?

16 A. I don't remember.

17 Q. Do you know who did?

18 A. I don't.

19 Q. Do you know where it was prepared?

20 A. I don't know. I can make an assumption,
21 but I don't know.

22 Q. What's your belief?

23 A. Las Vegas.

24 Q. Do you know whether or not the legal
25 department in Las Vegas was involved in its

1 **preparation?**

2 A. I don't.

3 **Q. Do you know who all reviewed any earlier**
4 **drafts of it?**

5 A. I don't know.

6 **Q. Did you review an earlier draft of it?**

7 MR. PEEK: Objection. Foundation. Assumes
8 that there was earlier drafts.

9 BY MR. BICE:

10 **Q. Were there earlier drafts that you**
11 **reviewed?**

12 A. No, I don't remember.

13 **Q. Who gave you this letter -- or was it given**
14 **to you?**

15 A. I carried this letter with me for the
16 meeting with Mr. Jacobs.

17 **Q. So you departed Las Vegas with this letter**
18 **in hand?**

19 A. I'm not a hundred percent sure.

20 **Q. Did you have or did -- was there Sands**
21 **China letterhead here in Las Vegas, to your**
22 **knowledge?**

23 A. I don't know.

24 **Q. Does this letter look like the Sands China**
25 **letterhead that you had seen?**

1 A. I don't recall Sands China's letterhead.
2 I'm sure there is some, but I don't recall.

3 **Q. Did this letter fall under the shared**
4 **services agreement, in your view?**

5 A. No.

6 **Q. Why not?**

7 A. This is a letter from the chairman of Sands
8 China LTD terminating the CEO, so it would not be a
9 shared service agreement.

10 **Q. Did human resources in Las Vegas, does that**
11 **fall under the shared services agreement?**

12 A. Yes.

13 **Q. You have already said that the legal**
14 **department does, correct?**

15 A. Yes.

16 **Q. And so would any role that human resources**
17 **or the legal department prepared in the preparation**
18 **of this letter, would that fall within the shared**
19 **services agreement?**

20 MR. PEEK: I'm going to object to the lack
21 of foundation. I mean, he has already answered
22 this. It's just your way of trying to get a
23 different answer because you didn't like the first
24 one.

25 MR. BICE: No, it's actually --

1 MR. PEEK: You asked him whether it was
2 part of the shared services agreement and he says
3 "no."

4 MR. BICE: I'm trying to follow up.

5 MR. PEEK: And now you are trying to say it
6 was.

7 MR. BICE: No, I'm trying to say whether
8 the services that went into the creation of the
9 letter, and your coaching is inappropriate.

10 BY MR. BICE:

11 Q. Were the services -- if services in
12 Las Vegas were used in the preparation of this
13 letter, Mr. Leven, were they -- are those services
14 that fall within the shared services agreement?

15 MR. PEEK: Objection. That's an incomplete
16 hypothetical. Doesn't go to jurisdiction here.

17 MR. BICE: Absolutely does.

18 MR. JONES: And lack of foundation as well.

19 MR. PEEK: It's an incomplete hypothetical,
20 you know. If there were this, then this.

21 MR. BICE: He still has to answer it and
22 you both know it.

23 MR. PEEK: No, he doesn't.

24 MR. BICE: So I would appreciate stopping
25 the witness coaching because you don't like the

1 answer.

2 MR. PEEK: I like the answers, Mr. Bice.

3 BY MR. BICE:

4 Q. Mr. Leven, the services go into this
5 agreement?

6 A. If, in fact, Mr. Adelson used the legal
7 department of -- of LVS to write the letter for him,
8 since the legal department in Sands China was in
9 Macau, and if, in fact, he wanted a letter written
10 in a confidential way so that it wasn't exposed to
11 the legal department in Macau, you could make the
12 argument that it would be a shared service part, but
13 I would doubt very highly whether we would charge
14 for that service as shared service. So you are
15 trying to define what shared services is.

16 Mr. Adelson had every right to use anybody in
17 Las Vegas to help him as the chairman of Macau, of
18 Sands China, to deliver the letter, so whether you
19 define it shared service or not shared service I
20 don't see where it's relevant.

21 Q. You say that Mr. Adelson had the right to
22 use anyone in Las Vegas -- I apologize. Let me make
23 sure I got your answer.

24 "Mr. Adelson had every right to use anybody
25 in Las Vegas to help him as the chairman of Macau,

1 **that.**

2 **Did you let Mr. Jacobs know in advance you**
3 **were coming?**

4 MR. PEEK: Don't answer that.

5 BY MR. BICE:

6 **Q. How long after you arrived did you meet**
7 **with him?**

8 MR. PEEK: Go ahead.

9 THE WITNESS: The plan was to meet with
10 Mr. Jacobs very early in the morning.

11 BY MR. BICE:

12 **Q. You say the "plan." What plan are you**
13 **talking about?**

14 A. Mr. -- Mr. Siegel and I were going to meet
15 with Mr. Jacobs to have the meeting with Mr. Jacobs
16 about his termination.

17 **Q. Is that -- is that a plan that you and**
18 **Mr. Siegel had reached with Mr. Adelson?**

19 A. Yes.

20 **Q. And did you reach that plan in Las Vegas**
21 **prior to your departure?**

22 A. I advised Mr. Adelson of my recommendation
23 as to how to handle it. He added or subtracted by
24 his wish one way or the other. And the plan was to
25 meet with Mr. Jacobs early in the morning and have

1 Steve Jacobs were going to resign on the basis of
2 our meeting, that I would take over as temporary
3 acting CEO, and that I was going to hope to put
4 somebody there to sit there and watch while we were
5 in the process of recruiting a replacement.

6 Q. Is that -- when you departed for Macau, was
7 that your understanding?

8 A. That was my understanding.

9 Q. Had you discussed that issue, you becoming
10 acting CEO, with any of the other board members of
11 SCL?

12 A. I don't remember.

13 Q. Well, did you -- after you and Mr. Adelson
14 had had that discussion -- it sounds like shortly
15 before you departed for Macau; is that fair?

16 A. Uh-huh. Yes. Yes.

17 Q. Shortly before you departed for Macau, did
18 you contact any of the other SCL board members
19 regarding your plan?

20 MR. PEEK: Objection. Vague and ambiguous.
21 There were a number of plans that you have had him
22 discuss with you. I don't know -- when you say
23 "that plan," what do you mean by "that plan"? Maybe
24 the witness knows.

25 THE WITNESS: During the course of time

1 between June 23 and July 23 plans were made as to
2 what would happen as to how we would replace
3 Steve -- excuse me -- Mr. Jacobs --
4 BY MR. BICE:

5 **Q. Understood.**

6 A. -- and what would be -- what would be
7 the -- how we would manage the transition time after
8 he departed.

9 **Q. Who was involved in that planning?**

10 A. I was recommending the plan. I would be
11 talking to Mr. Adelson, the chair, and we would
12 present that plan to the board.

13 **Q. Was that plan presented to the board?**

14 A. I think board members were -- it was
15 discussed with board members. I don't know how many
16 board members, but it was discussed.

17 **Q. Did you discuss it with them?**

18 A. I don't remember.

19 **Q. Was there ever any sort of formal action**
20 **taken, to your knowledge, to implement this plan?**

21 A. I -- I don't remember any formal knowledge.

22 **Q. Was there ever any board meeting regarding**
23 **this plan, to your knowledge?**

24 A. There would be a record of such. I don't
25 remember myself.

1 Q. When you say some of the board members were
2 consulted, were the independent board members
3 consulted?

4 A. Certainly David Turnbull was consulted.

5 Q. Any of the others?

6 A. I don't remember anybody else.

7 Q. During that month-long period, was the
8 legal department in Las Vegas involved in that
9 planning?

10 A. I don't recall that they were.

11 Q. Was the legal department in Macau involved
12 in that planning?

13 A. No.

14 Q. Is it a fair inference that if there was a
15 legal department involved in it, it would have been
16 in Las Vegas?

17 A. If there were a legal department involved
18 and not if there was a legal department involved,
19 right?

20 Q. Yes, sir.

21 A. If there were a legal department
22 involvement it would have been in Las Vegas, not in
23 Macau.

24 Q. Understood.

25 Would it be your belief that if a legal

1 department were involved in that planning, that it
2 would have been under the terms of the shared
3 services agreement?

4 A. It might have been under the shared service
5 agreement, and in fact that would be a shared
6 service. Whether or not it was charged for or not,
7 I wouldn't know.

8 Q. Understood.

9 Was a press release prepared at some point
10 regarding the termination?

11 A. Yes.

12 Q. And were you involved in its preparation?

13 A. Yes.

14 Q. Where was it prepared at?

15 A. In Las Vegas.

16 Q. Was it prepared prior to your departure?

17 A. You know, I don't remember. I don't
18 remember. In fact -- let me take it back. I'm
19 pretty sure it was done in Las Vegas but I don't
20 remember exactly when. As part of the plan, it
21 would be likely that we had a press release prepared
22 for that day.

23 Q. And who would have been involved in the
24 preparation of such a press release?

25 A. Legal department and the public relations

1 department.

2 Q. And those would be both here in Las Vegas,
3 correct?

4 A. Under this circumstance, they would be.
5 They wouldn't be if it was a termination of a
6 lower-level employee in Macau.

7 Q. Who in 2010 would have been heading up the
8 public relations department that would be involved
9 in such a press release?

10 A. Ron Reese, VP communications.

11 Q. Do you recall meeting with Mr. Reese about
12 this subject matter?

13 A. I don't remember.

14 Q. Do you recall meeting with anyone in -- not
15 about substance. I'm just asking do you recall
16 meeting with anyone in the legal department about
17 this subject matter?

18 A. Yes.

19 Q. Who was it that you would have met with?

20 A. I would have met with the general counsel.

21 Q. Would that at that time have been Gayle?

22 A. Gayle.

23 Q. Did you meet with anyone affiliated with
24 the Las Vegas Sands compliance committee?

25 A. No.

1 Q. Did you meet with Rob Rubenstein regarding
2 this subject matter?

3 A. I don't recall meeting with Rob Rubenstein.

4 Q. What was going to be the terms of -- well,
5 strike that.

6 What were the terms of your becoming CEO of
7 SCL?

8 A. When you say "terms," you are talking about
9 remuneration, you are talking about time? What are
10 you talking about?

11 Q. You know what, that's a fair request for
12 clarification, so let's break it down.

13 You were going to become -- what was your
14 title going to be?

15 A. I was the acting CEO in the transition.

16 Q. All right. Did you have any expectation
17 for how long that was going to last?

18 A. As short as possible.

19 Q. That was your desire anyway?

20 A. That was my expectation.

21 Q. What was the financial arrangement going to
22 be in terms of either to you personally or to
23 Las Vegas Sands for your services?

24 A. There was no financial arrangement.

25 Q. You were doing it without compensation?

1 A. Uh-huh.

2 Q. Okay. What was the purpose of this
3 meeting, do you recall?

4 A. It looks to me like this really is a major
5 design meeting for 5 and 6, for the restart of 5 and
6 6 or to plan to restart 5 and 6.

7 Q. Do you recall how many days this meeting
8 lasted?

9 A. I don't.

10 Q. Do you recall, were there others in
11 attendance other than the people listed on the
12 e-mail?

13 A. I don't. It's too long.

14 MR. BICE: I said we were going to stop so
15 you can go because I know you are eager to leave, so
16 we will suspend at this point and we will argue
17 later about whether you will be back.

18 So, thank you for your time, Mr. Leven.

19 MR. PEEK: Thank you, Mr. Bice.

20 THE VIDEOGRAPHER: Off the record at 4:52.

21 (Deposition concluded at 4:52 p.m.)

22 -oOo-

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24

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1 CERTIFICATE OF DEPONENT

2 PAGE LINE CHANGE REASON

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17 I, Michael Leven, deponent herein, do hereby
18 certify and declare the within and foregoing
19 transcription to be my deposition in said action;
20 under penalty of perjury; that I have read,
21 corrected and do hereby affix my signature to said
22 deposition.

23 Michael Leven, Deponent

24 Date

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
)SS:
3 COUNTY OF CLARK)

4 I, Carre Lewis, a duly commissioned and licensed
5 Court Reporter, Clark County, State of Nevada, do
6 hereby certify: That I reported the taking of the
7 deposition of the witness, Michael Leven, commencing
8 on Tuesday, December 4, 2012, at 9:00 a.m.

9 That prior to being examined, the witness was,
10 by me, duly sworn to testify to the truth. That I
11 thereafter transcribed my said shorthand notes into
12 typewriting and that the typewritten transcript of
13 said deposition is a complete, true and accurate
14 transcription of said shorthand notes.

15 I further certify that I am not a relative or
16 employee of an attorney or counsel of any of the
17 parties, nor a relative or employee of an attorney
18 or counsel involved in said action, nor a person
19 financially interested in the action.

20 IN WITNESS HEREOF, I have hereunto set my hand,
21 in my office, in the County of Clark, State of
22 Nevada, this 12th day of December 2012.

23 *Carre Lewis*
24

25 CARRE LEWIS, CCR NO. 497

Alvin D. Quinn

CLERK OF THE COURT

TRAN

COPY

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 MOTIONS FOR PROTECTIVE ORDER AND SANCTIONS

TUESDAY, DECEMBER 18, 2012

APPEARANCES:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.
DEBRA SPINELLI, ESQ.
TODD BICE, ESQ.

FOR THE DEFENDANTS:

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

CLERK OF THE COURT

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APP000002

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 18, 2012, 8:06 A.M.

2 (Court was called to order)

3 THE COURT: Good morning. Which motion do you guys
4 want to handle first, the protective orders?

5 MR. MARK JONES: Your Honor, I have a housekeeping
6 issue, if I may, first.

7 THE COURT: Sure.

8 MR. MARK JONES: Spoke with Mr. Bice. Thank you.

9 Yesterday was the last day for the other side to
10 oppose Mr. Lackey's pro hac admission for his -- excuse me,
11 pro hac application for his admission into this case, and
12 there's no opposition. So Mr. Bice had asked if the Court -
13 if I may --

14 THE COURT: Any objection?

15 MR. BICE: No.

16 THE COURT: All right. Then you can approach. I'll
17 be happy to sign, Mr. Jones. Here you go.

18 All right. Now which motion do you guys want to
19 argue first?

20 MR. RANDALL JONES: Your Honor, in a sense I guess
21 they're sort of mixed together, but perhaps our --

22 THE COURT: Well, the protective order on the
23 videotape deposition is different than the sanctions and the
24 other protective order motion.

25 MR. RANDALL JONES: And I guess what I was thinking

1 better job than their predecessor, then guess what happens, we
2 have a new set of lawyers coming in.

3 I'm overlapping a little bit on the basis of the
4 motion.

5 THE COURT: I don't want to do the sanctions
6 motions, yet.

7 MR. PISANELLI: So I won't do that.

8 THE COURT: Thank you.

9 MR. PISANELLI: The point is very simply you never
10 told them not to produce it, and they didn't do it.

11 THE COURT: Thank you.

12 The motion for protective order is denied. I am
13 going to enter an order today that within two weeks of today,
14 which for ease of calculation because of the holiday we will
15 consider to be January 4th, Sands China will produce all
16 information within their possession that is relevant to the
17 jurisdictional discovery. That includes electronically stored
18 information. Within two weeks.

19 So I can go the motion for sanctions. The motion
20 for sanctions appears to be premature since I've not
21 previously entered an order requiring that certain information
22 that is electronically stored information in Macau be
23 provided. About two weeks from now you might want to renew
24 your motion if you don't get it.

25 Can I go to the motion for the protective order on

1 on counsel.

2 All right. Goodbye.

3 MR. RANDALL JONES: Your Honor, just to clarify
4 that, with respect to a case-by-case basis. So if something
5 comes up at a deposition --

6 THE COURT: Here's the deal, Mr. Jones. I will tell
7 you that Kathy England I both in separate cases had occasions
8 where a specific attorney came across the table and threatened
9 us. From that point forward that person was on the camera, as
10 well, not just the deponent. And that was approved -- my
11 recollection, mine was approved by Discovery Commissioner
12 Biggar, Kathy's was approved by a magistrate. But that was
13 where the attorney was doing something other than, you know, a
14 facial expression or smirking. You know, you guys do that in
15 court all the time. What am I supposed to do? 'Bye.

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

17 THE PROCEEDINGS CONCLUDED AT 8:55 A.M.

18 * * * * *

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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

12/30/12

DATE

DISTRICT COURT
CLARK COUNTY, NEVADA

STEVEN C. JACOBS,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. A-10-627691
)	
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.)	
_____)	
)	
AND RELATED CLAIMS)	
_____)	

VIDEOTAPE AND ORAL DEPOSITION OF MICHAEL LEVEN

VOLUME II

PAGES 268-456

LAS VEGAS, NEVADA

FRIDAY, FEBRUARY 1, 2013

REPORTED BY: CARRE LEWIS, CCR NO. 497

JOB NO. 173048

APP000087

1 DEPOSITION OF MICHAEL LEVEN,
2 taken at 3883 Howard Hughes Parkway, Suite 800,
3 Las Vegas, Nevada, on Friday, February 1, 2013, at
4 11:24 a.m., before Carre Lewis, Certified Court
5 Reporter, in and for the State of Nevada.

6
7 APPEARANCES:

8 For the Plaintiff:

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18 For Las Vegas Sands and Sands China Limited:

19 HOLLAND & HART LLP
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1 APPEARANCES (continued):

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BY: IRA H. RAPHAELSON, ESQ.

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7 The Videographer:

8 Litigation Services

By: Benjamin Russell

9 3770 Howard Hughes Parkway, Suite 300

Las Vegas, Nevada 89169

10 (702) 314-7200

11 Also Present:

12 Steven Jacobs

I N D E X

WITNESS: MICHAEL LEVEN

EXAMINATION

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By Mr. Bice

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Michael Leven
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Carre Lewis, CCR No. 497
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Michael Leven
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Michael Leven		
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1 (Exhibit 41 marked.)

2 BY MR. BICE:

3 Q. Showing you what's been marked as
4 Exhibit 41.

5 Have you reviewed this, Exhibit 41, 03:16:57
6 Mr. Leven?

7 A. Uh-huh.

8 Q. Do you have any reason to believe that you
9 did not receive this?

10 A. No. 03:17:02

11 Q. And Ron Reese is based here in Las Vegas,
12 correct?

13 A. Correct.

14 Q. Okay. And is it true that the plan for
15 terminating Mr. Jacobs was being carried out here in 03:17:14
16 Las Vegas?

17 A. No. The plan -- the -- the arrangements
18 for carrying out the termination of Steve Jacobs was
19 developed here and executed there.

20 Q. Where -- 03:17:29

21 (Discussion held off the record.)

22 BY MR. BICE:

23 Q. The -- you say that the plan was -- let me
24 get your words right.

25 The arrangements for carrying out the 03:17:49

1 **termination was developed here and executed there?**

2 A. That's correct.

3 **Q. Okay. Where was the press release sent out**
4 **from?**

5 A. I can't tell you that. 03:17:59

6 **Q. Okay. Where was it generated?**

7 A. Ron Reese is the VP of communications here.
8 The -- generally, I would say it would -- it says
9 here, "Here's a draft," so I don't know where the
10 thing went out from. It could have gone out from 03:18:18
11 Hong Kong or Macau or from here.

12 **Q. Okay. Where was it prepared?**

13 A. I'm sure it was prepared here.

14 **Q. Were there any documents surrounding**
15 **Mr. Jacobs's termination that were actually prepared** 03:18:30
16 **in Macau, to your knowledge?**

17 A. I don't know how many documents were
18 prepared in either place. I have no idea.

19 **Q. Weren't the documents for his removal as an**
20 **officer prepared in Las Vegas?** 03:18:46

21 A. I don't -- frankly, I don't think so. I
22 think there were documents prepared in Macau that we
23 had to sign and do there, but I'm not a hundred
24 percent certain.

25 **Q. Did any of the board members for Sands** 03:19:07

1 China give any input, to your knowledge, on the
2 termination statement?

3 MR. PEEK: Don't answer that.

4 Getting into, again, the merits, Mr. Bice.

5 MR. BICE: No. I'm getting into who's 03:19:24
6 making the decisions, so we'll take that up.

7 MR. PEEK: Go ahead and answer that
8 question that I'd given the instruction. I'll
9 withdraw my objection.

10 THE WITNESS: Am I supposed to answer now? 03:19:47

11 MR. PEEK: Go ahead and answer the
12 question again.

13 THE WITNESS: Ask it again.

14 MR. BICE: Sure.

15 BY MR. BICE: 03:19:51

16 Q. The question was did any of the Sands China
17 board members give any input on the termination
18 statement.

19 A. I don't believe so.

20 (Exhibit 42 marked.) 03:20:08

21 BY MR. BICE:

22 Q. I show you now what's been marked as
23 Exhibit 42.

24 A. Uh-huh.

25 Q. You did provide comments though, it looks 03:20:29

1 BY MR. BICE:

2 Q. Exhibit 51, Mr. Leven, did you have any
3 role in its preparation?

4 A. Well, I didn't write it, but I was asked
5 for a variety of reasons to summarize some of the 04:00:36
6 reasons of why this event occurred.

7 Q. Okay. And who were you asked by?

8 A. By the chairman and by the legal
9 department.

10 Q. And "the legal department" being which 04:00:48
11 legal department?

12 A. At that point, it was Gayle Hyman. The
13 legal department in Macau was not qualified.

14 Q. Okay.

15 A. So we did it with -- we did it with -- with 04:00:58
16 her.

17 MR. PEEK: You asked him all of these same
18 questions: Do you know where it was drafted?

19 No.

20 Did you know -- did you have any 04:01:09
21 involvement in drafting it?

22 You asked him all of these questions
23 already, previously.

24 MR. BICE: And obviously he has developed
25 some different recollection of it today, hasn't he, 04:01:15

1 since he now apparently does know where it was
2 generated and why it was generated and who was
3 involved.

4 MR. PEEK: He asked for a variety of
5 reasons to summarize it.

04:01:29

6 MR. BICE: All right. By the legal
7 department here in Las Vegas.

8 MR. PEEK: Well, you asked if he any
9 involvement in drafting it. He said he didn't draft
10 it.

04:01:38

11 MR. BICE: Okay.

12 MR. PEEK: Go ahead.

13 MR. BICE: Is that your objection?

14 THE WITNESS: Go ahead, what?

15 BY MR. BICE:

04:01:46

16 Q. Did you review it with any -- when you were
17 involved in giving input on this, in what capacity
18 were you acting, as the --

19 A. Well, at this point, I'm the acting CEO of
20 Sands China, am I not?

04:02:03

21 Q. Okay. And did you give the input into the
22 drafting of this -- you gave that to personnel in
23 Las Vegas, correct, as the acting CEO?

24 A. The letter comes from the managing director
25 in Macau. This was in compliance with Macau law, I

04:02:14

1 believe, that we had to do this kind of stuff.

2 This may have come from -- on the advice of
3 our attorneys in Macau as well as our attorneys in
4 Las Vegas.

5 Q. But my question to you, Mr. Leven, was in 04:02:25
6 your providing input into the substance of the
7 letter, you provided that input to the lawyers in
8 Las Vegas, correct, in your capacity as acting CEO
9 of Sands China?

10 A. I believe I gave input on some of these 04:02:43
11 elements way before August 5th and way before this
12 letter.

13 Q. Okay. How about after or once the letter
14 was starting to be generated?

15 A. I'm sure I -- I'm positive that I looked at 04:02:54
16 the letter before it went out.

17 Q. Okay. And are you also positive that you
18 provided input into the specifics that are
19 identified in the letter?

20 A. Some of them. Not all of them. 04:03:05

21 Q. And you would have provided that
22 information in your capacity as acting CEO of Sands
23 China, correct?

24 A. I may have provided some of this input
25 prior to being the acting CEO for Sands China. 04:03:17

1 Q. All right. Any information you provided
2 after becoming acting CEO of Sands China, you would
3 have provided in that capacity; is that correct?

4 A. I would think so.

5 Q. When was the earliest date you can recall 04:03:33
6 providing any information -- any of these reasons to
7 the legal department in Las Vegas?

8 A. Probably sometime between the last week of
9 June and the time this letter had come out, there
10 were discussions. 04:03:55

11 Q. Okay. How about prior to -- had you
12 provided any of these reasons to the legal
13 department in Las Vegas prior to your meeting with
14 Mr. Jacobs in Macau, where you asked for his
15 resignation? 04:04:09

16 A. Yes.

17 Q. Do you believe you had provided all of
18 them --

19 A. No.

20 Q. -- prior to that date? 04:04:13

21 A. No.

22 Q. Can you tell me, in looking at Exhibit 51,
23 which ones do you believe you provided to the legal
24 department in Las Vegas prior to --

25 A. I could not remember which ones I talked 04:04:25

1 MR. JONES: Thank you.

2 THE VIDEOGRAPHER: Going off the record at
3 5:14 p.m.

4 (Deposition concluded at 5:14 p.m.)

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1 CERTIFICATE OF DEPONENT

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17 I, Michael Leven, deponent herein, do hereby
18 certify and declare the within and foregoing
19 transcription to be my deposition in said action;
20 under penalty of perjury; that I have read,
21 corrected and do hereby affix my signature to said
22 deposition.

23 Michael Leven, Deponent

24 Date

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
3) SS:
COUNTY OF CLARK)

4 I, Carre Lewis, a duly commissioned and licensed
5 Court Reporter, Clark County, State of Nevada, do
6 hereby certify: That I reported the taking of the
7 deposition of the witness, Michael Leven, commencing
8 on Friday, February 1, 2013, at 11:24 a.m.

9 That prior to being examined, the witness was,
10 by me, duly sworn to testify to the truth. That I
11 thereafter transcribed my said shorthand notes into
12 typewriting and that the typewritten transcript of
13 said deposition is a complete, true and accurate
14 transcription of said shorthand notes.

15 I further certify that I am not a relative or
16 employee of an attorney or counsel of any of the
17 parties, nor a relative or employee of an attorney
18 or counsel involved in said action, nor a person
19 financially interested in the action.

20 IN WITNESS HEREOF, I have hereunto set my hand,
21 in my office, in the County of Clark, State of
22 Nevada, this 10th day of February 2013.

23
24
25 _____
CARRE LEWIS, CCR NO. 497

ORIGINAL

Ann D. 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 PLAINTIFF'S MOTION FOR PROTECTIVE ORDER

FRIDAY, FEBRUARY 8, 2012

APPEARANCES:

FOR THE PLAINTIFF:

JAMES J. PISANELLI, ESQ.
TODD BICE, ESQ.

FOR THE DEFENDANTS:

J. STEPHEN PEEK, ESQ.
MARK JONES, ESQ.
MICHAEL LACKEY, 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
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CLERK OF THE COURT

APP000105

1 LAS VEGAS, NEVADA, FRIDAY, FEBRUARY 8, 2013, 8:36 A.M.

2 (Court was called to order)

3 THE COURT: Since I have Mr. Peek on the phone, is
4 he going to be arguing?

5 MR. JONES: Yes, Your Honor.

6 THE COURT: All right. I need everybody to come up
7 here, because Mr. Peek's on the phone. Please identify
8 yourselves as you're walking up here. Bring whatever you want
9 to bring. Feel free to stand close. I'm not as sick as I was
10 so --

11 Mr. Pisanelli, nice to see back among the living.

12 MR. PISANELLI: Thank you, Your Honor. It's good to
13 be back.

14 THE COURT: Good press coverage yesterday. Who was
15 your mediator?

16 MR. PISANELLI: Just Stan Hall and I for weeks
17 working on it.

18 THE COURT: Wow. That's an amazing accomplishment.
19 Congratulations.

20 MR. PISANELLI: Thank you very much. appreciate it.

21 THE COURT: Mr. Peek, good morning.

22 MR. PEEK: Good morning, Your Honor. I hope you're
23 feeling better.

24 THE COURT: I am. Can everybody please identify
25 themselves starting with Mr. Jones.

1 MR. PEEK: No, Your Honor. But I am going to -- I
2 will comment after Mr. Jones argues about the Jacobs
3 collection that Mr. Bice discussed with you, because he keeps
4 on forgetting the facts.

5 THE COURT: Then I'm going to Mr. Jones now. All
6 right.

7 MR. JONES: Your Honor, in essence we have
8 documents, and we don't have his memory. We would like to
9 take his deposition.

10 THE COURT: He gets his documents. I said he gets
11 his documents. He needs his documents. I'm not letting you
12 take his depo until he has his documents. But clearly you get
13 to take his deposition to test the jurisdictional issues. But
14 really, I had an evidentiary hearing about these document
15 issues and I'm a little frustrated with where we are on them.
16 Not saying all the documents, but --

17 MR. PEEK: Your Honor, may I comment because I'm the
18 one who knows more about those documents than Mr. Jones does?

19 THE COURT: Yes, because Mr. Jones, lucky for him,
20 wasn't here for that evidentiary hearing.

21 MR. PEEK: That's correct, Your Honor.

22 THE COURT: That was when Sam Lionel and Charlie
23 McCrea were here.

24 MR. PEEK: That is correct. And what Mr. Bice
25 doesn't tell you, that of the 50 gigabytes of documents that

1 MR. BICE: -- I thought that was an invitation to
2 just keep going, Your Honor.
3 THE COURT: Three times I interrupted you.
4 Anything else?
5 MR. BICE: Thank you, Your Honor.
6 THE COURT: Sorry you can't do the deposition now,
7 but we'll get it scheduled soon.
8 MR. JONES: Thank you.
9 MR. PEEK: Your Honor, thank you for the time. And
10 I'd love to stay and listen to Mr. Ferrario, but I have much
11 better things to do.
12 THE PROCEEDINGS CONCLUDED AT 9:01 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.

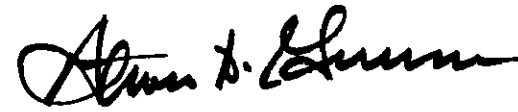
**FLORENCE HOYT
Las Vegas, Nevada 89146**

Florence M. Hoyt

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DISTRICT COURT

CLARK COUNTY, NEVADA

STEVEN C. JACOBS,

Plaintiff,

v.

LAS VEGAS SANDS CORP., a Nevada
corporation; SANDS CHINA LTD., a Cayman
Islands corporation; SHELDON G. ADELSON,

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

Date: February 28, 2013
Time: 10:00 a.m.

Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

1 in his individual and representative capacity;
2 DOES I-X; and ROE CORPORATIONS I-X,

3 Defendants.

4 AND ALL RELATED MATTERS.

5
6 **DEFENDANTS' OPPOSITION TO PLAINTIFF'S RENEWED MOTION**
7 **FOR NRCP 37 SANCTIONS**

8 Defendants Las Vegas Sands Corp. ("LVSC") and Sands China Ltd. ("SCL") submit the
9 following opposition to Plaintiff's Renewed Motion for Sanctions filed on February 7, 2013.

10 **I.**

11 **INTRODUCTION**

12 Plaintiff's Renewed Motion for Sanctions should be denied because neither LVSC nor
13 SCL has violated any court order — let alone done so willfully. In fact, as described in greater
14 detail below, out of an abundance of caution, Defendants have gone far beyond what was
15 necessary to respond to the limited jurisdictional discovery the Court allowed, in the process
16 spending more than \$4 million to produce close to 200,000 pages of documents.

17 Plaintiff argues that SCL violated this Court's order by searching the electronically stored
18 information ("ESI") of "only" eight custodians in addition to Jacobs. But the Court never ordered
19 SCL to search the files of any *specific* custodians other than Jacobs or any particular *number* of
20 custodians, and Plaintiff refused even to discuss a reasonable list of custodians. Accordingly, it
21 was up to SCL to select those custodians who were reasonably likely to have documents
22 responsive to the document requests the Court allowed Plaintiff to propound. That is precisely
23 what SCL did. If Plaintiff disagreed with SCL's approach, he should have followed the meet-
24 and-confer process and then filed a motion to compel if the parties could not agree. Indeed, that
25 is what the Court specifically told Plaintiff to do during the December 18 hearing. *See* 12/18/12
26 H'ring Tr. (Ex. A to Pl. Ex. 4) at 28:7-9 ("if they produce information you think is insufficient [by
27 January 4] you will then have a meet and confer"). Under no circumstances can SCL's choice of
28 custodians provide a basis for the imposition of sanctions because SCL acted reasonably and in

1 good faith to discharge its discovery obligations.

2 Plaintiff also contends that SCL violated this Court's orders by redacting some of the
3 documents it produced to eliminate personal data. Before the Court issued its ruling on December
4 18, SCL told the Court that it planned to redact personal information from documents in
5 accordance with the requirements imposed by Macau's Office for Personal Data Protection (the
6 "OPDP"). The Court said that it had not prohibited SCL from making redactions. *See infra* at 8.
7 Thus, SCL acted in good faith, in the reasonable belief that it was complying with the Court's
8 ruling. Furthermore, Defendants' good faith is confirmed by the fact that LVSC searched for and
9 located duplicates of over 2100 redacted documents in the U.S., which it produced in unredacted
10 form. In addition, SCL provided Plaintiff with a redaction log, which enables Plaintiff to identify
11 which entities employed the individuals whose identities were redacted. That is all Plaintiff needs
12 for jurisdictional purposes, in order to support his claim that LVSC was acting as SCL's agent or
13 his (conflicting) claim that LVSC dominated and controlled SCL or to determine what contacts
14 SCL had with non-LVSC entities located in Nevada.

15 Finally, contrary to Plaintiff's accusations, there is no conspiracy to "hide" documents
16 from him. On the contrary, Defendants have produced *more* documents than Plaintiff could
17 possibly need to make whatever jurisdictional arguments he intends to make. Significantly,
18 Plaintiff does not even discuss the specific categories of documents the Court allowed him to
19 seek, nor does he explain what information he believes is missing or why he needs more than the
20 tens of thousands of pages of documents he already has in order to make his jurisdictional case.
21 Rather than addressing these key issues, Plaintiff once again resorts to over-the-top rhetoric,
22 hurling accusations of misconduct at Defendants that have no basis in reality.¹

23 Plaintiff's behavior makes clear that he is not actually looking for documents to support
24 his jurisdictional theories (which are confused and without merit in any event), but rather is

25 ¹ For example, Plaintiff goes so far as to question whether SCL actually searched for documents in Macau. *See* Pl.
26 Mot'n at 8 n.2 ("For all Jacobs knows, the documents produced could have come from LVSC's previous
27 production"). Then he suggests that Defendants' e-discovery consultant, FTI, may have transferred unredacted
28 documents out of Macau notwithstanding Defendants' representations to the contrary, *see id.* at 13-14 — a statement
that is also completely untrue. *See infra* at 13.

1 playing the “discovery tort” game, hoping to win through sanctions rather than on the merits. The
2 Court should not allow plaintiff to play that game any longer.

3 **II.**

4 **FACTUAL BACKGROUND**

5 **A. The Court’s Order on Jurisdictional Discovery.**

6 When Jacobs moved for jurisdictional discovery in September 2011, his counsel stated
7 that he had “*tried to narrowly confine what it is that we want to do*,” so that discovery could be
8 completed before the evidentiary hearing scheduled for November 21, 2011. 9/27/11 H’rng Tr.,
9 Ex. A hereto, at 20:16-17 (emphasis added). One stated purpose of the discovery was to
10 determine whether SCL’s “primary officers are directing the management and control of that
11 company from the offices [of LVSC] here on Las Vegas Boulevard.” *Id.* at 21:8-10. Based on
12 that theory, the Court allowed Plaintiff to seek documents to determine where SCL Board
13 meetings were held and where directors were located if they attended by phone (Request #6), and
14 when and how often the deponents and other LVSC employees traveled to China on SCL-related
15 business (Request #7).² Plaintiff also sought documents related to Mr. Leven’s service as acting
16 CEO of SCL and/or Executive Director of the SCL Board (Request #9).

17 Plaintiff’s counsel argued that he also needed discovery to “see what Sands China is doing
18 in Nevada.” Ex. A at 24:14. He said that he was trying to determine what SCL did “on its own”
19 in Nevada, whether through its own officers, directors or employees, or through LVSC,
20 supposedly acting as SCL’s agent. *Id.* at 26:17-20. Based on these theories, the Court allowed
21 Plaintiff to ask for contracts that SCL had entered into with entities based in or doing business in
22 Nevada, including shared services and other agreements between SCL and LVSC, as well as
23 documents reflecting work performed by or on behalf of SCL in Nevada. *See* Requests # 10, 11,
24 13, and 16. Plaintiff was also allowed to seek documents reflecting services performed by LVSC
25 or its executives on behalf of SCL, as well as documents reflecting amounts (if any) that SCL
26 paid to LVSC executives to reimburse them for work performed for SCL. *See* Requests # 12, 15,

27
28 ² References are to the numbered paragraphs in the Court’s March 8 Order (Pl. Ex. 2), in which the Court granted Plaintiff’s request to take discovery with respect to eleven categories of documents.

1 and 18. As an “overriding limitation” on the scope of the Order, the Court directed the parties to
2 conduct only “discovery related to activities that were done for or on behalf of Sands China.”
3 March 8 Order at 6.³

4 Notably absent from Plaintiff’s requests for documents were *any* requests relating to his
5 option agreement with SCL or his termination as SCL’s CEO. That is true despite the fact that
6 Jacobs’ termination has become the focal point in the depositions his counsel have taken —
7 ostensibly to support a specific jurisdiction theory. The *document* discovery that Plaintiff
8 requested and the Court allowed, however, remains limited to Plaintiff’s general jurisdiction
9 theories.

10 **B. Defendants’ Document Production Prior To December 18, 2012.**

11 At the end of December 2011, Plaintiff propounded Requests for Production of
12 Documents to SCL and LVSC that were based on (but more extensive than) the categories of
13 documents the Court had allowed Plaintiff to pursue.⁴ SCL and LVSC served timely objections
14 and responses to the RFPs on January 23 and 30, 2012 respectively. *See* Ex. C hereto.

15 Defendants began producing documents after a negotiated protective order was entered in
16 late March 2012.⁵ SCL produced documents related to the location and attendees at Board
17 meetings (#6 of the March 8 Order), to Mr. Leven’s appointments by the SCL Board (#9), as well
18 as contracts that SCL had entered into directly with entities that are located or do business in
19 Nevada (#11), contracts between SCL and LVSC (#13), and documents relating to services

20
21 ³ Although the Court’s Order was not entered until March 8, 2012, it provided this clarification in a hearing held on
22 October 13, 2011. *See* 10/13/11 H’ring Tr. (Ex. B hereto) at 62:24-63:2.

23 ⁴ The Court told Plaintiff in October 2011 that its order was not self-executing and that “[y]ou’re going to have to do
24 formal discovery requests. . . let’s not assume that just because I said you can do these things . . . that that means
25 that [Defendants] have to immediately respond. They don’t.” *See* 10/13/11 H’ring Tr. at 65:15-20. Nevertheless,
26 Plaintiff waited more than two months before serving his document requests.

27 ⁵ In early March 2012, SCL offered detailed factual stipulations as an alternative to the lengthy and expensive
28 discovery process that appeared to be in the offing. *See* Ex. D hereto. Three weeks later, Plaintiff declined SCL’s
offer, 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. E hereto.

1 performed by LVSC executives on behalf of SCL (#15). SCL also produced accounting records
2 reflecting all transactions between LVSC and SCL pursuant to the shared services agreement
3 during the relevant time period.

4 LVSC produced a much larger number of documents. Indeed, by December 1, 2012,
5 LVSC had produced 167,000 pages of documents, at a cost of more than \$2.3 million. Those
6 documents were drawn from a variety of sources, including (i) ESI for which Plaintiff's four
7 deponents (Messrs. Adelson, Leven, Goldstein and Kay) were custodians, (ii) emails between
8 Jacobs and a long list of LVSC custodians, and (iii) the Jacobs ESI that LVSC attorney Michael
9 Kostrinsky had brought back with him from Macau in August 2010. Plaintiff filed only one
10 motion to compel with respect to the LVSC production, seeking additional travel documents
11 (category #7 in the Court's March 8 Order). The Court granted that motion in part on December
12 6, 2012 and the documents were produced on or about January 3, 2013.

13 **C. SCL's Review And Production Of Documents In Macau.**

14 After Defendants disclosed in public filings that Mr. Kostrinsky had transferred Jacobs'
15 ESI to the United States in August 2010, the OPDP initiated an investigation of SCL's operating
16 subsidiary, Venetian Macau Ltd. ("VML"), to determine whether it had violated the Macau
17 Personal Data Protection Act (the "MPDPA"). On August 2, 2012, two days after the
18 investigation was announced, Macau's Secretary for Economy and Finance commented that
19 "[t]here are clear regulations (about personal data protection)," and that "[i]f any regulatory
20 breach is found or there is a suspicion that laws are being violated (the government) must take
21 action . . . it will not be tolerated." *See* Ex. F hereto. Less than a week later, on August 8, 2012,
22 SCL received the OPDP's long-awaited response to its request to transfer data to the United
23 States in order to respond to document requests in this case and other matters. *See* Ex. G hereto.
24 In that letter, the OPDP not only rejected SCL's request, but stated that SCL's own lawyers could
25 not even *review* documents in Macau that are subject to the MPDPA to determine whether they
26 are responsive to U.S. discovery requests or subpoenas. *Id.* at 12-13.

27 On September 14, 2012, the Court issued its sanctions order, providing (among other
28 things) that "[f]or purposes of jurisdictional discovery and the evidentiary hearing related to

1 jurisdiction, Las Vegas Sands and Sands China will be precluded from raising the MDPA as an
2 objection or as a defense to admission, disclosure or production of any documents.” Pl. Ex. 2 at
3 8:20-23. That order created a potential Hobson’s choice for SCL between (i) violating the
4 MPDPA, as interpreted by the OPDP, and subjecting itself and its employees to a very real risk of
5 civil and/or criminal sanctions, and (ii) declining to produce documents based on the MPDPA and
6 risking further sanctions by this Court. It was in an attempt to avoid that Hobson’s choice that
7 SCL’s new counsel went to Macau in November 2012 to meet with the OPDP.

8 As SCL has previously reported, SCL and VML submitted a written request to the OPDP
9 after that meeting seeking a path forward to ensure compliance with the MPDPA, while at the
10 same time discharging SCL’s discovery obligations. *See* Ex. H hereto. On November 29, SCL
11 received a response from the OPDP, Ex. I hereto, which gave VML permission to review
12 documents containing personal data by automated means so long as that review was conducted
13 either by VML’s in-house lawyers in Macau or by external Macau lawyers. Those lawyers were
14 responsible for identifying personal information and redacting it before the documents were
15 transferred out of Macau to external SCL lawyers, who reviewed the documents for
16 responsiveness, privilege, and other allowable restrictions. That was the plan that SCL described
17 to the Court both in its Motion for a Protective Order, which SCL filed on December 4, 2012, and
18 in oral argument at the December 18, 2012 hearing. *See* Ex. J hereto at 18:18-24; 12/18/12
19 H’ring Tr. at 10:2-11:2.

20 **D. The Court’s December 18, 2012 Ruling.**

21 In its Motion for a Protective Order, SCL sought the Court’s guidance on whether the
22 Macau search had to include custodians other than Plaintiff. At that time, SCL was proceeding
23 with an ESI search in Macau, but only for documents contained in Plaintiff’s own ESI.

24 On December 18, 2012, the Court denied SCL’s motion and stated that it would enter an
25 order directing SCL to produce within two weeks all information within its possession “relevant
26 to jurisdictional discovery.” 12/18/12 H’ring Tr. at 24:12-18. After the Court made this ruling,
27 SCL’s counsel expressly noted that in complying with the order, SCL would still have to address
28 the provisions of the MPDPA. *Id.* at 26:21-24. In this context, the Court responded that its

1 ruling *did not foreclose SCL from making redactions*:

2 MR. RANDALL JONES: Thank you, Your Honor. . . . I want to make
3 sure it's clear on the record. It's never been our position that our client can't look
4 at the documents. *The issue is whether or not we can take certain information - -*
5 *our client is allowed to take certain information out of the country.* And so I just
6 want to make sure that's clear on the record. Our client can look at the documents,
and our client's Macanese, we've just found out, can look at the documents. And
from there it becomes more complicated. So I just want to make sure that's clear
to the Court.

7 We understand what you're saying, and we will continue to do our best to
8 try to comply with the Court's orders as best we can. And that's - - and I hope the
Court does appreciate this is a complicated situation, and we - - I can - - I'll just
tell you again, Your Honor, we're trying to make sure that we - - the lawyers and
our client comply with your discovery.

9 THE COURT: I understand.

10 MR. PEEK: Yeah. *We need to have redactions as part of that, as well, as*
that's - - I understood - -

11 THE COURT: *I didn't say you couldn't have redactions.*

12 MR. PEEK: That's what I thought.

13 THE COURT: I didn't say you couldn't have privilege logs. I didn't say
any of that, Mr. Peek.

14 MR. RANDALL JONES: As I understand it, Your Honor, you said *we can*
15 *still otherwise comply with the law as we believe we should and then you*
ultimately make the call as to whether or not we have appropriately done that.

16 *Id.* at 26:13-27:18 (emphasis supplied).

17 The Court did not enter the above-described order until January 16, 2013. Nevertheless,
18 immediately after the December 18 hearing, SCL began the process of complying with the
19 Court's ruling. This process included ten major stages, described below and in SCL's Report on
20 its Compliance With the Court's Ruling of December 18, 2012, Pl. Ex. 4, at 3-9 ("Report").

21 ***1. The Recruitment of Macau Lawyers to Review Documents.***

22 The first challenge following the Court's December 18 ruling was to recruit on short
23 notice and during the holiday season a sufficient number of Macau attorneys to assist in
24 completing the expanded search and review of documents in Macau. Report at 3. As noted
25 above, on November 29, 2012 the OPDP had notified SCL that it could not rely on Hong Kong
26 lawyers (or any other non-Macau lawyers) to review or redact Macau documents containing
27 "personal data." Ex. I hereto. This restriction imposed a significant limitation on the pool of
28 potential reviewers because Macau has fewer than 250 licensed lawyers (excluding trainees and

1 interns), and many of those attorneys work for firms that cannot represent SCL because of pre-
2 existing conflicts. In addition, the required review had to be conducted between December 18,
3 2012 and January 4, 2013, when Macau had five days of public holidays. Report at 3.
4 Notwithstanding these difficulties, by December 27, 2012, SCL had succeeded in engaging a total
5 of 22 Macau attorneys to review potentially-responsive documents and redact personal data
6 contained in those documents. *Id.*

7 **2. The Selection of an Additional Vendor.**

8 To complete the discovery directed by the Court, SCL also had to enlist an additional
9 vendor to assist in processing and handling the volume of documents that had to be reviewed and
10 produced. On December 19, 2012, SCL engaged FTI to assume most of the technical aspects of
11 the review and redaction process. J. Ray Declaration (Ex. K hereto), ¶ 5. Between December 19
12 and January 4, FTI re-processed all data that the initial vendor had processed and logged more
13 than 500 hours in processing additional data, training reviewers, and implementing the redactions
14 made by the Macau lawyers—all at a cost of more than \$400,000.

15 **3. The Identification of Relevant Search Terms and Custodians.**

16 In addition to engaging a qualified vendor and recruiting a sufficient number of reviewers,
17 SCL had to develop a strategy for the expanded search in Macau. In this process, SCL was left to
18 its own devices. With respect to jurisdictional discovery, Plaintiff declined to participate in any
19 cooperative effort to reach agreement on search terms and custodians. In particular, after serving
20 his jurisdictional discovery requests, Plaintiff *never* provided Defendants with a proposed list of
21 custodians or search terms for jurisdictional discovery; or otherwise responded to Defendants'
22 October 30, 2012 request to meet and confer about jurisdictional discovery in Macau. *See* Ex. L
23 hereto.

24 As a result, SCL was forced to make its own determinations of the search terms and
25 custodians necessary to comply with the Court's ruling. To this end, SCL first identified the
26 Macau custodians (in addition to Plaintiff) whose ESI was reasonably likely to contain documents
27 "relevant to jurisdictional discovery," and then applied essentially the same expanded set of
28

1 search terms that Defendants had used to conduct the jurisdictional searches in the United States.⁶
2 See Ex. C to Report (listing the custodians and search terms used by SCL for its jurisdictional
3 searches).

4 SCL's approach comported with "best practices" in electronic discovery. The Sedona
5 Principles define a reasonable electronic search as including the collection of
6 "electronically-stored information from repositories used by key individuals," and then "applying
7 reasonable selection criteria, including search terms, date restrictions, or folder designations." The
8 Sedona Conference, *Sedona Principles Addressing Electronic Document Production*, Cmt. 4.b
9 (2d ed. 2007) ("*Sedona Principles*"), Cmt. 6.b; see also Cmt. 11.a Similarly, the courts have
10 repeatedly held that the use of specified custodians and search terms is the appropriate method of
11 conducting electronic discovery. See, e.g., *Cannata v. Wyndham Worldwide Corp.*, 2012 WL
12 528224, at *5 (D. Nev. Feb. 17, 2012). The courts have further held that when a party requesting
13 discovery refuses to agree on custodians and search terms, the responding party should develop its
14 own search terms and list of custodians. See, e.g., *Treppel v. Biovail Corp.*, 233 F.R.D. 363, 374
15 (S.D.N.Y. 2006). Consistent with these principles—and in the absence of any meaningful
16 cooperation from the Plaintiff—SCL developed its own list of custodians and search terms that
17 could reasonably be expected to yield documents relevant to the limited jurisdictional discovery
18 permitted by the Court. *Sedona Principles*, Cmt. 6.b.

19 **4. The Review and Redaction of Documents.**

20 After formulating its search strategy, SCL applied the designated search terms to the ESI
21 of the relevant custodians. FTI also processed approximately 20,000 pages of hardcopy
22 documents maintained by Plaintiff and the other relevant custodians. Report at 7. Finally, SCL
23 manually reviewed more than 50,000 hardcopy documents maintained by Plaintiff to determine
24 whether there were non-ESI documents that were relevant to the jurisdictional discovery the
25 Court had allowed. *Id.* This process yielded a population of more than 26,000 potentially
26

27 ⁶ In July and August 2012, LVSC had unilaterally expanded the list of search terms and custodians used for the
28 searches of its ESI after Plaintiff claimed that LVSC's production was inadequate.

1 responsive documents. *Id.* FTI then “tiffed” each of these documents so that the Macau attorneys
2 could redact personal data contained in the documents. *Id.*

3 In the next step, the Macau attorneys reviewed each of the documents identified as
4 potentially responsive to determine whether the document was, in fact, relevant to jurisdictional
5 discovery. If so, they redacted from the document any “personal data” within the meaning of the
6 MPDPA.⁷ *Id.*

7 **5. *The Privilege Review and Final Preparation for Production.***

8 After FTI incorporated the redactions into new tiff images, the documents were transferred
9 to the United States, where they were reviewed for privilege and confidentiality determinations.
10 Report at 7. After the completion of this review, FTI created a new tiff image endorsed with a
11 Bates number for each document. The new tiff image was then processed to create a new text file
12 for production that omitted the text in the redacted area. The productions provided to Plaintiff
13 contained the tiff images and text files created in the United States. *Id.*

14 **6. *The Production of Unredacted Copies Located in the United States.***

15 After SCL made its original production on or before January 4, 2013, LVSC began the
16 process of locating in the United States unredacted copies of documents that SCL had produced in
17 redacted form—and then producing the unredacted copies to Plaintiff. This process has resulted
18 in the production of more than 2100 previously-redacted documents—including ten of the 15
19 documents attached to Plaintiff’s motion as examples of SCL’s allegedly “unintelligible”
20 production. *See infra* at 21. This process is ongoing, as is an effort to identify (1) documents
21 previously produced by LVSC within the same chain of an email chain produced by SCL
22 containing redactions and (2) calendar appointments for the same meeting and electronic versions
23 of paper documents to provide additional context for redacted documents. Finally, SCL provided
24 Plaintiff with a “Redaction Log” that identifies individuals whose names have been redacted—
25 *e.g.*, “SCL employee,” “LVSC employee,” etc. *See* Ex. M hereto.

26
27
28 ⁷ The reviewers designated redactions based on the MPDPA as “Personal Redactions” and redactions based on the attorney-client privilege as “Privileged.”

III.

LEGAL ANALYSIS

A. Legal Standards for Imposing Sanctions.

“Under 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). Under this standard, however, 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.* (emphasis added).

Thus, under Nevada law, to establish the factual predicate for sanctions under NRCP 37(b)(2), Plaintiff must demonstrate not only that Defendants failed to comply with a discovery order, but also that such non-compliance was willful. As a practical matter, this requirement means that the scope of the court’s order and the motivations of the sanctioned party must both be clear and unambiguous. Indeed, in dealing with the federal analog to NRCP 37(b), the federal courts have uniformly held that the imposition of sanctions under Fed. R. Civ. P. 37(b) requires a court order that is clear and explicit. *See, e.g., Unigard Sec. Ins. Co. v. Lakewood Eng’g & Mfg. Corp.*, 982 F.2d 363, 368 (9th Cir. 1992).⁸ 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.* (emphasis added).

B. SCL Made No Misrepresentations About Its Macau Production.

As a purported basis for sanctions, Plaintiff first claims that SCL made false statements to the Court when it represented that it did not retain FTI until December 19, 2012. Plaintiff spins an elaborate conspiracy theory around the fact that an index FTI provided of SCL’s Macau

⁸ *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); *Am. Prop. Constr. Co. v. Sprenger Lang Found.*, 274 F.R.D. 1, 10 (D.D.C. 2011).

1 documents has metadata showing that it was created on December 4 — claiming first that SCL
2 must have retained FTI before December 19, then that FTI (which does not have a Macau office)
3 must have transported SCL documents to its Hong Kong offices for review, and finally that FTI
4 must have been reviewing documents for SCL’s “own strategic purposes” in Hong Kong at the
5 same time that SCL was telling the Court that it could *not* review documents even in Macau. Pl.
6 Mot’n at 13:14-14:11.

7 These claims are categorically false. As the attached Declaration from FTI Senior Director
8 Jason Ray (Ex. K hereto) verifies, just as SCL told the Court, FTI was not engaged for the Macau
9 document production project until December 19, 2012. *Id.* ¶ 5. FTI personnel brought the
10 necessary hardware to Macau in order to comply with the OPDP’s requirement that documents be
11 processed *in Macau* and never transferred any documents to FTI’s Hong Kong office. *Id.* ¶¶ 6-7.
12 In fact, no documents were transferred outside of Macau to *any* location until they had been
13 reviewed by Macau lawyers and personal data had been redacted, in accordance with the OPDP’s
14 requirements. *Id.* ¶ 8. As Mr. Ray also explains, the “evidence” Plaintiff relies on for his
15 conspiracy theory proves nothing at all. FTI had previously been hired by LVSC and it simply
16 used an old LVSC index as a template when it prepared an index for SCL’s document production;
17 the December 4, 2012 “content created” date refers to the date that FTI originally created the
18 document for LVSC and does *not* reflect when FTI obtained the data in Macau or when the index
19 was prepared. *Id.* ¶¶ 10-13.

20 **C. SCL’s Selection of Custodians Provides No Basis for Sanctions.**

21 Plaintiff next claims that sanctions should be imposed because SCL “purposefully” avoided
22 searching the ESI of the “principal custodians” in Macau. Pl. Mot’n at 8-10. This claim is not
23 only groundless, but also waived by Plaintiff’s refusal to participate in any cooperative effort to
24 define the scope of jurisdictional discovery in Macau.

25 **1. Plaintiff Failed to Cooperate in the Discovery Process.**

26 As Defendants have detailed in prior court filings, Plaintiff repeatedly refused to cooperate
27 with Defendants in identifying custodians, defining search terms or otherwise agreeing on the
28 scope of jurisdictional discovery. *See, e.g.,* Ex. J hereto at 15:20-16:12; Pl. Ex. 8. This

underscores Plaintiff's view that the "meet-and-confer" requirement is a meaningless formality that can be routinely ignored whenever inconvenient.

The courts, however, do not share this view—particularly in the context of electronic discovery. Indeed, since at least the publication of the *Sedona Principles*, the courts have repeatedly held that "electronic discovery should be a party-driven process" and that "communication among counsel is crucial to a successful electronic discovery process." *See, e.g., Romero v. Allstate Ins. Co.*, 271 F.R.D. 96, 109 (E.D.Pa. 2010); *Aguilar v. Immigration and Customs Enforcement Div. of U.S. Dept. of Homeland Security*, 255 F.R.D. 350, 358 (S.D.N.Y. 2008). Under these authorities, a successful electronic discovery process requires counsel to "meet and confer to work in a cooperative, rather than an adversarial manner, to resolve discovery issues." *Romero*, 271 F.R.D. at 109.

Yet, in this case, Plaintiff repeatedly refused to cooperate with Defendants in identifying relevant custodians and search terms for jurisdictional discovery. In particular, after serving his jurisdictional discovery requests, Plaintiff never (1) provided Defendants with a proposed list of jurisdictional custodians; (2) participated with Defendants in finalizing an expanded list of search terms for jurisdictional discovery; or (3) responded to Defendants' October 30, 2012 request to meet and confer about jurisdictional discovery in Macau. *See* Ex. L hereto.

Plaintiff does not dispute these facts. Instead, he claims that Defendants should have recognized that his list of 20 *merits* custodians submitted *more than two years ago*—long before he had even drafted his jurisdictional discovery—could somehow also serve as a list of *jurisdictional* custodians. Pl. Mot'n at 7:15-22. This argument fails because it ignores the fundamental difference between evidence called for by the jurisdictional discovery the Court allowed and evidence relevant to merits issues—a difference that must be respected in light of the Nevada Supreme Court's order staying all aspects of this case *other than* the jurisdictional issues. While merits discovery would revolve around Jacobs' interactions with SCL and his performance and termination as CEO, the general jurisdiction theories on which the Court allowed document discovery are focused on whether SCL should be deemed to have been doing business in Nevada, either directly or through an "agent." It is precisely because those issues are so different that it

1 makes no sense to assume that the custodians Plaintiff identified for purposes of merits discovery
2 would also be the same custodians whose ESI should be searched to find documents responsive to
3 the specific requests the Court allowed.

4 Second, the argument nowhere explains why Plaintiff stood silent after serving his
5 jurisdictional requests—and *never* communicated to Defendants his current claim that the three
6 additional custodians he has identified are especially important for *jurisdictional* discovery. If
7 Plaintiff held this view, he should have said something long before SCL invested the enormous
8 time, money and resources it expended in conducting the Macau search. This is especially true
9 after Defendants affirmatively invited Plaintiff to participate in a meet-and-confer on
10 jurisdictional discovery on October 30, 2012. Ex. L hereto.

11 Instead, Plaintiff simply ignored the request—choosing to remain silent as part of an
12 obvious strategy to wait until SCL had completed its search before unveiling his “criticisms” as
13 the basis for a sanctions motion. Not surprisingly, the law does not countenance such transparent
14 gamesmanship, particularly in the context of electronic discovery. Having refused to participate
15 in the meet-and-confer process, Plaintiff cannot now file a sanctions motion based on his silently-
16 held view of the proper scope of jurisdictional discovery. In these circumstances, Plaintiff waived
17 any objections because it would be unfair to allow him to refuse to participate in the process of
18 developing a search strategy and then later claim that the strategy was inadequate. *Covad*
19 *Comm’ns Co. v. Revonet, Inc.*, 258 F.R.D. 5, 14 (D.D.C. 2009).

20 **2. SCL’s Choice of Custodians Did Not Violate the Court’s Order.**

21 Even if Plaintiff had not waived his current claims, his assertion that SCL’s selection of
22 custodians constituted a “purposeful” violation of the Court’s Order is baseless. The Order did
23 not require SCL to search any particular custodians or any particular number of custodians.
24 Instead, it required SCL to produce all documents “*relevant* to jurisdictional discovery”—which,
25 in the context of this case, means all documents “relevant” to the specific categories of documents
26 set forth in the Court’s March 8, 2012 Order (Pl. Ex. 3).

27 ///

28 ///

Based on these categories of jurisdictional discovery, SCL selected as custodians *every member* of SCL's senior management team. In addition to Jacobs, who was SCL's CEO, the custodians SCL selected included the following:

1. Stephen Weaver, Chief Development Officer and President—Asia Region, SCL

As president of SCL's Asia Region, Mr. Weaver was responsible for overseeing all development and government relations activities in Macau, including real estate development transactions, retail mall leasing and other business development activities. As a result, he could be expected to possess documents relating to the funding of SCL, Base Entertainment, Bally Technologies, Michael Leven's services, Robert Goldstein's services, communications involving Parcels 5 & 6, the recruitment of SCL executives, LVSC services on behalf of SCL, and other categories of jurisdictional discovery.

2. Benjamin Toh, Executive V.P. and Chief Financial Officer, SCL

As Chief Financial Officer for the Company, Mr. Toh could be expected to possess any financial and other documents relating to the funding of SCL, Michael Leven's services, Robert Goldstein's services, LVSC's services on behalf of SCL, Parcels 5 & 6 and other categories of jurisdictional discovery.

3. Edward Tracy, President and Chief Operating Officer, SCL

As Chief Operating Officer for SCL, Mr. Tracy could be expected to possess documents relating to the funding of SCL, Michael Leven's services, Robert Goldstein's services, LVSC services on behalf of SCL, the recruitment of SCL executives, Base Entertainment, Bally Technologies, Parcels 5 and 6, and the marketing of SCL properties.

4. Kevin Clayton, Executive V.P. of Marketing Operations, SCL

As Executive Vice President of Marketing Operations, Mr. Clayton could be expected to possess documents relating to the marketing of SCL's properties, Parcels 5 and 6, Michael Leven's services, and Robert Goldstein's services.

5. Matthew Pryor, Senior V.P. of Asia Construction, SCL

As Senior Vice President of Asia Construction, Mr. Pryor was responsible for overseeing all of SCL's construction activities in Asia. As part of these responsibilities, he was in charge of construction of Parcels 5 and 6. He therefore could be expected to possess documents relating to Parcels 5 and 6, Michael Leven's services, Robert Goldstein's services, and other categories of jurisdictional discovery.

6. Gunter Hatt, Executive V.P. of Operations, SCL

Mr. Hatt had responsibilities in Operations. As such, he could be expected to possess documents relating to Michael Leven's services, the recruitment of SCL executives and Bally Technologies.

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1 **7. Fiona Chan, Senior Corporate Affairs Manager, SCL**

2 As Mr. Jacobs' assistant, Ms. Chan could be expected to possess documents relevant to
3 the recruitment of SCL executives, Parcels 5 and 6, the marketing of SCL's properties,
4 LVSC's services on behalf of SCL, Base Entertainment, Bally Technologies and other
5 categories of jurisdictional discovery.

6 **8. Ruth Boston, V.P. Marketing, SCL**

7 Ms. Boston was a Vice-President of Marketing who focused much of her attention on
8 SCL's relationship with Cirque de Soleil. As such, she could be expected to possess
9 documents relevant to Cirque de Soleil.

10 In his motion, Plaintiff claims that SCL willfully violated the Court's order by
11 "purposeful[ly]" excluding three specific individuals as custodians—in-house attorney Luis Melo
12 and independent directors Iain Bruce and David Turnbull. Pl. Mot'n at 9:20. To support that
13 claim, Plaintiff makes conclusory assertions that these custodians' ESI was "reasonably likely to
14 contain documents relevant to jurisdictional discovery." *Id.* at 9:25-26. But Plaintiff presents no
15 facts explaining why these individuals would be expected to possess unique documents relevant
16 to the *specific* categories of jurisdictional discovery approved by the Court in its March 8, 2012
17 Order.

18 For example, in typical hyperbolic fashion, Plaintiff describes SCL's failure to search Mr.
19 Melo's documents as the "crown jewel of [its claimed] noncompliance." Pl. Mot'n at 10:3. In
20 support, Plaintiff points to the fact that he designated Mr. Melo as "Number 2" on his list of most
21 important custodians *with respect to merits discovery*. *Id.* at 10:4-5. But even assuming that Mr.
22 Melo's documents would be important to merits discovery, that does not explain why an in-house
23 attorney with no executive, operational or marketing responsibilities would be expected to possess
24 unique, non-privileged documents relevant to any of the specific categories of jurisdictional
25 discovery approved by the Court.⁹

26 Plaintiff's only attempt to relate Mr. Melo to the jurisdictional discovery the Court
27 allowed appears in a footnote in which he claims (falsely) that Ken Kay "identified Melo as
28 having extensive involvement in the company's financing which was directed out of Las Vegas."

⁹ The *Sedona Principles* require proportionality and reasonableness. There is no obligation to search the ESI of peripheral custodians whose documents are likely to be duplicative of the documents found by searching the ESI of custodians who were more centrally involved with respect to the matter at issue.

1 Pl. Mot'n at 10 n.3. In fact, Mr. Melo's name does not *appear anywhere* in the Kay deposition.
2 Mr. Kay testified that Jacobs and SCL's CFO, Ben Toh, were the SCL people most closely
3 involved in negotiating financing commitments that had been entered into prior to the IPO. When
4 he was asked whether there was anyone else on the SCL side who was involved in those
5 negotiations, Mr. Kay responded "I would presume that their legal counsel would have been
6 involved as well," but did not recall having any contact with that unnamed legal counsel. Kay
7 12/18/12 Dep. at 146: 4-12 (Ex. N hereto). Mr. Kay's testimony confirms that SCL's decision to
8 search Jacobs and Ben Toh's documents for "documents that reflect that the negotiation and
9 execution of the agreements for the funding of Sands China occurred, in whole or in part, in
10 Nevada" (category #10) was reasonable and made in good faith and that there was no need to add
11 Mr. Melo to the list of custodians. That is particularly true since (i) Defendants had already
12 produced over 6000 documents relating to category #10; (ii) LVSC's participation in SCL
13 financing issues is well-documented; and (iii) the fact that a parent company assists or even
14 controls efforts to obtain financing for a subsidiary has no conceivable significance to *any* of the
15 various jurisdictional theories Plaintiff has propounded. *See Doe v. Unocal Corp.*, 248 F.3d 915,
16 927 (9th Cir. 2001) ("A parent corporation may be directly involved in financing and macro-
17 management of its subsidiaries. . . without exposing itself to a charge that each subsidiary is
18 merely its alter ego").¹⁰

19 Similarly, Plaintiff makes no showing that either of the two independent SCL Directors he
20 names—who are not employees of SCL and therefore do not even maintain email accounts at
21 SCL—would be expected to possess unique documents relevant to any of the specific categories
22 of documents the Court allowed Plaintiff to seek. Plaintiff notes that the "involvement" of
23 Messrs. Bruce and Turnbull has been discussed at the jurisdictional depositions. Pl. Mot'n at
24 9:21-22. But those discussions have all revolved around their "involvement" in Jacobs'

25
26 ¹⁰ Plaintiff also argues that some of Mr. Melo's ESI was transferred to Las Vegas in March 2011 and thus should
27 already have been searched. But Plaintiff has known about that transfer since September 2012. If Plaintiff thought
28 that Mr. Melo was so important and that LVSC should have searched the Melo ESI in its possession in the U.S., then
he should have raised it with Defendants in a meet-and-confer and, absent agreement, filed a motion to compel.
Plaintiff failed to do so and thus should not be heard to complain now, five months later, that there was some
deficiency in LVSC's production.

1 termination. As noted above, the categories of documents Plaintiff sought and that the Court
2 allowed do *not* include documents relating to Jacobs' termination.

3 Plaintiff also criticizes SCL's search strategy because it did not search *all* of the
4 custodians it selected for *all* of the approved categories of discovery. Pl. Mot'n at 8:20-9:17. As
5 an example, he notes that SCL searched one custodian (Ruth Boston) for only one category of
6 discovery (Cirque du Soleil). *Id.* at 8:20-24. Yet, once again, Plaintiff nowhere explains
7 precisely why this specific search strategy violated the Court's Order. As noted above, Ms.
8 Boston worked in the Marketing Department, where she focused much of her attention on the
9 Cirque du Soleil relationship. Plaintiff does not even attempt to explain why Ms. Boston would
10 reasonably be expected to possess unique documents relevant to the other approved categories of
11 jurisdictional discovery, such as SCL Board Meetings, Parcels 5 and 6, Bally Technologies or the
12 recruitment of SCL executives.

13 Thus, Plaintiff presents no facts showing that SCL's selection of custodians violated the
14 Court's order to produce all documents "relevant to jurisdictional discovery"—much less facts
15 showing that such selection constituted a "willful" violation of the order. *Clark Co. School*
16 *District*, 123 Nev. at 391, 168 P.3d at 93. Nor does Plaintiff cite a single case holding that a
17 party's selection of ESI custodians can serve as the basis for a finding of "willful non-
18 compliance" with a discovery order — particularly when that party offered to "meet-and-confer"
19 with the opposing party on the very same issue. This complete lack of authority is not surprising,
20 since the mere fact that SCL invited Plaintiff to participate in a meet-and-confer undercuts any
21 claim that SCL embarked on a willful campaign to purposefully exclude specific custodians.

22 **D. SCL's Redactions Provide No Basis For Imposing Sanctions.**

23 **1. Plaintiff Ignores the Full Scope of SCL's Production.**

24 Most of Plaintiff's arguments about the redactions appear to be based, not on the fact that
25 personal data was redacted, but rather on Plaintiff's claim that the redactions rendered the entire
26 production "unintelligible." But in so arguing Plaintiff simply ignores the two additional steps
27 that SCL took to provide him with a production that complied with both the Court's order and
28 SCL's obligations under the MPDPA. First, SCL asked LVSC to search for and produce in

1 unredacted form all copies of the SCL production that could be found in the United States. This
2 process (which is still ongoing) resulted in the production of more than 2100 unredacted
3 documents, in addition to the 939 unredacted documents that SCL had originally produced.
4 Second, SCL prepared a lengthy Redaction Log (Ex. M hereto) identifying the entities that
5 employed the individuals whose names and other personal information had been redacted. These
6 two additional steps required an enormous investment of time and effort. LVSC was able to locate
7 some identical documents through a highly-automated process using metadata, but it had to
8 search for other documents using a more labor-intensive process.¹¹ The Redaction Log was also a
9 labor-intensive process, which could only be completed by SCL's lawyers in Macau, since they
10 are the only ones who can review the unredacted documents.

11 The combination of the unredacted copies and the Redaction Log refutes Plaintiff's claim
12 that SCL's production was an "unintelligible" "document dump." Indeed, the 15 exhibits attached
13 to Plaintiff's Motion prove the point. Of those fifteen documents, *nine* were produced in
14 unredacted form even before Plaintiff filed his motion, because LVSC was able to locate
15 duplicates in the United States. To avoid confusion, those documents were given the same SCL
16 Bates number as the number that appeared on the redacted version. See Ex. O hereto, which is
17 comprised of unredacted versions of Plaintiff's Exs. 9, 11, 14, 15, 19, 20, 21, 22, and 23. In
18 addition, Plaintiff's Ex. 13 consists of an email and an attachment; the attachment was produced
19 in unredacted form. See Ex. P hereto. And the email appears to be an earlier version of an email
20 that was produced by LVSC. *Id.*

21 Of the remaining five redacted documents that Plaintiff has offered as exhibits, one (Pl.
22 Ex. 17) is obviously a scanned copy of SCL's 2009 Annual Report, which has been produced to
23 Plaintiff on multiple occasions and is, in any event, a public document.

24 That leaves only four of the fifteen documents that Plaintiff does not have in unredacted
25 form. All four of those documents are perfectly comprehensible, particularly when viewed in
26 conjunction with the Redaction Log. Pl. Ex. 10 is an email chain involving only SCL employees,

27 ¹¹ This is due to the fact that SCL's lawyers outside Macau also do not have access to identifying information and
28 thus had to search for individual documents by using search terms and then manually comparing the results to the
redacted version of the document.

1 who were emailing each other about attending the “Spring Gala” in January 2009. Plaintiff’s Ex.
2 12 is also an email involving solely SCL employees, who were sending messages back and forth
3 about an individual’s travel itinerary. Pl. Ex. 16 is a list of purchase orders for gaming equipment,
4 including equipment that was purchased from Bally Macau Limited; the personal information that
5 was redacted is third party information. And Pl. Ex. 18 is a drawing or photograph showing the
6 view from the entryway of Cotai Strip Parcels 5 & 6, from which pictures and names of
7 individual SCL employees have been redacted.

8 Each of these documents was no doubt produced because it contained a reference to one of
9 the specific items Plaintiff sought in his document requests. That is certainly true of Ex. 16’s
10 reference to Bally and Ex. 18’s reference to Cotai Strip Parcels 5 & 6. Ex. 10 was likely
11 produced because “Las Vegas Sands Corp” appears in one of the email signature blocks.¹² These
12 kinds of documents were produced out of an abundance of caution. Nevertheless, they
13 demonstrate that SCL’s production was neither unintelligible, nor incomplete.

14 **2. SCL’s Redactions Did Not Violate the Court’s Order.**

15 Plaintiff also claims that SCL’s redactions violated the Court’s December 18 order. But
16 this claim is contrary to the Court’s own remarks at the December 18 hearing. Both before and
17 during the December 18 hearing, SCL fully disclosed how it intended to proceed with respect to
18 documents located in Macau—and indeed, how it was *required* to proceed in order to comply
19 with the OPDP’s requirements for reviewing documents and redacting personal information
20 before the documents could be transferred out of Macau. *See, e.g.* 12/18/12 H’rng Tr. at 10:5-
21 11:2. As SCL’s counsel noted, the OPDP had recently advised that SCL’s Macanese lawyers
22 could review the documents, but “from there it becomes more complicated” and “I hope the Court
23 does appreciate this is a complicated situation.” *Id.* at 26:21-27:3. It was in this context that Mr.
24 Peek stated that “[w]e need to have redactions as part of that, as well” and the Court responded
25 “*I didn’t say you couldn’t have redactions.*” *Id.* at 27:8-11 (emphasis added). That remark is
26 enough, standing alone, to warrant denial of Plaintiff’s motion for sanctions, because the Court

27
28 ¹² As Plaintiff no doubt knows, in January 2009, before SCL’s initial public offering, SCL employees still sometimes
used “Las Vegas Sands” in their email signatures.

1 appeared to be allowing redactions based on the MPDPA and, in any event, did not clearly
2 prohibit them.

3 Furthermore, in making the redactions, Defendants relied on an alternative ground—that
4 the names of individuals and other personal data are not “relevant to jurisdictional discovery.” At
5 the February 8 hearing, the Court noted that relevance is typically not a proper objection in a
6 discovery dispute. 2/8/13 H’ring Tr. (Ex. Q hereto) at 15:18-20. The issue here, however, is not
7 the scope of discovery, but rather whether Defendants willfully violated an order requiring them
8 to produce “all information relevant to jurisdictional discovery.” 12/18/12 H’ring Tr. at 24:12-18.
9 Thus, for purposes of Plaintiff’s sanctions motion, relevance *is* the issue.

10 That is particularly true in light of the Nevada Supreme Court’s remand order, which
11 stayed this action “except for matters relating to a determination of personal jurisdiction.” As this
12 Court has observed, that Order means that the parties are not in the ordinary discovery posture,
13 where they are entitled to discovery that is reasonably calculated to lead to relevant evidence.
14 Instead, Plaintiff is entitled only to information that is relevant to jurisdiction and specifically
15 within the scope of the jurisdictional discovery this Court allowed. *See* 12/06/12 H’ring Tr. (Ex. R
16 hereto) at 27:9-12. (“So while, Mr. Bice, I agree with you that typically we would have a broader
17 discovery, we don’t, because I’ve already limited the discovery in this case based on my
18 interpretation of the stay order the Nevada Supreme Court has issued in the writ that was sent to
19 me”). Here, Plaintiff has not shown that the *identities* of the individuals whose names have been
20 redacted has any relevance to his jurisdictional theories. In fact, those identities are *not* relevant
21 to any of Plaintiff’s general jurisdiction theories, all of which revolve around relationships
22 between different *entities*. Because the Redaction Log provides Plaintiff with information about
23 which entity employed the individuals whose names and other identifying information was
24 redacted, Plaintiff has everything that is relevant to jurisdiction.

25 **3. SCL Acted in Good Faith in Redacting Documents.**

26 Even if SCL’s redactions could be viewed as a violation of this Court’s December 18
27 order, sanctions cannot be imposed because SCL did not willfully violate that order. Given the
28 Court’s remarks at the December 18 hearing, SCL reasonably believed that it would be

1 permissible for it to produce documents from which personal data had been redacted. That alone
2 is enough to warrant denial of Plaintiff's renewed motion for sanctions, since an act cannot
3 constitute "willful non-compliance" with an order if there is any misunderstanding as to the scope
4 or intent of the order. *LeGrande*, 233 F.R.D. at 257.

5 In addition, SCL has gone to extraordinary lengths to accommodate Plaintiff's discovery
6 requests while at the same time complying with its obligations under Macanese law. The
7 program of searching for duplicate, unredacted copies in the United States, as well as other U.S.
8 documents that would aid Plaintiff in understanding the full context of redacted documents, and
9 the lengthy Redaction Log SCL produced all demonstrate that SCL was acting in good faith and
10 did not engage in the kind of willful non-compliance with a court order that is necessary to
11 impose sanctions.

12 **4. *The Court's Sanctions Order Should Not Be Read To Preclude***
13 ***Redactions.***

14 Plaintiff takes the position that the Court's September 14 Order prohibited SCL from
15 making any redactions based on the MPDPA. But that is not what the Order says; it says that
16 Defendants were precluded from raising the MPDPA as a defense to the "disclosure or production
17 of any documents." Pl. Ex. 2 at 8:20-23. Nothing in the order speaks to the question of
18 redactions. Nor would it be appropriate for the Court to put SCL in a position where it would be
19 forced to choose between violating an order of this Court or violating its obligations under the
20 MPDPA.

21 In *Societe Nationale Industrielle Aerospatiale v. United States District Court*, 482 U.S.
22 522, 546 (1987), the U.S. Supreme Court observed that American courts should "take care to
23 demonstrate due respect for any special problem confronted by [a] foreign litigant on account of
24 its nationality or the location of its operations, and for any sovereign interest expressed by a
25 foreign state." The Court listed a number of factors that should be considered in deciding whether
26 to defer to a foreign privacy statute to limit discovery. Those factors include the "importance to
27 the . . . litigation of the documents or other information requested," "the degree of specificity of
28 the request," "whether the information originated in the United States," "the availability of

1 alternative means of securing the information,” and “the extent to which noncompliance with the
2 request would undermine important interests of the United States, or compliance with the request
3 would undermine important interests of the state where the information is located.” *Id.* at 544
4 n.28 (quoting the Restatement of Foreign Relations Law of the United States (Revised) §
5 437(1)(c)). Other courts have taken into account additional factors, including the “hardship of
6 compliance on the party of witness from whom discovery is sought [and] the good faith of the
7 party resisting discovery.” *Strauss v. Credit Lyonnais, S.A.*, 249 F.R.D. 429, 439 (E.D.N.Y.
8 2008) (internal quotation omitted). These factors all weigh heavily in favor of not interpreting
9 this Court’s orders to preclude SCL from complying with the MPDPA by producing documents
10 with personal data redacted.

11 First, for all of the reasons outlined above, the personal data that has been redacted from
12 the documents SCL produced has *no* importance to the jurisdictional discovery the Court allowed.
13 That is reason enough for the Court to permit the OPDP-mandated redactions to stand. *See, e.g.*,
14 *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1475 (9th Cir. 1992) (“Where the
15 outcome of the litigation does not stand or fall on the present discovery order, or where the
16 evidence sought is cumulative of existing evidence, courts have generally been unwilling to
17 override foreign secrecy laws”) (internal quotations omitted).

18 A second and related point is that the discovery requests the Court allowed Plaintiff to
19 propound do not focus on individuals in Macau. Thus, SCL is *not* withholding any information
20 that was specifically requested. Third, the information consists of documents and ESI that is
21 located in Macau. As the Redaction Log shows, many of the documents were internal emails
22 among SCL employees in Macau. These are precisely the kinds of individuals whose personal
23 data the MPDPA was designed to protect.

24 Fourth, Defendants have already employed a number of alternative means of securing
25 documents in unredacted form, by searching documents in LVSC’s possession. If Plaintiff can
26 point to any document for which the personal information that has been redacted might actually
27 be relevant to the jurisdictional discovery the Court has ordered, Defendants will cooperate in
28 determining whether there are alternative means by which that information can be provided —

1 whether by seeking consent of the person whose information was redacted or by searching for a
2 copy of the document that is available in the U.S.¹³ At the February 8 hearing, the Court
3 asked whether the OPDP would be satisfied with a protective order that would ensure that
4 personal data would not be publicly revealed. Unfortunately, in its August 8, 2012 letter, the
5 OPDP rejected the notion that a protective order would be sufficient to protect the data privacy
6 interests of individuals whose personal data appears in documents located in Macau. *See* Ex. G at
7 18-19.

8 The fifth factor the courts consider is a question of comity—whether the interests of the
9 foreign government in enforcing its own laws outweigh whatever interest the U.S. or the State of
10 Nevada may have in compelling discovery. That this is a civil case necessarily lessens the U.S.
11 interest. *See In re Westinghouse Elec. Corp. Uranium Contracts Litig.*, 563 F.2d 992, 999 (10th
12 Cir. 1977). So too does the fact that the Court has yet to decide whether it even has jurisdiction
13 over SCL, which is non-U.S. corporation doing business in Macau. Although the case law does
14 allow a plaintiff to obtain discovery over a foreign corporation on the issue of jurisdiction, basic
15 principles of comity require a court to ensure that such discovery is undertaken with appropriate
16 deference to the interests of a foreign sovereign.

17 Here, the foreign sovereign has explicitly stated its view as to what is permitted and what
18 is not. The public statements by a senior government official quoted above and the OPDP's
19 statements in the two letters submitted herewith make clear that the Government of Macau takes
20 the data privacy provisions of the MPDPA very seriously. Basic principles of comity require the
21 Court to defer to the strongly-held views of the Macanese government with respect to the
22 obligations of companies like SCL that do business in Macau, particularly in a situation where
23 there is no countervailing interest, either public or private, in the production of the information
24 that has been redacted. In *Shcherbakovskiy v. Da Capo Al Fine, Ltd.*, 490 F.3d 130, 139 (2d Cir.

25
26 ¹³ It was not and is not practical to attempt to secure consents from all of the individuals whose names and other
27 personal information was redacted from the documents. That is particularly true since the MPDPA requires each
28 individual to “freely” give “specific” and “informed” consent to have his or her personal data processed and the
OPDP has warned VML that “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.” *See* OPDP August
8, 2012 Letter, Ex. G, at 10-11.

1 2007), the Second Circuit held that if Russian law prohibited the plaintiff in that case from
2 obtaining and producing certain documents even with the consent of the board of his company
3 and an appropriate protective order, “then the matter is at an end”— production of the documents
4 could not be compelled and the plaintiff could not be sanctioned for declining to produce those
5 documents.¹⁴

6 The final two factors are whether the producing party faces significant hardship if it
7 produces the documents in violation of a foreign law and whether it acted in good faith in an
8 attempt to reconcile its discovery obligations in the U.S. with its obligations overseas. In this
9 case, there is no doubt that both factors weigh heavily in favor of SCL. The OPDP’s August 8,
10 2012 letter notes the penalties for violating the MPDPA, including fines, and states that a
11 violation may be a crime. Ex. G at 19. In addition, the same letter reminded VML that it had
12 agreed to be bound by Macanese law in the contract it signed allowing it to operate a gaming
13 business in Macau. *Id.* at 6-7. That raises the specter not only of potential fines and criminal
14 punishments for intentionally flouting the requirements specifically imposed by the OPDP, but
15 also of adverse consequences to SCL’s entire business, which depends on its ability to satisfy the
16 Macanese government that it is indeed complying with the conditions under which it was licensed
17 to run a gaming business in Macau.

18 In *Societe Internationale Pour Participations Industrielles et Commerciales, S.A. v.*
19 *Rogers*, 357 U.S. 197, 211 (1958), the Supreme Court noted that “[i]t is hardly debatable that fear
20 of criminal prosecution constitutes a weighty excuse for nonproduction, and this excuse is not
21 weakened because the laws preventing compliance are those of a foreign sovereign.” Here, it is
22 “hardly debatable” that the risks of noncompliance with the OPDP’s instructions constitute a
23 “weighty excuse” for producing documents with the redactions mandated by the OPDP. That is
24 particularly true because SCL acted in good faith by first seeking the right to produce documents
25 in unredacted form in the United States and then, when the OPDP refused to allow SCL even to
26

27 ¹⁴ See also *Reinsurance Co. of America, Inc. v. Administratia Asigurarilor de Stat*, 902 F.2d 1275, 1280 (7th Cir.
28 1990) (upholding the denial of discovery that would have violated Romania’s state secrets law); *In re Rubber Chemicals Antitrust Litig.*, 486 F. Supp. 2d 1078, 1081 & n.2 (N.D. Cal. 2007) (refusing to allow discovery in response to a letter by the EU opposing the discovery).

1 *review* documents for production, had a follow-up meeting and persuaded the OPDP to allow it to
2 produce documents in the U.S. in redacted form. *See Westinghouse Elec. Corp.*, 563 F.2d at 998
3 (finding good faith when company sought a waiver from foreign government).¹⁵

4 **E. The Court Should Not Permit Plaintiff To Play The “Discovery Tort” Game.**

5 Whenever Plaintiff’s counsel appear before the Court, they portray themselves as the
6 helpless victims of Defendants’ repeated failure to produce *any* documents relevant to discovery.
7 But Plaintiff never explains what categories of documents he supposedly still needs or what kinds
8 of documents he thinks are missing. For good reason. Defendants have produced, at great
9 expense, a large number of documents responsive to each category the Court allowed:

10 Category #6: Defendants have produced Board of Directors attendance records
11 (SCL00100030, SCL00100032) and minutes for meetings of the SCL Board of Directors
12 held on October 14, 2009 (LVS00134180), November 8, 2009 (LVS00117204), February
13 9, 2010 (LVS00133993), March 1, 2010. (LVS00117228), April 14, 2010
(LVS00135122), April 30, 2010 (LVS00117248), May 10, 2010 (LVS00117269), July 23,
2010 (LVS00117233), July 27, 2010 (LVS00117236), and August 26, 2010
(LVS00265528).

14 Category #7: Defendants have produced private flight logs (LVS00100168,
15 LVS00267580) and company travel records (LVS00100168). In addition, Defendants
16 have produced numerous travel itineraries for Mr. Adelson, Mr. Leven, Mr. Goldstein, and
17 other LVSC employees.

18 Category #9: Defendants have produced over 3,500 documents that were in Mr.
19 Leven’s possession, as well as thousands of additional documents sent to or from Mr.
20 Leven. Defendants have also produced meeting minutes and board resolutions reflecting
21 the appointment of Mr. Leven as both Executive Director and Special Assistant. Examples
can be found at LVS00117189 and SCL00100013.

22 Category #10: Defendants have produced over 6,000 documents regarding SCL’s
23 initial public offering and the financing of Sites 5 & 6, including audit committee meeting
24 memoranda (*e.g.*, LVS00203529), funding prospectuses (*e.g.*, LVS00129801), offering
25 memoranda (*e.g.*, LVS00113776), and financing analyses for sites 5 and 6 (*e.g.*,
26 SCL00113758).

27 ¹⁵ Precluding SCL from making redactions that the OPDP required it to make in order to transfer documents out of
28 Macau would not be an appropriate sanction for Defendants’ failure to advise the Court at an earlier point in time that
Jacobs ESI had been transferred from Macau to the U.S. in August 2010 and that other ESI had been transferred in
March 2011. Defendants have acknowledged that they made a mistake in not disclosing the transfers earlier. But
there is no evidence to support the notion that Defendants’ stated concern about complying with the MPDPA was a
smoke-screen or that Defendants were motivated by a desire to obstruct legitimate discovery. As the Court noted, it
did not draw any adverse inferences from the Defendants’ assertions of privilege and work product. Pl. Ex. 2 at 2 n.1.
Nor would it have been appropriate for the Court to do so. *See, e.g., Nabisco, Inc. v. PF Brands, Inc.*, 191 F.3d 208,
226 (2d Cir. 1999) (“we know of no precedent supporting . . . an [adverse] inference based on the invocation of the
attorney-client privilege”). Yet absent such an adverse inference, there is no factual basis for inferring that either
Defendant was trying to obstruct discovery—as opposed to acting out of a desire to ensure compliance with the as-yet
unclear parameters of the MPDPA.

1 Category #11: Defendants have produced agreements and draft agreements
2 between SCL and service providers such as BASE Entertainment (LVS00111192,
LVS00111218) and Bally Technologies (LVS00115330, SCL00100033).

3 Category #12: Defendants have produced over 2,400 documents that were in Mr.
4 Goldstein's possession, as well as thousands of additional documents sent to or from Mr.
Goldstein, reflecting marketing and development efforts relating to SCL, such as agendas
for marketing summits (e.g., LVS00111282).

5 Category#13: Defendants have produced the shared services agreement
6 (SCL00100017), the trademark license agreement (LVS00100106), and the intellectual
property license agreement (LVS00100058) between LVSC and SCL.

7 Category #15: Defendants have produced thousands of communications and
8 documents in response to the request for documents reflecting services performed by
LVSC on behalf of SCL. These documents reflect, for example, LVSC's involvement in
9 the development of Parcels 5 and 6 (LVS00100106, LVS00112442), email
10 communications relating to the search for and interview of executive candidates (e.g.,
LVS00235376, LVS00123776), and documents relating to LVSC's involvement with the
11 marketing of SCL properties (e.g., LVS00111282). Finally, Defendants have produced
documents reflecting meetings and communications with Harrah's (e.g., LVS00118241)
and reflecting summaries of options to enter into business arrangements with Mr. Ho and
others (e.g., LVS00236902).

12 Category #16: Defendants have produced communications with BASE
13 Entertainment personnel, which are related primarily to locating, hiring, and managing
talent to perform at SCL properties (LVS00111354, LVS00232578, and LVS00111962);
14 communications with Cirque du Soleil related to the staging and managing of long-term
performance arrangements (e.g., LVS00111458, LVS00111409, and LVS00111410);
15 communications between SCL and Bally Technologies related to the purchase of Bally
equipment (e.g., LVS00115297, LVS00213301); communications with Harrah's (e.g.,
16 LVS00112736, LVS00118246); and communications with site designers, developers, and
specialists for Parcels 5 & 6 (e.g., LVS00112002, LVS00112442).

17 These documents provide Plaintiff with more than enough information to make whatever
18 arguments he intends to make at the jurisdictional hearing.¹⁶ That distinguishes this case from
19 *Insurance Corp. of Ireland, Ltd. v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 698 (1982),
20 which Plaintiff is so fond of citing, because there the foreign defendants failed to produce *any*
21 documents relating to jurisdiction despite numerous orders to do so.

22 Plaintiff's problem here is not a lack of discovery. Rather, it is that neither the facts nor
23 the law support any of his jurisdictional theories.¹⁷ And so Plaintiff has been forced to resort to

24 ¹⁶ Since September 2012, Plaintiff has also had access to most of the ESI that he took with him when he left Macau.

25 ¹⁷ As we have explained in previous briefs, Plaintiff cannot prevail on either an alter ego or "de facto executive
26 headquarters" theory because (among other things) he cannot show that LVSC controlled SCL's day-to-day affairs.
27 And he cannot prevail on his theory that LVSC acted as an "agent" of SCL because whatever LVSC may have done
on behalf of SCL in Nevada, it was not "doing business" on SCL's behalf in this State. Plaintiff cannot prevail on his
28 specific jurisdiction argument because his claim against SCL did not arise out of any contacts SCL had with Nevada.
Finally, his transient jurisdiction theory is also doomed to fail because merely serving the complaint on SCL's Acting
CEO in Nevada is not enough to give rise to jurisdiction in this State.


1 the "discovery tort," complaining about Defendants' claimed failure to produce every scrap of
2 every document he claims he was entitled to receive in the hope that he will be able to achieve a
3 victory on the jurisdictional issue through the imposition of sanctions that he could never achieve
4 on the merits. That is the only "charade" being played in this lawsuit, and it is a tactic that should
5 not be allowed to succeed.

6 **III.**

7 **CONCLUSION**

8 For the foregoing reasons, Defendants urge the Court to deny Plaintiff's renewed motion
9 for sanctions.

10 DATED February 25, 2013.

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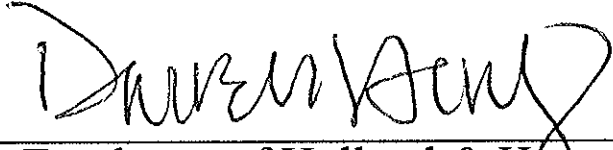
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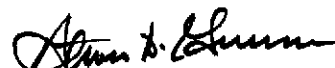
CERTIFICATE OF SERVICE

Pursuant to Nev. R. Civ. P. 5(b), I certify that on February 25, 2013, I served a true and correct copy of the foregoing **DEFENDANTS' OPPOSITION TO PLAINTIFF'S RENEWED MOTION FOR NRCP 37 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:

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Todd L. Bice, Esq.
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Attorney for Plaintiff


An Employee of Holland & Hart LLP



CLERK OF THE COURT

1 **ORDR**

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5 **EIGHTH JUDICIAL DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**
7

8 STEVEN C. JACOBS,

9 Plaintiff,

10 vs.

11 LAS VEGAS SANDS CORP., a Nevada
12 corporation, et al.,

13 Defendants.

14
15 AND ALL RELATED CLAIMS
16

Case No.: A-10-627691-B

Dept. No.: XI

**ORDER ON PLAINTIFF STEVEN
C. JACOBS' MOTION TO
RETURN REMAINING
DOCUMENTS FROM
ADVANCED DISCOVERY**

Hearing Date: April 12, 2013

Hearing Time: In Chambers

17
18 Before this Court is Plaintiff Steven C. Jacobs' ("Jacobs") Motion to Return Remaining
19 Documents from Advanced Discovery (the "Motion"). The Court has considered all briefing on
20 the Motion, including the supplemental brief it ordered from Defendants and the Defendants'
21 Sur-Reply. The Court being fully informed, and good cause appearing therefor:

22 THE COURT HEREBY STATES as follows:

23 1. At issue are documents that Jacobs has had in his possession since before his
24 termination on July 23, 2010.

25 2. Amongst the documents that Jacobs possessed at the time of his termination were
documents over which Defendants claim an attorney-client or other form of privilege.

1 3. These are documents that Jacobs authored, was a recipient of, or otherwise
2 possessed in the course and scope of his employment.

3 4. Jacobs' present Motion does not seek to compel the Defendants to produce
4 anything. Rather, Jacobs seeks return of documents that were transferred to the Court's
5 approved electronic stored information ("ESI") vendor, Advanced Discovery, pursuant to a
6 Court-approved protocol.

7 5. Pursuant to a Court-approved protocol, Defendants' counsel were allowed to
8 review Jacobs' documents and have now identified approximately 11,000 of them as being
9 subject, in whole or in part, to some form of privilege, such as attorney-client, work product,
10 accounting or gaming.

11 6. Based upon these assertions of privilege, Defendants contend that even though
12 the documents are presently in Jacobs' possession, custody and control – the Court having
13 previously concluded as part of its Decision and Order dated September 14, 2012 that
14 Defendants are precluded from claiming that he stole the documents – they assert that Jacobs
15 cannot provide these documents to his counsel even if they relate to the claims, defenses or
16 counterclaims asserted in this action.

17 7. Jacobs' Motion, although styled as one seeking return of documents from the
18 Court's approved ESI vendor, Advanced Discovery, more aptly seeks to allow Jacobs' counsel
19 to access these documents, which Jacobs has otherwise possessed and had access to since before
20 July 23, 2010.

21 8. The Defendants assert that all privileges belong to the Defendants' corporate
22 entities, not any of their executives, whether present or former. From this, they contend that
23 Jacobs does not have the power to waive any privileges.

24 9. The Court notes a split of authority as to who is the client under such
25 circumstances. *See Montgomery v. Etrepid Techs. LLC*, 548 F. Supp. 2d 1175 (D. Nev. 2008).
However, the facts of this case are different, and the Court disagrees with the Defendants'
framing of the issue.

1 10. The Court does not need to address (at this time) the question of whether any of
2 the particular documents identified by the Defendants are subject to some privilege (a
3 contention which Jacobs disputes), whether Jacobs has the power to assert or waive any
4 particular privileges that may belong to the Defendants (a position which the Defendants'
5 dispute) or whether Defendants waived the privilege. Instead, the question presently before this
6 Court is whether Jacobs, as a former executive who is currently in possession, custody and
7 control of the documents and was before his termination, is among the class of persons legally
8 allowed to view those documents and use them in the prosecution of his claims and to rebut the
9 Defendants' affirmative defenses and counterclaim, as these were documents that the former
10 executive authored, received and/or possessed, both during and after his tenure.

11 11. Even assuming for the sake of argument that Defendants had valid claims of
12 privilege to assert to the documents as against outsiders, they have failed to sustain their burden
13 of demonstrating that Jacobs cannot review and use documents to which he had access during
14 the period of his employment in this litigation.

15 12. In the Court's view, the question is not whether Jacobs has the power to waive
16 any privilege. The more appropriate question is whether Jacobs is within the sphere of persons
17 entitled to review information (assuming that it is privileged) that pertains to Jacobs' tenure that
18 he authored, received and/or possessed, and has retained since July 23, 2010.

19 13. Even assuming for the sake of argument that Defendants had valid claims of
20 privilege to assert to the documents as against outsiders, they have failed to sustain their burden
21 of demonstrating that they have privileges that would attach to the documents relative to Jacobs'
22 review and use of them in this litigation.

23 14. That does not mean, however, that at this time the Court is making any
24 determination as to any other use or access to sources of proof. Until further order, Jacobs may
25 not disseminate the documents in question beyond his legal team. And, all parties shall treat the
documents as confidential under the Stipulated Confidentiality Agreement and Protective Order
entered on March 22, 2012.

1 THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

2 1. The Motion to Return Remaining Documents from Advanced Discovery is
3 GRANTED. When this Order becomes effective, Advanced Discovery shall release to Jacobs
4 and his counsel all documents contained on the various electronic storage devices received by
5 Advanced Discovery from Jacobs on or about May 18, 2012, and that have otherwise not been
6 previously released to Jacobs and his counsel.

7 2. Those documents listed on the Defendants' privilege log dated November 30,
8 2012, shall be treated as confidential under the Stipulated Confidentiality Agreement and
9 Protective Order entered on March 22, 2012 until further order from this Court.

10 3. This Order shall become effective ten (10) days from the date of its notice of
11 entry.

12 DATED: 18 June 2013

13
14 

15 THE HONORABLE ELIZABETH GONZALEZ,
16 EIGHTH JUDICIAL DISTRICT COURT

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Attorney for Defendants

Maximilien D. Fetaz

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

STEVEN JACOBS	.	
	.	
Plaintiff	.	CASE NO. A-627691
	.	
vs.	.	
	.	DEPT. NO. XI
LAS VEGAS SANDS CORP., et al..	.	
	.	Transcript of
Defendants	.	Proceedings
.	

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON MOTION TO STAY ORDER

THURSDAY, JUNE 27, 2013

APPEARANCES:

FOR THE PLAINTIFF:	TODD BICE, ESQ.
	ERIC ALDRIAN, ESQ.
	DEBRA SPINELLI, ESQ.

FOR THE DEFENDANTS:	J. STEPHEN PEEK, ESQ.
	JON RANDALL JONES, ESQ.
	MARK JONES, ESQ.

COURT RECORDER:	TRANSCRIPTION BY:
JILL HAWKINS	FLORENCE HOYT
District Court	Las Vegas, Nevada 89146

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

APP000145

1 LAS VEGAS, NEVADA, THURSDAY, JUNE 27, 2013, 8:16 A.M.

2 (Court was called to order)

3 THE COURT: Good morning, gentlemen. Who's on the
4 telephone?

5 MR. PEEK: Stephen Peek, Your Honor. Good morning.

6 THE COURT: Mr. Peek, good morning. Do you plan to
7 argue today, or is Mr. Mark Jones and Mr. Randall Jones
8 arguing?

9 MR. PEEK: Mr. Randall Jones will be arguing. I
10 will certainly [inaudible] because I represent Las Vegas
11 Sands, but I join in whatever arguments Mr. Jones makes.

12 THE COURT: Well, here's the issue. Since you're on
13 the telephone up at the bench, you may not be able to hear
14 them as well unless I make them come stand at the bench. So
15 I'm trying to evaluate whether I make them pick up all their
16 crap and come up here, because they've got very organized
17 stacks today.

18 MR. PEEK: Your Honor, don't make them come up to
19 the bench and interfere with their argument. I'll do my best
20 to try and listen.

21 THE COURT: All right. Mr. Randall Jones, it looks
22 like you're arguing the motion this morning.

23 MR. RANDALL JONES: I am, Your Honor.

24 THE COURT: Okay. Good morning.

25 MR. RANDALL JONES: I'll be honored. For the

1 If it was really that your forensic consultant had done an
2 analysis and believed that Mr. Jacobs had stolen information,
3 I would have anticipated sometime in that early time frame I
4 would have seen a report from the forensic analysis, who would
5 have said, gosh, look, Judge, this is all he stole. To date I
6 still haven't seen it. This is now June 2013.

7 MR. RANDALL JONES: And, Your Honor, I think you --
8 your point makes the point, that if we would have believed at
9 that time that Mr. Jacobs would have taken 44 gigabytes or
10 11 gigabytes -- I read all those letters and I've seen all the
11 correspondence -- if we would have believed that he would have
12 taken that, we would have taken action. What you -- and I
13 know it's in this letter --

14 THE COURT: You did take action. You filed a
15 separate lawsuit. I then told Mr. Jones I didn't think it was
16 an appropriate second lawsuit. The reason he filed it was
17 because of the stay the Nevada Supreme Court had issued in
18 Case Number 58294. He then took an appeal of the dismissal of
19 that lawsuit, and the Supreme Court -- I don't remember if it
20 was a writ or an appeal, but the Supreme Court scolded him,
21 and I apologized to him myself because I had thought it was an
22 inappropriate tactic to file a separate suit in this discovery
23 dispute about that issue. So there's a lot of history. We've
24 been dealing with this issue for a while. But all of a sudden
25 it comes to a head and now you're asking for a writ right

1 Under the particular circumstances of this case,
2 which has a tortured history, given the pending writ issued in
3 the Supreme Court Case Number 58294, the lengthy delay in
4 addressing this particular issue, the Court declines to issue
5 a stay and will proceed with the evidentiary hearing ordered
6 to be conducted pursuant to the writ of mandamus issued in
7 Case Number 582984 beginning on July 16th, unless the Nevada
8 Supreme Court tells me otherwise.

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

10 MR. BICE: Thank you, Your Honor.

11 THE COURT: Good luck. Have a nice day.

12 MR. BICE: We will get you an order today, Your
13 Honor.

14 THE PROCEEDINGS CONCLUDED AT 9:21 A.M.

15 * * * * *

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**

7/2/13

FLORENCE HOYT, TRANSCRIBER

DATE

Eric T. Aldrian

From: "Fetaz, Max" <Dept11LC@clarkcountycourts.us>

Date: June 28, 2013, 8:40:23 PM CDT

To: Todd Bice <tlb@pisanellibice.com>, 'Debra Spinelli' <dls@pisanellibice.com>, 'Randall Jones' <r.jones@kempjones.com>, Mark Jones <m.jones@kempjones.com>, Steve Peek <SPEek@hollandhart.com>, Robert Cassity <rcassity@hollandhart.com>

Cc: "Kutinac, Daniel" <KutinacD@clarkcountycourts.us>

Subject: A627691 Jacobs v. Sands

Counsel,

Given the NVSC Order filed today (June 28, 2013) in case no. 63444, the Court vacated the Jurisdictional Hearing previously set to begin on July 16, 2013.

Please feel free to contact me if you have any questions.

Thank you,

Maximilien Fetaz

Law Clerk to the Honorable Elizabeth Gonzalez
District Court Department XI
Phone: 702.671.4375
Fax: 702.671.4377
