

IN THE SUPREME COURT OF THE STATE OF NEVADA

SANDS CHINA LTD., a Cayman Islands
corporation,

Petitioner,

vs.

CLARK COUNTY DISTRICT COURT, THE
HONORABLE ELIZABETH GONZALEZ,
DISTRICT JUDGE, DEPT. 11,

Respondents,

and

STEVEN C. JACOBS,

Real Party in Interest.

Electronically Filed
Mar: 23/2015 08:31 a.m.
Tracie K. Lindeman
Clerk of Supreme Court
Case Number
District Court Case Number
A627691-B

**APPENDIX TO
PETITION FOR WRIT OF
PROHIBITION OR
MANDAMUS
RE MARCH 6, 2015
SANCTIONS ORDER**

**Volume XXVI of XXXIII
(PA15494 – 15732)**

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CERTIFICATE OF SERVICE

Pursuant to Nev. R. App. P. 25, I certify that I am an employee of MORRIS LAW GROUP; that, in accordance therewith, I caused a copy of the **APPENDIX TO PETITION FOR WRIT OF PROHIBITION OR MANDAMUS RE MARCH 6, 2015 SANCTIONS ORDER Volume XXVI of XXXIII (PA15494 – 15732)** to be served as indicated below, on the date and to the addressee(s) shown below:

VIA HAND DELIVERY (CD)

Judge Elizabeth Gonzalez
Eighth Judicial District Court of
Clark County, Nevada
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

Respondent

VIA ELECTRONIC SERVICE

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DATED this 20th day of March, 2015.

By: /s/ PATRICIA FERRUGIA

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| 03/02/2015 | Transcript: Evidentiary Hearing – Motion for Sanctions – Day 5 | XXX | PA43202 – 431 |
| 03/03/2015 | Transcript: Evidentiary Hearing – Motion for Sanctions – Day 6 Closing Arguments | XXXI | PA43432 – 601 |
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

FEB 12 2015

| | | |
|--------------------------------|---|--------------------------------------|
| STEVEN JACOBS | . | BY, <u>DULCE MARIE ROMEA, DEPUTY</u> |
| 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

EVIDENTIARY HEARING RE MOTION FOR SANCTIONS - DAY 3

WEDNESDAY, FEBRUARY 11, 2015

APPEARANCES:

| | |
|--------------------|--------------------------|
| FOR THE PLAINTIFF: | JAMES J. PISANELLI, ESQ. |
| | TODD BICE, ESQ. |
| | DEBRA L. SPINELLI, ESQ. |
| | JORDAN T. SMITH, ESQ. |

| | |
|---------------------|-------------------------|
| FOR THE DEFENDANTS: | J. STEPHEN PEEK, ESQ. |
| | JON RANDALL JONES, ESQ. |
| | IAN P. MCGINN, ESQ. |
| | STEVE L. MORRIS, 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.

PA15494

1 LAS VEGAS, NEVADA, WEDNESDAY, FEBRUARY 11, 2015, 10:00 P.M.

2 (Court was called to order)

3 (1:00:21)

4 THE COURT: Are we on the line with Macau?

5 MR. RANDALL JONES: No, Your Honor. We're going to
6 do the depo read-ins for --

7 THE COURT: That's right.

8 MR. RANDALL JONES: And, Your Honor --

9 THE COURT: Yes.

10 MR. RANDALL JONES: I just spoke to Mr. Bice and
11 told him I have been very dilatory in getting him objections
12 to the excerpts. I literally gave them to him about 30
13 seconds ago. So I told him --

14 THE COURT: So you guys need a few minutes?

15 MR. RANDALL JONES: Yeah. He definitely needs a few
16 minutes just to even look at this stuff. And I --

17 THE COURT: That's fine. I'll go away.

18 MR. RANDALL JONES: -- will take full
19 responsibility. I looked at this on Monday and forgot to --

20 THE COURT: No. It's okay. I did three calendars
21 already today. If you want me to take another half out of my
22 courtroom, I'm okay.

23 MR. RANDALL JONES: Well, certainly Mr. Bice needs
24 to look at that see what he thinks. And then --

25 THE COURT: Okay.

1 MR. RANDALL JONES: -- and I understand his --

2 THE COURT: Will you gentlemen let me know when
3 you're ready for me.

4 MR. RANDALL JONES: Thank you.

5 (Court recessed at 1:01 p.m., until 1:15 p.m.)

6 THE COURT: So we have some deposition transcripts
7 to play?

8 MR. BICE: Yes, Your Honor.

9 MR. RANDALL JONES: We do, Your Honor. I did have
10 some objections which I did not provide for Mr. Bice until
11 about 15 minutes ago. He has had a chance to review the
12 objections, and unfortunately we could not come to an
13 agreement. And I apologized to Mr. Bice for my -- the
14 lateness of me getting this to him. I have to be honest, I
15 read this stuff on Monday and it slipped my mind to follow up
16 on it until today. And so I didn't get it to them until just
17 shortly --

18 THE COURT: Okay. So make your objections as I'm
19 watching --

20 MR. RANDALL JONES: Okay.

21 THE COURT: -- and then I'll rule on them. Okay?
22 We need the original transcripts published.

23 MR. BICE: All right, Your Honor. We will start,
24 Your Honor, with Mr. Michael Leven. I have Volumes 1 and 2.
25 Volume 1 being dated December 4 of 2012. Volume 2 being

1 February 1 of 2013. And the other one, Your Honor, is
2 deposition of Robert Goldstein, which is dated November 6th of
3 [inaudible].

4 THE COURT: Okay.

5 MR. RANDALL JONES: Your Honor, I guess just a
6 procedural question is if I make an objection will the video
7 stop for a second so we can --

8 THE COURT: It will.

9 MR. RANDALL JONES: Perfect.

10 (Pause in the proceedings)

11 THE COURT: Let's go.

12 MR. BICE: Your Honor, we would call Robert
13 Goldstein to the stand. We'll be playing video excerpts, Your
14 Honor. Or -- I'm sorry, Mr. Leven.

15 Thank you, Mr. Jones.

16 MR. RANDALL JONES: And this is Volume 1?

17 MR. BICE: This is Volume 1, Mr. Jones.

18 DEPOSITION OF MICHAEL LEVEN, VOL. 1, PLAYED AS FOLLOWS:

19 BY MR. BICE:

20 Q Could you state your full name for the record,
21 please, sir.

22 A Michael Alan Leven.

23 Q All right. Mr. Leven, can you tell me where you are
24 presently employed.

25 A Las Vegas Sands Corporation.

1 MR. BICE: Oops. We are loosing our volume here.
2 Dustin, I need you to restart that. It only played
3 like the first two lines of his -- no sound.
4 MR. PEEK: No sound.
5 THE COURT: It's not us.
6 MR. BICE: Not us? That's not you, that means it's
7 us.
8 THE COURT: It could be the video.
9 MR. BICE: Well, I've watched it, so I know it was
10 working.
11 THE COURT: Okay.
12 (Pause in the proceedings)
13 DEPOSITION OF MICHAEL LEVEN (Volume 1) PLAYED AS FOLLOWS:
14 BY MR. BICE:
15 Q Good morning. Could you state your full name for
16 the record, please, sir.
17 A Michael Alan Leven.
18 Q All right. Mr. Leven, can you tell me where you are
19 presently employed.
20 A Las Vegas Sands Corporation.
21 Q And how long have you been so employed?
22 THE COURT: You've got to move the speakers closer
23 to a microphone.
24 (Pause in the proceedings)
25 //

1 BY MR. BICE:
2 Q Good morning. Could you state your full name for
3 the record, please, sir.
4 A Michael Alan Leven.
5 Q All right. Mr. Leven, can you tell me where you are
6 presently employed.
7 A Las Vegas Sands Corporation.
8 Q And how long have you been so employed?
9 A Since March 9th of 2009.
10 Q Well, actually jumping forward to more current.
11 When you joined Las Vegas Sands what position did you join the
12 company in?
13 A President and Chief Operating Officer.
14 Q All right. Prior to becoming the President and
15 Chief Operating Officer did you have any role at the company?
16 A I was President of the Board.
17 Q And how -- when did you join the Board at Las Vegas
18 Sands?
19 A Sometime in 2004.
20 Q Just so that I can understand the timeline a little
21 bit, how long were you on the Board prior to becoming the
22 President and CEO -- or COO? I apologize.
23 MR. PEEK: He said 2004 he was on the Board.
24 THE WITNESS: I was on the Board in 2004.
25 //

1 BY MR. BICE:

2 Q Right.

3 A And became the President and COO in 2009.

4 Q Got it. Okay. Did you replace Mr. Wagner
5 [phonetic]?

6 A Yes.

7 Q And when you became President and COO of Las Vegas
8 Sands what were your duties relative to any of its
9 subsidiaries?

10 A I was responsible for supervising the [inaudible] of
11 all subsidiaries and all corporate staff in the company.

12 Q So that would include the property in Bethlehem,
13 Pennsylvania?

14 A Yes.

15 Q All right. Would that include the property in
16 Singapore?

17 A Yes.

18 Q As well as the properties in Macau?

19 A Yes.

20 Q Okay. Were there any other -- let's begin the 2009
21 time frame, were there any other properties you were
22 overseeing for the company?

23 A You left out Las Vegas [inaudible].

24 Q You're right, I did. Now I want to deal with the
25 time frame prior to the IPO of Sands China. Can you tell me

1 what was your role relative to the Macau operations prior to
2 that IPO?

3 A Directly prior to the IPO I was a special advisor to
4 the Board.

5 Q All right. And you'd indicated that you would also
6 give advice to individuals that worked at Sands China; is that
7 correct?

8 A Yes.

9 Q All right. What sort of matters would you advise
10 on?

11 A Operating matters, marketing matters, financial
12 matters, staffing matters, government matters, any kind of
13 matters that would fall under an operating officer's
14 responsibility.

15 Q Did you have -- in the position of Special Advisor
16 were you appointed to that position by the Board of Sands
17 China?

18 A I was appointed by the chairman of --

19 Q Okay.

20 A -- of a Board.

21 Q The Chairman on Sands China's Board?

22 A Correct.

23 Q That would be Mr. Adelson?

24 A [Inaudible].

25 Q In your role as special advisor what email if any

1 would you have used?

2 A Las Vegas Sands.

3 Q Okay. And what is the email address that you have
4 at Las Vegas Sands?

5 A It's mike.leven@lasvegassands.com.

6 Q Has that always been the email address to your
7 knowledge?

8 A No.

9 Q Okay. What was your other email address --

10 A It was at mike.leven@venetian.com.

11 Q Okay. And do you know when that change occurred?

12 A I don't remember.

13 Q Did you ever have an email address affiliated with
14 the Macau operations?

15 A No.

16 Q So in [unintelligible].

17 A Actually, not to my knowledge.

18 Q Okay. So in performing your role as special advisor
19 to Macau Board you would have used your Las Vegas email?

20 A Yes.

21 Q For your Sand's business do you use any other email
22 addresses other than the mikeleven@sands.com address?

23 A No. I don't have mikeleven@sands.com.

24 Q All right.

25 A mike.leven@lasvegassands.com.

1 Q I apologize.

2 A That's the only email address I use.

3 Q Okay. Before it was mike.leven@venetian.com and
4 then it changed; right?

5 A It was at mike.leven@venetian.com, and that became
6 mike.leven@lasvegassands.com.

7 Q Okay. Do you have a personal email address?

8 A No.

9 Q Okay. I guess an area I'd like some clarification
10 on is the financing area. Since it's a publicly traded
11 company in terms of financial reporting, I assume that the
12 subsidiary has to provide some data -- information to Las
13 Vegas Sands; correct?

14 A Of course.

15 Q What is your involvement, if any, in the extension
16 of credit to customers in Macau?

17 A I was the last man on the totem pole to approve
18 credit for private, you know, individual premium players. In
19 other words, there were different levels of approval that go
20 all the way through the units, and if it passed a certain
21 level that actually got up to me, I didn't know anything about
22 the credit. I still don't know anything about the credit.
23 And if Mr. Jacobs, as an example, a CEO wanted to give the
24 credit out and he asked me to approve what was above his limit
25 I had no way of determining whether he was right or wrong, so

1 I would generally approve it.

2 Today those lines have changed from where it was
3 then so that Rob Goldstein now runs the gaming for the
4 company. It goes to him, and it rarely ever gets to me,
5 because he either turns it down or approves it.

6 Q Okay.

7 A And the reason for that is that credit is looked on
8 at a global basis. And so in order to give extra credit or
9 more credit to these type of players, usually the resources at
10 Las Vegas Sands are used by the various subsidiary companies
11 to get enough information to make that decision. And that is
12 in the gaming area. Mr. Kay is also on the credit approval
13 list, but he knows less about it than I know. So that it
14 really is Mr. Goldstein that ends up with the highest level of
15 approval in that area.

16 Q Now, you said that you were the last sort of -- last
17 person on the totem pole to approve it, is that -- so that I
18 understand, is that because of the dollar limits have to get
19 to a certain high level before someone's going to bother you
20 with such an issue?

21 A The truth of that matter is that Mr. Goldstein or
22 Mr. Kay are uncomfortable at a certain level. They'll come to
23 me to share the responsibility of the fact of giving more
24 credit than what they should be able to give.

25 MR. RANDALL JONES: Your Honor, if I could -- Thank

1 you.

2 THE COURT: And your objection is?

3 MR. RANDALL JONES: My objection is -- and I've been
4 -- trying to be very patient as to relevance. I --

5 THE COURT: The objection is sustained. This isn't
6 relevant to my sanctions hearing. It will be relevant later.

7 MR. BICE: We disagree, Your Honor. And let me tell
8 you why. This is why we asked to have this witness here,
9 because he's approving credit. We're going to show you
10 documents contrary to representations that were made yesterday
11 with witnesses about redactions not being made based upon
12 credit, and then we're going to show you the search terms.
13 That's why this is all relevant. And I would note just for
14 the record there was no objection to this aspect of it in the
15 objection that I received. So this is the first time --

16 THE COURT: I understand. I understand the issue of
17 credit without hearing Mr. Leven tell me he's the highest man
18 on the totem pole to approve credit.

19 MR. BICE: I understand that, Your Honor. But,
20 again, because it's a deposition and we couldn't get the
21 witness here, despite our efforts, we have to use a disjointed
22 deposition transcript.

23 THE COURT: I understand.

24 MR. BICE: Dustin, go to the next section. That's
25 going to be the Court's ruling.

1 THE COURT: That'd be great.

2 (Pause in the proceedings)

3 (Continued playing of deposition)

4 BY MR. BICE:

5 Q Were there any circumstances in either 2009 or 2010
6 in where you advised against doing business with any
7 particular junkets?

8 MR. RANDALL JONES: Can I -- Your Honor --

9 THE COURT: Now, I know the junket stuff is
10 redacted, because I reviewed it on the other issue.

11 MR. RANDALL JONES: Your Honor -- well, that's
12 relevance. We think this is being used for a different
13 purpose. I tried to be broad in my allowing him to get into
14 [unintelligible] just because he wants to give some
15 background. I knew credit was going to be one of the issues,
16 but as to raising some of these issues here I just don't see
17 how it's relevant to this hearing.

18 THE COURT: Okay. I remember when I reviewed the
19 documents and I had to use the relativity thing from whoever
20 your vendor was, and I got on there and I was supposed to be
21 able to look through the redaction where it was opaque. Some
22 of the issues related to that related to the junket operators.
23 So I know the information about the junket operators was
24 redacted.

25 MR. RANDALL JONES: And I'm not arguing -- maybe I'm

1 not making my point clear. Your Honor, those are advanced
2 discovery documents not the --
3 THE COURT: I know.
4 MR. RANDALL JONES: -- Macau documents. So I don't
5 -- I didn't know --
6 THE COURT: I said that I was aware those were
7 redacted.
8 MR. RANDALL JONES: Right.
9 THE COURT: Now, I don't know if they were redacted
10 for Macau, because I can't see the Macau documents. Remember,
11 they're all black, I can't see them.
12 MR. RANDALL JONES: Your Honor, just so it's clear.
13 The advanced discovery documents are Mr. Jacobs's documents.
14 THE COURT: I am aware of that, Mr. Jones.
15 MR. RANDALL JONES: Right.
16 THE COURT: The problem I have is I could look
17 behind the redaction on the advanced discovery.
18 MR. RANDALL JONES: Right.
19 THE COURT: I can't look behind the redaction on the
20 Macau documents. The junket issues are in both; right?
21 MR. RANDALL JONES: Your Honor, actually -- I guess
22 I'm not -- maybe if there could be some kind of an offer of
23 proof as to why this particular -- well, I guess I'm not
24 understanding why this particular information is relevant to
25 the sanctions hearing for the redacted documents, the Macau

1 documents. I understand there are reference to junkets and
2 junket reps, but there's nothing in here that would indicate
3 that this goes -- well, I guess I'm not following the
4 thread --

5 THE COURT: Okay. So let me ask you a question.

6 MR. RANDALL JONES: Sure.

7 THE COURT: Because I think ahead, one of the
8 potential evidentiary sanctions I have been thinking about is
9 what happens if I allow the depositions to be retaken with
10 unredacted documents to ameliorate some of the prejudice.
11 Since we all know that junkets are part of what's been
12 redacted because of the motion practice in this case and your
13 redaction log I would think the testimony related to Mr.
14 Leven's involvement in the junket operations would be
15 something that was important for me to understand. So I can
16 decide how many answers he said, I can't tell you the answer
17 to that question by looking at this document, because all I
18 see are black stripes.

19 MR. RANDALL JONES: And I appreciate that point,
20 Judge. And if there were any such documents that have ever
21 been indicated by anybody, certainly on the plaintiff's side,
22 to us about redactions on junket information that they need to
23 know the name of the people on those redacted documents. Just
24 so you know, we did -- and we're going to be talking about
25 that tomorrow, indicate to them we would be happy to sit down

1 with them if they could point out a particular document and
2 try to figure out some way to get unredacted documents for a
3 particular document. And we've never been provided any such
4 documentation. And I don't want to belabor this, Judge. I
5 just want to -- I want to try to protect the record, but I
6 also want to make sure we get as much out as you think is
7 relevant. I just didn't think this was relevant as it relates
8 to the Macau redacted documents.

9 THE COURT: But the Macau redacted documents include
10 documents that have redactions related to junket operators
11 personal identifying information; right?

12 MR. RANDALL JONES: There may be some in there.

13 THE COURT: I'm seeing nods on that side of the
14 room.

15 MR. RANDALL JONES: There may be some in there.

16 THE COURT: Okay.

17 MR. RANDALL JONES: I can't say there are not.

18 THE COURT: So then that makes the testimony of Mr.
19 Leven about his involvement related to junket operations in
20 Macau at least relevant for me to determine if I need to do
21 something about the redacted documents that do not have
22 personal identifying information that can be seen that relates
23 to the junket operations in Macau.

24 MR. RANDALL JONES: My only point is is that this
25 line of questioning does nothing to help further that inquiry

1 or concern of the Court's because they're not -- if Mr. Bice
2 would agree with me, I don't believe there's any junket
3 related evidence or document provided to Mr. Leven in these
4 series of questions that is redacted that they ask him about.

5 And so essentially what we're getting to here is
6 redacted documents that are in a redaction log from the
7 advanced discovery records -- they never showed him any
8 redacted documents from advanced discovery records or the
9 Macau productions, and so that's why I just don't think that's
10 relevant. But I would also say that Mr. Leven did give his
11 consent, and they do have Leven unredacted documents now, as
12 well, Judge.

13 THE COURT: But not the other personal identifiers
14 for the other end of the communication; right?

15 MR. RANDALL JONES: Unless they were Mr. Kay, Mr.
16 Goldstein, or Mr. Adelson, you're right about that.

17 THE COURT: Right.

18 MR. RANDALL JONES: Anyway, Judge, I don't -- again,
19 I don't want to belabor this.

20 THE COURT: I understand what you're saying, Mr.
21 Jones.

22 Mr. Bice, did you want to say anything about this
23 issue?

24 MR. BICE: The only thing I would say about this
25 issue is they gave us all these redacted documents. We

1 couldn't ask the witnesses about them. Each of these clips
2 pertains to a person whose names were part of the search
3 terms. All right. That's the foundation that we are laying
4 is that these people were part of the search terms whether it
5 was Larry Chiu, whether it was Cheung Chi Tai, et cetera. And
6 we're laying the foundation for why -- and of course, as you
7 well know, Your Honor, none of those names can be seen. So we
8 can't find where Larry Chiu is discussed in the redacted
9 documents. We can't find where Cheung Chi Tai is discussed.
10 They admit that it's all relevant, because they ran the search
11 terms on it.

12 And let's remember this, they not only admit that it
13 was hit by the search terms, but someone -- some who
14 presumably really has no knowledge about this case some
15 Macanese citizens determined that at least these few documents
16 that they gave us were relevant, and they are still all
17 redacted. And these names are relevant to that, and that's
18 the foundation that we're laying.

19 MR. RANDALL JONES: Well, if I just might add. They
20 did -- if you look at Volume 2 of Mr. Leven's deposition,
21 these are on their witness list of exhibits they're going to
22 use -- excuse me, exhibit list of exhibits they're going to
23 use at this hearing. In volume 2 they've got Exhibits 57
24 through 62 that were a part of the Macau redacted documents.
25 So they certainly not only had the opportunity to show them

1 those documents, they're going to read in his testimony, which
2 I am not objecting to, because I understand that goes right to
3 the heart of their argument about the Macau redacted documents
4 and the prejudice they've suffered. So they did have access
5 to those documents. And this is an area that we think is
6 really not relevant to this inquiry at all, and so we
7 shouldn't be talking about it. But that's my objection and I
8 don't want to belabor it.

9 THE COURT: Okay. I understand. The objection's
10 overruled.

11 Can you push play.

12 (Continued playing of deposition)

13 BY MR. BICE:

14 A -- to do business with a man named Cheung Chi Tai.
15 I believe that was in 2010, because of some previous criminal
16 record that he had, and when we found that he had some
17 ownership in the junket itself, but the advice was not to
18 throw the junket out, the advice was to get him out of the
19 building.

20 Q Okay. When you say, out of the building, where was
21 he doing business?

22 A Well, allegedly he was in the room, in the junket
23 room.

24 Q Okay. In one of the Macau --

25 MR. RANDALL JONES: Same objection, Your Honor.

1 THE COURT: Overruled.

2 BY MR. BICE:

3 Q -- casinos?

4 A I believe so, yes.

5 Q And how did this come to your attention?

6 A Well, there was an article about this particular
7 man. And Reuters I think had an article about him, and it
8 came to my attention either -- you know, that way. I don't -
9 which person told me about it. I discussed it with our casino
10 people and with Mr. Jacobs, and it was thought that it would
11 be safer for him to be gone from the building, because we
12 found out that he had ownership in the junket -- I'm sorry, he
13 guaranteed, he was a guarantor of the junket's credit or
14 something like that.

15 Q Okay.

16 A And so a decision was made to recommend that he be
17 removed from the premises.

18 Q Is the first time you had heard the name Cheung Chi
19 Tai was it in response or as a result of that article, that
20 Reuters's article?

21 MR. RANDALL JONES: Objection, Your Honor.
22 Relevance.

23 THE COURT: Overruled.

24 BY MR. BICE:

25 Q Was Mr. Jacobs to your knowledge ever directed to

1 cease doing business with Cheung Chi Tai?

2 A I don't know in which way the message was provided
3 to Mr. Jacobs in terms of removing him. The last
4 understanding I remember was that Mr. Goldstein had made a
5 suggestion he be removed. And then Larry Chiu who knew him
6 who was our senior marketing guy to that marketplace was going
7 to deliver the message to Cheung Chi Tai. What message he
8 delivered I have no idea because it was in Mandarin and it was
9 never been translated to me.

10 Q All right.

11 A And to this day I don't whether Cheung Chi Tai is
12 gone or not gone to be honest. I think he's gone, but I'm not
13 sure.

14 Q Earlier I asked you about the Cheung Chi Tai
15 discussion that you had with Mr. Jenkins. Did you have any
16 communication with him in writing about severing a
17 relationship with Cheung Chi Tai?

18 A There may have been some emails. There may have
19 been some emails. I wasn't shown any from the old days, but
20 there may have been some emails.

21 Q Did you communicate in any form of written matter
22 under the email of Mr. Jacobs?

23 A We talked on the telephone.

24 Q Okay. Do you send text messages with your phone?

25 A Not at that time. I do send text messages now.

1 Q All right.

2 A But I didn't in 2010.

3 Q Okay. Over the phone then; correct?

4 A Yeah.

5 Q Understood. Kind of implicit, but I just wanted the
6 record.

7 A But I generally -- I don't send many of them out
8 frankly.

9 Q Okay. And even in the 2009 and 2010 time frame you
10 wouldn't have typically sent a letter or written
11 correspondence to Mr. Jacobs?

12 A No. It was all Blackberry computer emails or
13 telephone.

14 Q Okay.

15 MR. RANDALL JONES: Now, Your Honor, there's -- I'm
16 sorry. There's an objection to the next question, but the
17 answer is given prior to the objection, on the record by the
18 way.

19 THE COURT: Well then give me the objection.

20 MR. RANDALL JONES: Mr. Peek's objection is, "Don't
21 answer that. We are not going to get into these issues, Mr.
22 Bice, in this context. We will certainly go into them later
23 if we get that far." So I don't know if Mr. Peek wants to --

24 THE COURT: What was the question that was objected
25 to?

1 MR. BICE: Well, the question was answered.
2 MR. RANDALL JONES: The question was answered. As I
3 say, Mr. --
4 THE COURT: Well, I understand. But what was the
5 question?
6 MR. RANDALL JONES: "Did there come a time in which
7 it was Mr. Jacobs, in your role as advisor, did Mr. Jacobs
8 brought to your attention an email communication from Mr.
9 Alves soliciting a \$300,000 payment?"
10 MR. BICE: \$300 million payment.
11 MR. RANDALL JONES: Oh. I'm sorry. 300 mil, yes.
12 I'll apply a couple zeros. And Mr. Peek interposed his
13 objection late. So I just -- again, we believe that's not
14 relevant to the --
15 THE COURT: It can be late. It's okay. Is there
16 anything else you want to tell me about the objection before I
17 listen to Mr. Bice?
18 MR. RANDALL JONES: No, Your Honor. Just relevance.
19 THE COURT: Mr. Bice.
20 MR. BICE: Your Honor, this is again Mr. Alves was
21 one of the search terms that was run against this database in
22 Macau, and of course --
23 THE COURT: He's the lawyer in Macau?
24 MR. BICE: He was much more than a lawyer --
25 THE COURT: He was also like a public official, too?

1 MR. BICE: Yeah. Well, we're going to be getting to
2 that obviously in this case. But here's the point. He was
3 one of the specific search terms that was ran, and of course
4 you can't find where he's at in these redacted documents
5 because the documents are all redacted. And we're laying the
6 foundation that there were communications about him, and we
7 believe there were substantial communications in Macau, and of
8 course you'll never know it. And they're giving direction to
9 Mr. Jacobs from Las Vegas on this subject matter, and that's
10 the basis for it.

11 THE COURT: All right. The objection's overruled.
12 BY MR. BICE:

13 Q Come a time in which it was Mr. Jacobs in your role
14 as advisor, Mr. Jacobs brought to your attention an email
15 communication from Mr. Alves soliciting a \$300 million
16 payment?

17 MR. PEEK: Don't answer that.

18 MR. RANDALL JONES: I have no objection if you want
19 to take out the back and forth between Mr. Peek and myself. I
20 left it in --

21 MR. PEEK: I have no objection, Your Honor. Again,
22 I'm going to renew my objection, or renew the objection that I
23 made there, it was my objection. Mr. Jones has articulated,
24 as well. But I think part of the objection was that here
25 talks about email communication. He has the email

1 communications. So he says, if I don't have them, he has
2 them. So he says as though they don't exist. He knows they
3 exist because he had them -- he showed them to the witness.
4 And this is before any documents --

5 THE COURT: Well, let me ask a question. Were they
6 produced by Sands China Limited?

7 MR. PEEK: Yes, Your Honor, they were, because
8 search terms were run. But obviously he was able to give the
9 personal information about the individual it has to be
10 redacted. That was what we went over yesterday with Mr.
11 Fleming.

12 THE COURT: Yes, we did.

13 MR. PEEK: We don't have Mr. Alves's consent. But
14 that's those same documents already were available to them in
15 the United States and had been produced to them through Las
16 Vegas Sands.

17 THE COURT: You believe you have the same document?

18 MR. BICE: Some of them would be in the United
19 States, but not all of them. And that's why the search terms
20 were run in Macau, and they redacted it all.

21 MR. PEEK: But, Your Honor, the concept of Mr. Alves
22 goes directly to the merits. You may recall that there is a
23 litany of --

24 THE COURT: I understand that.

25 MR. PEEK: Okay.

1 THE COURT: But there's the issue -- and this is why
2 I overruled the objection --

3 MR. PEEK: I know.

4 THE COURT: -- when Mr. Jones said it, because if
5 there is direction being given from Las Vegas to Macau about
6 how to handle an issue related to Mr. Alves then that may
7 arguably be relevant to the jurisdictional issue where Mr.
8 Alves's conduct will be relevant to the substantive issues if
9 we ever get that far. Do you understand what I'm saying?

10 MR. PEEK: I understand that, Your Honor. But just
11 to follow your line of thinking, if there was an email from
12 the United States, Las Vegas Sands to Sands China Limited,
13 that document would have been produced by Las Vegas Sands and
14 was produced with Las Vegas Sands in connection with all these
15 search terms that were run.

16 THE COURT: But there's a reference here to an email
17 asking for \$300 million by Mr. Alves.

18 MR. PEEK: And he has that email. He has that
19 email.

20 THE COURT: But the issue is whether there's other
21 emails with Mr. Alves that we can locate; right? Isn't that
22 part of it?

23 MR. RANDALL JONES: I'm sorry. That was the basis
24 of my objection. If there's a redacted email that they want
25 to talk about that comes up in this discussion I don't have a

1 problem with that.

2 THE COURT: There's 70,000 redacted emails.

3 MR. RANDALL JONES: But here's the problem --

4 THE COURT: That's what the guy told me yesterday.

5 MR. RANDALL JONES: But when there are -- no. There

6 are how many?

7 THE COURT: He told me 70,000.

8 MR. PEEK: There are not 70 --

9 MR. PEEK: No. No. No. No. 70,000 redacted

10 emails? No. There's -- the testimony was I think he said

11 about 7200 or so. It's not 70,000, Your Honor.

12 THE COURT: He said 70,000 on the first day of his

13 testimony. I wrote it down and I wrote a big star next to it.

14 MR. RANDALL JONES: That is what I think was the

15 total search of redacted documents.

16 THE COURT: 70,000 selected for review.

17 MR. RANDALL JONES: Right.

18 MR. PEEK: For review, Your Honor, that's --

19 MR. RANDALL JONES: Right. Right, Judge. we've

20 found.

21 THE COURT: 15,000 redacted.

22 MR. PEEK: How many?

23 THE COURT: 15,000.

24 MR. RANDALL JONES: Initially. That's right.

25 THE COURT: Grouped by subject for review, for

1 review duplicates removed, trained Macau attorneys in
2 technology. Then they reviewed and redacted.

3 MR. PEEK: But that's not 70,000 documents were
4 redacted.

5 THE COURT: You're right, it's 15.

6 MR. RANDALL JONES: No. Your Honor, actually there
7 was a dispute I think between Mr. Pisanelli and Mr. Ray as to
8 whether it was 9600 I think is the number that Jim used, and
9 the witness said he thought it was about 7200. But it's
10 not --

11 THE COURT: The 15 was before deduplication.

12 MR. RANDALL JONES: Right.

13 THE COURT: I know that.

14 MR. RANDALL JONES: And so it's my understanding
15 anyway that it's about -- I think Mr. Pisanelli's number is
16 actually closer to the right number at least I know.

17 THE COURT: So there's about 10,000.

18 MR. RANDALL JONES: There's less than 10,000.

19 MR. BICE: We're not sure it's less than 10.

20 MR. RANDALL JONES: It's a lot of documents. Well,
21 that was the number that Jim used yesterday. But be that as
22 it may, here's my point, Judge. This is my only point. I
23 understand where they want to go with this. That's what their
24 job is to do. But if there are documents that relate to this
25 line of questioning that are unredacted that they have that

1 were matching duplicates in the United States, which is what I
2 understand Mr. Peek to be telling you, that's the point. If
3 Mr. Leven sent an email to Mr. Alves or anybody else in Macau,
4 that information was produced unredacted, and there's no
5 evidence --

6 THE COURT: From Las Vegas Sands.

7 MR. RANDALL JONES: Right. Right. And --

8 THE COURT: No. I understand that.

9 MR. RANDALL JONES: There's no evidence. So if they
10 have that, and we've found those duplicates --

11 THE COURT: But only if the hashtags were the same
12 do we know that -- I'm not -- not hashtags, hash codes --
13 Pisanelli is rubbing off on me. Only if the hash codes were
14 the same were they deduplicated.

15 MR. RANDALL JONES: No, that's not true. That was
16 one way they were deduplicated. If the hashtags were the same
17 they would have --

18 MR. PEEK: Hash codes.

19 MR. RANDALL JONES: Now, got me doing it, Judge.
20 The hash codes are the same.

21 THE COURT: That's Pisanelli's fault.

22 MR. RANDALL JONES: I'll blame it on him, as well.
23 They deduplicated them. If they found other, as he told you,
24 Mr. Ray told you, there may be other instances where the hash
25 codes were not identical but they were able to match -- find

1 matches, as well. All I'm saying, Judge, is that trying to
2 move this along and not get into discussion that's not
3 relevant to the inquiry. There's been no evidence here
4 suggested that this email was ever not provided to them
5 unredacted.

6 THE COURT: I don't think the issue is about a
7 particular email. I think the issue is about the ability to
8 check and evaluate whether the search terms that you ran
9 produced the right population of documents since there is no
10 transparency enabled to be able to review those documents to
11 see if they did what you thought they were going to do.

12 MR. RANDALL JONES: Your Honor, I understand. But
13 the point you just made, again, that doesn't mean it's
14 relevant to this particular line of inquiry. That's my only
15 point. There's no evidence to suggest that this email was not
16 available to them in unredacted form.

17 THE COURT: So you agree Mr. Alves is relevant?

18 MR. RANDALL JONES: No. I agree that they think
19 he's relevant and that you think he's relevant and --

20 THE COURT: It doesn't matter what I think.

21 MR. PEEK: It does matter what you think, Your
22 Honor.

23 MR. RANDALL JONES: Well, I think it matters most
24 what you think, Your Honor. If you don't think he's relevant
25 then certain -- I don't think he's relevant to this inquiry

1 whatsoever.

2 THE COURT: I think his name is on the search terms.
3 And his name has been redacted from the Macau documents
4 because you don't have a consent from him, and so nobody can
5 tell which documents his names are on.

6 MR. RANDALL JONES: If you think he's relevant,
7 that's all that matters as far as I can understand this
8 process. But that still doesn't change the circumstance that
9 they have the burden of showing the prejudice, and there's
10 been no indication that the email that they are talking about
11 in this discussion has not been produced to them.

12 I think Mr. Peek's comment was as far as he is
13 aware, and he would know more about this than I, I wasn't
14 involved at that point in time, I wasn't in that deposition,
15 that that email was provided in an unredacted form by Las
16 Vegas Sands. That's only -- what I meant, Your Honor.

17 THE COURT: Well, I understand that. But you
18 understand what I'm saying. My focus is you have search
19 terms, we ran search terms, there are redactions, I don't have
20 a perfect symmetry of emails from Las Vegas Sands that have
21 been produced with those Macau documents. I have some
22 divergence between those, and I can't tell whether the search
23 that was run adequately provided information because we can't
24 look behind the black lines.

25 MR. BICE: And no one can.

1 MR. PEEK: Okay. But I --

2 THE COURT: Well, you can if you're a Macanese
3 citizen in Macau.

4 MR. PEEK: I'm a little bit confused, Your Honor,
5 and I'm trying to follow the Court's line of thought here.
6 You say there's a divergence. We know that where that same
7 document existed in the United States whether it be by
8 identification of hash code or whether it be by sending that
9 document to Macau for the Macanese lawyers to look at it --

10 THE COURT: They didn't do that.

11 MR. PEEK: Yes, they did, Your Honor.

12 THE COURT: He told me they didn't do it. I asked
13 him.

14 MR. PEEK: Your Honor, then you and I heard the
15 testimony incorrectly.

16 THE COURT: I asked him if they could remotely sign
17 into the server that he had so that they could compare the
18 documents, and he said, no, they couldn't do that because if
19 they asked for the information they would be revealing
20 personal identifiers.

21 MR. PEEK: If you'd let me finish, Your Honor.

22 THE COURT: Sure, Mr. Peek.

23 MR. PEEK: Thank you. Because what he said -- what
24 I heard him say was, we took the information from the United
25 States after identifying by hash code and a number of other

1 date identifiers, name identifiers, subject matter
2 identifiers, we sent that collection of documents over to
3 Macau and asked the Macanese lawyers there, who could look at
4 both the Macanese email that was protected and the U.S. email
5 that was sent to them to compare those two, and where there
6 were comparisons and identical documents, they were produced
7 by Las Vegas Sands.

8 That's what he said, Your Honor. And that's what I
9 know happened here. Because you will see that in the final
10 arguments in the closing and the exhibits that we produce to
11 us and will ask to be admitted, those very same documents that
12 they say they don't have access to had been produced by Las
13 Vegas Sands because they were in the U.S. So I don't know if
14 I've clarified that for you, but that's what I heard of the
15 testimony.

16 THE COURT: Well, let me ask you the question, Mr.
17 Peek. Of the approximately 10,000 documents that have been
18 produced in a redacted form none of those documents are at Las
19 Vegas Sands?

20 MR. PEEK: I don't know that the number is 10,000,
21 Your Honor.

22 THE COURT: Okay. Say it's 7500.

23 MR. PEEK: Well, I will tell you this so I don't get
24 stuck here with a number. There are documents that we did not
25 find in the United States from that initial review. I don't

1 know if I'm answering your question, but I do know that there
2 are still documents that are completely redacted and
3 unavailable for review by -- in an unredacted form, because
4 they weren't -- we could not find them in the United States.
5 That's what Mr. Jones was saying to you is that we've asked
6 them, you know, give me something -- tell me what documents
7 you have where you need additional information, we'll look for
8 it.

9 THE COURT: But you can't expect them to anticipate
10 what was created by your client. So let me step back again,
11 because I disagree with you, and at some point in time we're
12 going to have this argument. Because of the decision to
13 sequester the data that was on the drive that was transferred
14 from Macau --

15 MR. PEEK: The Jacobs hard drive?

16 THE COURT: The one that Mr. Kostrinsky hand
17 carried.

18 MR. PEEK: Right. He didn't hand carry it, but it
19 got delivered here.

20 THE COURT: He testified he brought it with him.

21 MR. PEEK: I'm going to disagree with the Court
22 again. But --

23 THE COURT: Sure. So to the extent that that data
24 was sequestered and not reviewed, that data is still available
25 in the United States. Whether your client decides not to look

1 at it or not is a different issue. But that data is in the
2 United States and is available. Now, I have reviewed much of
3 that data because of the redactions and the privilege log
4 issues that were created, and those have not been compared to
5 the Macau documents that are redacted; correct?

6 MR. PEEK: Okay. That collection that you have
7 reviewed, Your Honor, is the collection that Jacobs took from
8 Macau, and you ordered him to turn it over to advanced
9 discovery.

10 THE COURT: Okay.

11 MR. PEEK: That privilege log that was created came
12 from --

13 THE COURT: Thank you for correcting me. You're
14 right. Okay. So nobody's ever looked at the transferred data
15 that -- I'm sorry. The ESI consultant has never looked at the
16 transferred data of --

17 MR. PEEK: That is what I heard yesterday, Your
18 Honor, for the first time. That he did not look at the --
19 the Kostrinsky transfer I'll call it.

20 THE COURT: So while the transferred data may have
21 additional documents that are in the United States in an
22 unredacted form, no one has made any attempt to cross-
23 reference or correlate the redacted documents from Macau with
24 the information that is here in the United States on those
25 electronic storage devices?

1 MR. PEEK: I believe that is what I heard, as well,
2 yesterday, Your Honor. And that may be the subject matter of
3 maybe further discussion with the Court about that.

4 THE COURT: I don't know.

5 MR. PEEK: But the other thing that I would say to
6 the Court is that that same -- I'll call it the Kostrinsky
7 transfer as to however it occurred.

8 THE COURT: Or you could call it the Hyman transfer.
9 It depends on who you listen to during the evidentiary
10 hearing, Mr. Peek, because we heard different information at
11 different times; right?

12 MR. PEEK: Let me just -- I'll try to move mine,
13 Your Honor.

14 THE COURT: I call it the transferred data in the
15 order because that seemed to be --

16 MR. PEEK: There were -- we know that there was data
17 that Ms. Hyman had transferred. We know that Mr. Kostrinsky
18 collected the hard drive from Jacob. We also know that Jacob
19 collected -- Jacobs collected his own hard drive and took it
20 with him when he walked off of the property in June of -- or
21 July of 2010.

22 THE COURT: And that's what I did the privilege log
23 and redaction review on. Okay.

24 MR. PEEK: And those documents are available to them
25 now that -- to Mr. Jacobs, so, you know, he has the same thing

1 that we have. But, I guess where I'm going here, Your Honor,
2 is in terms of -- there are a couple points I want to make.
3 I'll follow the objection, I'm going to get past that. But
4 the other thing that concerns me is the Court keeps saying or
5 seems to be concerned about whether there were valid search
6 terms run.

7 THE COURT: Absolutely, I'm concerned about that.

8 MR. PEEK: I've heard that yesterday, and that's
9 when I objected to it. And I'm going to continue to
10 strenuously object to that because we haven't had no notice
11 whatsoever. And I know the Court will disagree with me, but
12 we've had no notice whatsoever from January 8th, 2013, when we
13 disclosed the search terms to the Court in a filing with the
14 Court, served upon the defendants -- or excuse me, upon the
15 plaintiffs, we've had no objection to that despite the fact
16 that they now claim that Ms. Spinelli sent search terms to us
17 in this email correspondence in August of 2012, and said do
18 this. They didn't then complain and say, oh, by the way, what
19 you've just now told the Court is sanctionable conduct or
20 conduct where we have been prejudiced. You didn't run our
21 search terms. I understood this to be whether or not we were
22 entitled to redact. Not whether or not the search terms were
23 proper --

24 THE COURT: This isn't about whether you're entitled
25 to redact. This is about the prejudice as a result of your

1 redaction. I've already made a determination you were not
2 able to redact. I know you may not like that, but that has
3 been made and went up to the Supreme Court already and came
4 back down and said I can conduct the rest of the hearing.

5 My hearing is what prejudice have they suffered and
6 what other factors went into your decision to violate the
7 order.

8 THE COURT: And I understand that part of what the
9 Court's finding and search's inquiry is going to be, but I'm
10 not on notice at all based upon the search terms -- well, I'm
11 not on notice that they suffered a prejudice because of the
12 search terms that we disclosed openly and publicly to this
13 court and to then in January of 2013.

14 THE COURT: So can I back up in our discussion. And
15 I apologize, because this is going to throw off our schedule
16 with Mr. Raphaelson. So, Mr. Peek, the documents that came
17 from Macau and have been redacted, those documents were
18 elicited as a result of searches run using the search terms.

19 MR. PEEK: Correct. That we disclosed to the Court
20 on January 8, 2013.

21 THE COURT: So the search terms are relevant in my
22 determination as to whether the redactions are appropriate and
23 whether we can test whether the universe of documents that had
24 been redacted and produced are in fact appropriate documents
25 and whether the documents were generated that were anticipated

1 to be generated when you use those search terms.

2 MR. PEEK: I'm not going to necessarily agree with
3 the Court, but I will say this to the Court. There are a
4 couple of things, is that they now predicate their evidence on
5 the fact the Debbie Spinelli submitted search terms that she
6 said I want run, versus what was actually identified in the
7 exhibit filed with this Court. Okay. That we know. There's
8 nobody here who sat on that witness stand and said to you that
9 oh, this search term would have produced more documents and
10 that search term would have produced more documents. There's
11 nobody here who -- even Mr. Ray as I heard him yesterday said
12 in examination from Mr. Pisanelli is that they would have
13 gotten all of these documents.

14 THE COURT: Well, if somebody put an or instead of
15 an and it gives you more documents with the and.

16 MR. PEEK: Well, is that just something that the
17 Court is --

18 THE COURT: Well, I know that from other evidentiary
19 hearings I've conducted. So I'm telling you --

20 MR. PEEK: But not from this evidentiary hearing.

21 THE COURT: No. I don't.

22 MR. PEEK: Okay.

23 THE COURT: But I know --

24 MR. PEEK: We're dealing with this evidentiary
25 hearing.

1 THE COURT: Unfortunately we're also dealing with my
2 knowledge about ESI and the issues, and that's why I ask the
3 questions that I do of the witness because I knew to try --

4 MR. PEEK: But I'm not on notice, Your Honor. I'm
5 not on any kind of notice that there is a prejudice suffered
6 as a result of the search terms that we disclosed to this
7 Court and to plaintiffs.

8 THE COURT: I don't think it's about there's a
9 prejudice related to the search terms. It's a prejudice
10 related to the redaction so nobody can test whether the search
11 you ran was an appropriate search. Do you understand that I'm
12 making an additional step?

13 MR. PEEK: I understand. The point that the Court
14 is making about the so-called transparency that is -- that it
15 believes should have been existing in this examination or in
16 this --

17 THE COURT: Not just this one. But every time we
18 have an ESI issue, that's part of my concern, is because the
19 person in control of running the ESI search is the one who can
20 control what that does. And I've had situations where people
21 put in or instead of and. I've had situations where they
22 don't run it on all of the devices. I've had situations
23 where, gosh, when we did our review to see if it was a
24 representative group we decided a lot more documents weren't
25 relevant than other people might have. You know, I've had all

1 of those things happen in my career as a judge, and I know
2 you've had some of them happen in your career as a lawyer.

3 And part of the struggle I have here is because your
4 client made a decision to comply with what it believed was the
5 Macau Data Privacy Act and interpretation of it, we have
6 documents that are basically useless in the return. And
7 that's -- at least that's the allegation.

8 MR. PEEK: That's the -- thank you, Your Honor.

9 THE COURT: I know. And so that's where I'm
10 struggling with because if I have you going to the expense of
11 doing searches that cost you \$2.4 million, and as a result of
12 that you produce stuff that is worthless to all of us, why'd
13 you even do it? Why didn't you just say, hey, Judge, there's
14 no reason for us to do it, because every document we're going
15 to pull is going to have personal identifying information and
16 therefore we can't produce any of it?

17 MR. PEEK: But we -- there is information in those
18 emails, Your Honor, in that ESI that has other information
19 other than the redacted personal information.

20 THE COURT: Well, the ones I reviewed two years ago,
21 everything that was of substance was redacted in the ones I
22 reviewed, or at least the examples of the ones I reviewed in
23 the motion practice. Because I didn't review 10,000, 75,000,
24 or even 2,000.

25 MR. PEEK: Whatever the number is.

1 THE COURT: I reviewed probably 100. So --
2 MR. PEEK: I get that, Your Honor. I've made my
3 objection.
4 THE COURT: You understand what I'm saying though?
5 You don't have to agree with me.
6 MR. RANDALL JONES: I just want to clear something
7 up. We found the document unredacted. It's been produced by
8 Las Vegas Sands. I can put it up on the Court's screen --
9 THE COURT: You're talking about the \$300 million
10 document?
11 MR. RANDALL JONES: I'm talking about the document
12 at issue with the Bates number that's -- they have a fully
13 unredacted version of that document.
14 THE COURT: See. But that's not the issue. That's
15 not what we've been talking about for the last 20 minutes.
16 MR. RANDALL JONES: But how is that relevant to what
17 you need to hear? Why do you need to hear this testimony when
18 they have that document? They can talk about other documents
19 they don't have. That's my objection, Judge. We have a
20 limited amount of time. Mr. Bice wants to put up testimony
21 about a document they have. How does that help this Court
22 get -- we all understand the other argument about documents
23 they don't have in fully unredacted form. How does moving the
24 ball forward in any way shape and form occur when they talk
25 about a document that they already have in fully unredacted

1 form? I just don't get that. There's no --

2 THE COURT: Because you're asking them to trust you
3 that that's the only one about that person.

4 MR. RANDALL JONES: I'm not asking them.

5 THE COURT: What's that?

6 MR. RANDALL JONES: I'm trying to get to relevant
7 testimony.

8 MR. BICE: Your Honor, can I object to this double
9 teaming. I mean, we've got --

10 THE COURT: It's triple teaming, because I'm
11 involved.

12 MR. BICE: Well, actually, Mr. Morris is actually --

13 THE COURT: No, I was involved in the discussion,
14 too.

15 MR. BICE: Okay. But, Your Honor, we've spent more
16 time trying to not talk about this evidence than the --
17 playing the evidence would take. We're making a record here.
18 And with all due respect, we have --

19 THE COURT: Yes. [Inaudible].

20 MR. BICE: -- we have a team that is very prone to
21 go tell the Nevada Supreme Court how they have been wronged
22 every time that we have a hearing here, and then they claim
23 that there isn't sufficient evidence in the record to support
24 certain things. So in light of those arguments we want the
25 record to contain the evidence showing why Cheung Chi Tai was

1 material, why Mr. Alves is material, why it's important to be
2 able to find the emails that concern them, since directives
3 were being given from Las Vegas about these individuals. So
4 to say, well, there's one email that Mr. Jacobs knows about
5 and they have that one so that's the end of the discussion, is
6 just wrong. We were entitled -- those search terms -- we
7 cannot find -- there's 10,000 documents, Your Honor. We type
8 in the name Alves, guess what we get back, Your Honor.
9 Nothing. We type in the name Cheung Chi Tai so that we can do
10 our searches. Guess what we get back. Nothing. You know
11 why? Because everything's been redacted. And that's true of
12 every name that was used in the search terms, Your Honor.

13 And think about that, Your Honor. When we do ESI
14 searches the most common search term is someone's name. And
15 they took them all out of these documents. They are
16 completely useless to us. And they knew that. And you are
17 exactly right. Why not just come to the Court, since we knew
18 and Mr. Fleming confessed it, he was never going to comply.
19 He admitted it. So instead we've had two years of a charade
20 of, well, we were confused, we thought you said we could
21 redact, we were -- they tell the Supreme Court, we were
22 confused, we thought that that order only applied to documents
23 in the United States, which, of course, everybody knew was
24 nonsense, and Mr. Fleming admitted it was nonsense. But the
25 point here is they chose to do these redactions. We are

1 trying to make our record. We would have been done with this
2 testimony but for these arguments.

3 THE COURT: Can we hit "play," please.

4 MR. BICE: Hit "play," Dustin.

5 MR. RANDALL JONES: Your Honor, I'm sorry. Go ahead.

6 THE COURT: Can we continue to play, please.

7 DEPOSITION OF MICHAEL LEVEN CONTINUED AS FOLLOWS:

8 MR. PEEK: -- go into these issues, Mr. Bice, in
9 this context. We'll certainly go into them later if we get
10 that far.

11 MR. BICE: I apologize. Stop. Stop, Dustin. Go
12 to --

13 MR. PEEK: [Unintelligible], but I don't --

14 MR. BICE: No. I told Mr. Peek I would take --

15 THE COURT: I hear you guys argue all the time.

16 MR. BICE: -- I would take that out and start at
17 211, line 2.

18 MR. RANDALL JONES: Your Honor, while we're doing
19 that could we -- could I engage Mr. Bice in a wager. I'll bet
20 him a thousand dollars that if he searches the SCL database
21 Mr. Alves's name will come up at least 15,086 times.

22 If you'd like to make a wager --

23 MR. BICE: In the redacted documents?

24 MR. RANDALL JONES: In the documents that he says he
25 doesn't come up once.

1 MR. BICE: That's not --
2 MR. RANDALL JONES: I was -- I listened carefully.
3 MR. BICE: He didn't listen very carefully, Your
4 Honor, because I said --
5 THE COURT: Guys, will you stop arguing so I can
6 listen to Mr. Leven's testimony.
7 MR. BICE: Yeah. But --
8 THE COURT: If you want to do a private wager, pass
9 the note across the aisle.
10 MR. RANDALL JONES: I will. I will make sure to do
11 that, Your Honor.
12 THE COURT: Make sure it is a very clear and
13 complete description of what it is you're wagering on so later
14 I don't have to make a determination as to whether the wager
15 was ambiguous.
16 MR. BICE: I'd like to --
17 THE COURT: Can we hit "play."
18 MR. BICE: I'd like to see the consent, since
19 they're now claiming Mr. Alves's name is in -- has been in the
20 redacted documents.
21 THE COURT: Can we play.
22 MR. RANDALL JONES: I said in the documents what I
23 said.
24 THE COURT: Hit "play."
25 MR. BICE: Please, Dustin.

1 (Continued playing of deposition)

2 BY MR. BICE:

3 Q Were you serving in your capacity advisor to the
4 board?

5 A No. I was on the board by this time.

6 Q I'm sorry?

7 A No. Was I on the board? I don't remember when I --
8 this was not in '09. This was in '10, I think. The
9 \$300 million thing?

10 Q Yes, sir.

11 A I think that was in '10.

12 MR. PEEK: That was in Jacobs's [unintelligible].

13 THE WITNESS: Steve was around, yeah. So it had to
14 be in '10. It was in the early part of '10.

15 BY MR. BICE:

16 Q All right. Were the emails forwarded to you?

17 A Yes.

18 Q Okay.

19 A Not from Leonel Alves. From Steve Jacobs.

20 Q Steve Jacobs forwarded them to you; correct?

21 A Yeah. Yeah. He sent me the email, and I said, this
22 stinks, or, this smells, and I sent it back to him.

23 Q Okay. Did you do anything further with the email in
24 your capacity as board advisor?

25 A Well, I didn't send anything to the board. I

1 expected that there was no way we were going to pay that kind
2 of money for anything that looked like -- that size that
3 looked like, you know, it would help us. It was just -- it
4 appeared to be very illegal, so to speak.

5 Q Okay.

6 A But, you know, at the end of the day I didn't know
7 that it was for a couple of different things, to settle a
8 lawsuit, as well as to create, you know, some acceptance for
9 us. But the number was so outrageously high that essentially
10 we were not going to accept it.

11 Q Okay. Did you -- in your capacity as advisor did
12 you report it to anyone?

13 A On the SCL board?

14 Q Yes, sir.

15 A No.

16 Q Okay.

17 A Other than Sheldon.

18 Q All right. And does -- this email that Mr. Jacobs
19 sent to you was sent to you at your Las Vegas email address;
20 correct?

21 A I think so.

22 Q Did you ever give any -- Jacobs any direction on how
23 to address the email?

24 A Other than I said, this stinks, or, this smells, I
25 don't remember that I said anything else at that time.

1 Q Okay. Did you report that email to anyone on the
2 Las Vegas Sands Compliance Committee?

3 A No. I reported it I think to the general counsel.

4 Q And that -- of who?

5 A I think Las Vegas Sands.

6 Q And that would be Al Gonzalez?

7 A It was either Gonzalez or Gayle, one of the two.

8 Q Okay.

9 A I don't know whether Gonzalez was still there or not
10 at the time.

11 Q Did you take any further action on those emails in
12 your capacity as advisor to the board?

13 MR. BICE: Stop, Dustin. You can skip ahead in the
14 interest of getting through this, Dustin. Would you go to
15 218, line 13. 218, line 13, and then stop at the end of that
16 clip.

17 (Continued playing of deposition)

18 MR. RANDALL JONES: You lost your audio.

19 MR. BICE: Oh. Sorry. Stop, Dustin. We lost our
20 audio.

21 (Pause in the proceedings)

22 MR. BICE: Our apologies, Your Honor.

23 THE COURT: No worries.

24 MR. BICE: Why can't we just go to that spot, then,
25 and pick up.

1 (Pause in the proceedings)

2 THE COURT: We have nine minutes before we're
3 supposed to hook up with Macau.

4 MR. BICE: I understand, Your Honor.

5 (Pause in the proceedings)

6 MR. BICE: Jordan, what is Exhibit Number 6 in the
7 depo that would be in our binder?

8 MR. SMITH: That would be Plaintiff's Proposed
9 Exhibit 60.

10 MR. BICE: Our Proposed Exhibit 60, would you show
11 that to Randall and Mark and Steve and Steve while we're
12 waiting.

13 (Pause in the proceedings)

14 MR. BICE: All right. Play, it please.

15 (Continued playing of deposition)

16 BY MR. BICE:

17 Q Did anyone else at Sands -- from Las Vegas contact
18 him about that email, to your knowledge?

19 A Not to my knowledge.

20 Q Did you ever follow up with Mr. Jacobs about it,
21 about the email and what his response was to it?

22 MR. PEEK: Go ahead and answer. You've answered
23 that already. Go ahead and answer it again for the fourth
24 time -- third or fourth time.

25 THE WITNESS: So I sent it to Mr. Jacobs with a

1 note. I made the assumption that Mr. Jacobs, knowing Mr.
2 Jacobs, would never -- would never -- would never execute
3 something of that type. I mean, it wasn't -- it did not have
4 to be said when we knew it was way, way too much money for
5 what we were interested in doing.

6 MR. BICE: All right. Stop there, Dustin.

7 Your Honor, the next clip is really just concerning
8 our Proposed Exhibit 60, and I actually would make an offer as
9 to why. This is the follow-on termination letter of Mr.
10 Jacobs. And the reason that we would introduce that into the
11 record, Your Honor, is it lists certain items that became the
12 basis for many of the search terms and some of the names in
13 the search terms, and that's why it relates, including to our
14 issue about specific jurisdiction, obviously, because these
15 were the 12 bases we've now heard testimony from Mr. Adelson
16 that has expanded to 35. But that -- the 12 bases.

17 MR. RANDALL JONES: My only objection again is
18 relevance. I heard what Mr. Bice said, but I would still
19 object on relevance. And it does not contain any MPDPA
20 redactions.

21 THE COURT: But it is part of your basis for how the
22 search terms were created, theirs as well as yours?

23 MR. BICE: Yes.

24 THE COURT: And it is part of what you rely upon to
25 test whether the documents have been produced?

1 MR. BICE: Correct.

2 THE COURT: Okay.

3 MR. BICE: Our ability to look at them.

4 MR. PEEK: I guess the only thing -- is there a
5 proffer of where in Ms. Spinelli's proffered search terms this
6 existed did not included?

7 THE COURT: Well, no. It's in your search terms,
8 too. It's not whether it was included or not, it's the
9 testing of the results of the search.

10 MR. PEEK: Okay. In other words, you're not saying
11 that the search terms were improper --

12 THE COURT: No.

13 MR. PEEK: -- you're saying the search terms may
14 have been great, but whatever documents were produced, we
15 don't know whether or not it produced documents that would
16 relate to personal -- these search terms.

17 THE COURT: And that's because I can't test the
18 reliability determination of the relevance, conclusions by the
19 Macanese folks who made those, and I can't test the
20 redactions, because I can't see behind them.

21 MR. PEEK: With the exception of one name here,
22 Harry Ogilvie -- or hiring Ogilvie, there are no names on this
23 from which search terms would have been created. There are
24 topics. And I guess what he's saying is -- I don't know. I
25 guess I can't follow it.

1 MR. BICE: I'll be happy to address that. He's
2 right, there are topics such as Harrah's, Cirque du Soleil, et
3 cetera. And, of course, the search terms were run involving
4 certain executives and people at those entities, and, of
5 course, they're all redacted. Unless they found the document
6 in the United States of the documents that they purportedly
7 searched, but there are 10,000 or more documents that are
8 redacted, some of which pertain to these exact subject matters
9 upon which they claim he was terminated.

10 THE COURT: Okay.

11 MR. PEEK: Well, that's termination, not
12 jurisdiction.

13 THE COURT: Anything else other than the relevance
14 objection?

15 MR. PEEK: Your Honor, this is jurisdictional
16 discovery, not --

17 THE COURT: I understand, which is why --

18 MR. PEEK: He just said merits, why he was
19 terminated. He's going to the merits again.

20 THE COURT: I don't want to go into the merits.

21 MR. PEEK: Well, that's what he's --

22 MR. BICE: It's --

23 THE COURT: I'm testing the jurisdictional discovery
24 and whether there was prejudice as a result of the decision to
25 make redactions even though I said don't make redactions

1 except for privilege. Anything else besides the relevance
2 objection?

3 MR. RANDALL JONES: I still fail to see the
4 relevance unless they can demonstrate how there are any search
5 terms contained in this document and Ms. Spinelli's --

6 THE COURT: I'm going to admit it. But I am not
7 going to consider any substance of the document. I am only
8 admitting it for purposes of evaluating the discovery for
9 jurisdictional purposes.

10 (Plaintiff's Exhibit 60 admitted)

11 MR. PEEK: Thank you, Your Honor.

12 THE COURT: Next?

13 MR. BICE: We have -- we would next go to Volume --

14 THE COURT: It's admitted for a limited purpose.

15 MR. BICE: Thank you, Your Honor.

16 THE COURT: And the jury will be instructed to only
17 -- since I'm the jury --

18 MR. PEEK: You're going to instruct yourself, Your
19 Honor?

20 THE COURT: I'm going to instruct myself to consider
21 it for a limited purpose. If you can still keep a sense of
22 humor on whatever day this is of this hearing.

23 MR. PEEK: Well, we're going to be here tomorrow, it
24 looks like, too, Your Honor.

25 THE COURT: We knew that already.

1 MR. PEEK: That's why I said two hours.
2 THE COURT: 9:00 o'clock tomorrow.
3 MR. RANDALL JONES: Fair enough.
4 MR. BICE: So let's go to Volume 2.
5 MR. PEEK: Do we even want to start this Volume 2,
6 Your Honor, in light of it's 2:28?
7 THE COURT: I've got three minutes before I've got
8 to hook up with Macau.
9 MR. BICE: Well, then why don't we take a short
10 break, and I'll get ready for that and we'll --
11 So, Dustin, if you will stand down, and we'll pick
12 up with Volume 2 of Mr. Leven.
13 MR. PEEK: Your Honor, so as to -- and I don't know
14 if this is too early, I'd like to tell Mr. Raphaelson whether
15 he's going to be here or not at all, Mr. Bice.
16 THE COURT: I think you and Mr. Bice should talk
17 about that.
18 MR. PEEK: Yeah. Mr. Bice --
19 MR. BICE: Just one second.
20 MR. MARK JONES: Your Honor --
21 THE COURT: Uh-huh.
22 MR. MARK JONES: -- if I may, in the meantime I have
23 the -- Mr. Toh's testimony.
24 THE COURT: Wonderful. If you'd give it to the
25 clerk.

1 MR. MARK JONES: Thank you.

2 (Court recessed at 2:25 p.m., until 2:27 p.m.)

3 THE COURT: I asked you and Mr. Peek to talk about
4 how long and when you thought you would need Mr. Raphaelson.

5 MR. PEEK: I just wonder whether I should tell Mr.
6 Raphaelson even to come here this afternoon.

7 MR. BICE: It is my intention to call him.

8 THE COURT: Do you think you're going to get to him
9 this afternoon?

10 MR. PEEK: I know that.

11 MR. BICE: I would think so. We've got Mr. Toh for
12 an hour and a half or so.

13 THE COURT: Okay.

14 MR. BICE: Right? I mean, all in, probably.

15 MR. PEEK: Right. So that's 4:00 o'clock and you
16 still have clips to play.

17 MR. BICE: Oh, that's 4:00 -- I didn't realize it
18 would be 4:00 o'clock. I had no idea we were going to spend
19 this much time on clips, Your Honor.

20 THE COURT: You didn't spend them on clips. You
21 spent them on arguing amongst yourselves and with me, which
22 might help us in the long run, but it sure didn't help us get
23 done today.

24 MR. BICE: No. Well --

25 MR. PEEK: I'm just -- I don't want to inconvenience

1 him and I know we have tomorrow set aside.

2 THE COURT: I don't think we're going to get to it

3 today.

4 MR. PEEK: I don't either, Your Honor. But I don't

5 want to end up at 4:30 and --

6 THE COURT: And I'd rather not get home at 6:30 at

7 night again and then try and start dinner for the second night

8 in a row, third night in a row.

9 MR. BICE: Okay. Well, we have twenty minutes left

10 of video, is what I'm told.

11 THE COURT: Sweet.

12 MR. PEEK: I'm going to tell him, Your Honor --

13 THE COURT: We'll see him tomorrow at 9:00.

14 MR. PEEK: Thank you.

15 THE COURT: Is that okay, Mr. --

16 MR. BICE: That's fine, Your Honor.

17 THE COURT: And that way if there are -- we will

18 have finished -- Mr. Peek, are you going to call any

19 additional witnesses other than the finishing up Leven,

20 Goldstein and Toh? Are you going to call any additional

21 witnesses?

22 MR. PEEK: At this time, Your Honor --

23 THE COURT: You or Mr. Jones?

24 MR. PEEK: No. But we have some documents we'd like

25 to talk to the Court about admitting into evidence as part of

1 our case.

2 THE COURT: Well, I'm happy to listen to you, but if
3 you don't have a witness and there's an objection and I don't
4 admit them, do you have a back-up plan?

5 MR. RANDALL JONES: We do. We do, Judge. I'm going
6 to make a couple of --

7 THE COURT: Okay. So you have a potential witness?

8 MR. RANDALL JONES: Pardon me?

9 THE COURT: You have a potential witness?

10 MR. RANDALL JONES: We do.

11 THE COURT: Okay. So that could affect Mr.
12 Raphaelson.

13 MR. RANDALL JONES: But it's just foundation. All
14 it is is foundation.

15 THE COURT: Understand.

16 MR. BICE: But I --

17 MR. RANDALL JONES: But it will be very, very brief.

18 MR. BICE: There are no other witnesses on their
19 witness list, so I need to know the identity.

20 MR. RANDALL JONES: Well, the type -- it would be
21 Mark Jones and if we had to -- it's basically -- he's already
22 given an affidavit about foundational information.

23 THE COURT: Who?

24 MR. MARK JONES: I think we've stipulated to the
25 admission of the documents.

1 MR. RANDALL JONES: Oh, it sounds like they're
2 actually done.
3 MR. BICE: Oh, okay, that's all that.
4 THE COURT: So you're not going to have to do what
5 and I made Ms. Spinelli do?
6 MR. RANDALL JONES: Well, actually --
7 THE COURT: It also means you don't get M&Ms.
8 MR. RANDALL JONES: I'm sorry. There is one thing I
9 should bring up. It's the Okada discovery. I could put Mr.
10 Peek on the witness stand or I could put Ms. Spinelli. I'd
11 prefer not to do that. It's a document that's in a case
12 before you.
13 MR. PEEK: I'd prefer you not do it, too.
14 THE COURT: Well, you're not going to get a
15 stipulation on those.
16 MR. BICE: No, he's not.
17 THE COURT: But I did overrule the objection and I
18 did tell you had to lay a foundation.
19 MR. RANDALL JONES: Well, anyway.
20 THE COURT: So they're not documents that's in the
21 court file --
22 MR. RANDALL JONES: Understood. Right.
23 THE COURT: -- because they are a discovery
24 document.
25 MR. RANDALL JONES: Right.

1 MR. BICE: Your Honor, can I run to the restroom
2 real quick?
3 THE COURT: You may.
4 Has Macau called?
5 (Pause in the proceedings)
6 MR. MARK JONES: Here we go.
7 THE COURT: Good afternoon, or good morning, Mr.
8 Toh. How are you today?
9 MR. TOH: Good afternoon. I'm good. How are you?
10 THE COURT: I am well, thank you. I am still
11 waiting for all of the attorneys to get back in. They took a
12 break for restrooms. Hopefully they will be back soon. Can
13 you see us and hear us okay?
14 MR. TOH: Yes, I can see you, I can hear okay.
15 THE COURT: All right. Do you have the exhibits
16 that were sent over for you?
17 MR. TOH: I believe it's in the computer in front of
18 me, yeah.
19 THE COURT: Okay, good. So as soon as I have
20 everybody back in the room, then I will have the clerk swear
21 you in and then we'll get started, sir. Thank you very much
22 for your patience with us.
23 MR. TOH: You're welcome.
24 MR. RANDALL JONES: And, Your Honor, if I may.
25 Mr. Toh, this is Randall Jones speaking. As you may

1 know, I'm one of Sands China's lawyers here in Las Vegas. I
2 want to just let you know that if there is a delay in the time
3 that there is a question asked of you, I may ask you to please
4 just wait a minute, wait a few seconds before you start to
5 answer to allow me to have a chance to interpose an objection
6 if I need to. I may not object to a question, but if I do
7 object I'll need a second to make an objection and then Judge
8 Gonzalez will need to rule on that objection to determine
9 whether you should answer the question or not answer the
10 question. And I wanted to make sure you were aware of that
11 and understood that.

12 MR. TOH: Okay, got it.

13 MR. RANDALL JONES: Thank you.

14 THE COURT: All right. So if you could stand up,
15 sir, so we can swear you in.

16 TOH HUP HOCK, PLAINTIFF'S WITNESS, SWORN

17 THE CLERK: Can you please state and spell your name
18 for the record.

19 THE WITNESS: My name is Toh Hup Hock. T-O-H
20 H-U-P H-O-C-K.

21 THE COURT: Thank you, sir.

22 Mr. Bice.

23 MR. BICE: Thank you, Your Honor.

24 //

25 //

DIRECT EXAMINATION

BY MR. BICE:

Q Good morning, Mr. Toh. Can you hear me?

A [Unintelligible]. Yes, I can hear you.

Q All right, thank you. It's a pleasure to finally put a face with the name. We've heard about you from our client. I represent Mr. Jacobs, so it's a pleasure to see you.

A Good to see you, too.

Q Okay. Mr. Toh, can you just for the record, can you tell us where -- who is your current employer?

A My current employer is Venetian Macau Limited.

Q Do you serve any role with respect to a company known as Sands China Limited?

A Yes. I also serve as the executive director, CFO and the EVP of Sands China Limited.

Q And is it true that you have been a member of the Board of Directors of Sands China Limited since its inception?

A No. Since June, I believe June 2000 -- 2010. Not since inception. After we -- yeah.

Q After the company went public?

A Yes.

Q All right. Mr. Toh, did you review any documents to prepare for today?

A No. I didn't have a chance to look at.

1 Q All right. Did you meet with anyone to prepare for
2 your testimony today?

3 A Uh, I talked to my lawyer briefly, yeah.

4 Q Okay. And who is the lawyer that is with you, sir?

5 A Wyn Hughes, our internal counsel.

6 Q Understood. Did you speak to anyone other than Mr.
7 Hughes?

8 A Uh -- you mean internally?

9 Q Internally, yes, but in addition anyone outside of
10 the company as well.

11 A Yeah. I think I also speak to our lawyer, yeah.

12 Q And who was that, sir?

13 A The company lawyer who represents us I think over
14 there, a couple -- maybe a week ago, yeah.

15 Q Okay. And that was just over the phone or via
16 video?

17 A Over the phone and also through the video, yeah.

18 Q All right. And during that discussion did they show
19 you any documents?

20 A Yeah. They showed me the -- a couple exhibits.

21 Q They showed you what, sir? I apologize.

22 A Yeah, a few exhibits. I can't [unintelligible].

23 Q And do you remember which documents you looked at?

24 A I remember it's Exhibit, I think 341, 342 or
25 something like -- yeah, 344, 345. It's related to the

1 complications between us and the Macau Data Privacy Authority,
2 OPDP. Yeah.

3 Q Okay. Did you -- Were you shown any other documents
4 other than exhibits?

5 A That's all I -- that's all I've seen, yeah. Only
6 that document, yeah.

7 Q Did you provide them with any documents?

8 A No.

9 Q Mr. Toh, can you tell me, to whom do you report? In
10 other words, who is your boss?

11 MR. RANDALL JONES: Counsel, just which company?

12 THE WITNESS: I report to -- yeah, I report to the
13 CEO, the present CEO of Sands China.

14 BY MR. BICE:

15 Q Okay. And that would be Edward Tracy?

16 A That's correct.

17 Q And you are also a member -- I think you already
18 testified you are a member of the Sands China Board of
19 Directors, correct?

20 A That's correct.

21 Q And your offices are in Macau or Hong Kong, sir?

22 A My office in Macau.

23 Q Do you reside in Macau?

24 A Yes.

25 Q Do you travel much as part of your job?

1 A To Hong Kong or -- to Hong Kong?
2 Q Anywhere, sir.
3 A Not often. Only once in awhile, yeah.
4 Q Do you have any involvement in any of the other
5 Sands entities such as Marina Bay Sands?
6 A No.
7 Q Do you -- Are you a resident -- I'm sorry. Are you
8 a citizen of Macau?
9 A I'm only the temporary resident in Macau.
10 Q All right. Where are you a citizen of?
11 A Singapore.
12 Q Do you have any role in any government body in
13 Singapore?
14 A No.
15 Q Have you ever been a member of the Singapore
16 military?
17 A I'm a reservist for the Singapore military, yeah;
18 SF. I usually serve as the [unintelligible] Services. I have
19 to perform in Singapore.
20 Q So do you travel then to Singapore as part of your
21 duties?
22 A No.
23 Q Are you still an active member of the Singapore
24 military?
25 A No.

1 Q Are you a reserve member then? I'm not
2 understanding.
3 MR. PEEK: He said reservist already.
4 THE WITNESS: I'm a reserve member.
5 BY MR. BICE:
6 Q Okay, my apologies. I didn't understand your terms.
7 Do you have access to the exhibits there, Mr. Toh?
8 A Yes. I have the exhibit in front of me in the
9 computer, yeah.
10 Q All right. If you could, I would like you to turn
11 to Exhibit Number 23.
12 A One second.
13 THE COURT: And this is a proposed exhibit?
14 MR. BICE: Proposed Exhibit Number 23, Your Honor.
15 THE COURT: Thank you.
16 MR. BICE: Is there an objection to Proposed 23?
17 THE COURT: Are you going to stipulate?
18 MR. RANDALL JONES: Your Honor, if he -- has he laid
19 a foundation?
20 THE COURT: No. He just asked if you objected, so I
21 asked.
22 MR. RANDALL JONES: I'm not objecting at this point.
23 I'm not -- but I'm not admitting it in. I want to see if he
24 can lay a foundation.
25 THE COURT: Why don't you proceed?

1 MR. BICE: Thank you, Your Honor.

2 BY MR. BICE:

3 Q Mr. Toh, can you see Exhibit Number 23?

4 A Yes, I'm looking at it now.

5 Q Can you tell me -- at the top it should say R.E.
6 Termination Notices. Is that correct?

7 A Yes.

8 Q Okay. Can you tell me what role you played in these
9 emails?

10 A I'm not exactly understand what you mean.

11 Q Well, what role did you play in the discussions that
12 are in these -- this email string, sir?

13 A I can't remember these discussions. I can't recall.

14 Q Okay.

15 MR. RANDALL JONES: Your Honor, if I can, I'm sorry,
16 interrupt. Maybe I can make this easier. There are a number
17 of exhibits that I presume they're going to want to use that
18 are from the production of Sands China or from the production
19 of Las Vegas Sands. And I certainly have no objection to them
20 using these documents, but I would ask because, again, if
21 we're going to -- I'd like to make that reciprocal then. If
22 we want to use some documents out of the production, then I
23 would certainly ask the same courtesy that if we're all
24 talking about the documents used in the production by Sands
25 China, with redactions or unredacted, that we agree that we

1 will stipulate to the admission of those documents.

2 MR. BICE: No, we will not make that stipulation,
3 Your Honor.

4 THE COURT: Okay. So, no.

5 MR. PEEK: Your Honor, I would have a further
6 objection to this email.

7 THE COURT: It isn't being offered yet.

8 MR. PEEK: Or this. Further objection to it.

9 THE COURT: He's asking Mr. Toh questions about Mr.
10 Toh's knowledge before he could lay the foundation.

11 MR. PEEK: Okay. Then I'll wait, I guess, until he
12 can lay a foundation because certainly my objection is going
13 to relevancy of something that was created even before Sands
14 China Limited was even an entity, over which there could be
15 any jurisdiction since there wasn't even an entity.

16 THE COURT: Okay.

17 MR. BICE: Your Honor, can we have an agreement that
18 you seem to be enforcing on my side that there will be one
19 party representing the witness? Because this is not --

20 THE COURT: Nobody is representing the witness, I
21 don't think. Maybe Mr. Jones is. But unfortunately I have
22 three different sets of defendants in this room and I'm not
23 --

24 MR. BICE: Not on this issue.

25 THE COURT: I'm not going to stop the three

1 defendants from discussing exhibit issues.

2 MR. BICE: Okay.

3 BY MR. BICE:

4 Q So, Mr. Toh, is it fair to say that looking at this
5 document you cannot tell me whether you were on this
6 communication whatsoever, correct?

7 A I have to say, I've never seen this document. This
8 is the first time I've seen this document, yeah.

9 Q Fair enough, sir. Could you go to Exhibit Number
10 15?

11 MR. PEEK: What number?

12 THE COURT: Proposed 15.

13 MR. BICE: Proposed Exhibit Number 15.

14 MR. PEEK: 15.

15 BY MR. BICE:

16 Q Or 16. My apologies, 16 first.

17 A Five six?

18 Q Exhibit 16, sir. One six.

19 A Okay.

20 MR. BICE: Any objection?

21 THE COURT: Well, you haven't asked any questions
22 about it yet.

23 MR. BICE: I was going to see if there's a
24 stipulation, Your Honor, to avoid that.

25 THE COURT: Do you have a stipulation?

1 MR. RANDALL JONES: Not at this point, Your Honor.
2 I just want to see if can lay the foundation.

3 THE COURT: They're not going to stipulate, Mr.
4 Bice, so let's just keep going.

5 MR. PEEK: We make the same offer that Mr. Jones did
6 previously, though, Your Honor, of reciprocal.

7 BY MR. BICE:

8 Q Mr. Toh, can you tell me whether you sent or
9 received this email string?

10 A I'm trying to recall. Let me go read through the
11 email.

12 Q Okay.

13 A I can't recall that.

14 Q Is it fair to say, Mr. Toh, that you cannot tell us
15 whether or not you sent or received this email?

16 A Yes, I cannot tell. Yeah, I cannot recall that.

17 Q You cannot tell us whether you were ever on it or
18 not. Is that fair?

19 A That's right.

20 Q Okay. If you would go to Exhibit 15.

21 THE COURT: This is Proposed 15?

22 MR. BICE: Yes, Your Honor.

23 MR. RANDALL JONES: Your Honor, there's an
24 additional issue here that I guess is at play, which is, as
25 you know, these are -- there's a confidential designation to

1 some of these and counsel would not agree that anything that
2 comes into the case remains confidential in this hearing, so
3 that's --

4 THE COURT: And I told you on the first day of the
5 hearing I wasn't going to impose confidentiality during the
6 hearing.

7 MR. RANDALL JONES: I'm mindful of that. That's why
8 I'm bringing this point up. So I assume Mr. Peek also would
9 agree that using these documents, if they did come in that
10 they would not remain confidential by stipulation. And so
11 that's an additional conundrum for me under the circumstances
12 because this is not the jurisdictional evidentiary hearing,
13 it's under different circumstances.

14 THE COURT: Well, the witness has just told me he
15 can't tell me if he's involved in this document, so he can't
16 lay a foundation because it's redacted and he can't tell.

17 MR. RANDALL JONES: And I understand that, Your
18 Honor. And I'm happy to stipulate to its admission if we will
19 get a reciprocal agreement from Mr. Bice and he would agree
20 that these documents retain their confidentiality, only for
21 the purpose of this sanctions hearing.

22 THE COURT: And he's already said no twice.

23 MR. RANDALL JONES: Well, I added the additional
24 issue of the confidentiality.

25 MR. PEEK: And, Your Honor, I'd like to just at

1 least address the Court's remark. I didn't hear Mr. Toh say
2 that he could not identify this because it was redacted. He
3 said he couldn't identify it. You have drawn a conclusion of
4 your own that he can't identify it because it's redacted.

5 THE COURT: Mr. Toh, why can't you identify whether
6 you were involved in this document?

7 THE WITNESS: No, I look at the topic itself. I
8 can't recall that I have involved in the discussion of the
9 topic.

10 THE COURT: And is it redacted so you can't tell if
11 you're a recipient or a sender of the email?

12 THE WITNESS: No, it's mainly -- I look at the
13 contents of the email.

14 THE COURT: Okay. But you can't tell if you were
15 the sender because it's blacked out, right?

16 THE WITNESS: Uh, you know, [unintelligible] -- I
17 think the content itself, I think it's really new to me. I
18 think first time I saw it. It seems to be. I mean, this is
19 like 2009. I don't recall I've seen the email, yeah.

20 THE COURT: Mr. Bice, you can go on if you'd like.

21 MR. BICE: Thank you, Your Honor.

22 BY MR. BICE:

23 Q Have you looked at Exhibit Number 15, Mr. Toh?

24 A Yes, I'm looking at it, yeah.

25 Q And can you tell me whether you sent or received

1 this email, Mr. Toh?

2 A By looking at the content of the email, I don't
3 recall I've seen this email.

4 Q Okay. We'd have to know -- in order for you to
5 figure out whether you were sent or received this email, we'd
6 need to be able to see who it was from and who it was to.
7 Would you agree with that?

8 A Uh, yeah, so that makes sense, yeah --

9 Q Sure.

10 A -- if you have that.

11 Q If we could see that then you would know whether or
12 not you were on it, right?

13 A Also, by looking at contents, the contents that, you
14 know, I can recall and probably I can tell whether I had seen
15 it or not, yeah.

16 Q Okay. But you can't recall, right?

17 A Yeah, the content itself.

18 Q It's too long ago?

19 A It's not familiar to me.

20 MR. PEEK: You're interrupting, Mr. Bice.

21 THE COURT: You've got to let him finish.

22 MR. BICE: Your Honor, there was a delay and I
23 didn't realize it.

24 THE COURT: I understand. It's not a criticism.

25 Mr. Toh, did you finish your answer?

1 THE WITNESS: Yeah, I say by looking at contents,
2 you know, I can tell whether I'm involved or not. I'm looking
3 at these contents, you know, I'm not familiar with -- I can't
4 recollect. Yeah.

5 BY MR. BICE:

6 Q Is it fair to say, Mr. Toh, it's been too long ago
7 so you can't recall the contents, whether you were involved?

8 MR. RANDALL JONES: Objection. I'm sorry, Mr. Toh.
9 Objection, Your Honor. That misstates his
10 testimony.

11 THE COURT: Overruled.

12 You can answer, sir.

13 THE WITNESS: Uh, it's not exactly, but if this is a
14 topic that I've seen before, probably I can recollect that.
15 But looking at this one, it seems like I can't recall I've
16 seen this before. Yeah.

17 BY MR. BICE:

18 Q Why don't we go to exhibit -- Proposed No. 32, Mr.
19 Toh. Looking at Exhibit Number 32, Mr. Toh, can you tell me
20 whether this was sent or received by you?

21 A This looks -- the contents probably, yeah.

22 Q So you think this one was sent or received by you,
23 Mr. Toh?

24 A Uh, I'm not seeing my name but I think I'm familiar
25 with some of this issue.

1 Q Well, who was it sent or received by?

2 MR. PEEK: Your Honor, before he answers that

3 question, I'm a little bit concerned with having Mr. Toh, if

4 he knows the identify of the individuals, violating the Macau

5 Data Privacy Act and subjecting himself to some sanctions by

6 the Macau government. And I don't think the question actually

7 goes to the question, do you know, so that's a yes or no.

8 THE COURT: That's correct.

9 MR. PEEK: But I'm just anticipating so that --

10 before we get -- I don't want to get Mr. Toh in trouble is

11 what I'm saying, Your Honor.

12 MR. BICE: Number one, Your Honor, before we get --

13 THE COURT: Don't make a speaking objection.

14 MR. BICE: Exactly.

15 THE COURT: Mr. Toh, please remember that you can

16 answer yes or no when Mr. Bice asks you if you know a

17 question, okay?

18 MR. BICE: Your Honor, before that happens again, I

19 would like for the microphones to be muted, as opposed to the

20 telling Mr. Toh in advance what to do. And I --

21 THE COURT: Well, no, what's going to happen is if I

22 have another speaking objection I'm going to get my fill out

23 the blank form and I'm going to fill in the blanks, because

24 this is silly.

25 Let's keep going.

1 BY MR. BICE:
2 Q Mr. Toh, are you a hundred percent sure on Exhibit
3 Number 32 that you've ever seen it before?
4 A It's quite a while. I mean, it's in 2009, December,
5 so I can't say a hundred percent sure, but I know that some of
6 the discussions related to the [unintelligible] probably I
7 kind of involved that before, yeah.
8 Q But you don't know who are the people involved in
9 this communication, correct, Mr. Toh?
10 A From this document I can't -- I'm not very sure
11 about who is involved, yeah.
12 Q Okay. Let's go to Exhibit Number 51, if you would.
13 THE COURT: That's a proposed exhibit?
14 MR. BICE: Yes, they're all proposed, Your Honor.
15 THE COURT: I'm trying to make your record clear.
16 THE WITNESS: 51?
17 MR. BICE: Yes, sir.
18 BY MR. BICE:
19 Q Can you tell me what this document is, sir?
20 A This is the other committee -- many of the other
21 committee meetings.
22 Q Okay. Who was in attendance at this meeting, sir?
23 A The attendance of the A.C. meeting will be the other
24 committee chairmen --
25 MR. PEEK: Your Honor, can we put this on mute?

1 THE WITNESS: -- and other committee member --
2 MR. PEEK: Can we put it on mute so I can --
3 THE WITNESS: -- myself, the --
4 THE COURT: Hold on a second, Mr. Toh. Hold on a
5 second.
6 Jill, can you mute him?
7 MR. PEEK: I'm happy to approach, Your Honor.
8 THE COURT: Can you mute us?
9 Mr. Toh, can you push your mute button for a minute?
10 MR. PEEK: No, that would just -- that just means
11 he's mute. Your Honor, can we just approach?
12 THE COURT: Sure.
13 MR. BICE: Who's doing the objecting and on what --
14 Does Las Vegas Sands Corporation have an objection?
15 THE COURT: Absolutely Mr. Peek has an objection.
16 Didn't you hear him?
17 I appreciate you not making a speaking objection.
18 Thank you very much.
19 Can you unplug my -- oh, no, I can't unplug my mike.
20 MR. BICE: What if we put the snow on?
21 THE COURT: No, he's muted.
22 COURT RECORDER: He's muted.
23 MR. BICE: Oh.
24 MR. PEEK: Okay, thank you.
25 (Bench conference begins)

1 MR. PEEK: What my concern here, Your Honor, is it's
2 just like when we have a Fifth Amendment privilege --

3 THE COURT: Sure.

4 MR. PEEK: -- or he's going to have a similar issue
5 here.

6 THE COURT: But Mr. Hughes is sitting right there
7 with him.

8 MR. PEEK: I know that and I understand that. But,
9 you know, he is Mr. Jones' client, and I'm sensitive to this
10 as everybody else.

11 THE COURT: So don't you think Mr. Jones should be
12 saying it? Okay. Well, here's the deal. I have serious
13 concerns --

14 MR. PEEK: I don't want him to not testify.

15 THE COURT: Well, he can't testify. He's telling me
16 he can't tell anything about the documents because they're
17 redacted.

18 MR. PEEK: But he's --

19 THE COURT: And he doesn't remember.

20 MR. PEEK: He's going to start giving names --

21 THE COURT: He might.

22 MR. PEEK: -- that are on this.

23 THE COURT: But the audit committee is public. The
24 members of the audit committee are public.

25 MR. PEEK: Okay.

1 THE COURT: Giving the names of the audit members,
2 audit committee members shouldn't be an issue. I don't know
3 why you think under Macau law it is. It's a public body.
4 It's a publicly traded company.

5 MR. RANDALL JONES: The lawyers in Macau told us
6 that it is an issue. And we've got a document from the OPDP
7 saying it is. And so, look, my preference is to give you
8 every name out there, but [unintelligible].

9 MR. PEEK: I'll let you deal with this.

10 MR. BICE: We've not seen any document that says
11 that people can't testify as to the identity of people in
12 Macau, so if they have a different document from OPDP, we need
13 to see that.

14 MR. RANDALL JONES: Well, the Macau Data Privacy law
15 says right it right in it.

16 MR. BICE: So then, Your Honor, I think the point is
17 rather --

18 THE COURT: Well, let's not argue.

19 MR. PEEK: I just want to --

20 THE COURT: We need to have the witness answer the
21 questions --

22 MR. BICE: Okay.

23 THE COURT: -- to the extent he think it's
24 appropriate.

25 MR. PEEK: I just want to know whether he's --

1 THE COURT: I don't know who prepped him and what
2 they told him about the Macau Data Privacy Act and his
3 obligations. I don't.

4 MR. PEEK: I know, but in any other judicial
5 proceeding I've been where a witness gets close to, you
6 know --

7 THE COURT: He's got his lawyer sitting right there
8 with him.

9 MR. RANDALL JONES: Well, and I'm his lawyer --

10 THE COURT: And I've had cases where I've got the
11 lawyer sitting right there on the witness stand to be able to
12 touch him when it is. Mr. Hughes is sitting one chair over,
13 or at least he was earlier.

14 MR. RANDALL JONES: Can we plug this back in, Your
15 Honor?

16 THE COURT: Yeah.

17 MR. PEEK: All right.

18 THE COURT: I understand what you're saying. I just
19 don't know what to do about it.

20 MR. PEEK: Okay.

21 (Bench conference concluded)

22 THE COURT: Mr. Toh, can you hear us? Mr. Toh, can
23 you hear me?

24 THE WITNESS: Yes, I can hear you.

25 THE COURT: All right. Mr. Bice has asked you if

1 you can identify who the members of the audit committee were
2 at that time. That's a yes or no answer. And then if you
3 can, then if Mr. Hughes thinks there is an issue, he will tell
4 you. Otherwise you should go ahead and answer.

5 THE WITNESS: Yes, I know who was the audit
6 committee member at that time, yes.

7 BY MR. BICE:

8 Q All right. Mr. Toh, let me ask it this way. Tell
9 me which members of the audit committee were absent at the
10 meeting that is referenced in this Exhibit Number 51. Tell me
11 who wasn't there.

12 A I can't -- I can't remember that.

13 Q You can't remember and the document doesn't tell us
14 who was or wasn't there, right?

15 A Yes.

16 Q Go to Proposed Exhibit 205, if you could. Are you
17 able to find that document, sir?

18 MR. MORRIS: Is that two zero five?

19 MR. BICE: Two zero five, Mr. Morris.

20 (Colloquy between the attorneys)

21 BY MR. BICE:

22 Q Mr. Toh, have you had a chance to look at Exhibit
23 205?

24 A I'm looking at it now.

25 Q Can you tell me who was -- this is for the board

1 meeting, is that correct?

2 A Yes.

3 Q And can you tell me who all was present and absent
4 at this board meeting?

5 A I can't -- I can't recall that.

6 Q Okay.

7 MR. BICE: Your Honor, at this time I would offer
8 into evidence 15, 16, 23, 32, 51 and Exhibit 205.

9 THE COURT: Any objection?

10 MR. RANDALL JONES: The only objection, Your Honor,
11 is if -- I'd be happy to reciprocate with Mr. Bice if he would
12 agree that they -- to the extent that any of these documents
13 are marked confidential.

14 THE COURT: Okay. I can't force him to stipulate.

15 MR. RANDALL JONES: I know that.

16 THE COURT: So the question is, do you have an
17 objection?

18 MR. RANDALL JONES: My objection is that they are
19 confidential and he won't stipulate, so that's an issue.

20 THE COURT: Okay.

21 MR. RANDALL JONES: And also that he won't
22 reciprocate with respect to foundation on other emails that
23 are at issue in this case.

24 THE COURT: Because 15, 16, 32, 51 and 205 are part
25 of the production that have been redacted, they are critical

1 to a determination by anyone on the facts in this case. While
2 I understand they are confidential or you argue they are
3 confidential, if I'm going to review them they're going to be
4 part of the public record. So they're admitted.

5 MR. BICE: Your Honor, and our point on this is very
6 simple.

7 THE COURT: Every one of them.

8 MR. BICE: Our point is, as Mr. Jones just
9 acknowledged, you cannot lay a foundation with any of the
10 documents.

11 THE COURT: None.

12 MR. BICE: That's exactly our point.

13 MR. RANDALL JONES: Actually, Your Honor -- well,
14 I'm sorry, I didn't mean to interrupt you, Todd. Go ahead.
15 If that's an editorial comment, I believe I should have an
16 opportunity to at least respond to it, Your Honor.

17 THE COURT: Sure. Do you think we could lay a
18 foundation on the documents, since he can't?

19 MR. RANDALL JONES: Absolutely we could lay a
20 foundation with those documents.

21 THE COURT: How?

22 MR. RANDALL JONES: I could get the personal
23 involved with these documents who could lay a foundation for
24 them.

25 THE COURT: Who?

1 MR. RANDALL JONES: I have ways to do that, Your
2 Honor.

3 THE COURT: No, I mean --

4 MR. RANDALL JONES: One of the --

5 THE COURT: How would the adverse party who is
6 unaware of who those people --

7 MR. RANDALL JONES: The adverse party could look at
8 the redaction log.

9 MR. BICE: Can we put him on mute, please, Your
10 Honor?

11 THE COURT: I've already ruled. Let's go.

12 MR. BICE: Thank you, Your Honor.

13 BY MR. BICE:

14 Q Mr. Toh, who made the decision to claim that the
15 Macau Data Privacy Act precluded Sands China from complying
16 with discovery in the United States?

17 MR. RANDALL JONES: I'm sorry, I didn't hear that
18 question, counsel.

19 THE COURT: Who made the decision?

20 MR. RANDALL JONES: Who made the decision to what,
21 Your Honor?

22 THE COURT: The Macau Data Privacy Act prevented
23 Sands China from complying with discovery obligations in the
24 United States.

25 MR. RANDALL JONES: Well, Your Honor, I would object

1 to the extent that that calls for attorney-client privilege
2 and instruct him not to answer to the extent that he has any -
3 - his knowledge comes from an attorney for the company or
4 outside counsel.

5 MR. BICE: Your Honor --

6 THE COURT: Mr. Toh, to the extent that you would
7 have to answer by telling me information you have from
8 litigation counsel as to made the decision, you are being
9 instructed not to answer that question and I am sustaining the
10 objection. However, if the source of your information is from
11 any source other than litigation counsel, then you need to go
12 ahead and answer it.

13 THE WITNESS: I know it is coming from our general
14 counsel.

15 MR. BICE: Well, Your Honor, general counsel is not
16 litigation counsel.

17 THE COURT: No, and that's why he told you who it
18 was.

19 BY MR. BICE:

20 Q So the only information you have on it is from
21 general counsel?

22 A Yeah, the general counsel, that's fine. Yeah.

23 Q And who is the general counsel that said that?

24 A Our general counsel is David Fleming.

25 Q Mr. Toh, since you're on the board, are there any

1 written policies concerning authorization levels for
2 executives such as Mr. Fleming?

3 A Uh, can it come again?

4 Q Sure. You're on the board of directors, correct?

5 A That's right.

6 Q Are there any written policies that concern Mr.
7 Fleming's authority?

8 A Yes. There's a policy about the -- the executive
9 party to make certain decisions, yeah.

10 Q And is it written?

11 A Yeah, in a policy. Yes, it's written, yeah.

12 Q Okay. Tell me what are the types of decisions that
13 require the board's authorization, since you're a board
14 member.

15 A Uh, for the -- let's say, for example, the -- to
16 invest in the capital expenditures up to a certain amount
17 that's above the executive, the management team can decide
18 when they go up to the board, or the expenditures that are
19 above a certain limit, then we would have to go up to the
20 board for approval.

21 Q Okay. Anything else? What else differentiates to
22 you actions that require board approval?

23 A There are a lot. I mean, I have to refer to the
24 document to tell you that. There are a lot of things that,
25 you know, require board approval, as long as it's above the

1 limit or the approval authority from the management, yeah.

2 Q Has Mr. Fleming -- Are there any -- Strike that.
3 You're aware of the Jacobs litigation, correct, this
4 litigation?

5 A Yes, I'm aware.

6 Q Okay. And the board is aware of it, too, correct?

7 A Yes.

8 Q Was the board aware of the Court's order requiring
9 Sands China to produce documents in the United States?

10 MR. RANDALL JONES: Objection, Your Honor, to the
11 extent that question calls for the invasion of the attorney-
12 client privilege.

13 THE COURT: Overruled. The board in and of itself
14 is not necessarily a person who has -- well --

15 MR. BICE: The board --

16 THE COURT: Wait, hold on a second. In your
17 particular board minutes, because I don't remember seeing any,
18 are there redacted portions of the board minutes?

19 MR. RANDALL JONES: There may be. I don't know.
20 But what does that have to do with my objection? I'm not sure
21 I'm following the Court.

22 MR. BICE: Exhibit 205.

23 THE COURT: Well, because there's two ways that
24 boards get information, and one of the ways boards get
25 information is through an executive session where counsel

1 provide them information that's treated in a very special way
2 and the confidentiality is preserved. The other way that
3 boards get information is from a business perspective that
4 they get the information. Typically in those cases where
5 boards go into executive session and are provided updates by
6 counsel there are redactions to the board minutes, or there
7 are separate minutes that say executive session and they have
8 a different level of protection. So that's what I'm asking so
9 I can evaluate whether information is provided to the board
10 regarding my orders is information that was treated as an
11 executive session item or as information that is a general
12 business discussion.

13 MR. RANDALL JONES: I understand the distinction
14 you're making, Your Honor. And again, so it's clear on the
15 record, my objection is to the extent that it calls for
16 attorney-client privileged information, and I think what your
17 position is is that other type of business-related information
18 is not privileged --

19 THE COURT: That is my position.

20 MR. RANDALL JONES: -- so my objection -- I can only
21 object to what is privileged. So to that extent, Your Honor,
22 the only concern I have is that it's clear to the witness what
23 the question is and how the question is phrased so that he
24 understands the distinction as well. That's my only -- that's
25 my concern about the point.

1 THE COURT: Okay. Mr. Bice, can you rephrase your
2 question and see if we can tailor it a little more?

3 BY MR. BICE:

4 Q Mr. Toh, was the board aware of the Court's order
5 to produce documents in the United States?

6 MR. RANDALL JONES: Objection. Same objection, Your
7 Honor. Vague and ambiguous as posed, so it potentially
8 invades the attorney-client privilege.

9 THE COURT: Mr. Toh --

10 First, don't make speaking objections.

11 Mr. Toh, it is important that you -- if you received
12 information from litigation counsel as part of a board meeting
13 that you not disclose the content of that information to me
14 until you give Mr. Jones another chance to object. If the
15 information came from another source than litigation counsel,
16 you can go ahead and answer.

17 MR. PEEK: And, Your Honor, I don't want to make --
18 have one of those pieces of paper signed, but I think the
19 question as framed -- if you want me to come up there and make
20 the objection, I'm happy to. But he said the Court's orders.
21 Order discovering -- ordering discovery. That's not what the
22 September 14th order says.

23 THE COURT: Sir, did you get a copy of my September
24 14th, 2012 order? Mr. Toh?

25 THE WITNESS: Can you come again?

1 THE COURT: In late 2012 I issued an order finding
2 that Sands China had not been honest with me and Las Vegas
3 Sands had not been honest with me and that certain information
4 had not been disclosed to me and in fact it had been hidden
5 from me. Was that order that I wrote provided to you as a
6 board member?

7 THE WITNESS: I haven't seen that.

8 THE COURT: Okay. And then later that year there
9 was an additional order that I entered that required Sands
10 China in complying with my discovery requests or with the
11 discovery requests in the case not to use the Macau Data
12 Privacy Act as part of its defense or its objections to that.
13 Was that order provided to you as a board member?

14 THE WITNESS: No, I only have -- (video skips) --
15 from our general counsel.

16 THE COURT: Okay. So, Mr. Bice, if you want to ask
17 some follow-up and try and avoid issues that will put us into
18 an attorney-client disclosure situation --

19 MR. BICE: I understand.

20 THE COURT: -- with litigation counsel.

21 MR. BICE: I just want the record to be clear, Your
22 Honor, I'm going to follow your instructions. I maintain that
23 they long ago --

24 THE COURT: I know.

25 MR. BICE: -- and through this proceeding made a

1 subject matter waiver and that this information is not
2 privileged. But I'm going to --

3 THE COURT: I disagreed with you on the first day of
4 the hearing.

5 MR. BICE: I'm going to follow your instructions.
6 BY MR. BICE:

7 Q Mr. Toh, did any of the Nevada lawyers ever make a
8 presentation to the board at all concerning the Jacobs
9 litigation? Yes or no, sir?

10 A Can you come again?

11 Q Sure. Have any of the Nevada lawyers made any form
12 of presentation to the Sands China Board concerning the Jacobs
13 litigation? Just yes or no.

14 A No.

15 Q Have they made any form of presentation -- well,
16 strike that. Have the board members even held a conference
17 call with the lawyers in the Nevada litigation? Yes or no?

18 A No.

19 Q Was the board ever provided a copy of the Court's
20 order of September 14?

21 MR. RANDALL JONES: I believe it's been asked and
22 answered, but that's fine, he can answer it again.

23 THE COURT: I asked him.

24 MR. BICE: The board or just him personally?

25 THE COURT: Asked him as a board member.

1 BY MR. BICE:

2 Q Was the full board ever provided a copy of that
3 order Mr. Toh?

4 A I can't recall that.

5 Q Okay. You received one from the general counsel,
6 that's all you can recall?

7 A I only heard it from general counsel.

8 MR. RANDALL JONES: That's -- Object, that misstates
9 his testimony.

10 THE COURT: He heard it from general counsel, he
11 didn't see it.

12 MR. BICE: Then I'm not hearing him correctly, Your
13 Honor. I apologize.

14 THE COURT: I understand. That's why I corrected
15 you.

16 MR. BICE: Okay.

17 THE COURT: Mr. Toh, you told me that you heard that
18 information from general counsel but you didn't see a
19 document. Is that accurate?

20 THE WITNESS: I didn't see that. That's right.

21 THE COURT: Thank you.

22 BY MR. BICE:

23 Q So do you have any -- Strike that. So as far as you
24 know, no board members ever saw a copy of the order?

25 A As I say, I only heard it from general counsel and I

1 have no -- I have no knowledge of whether the general counsel
2 showed the documents to any board member.

3 Q Okay. When you heard it from the general counsel,
4 was it at a board meeting or was this just the two of you
5 talking?

6 A I can't recall when I heard it, yeah.

7 Q All right. Mr. Toh, as the chief financial officer,
8 are you required to make some form of a quarterly statement to
9 the Hong Kong Stock Exchange on behalf of the company?

10 A Usually a statement will be issued by our company's
11 secretary. It happened to be our general counsel. Yeah.

12 Q Okay. But do you as the CFO sign any form of the
13 documents that are filed with the Hong Kong Stock Exchange?

14 A I can't recall that. You know, usually if the
15 general counsel is not available to sign it, then --
16 [unintelligible]-- I may sign it.

17 Q Do you know whether or not there was ever any
18 disclosure made to the Hong Kong Stock Exchange that Sands
19 China was not in compliance with a court order in the United
20 States?

21 MR. PEEK: Objection, relevancy, Your Honor.

22 THE COURT: Overruled.

23 MR. RANDALL JONES: Join in that objection, Your
24 Honor, for the record.

25 THE COURT: Still overruled.

1 THE WITNESS: Can you tell me the question again?
2 BY MR. BICE:
3 Q Sure. Was any form of disclosure made to the Hong
4 Kong regulatory authorities, I'll put it that way, that Sands
5 China was not in compliance with a court order in the United
6 States?
7 MR. RANDALL JONES: Same objection, Your Honor.
8 THE COURT: Overruled.
9 THE WITNESS: I can't recall that, yeah.
10 BY MR. BICE:
11 Q Well, Mr. Toh, aren't you required to disclose any
12 materially adverse consequences that the company faces?
13 MR. RANDALL JONES: Objection, Your Honor.
14 Relevance and this has nothing to do with this hearing.
15 THE COURT: Sustained.
16 MR. BICE: Your Honor, I'd like to be heard on that.
17 THE COURT: Sure.
18 MR. BICE: They obviously didn't consider it to be
19 material, the consequences of violating the court's order, if
20 they didn't disclose it. And --
21 THE COURT: That's an argument issue. He's already
22 said he didn't disclose it.
23 BY MR. BICE:
24 Q What was your understanding of what were the
25 consequences of not complying with the order, as a board

1 member?

2 MR. RANDALL JONES: I'm sorry, could you repeat the
3 question?

4 THE COURT: The question was what was your
5 understanding of the consequences of not complying with the
6 order?

7 MR. RANDALL JONES: Well, I would object and
8 instruct him not to answer, to the extent that he got any of
9 that information from counsel.

10 MR. BICE: Your Honor, this is a board member of a
11 publicly traded company. And it doesn't matter whether he got
12 an understanding from counsel. He -- to the extent he has an
13 understanding, the source of his understanding is immaterial.
14 It's not privileged just because he got it from counsel.

15 THE COURT: Sometimes information that board members
16 obtain is privileged. There are some circumstances where that
17 occurs. This one, I agree with you.

18 So, sir, if you could answer the question, please.

19 BY MR. BICE:

20 Q Mr. Toh, what was your understanding of the
21 consequences for Sands China of not complying with the Court's
22 order?

23 MR. RANDALL JONES: Your Honor, I'm going to object
24 to the form of the question, then. And I don't want to make a
25 speaking objection but if you want me to further elaborate,

1 I'd be happy to do so.

2 THE COURT: And you think it requires speculation or
3 it's ambiguous or what?

4 MR. RANDALL JONES: I think that the question as
5 posed was if he -- and it was not as to any board action, it
6 was -- there was no reference to litigation counsel or any
7 other source of information. And so certainly the way the
8 question is posed, that was objectionable in my opinion on
9 several grounds.

10 THE COURT: Well, you objected on form of the
11 question, so that was why I was asking what form you thought
12 was a problem.

13 MR. RANDALL JONES: And I try to list it as several
14 forms. I'm sorry, that's what I meant to say to you, Judge.

15 THE COURT: Mr. Toh, to the extent you gained an
16 understanding from someone other than litigation counsel about
17 the consequences of not complying with the Nevada court order,
18 Mr. Bice is entitled to your understanding of what that was.
19 If your source of information, however, is from litigation
20 counsel, that would be privileged, in my opinion.

21 THE WITNESS: The information is coming from our
22 general counsel. Our general counsel.

23 BY MR. BICE:

24 Q All right. And what did your general counsel tell
25 you about the consequences?

1 MR. RANDALL JONES: Your Honor, again I'm going to
2 object about that. He's not talking to the board. Well, my
3 objection is unless he's talking about communication with the
4 board, then I would object on the basis of attorney-client
5 privilege. So the question is ambiguous at least.

6 THE COURT: Okay. Mr. Toh, what were the
7 circumstances under which the general counsel provided you
8 with that information?

9 THE WITNESS: That's when the -- when the company
10 got fined by the OPDP.

11 MR. RANDALL JONES: Well, Your Honor --

12 THE WITNESS: This is a party --

13 MR. RANDALL JONES: I'm sorry, Mr. Toh.

14 Your Honor, the reason I -- Can we just clarify, is
15 this a conversation he had with general counsel individually?

16 THE COURT: That's what I'm trying to find out.

17 MR. RANDALL JONES: And I think he was starting to
18 tell you what the discussion was.

19 THE COURT: No, he was giving me the timing.

20 MR. RANDALL JONES: Oh. Oh, okay.

21 THE COURT: It was when they were fined by the OPDP.

22 MR. RANDALL JONES: Just for -- if you would indulge
23 me, Your Honor, would you please just try to make sure that
24 he's not going to tell you what the advice was until we find
25 out the circumstances?

1 THE COURT: I'm trying.

2 MR. RANDALL JONES: Thank you. I appreciate that.

3 THE COURT: So, sir, you said that you heard from
4 general counsel when you got the fine from OPDP. Was that in
5 a meeting or a personal conversation with general counsel?

6 THE WITNESS: I recall just in the conversations. I
7 can't remember exactly when and just heard about that, yeah.

8 MR. BICE: Well, Your Honor, may I ask --

9 THE COURT: Was it in the hallway while you guys
10 were getting coffee, or was it in a meeting? Or were you
11 riding to work together?

12 THE WITNESS: I think it was probably in the -- it
13 could be in some discussions. I can't recall exactly. Yeah.

14 BY MR. BICE:

15 Q Mr. Toh, did the general counsel ever advise the
16 board about the consequences of not complying with the court's
17 order?

18 A I can't recall that, yeah.

19 Q You didn't think --

20 A Yeah, I can't remember. Yeah.

21 Q Do you keep documents about these board meetings?

22 A If we have the document of meeting?

23 Q Do you keep -- do your board minutes keep -- I'm
24 sorry. Do your board meeting minutes keep records of what the
25 general counsel informed you about?

1 A We have the board meeting minutes, so I believe if
2 this is mentioned in the board meeting, that should be in the
3 minutes, yeah.

4 Q Okay. So it would be reflected in a minute, in
5 board meeting minutes if you were ever advised by the general
6 counsel concerning the order. Is that right?

7 A If they say this, if it's brought up in the board
8 meeting, yes.

9 Q Were you involved in the decision to not produce
10 documents in the United States, Mr. Toh?

11 A No.

12 Q Was Mr. Tracy involved in that decision?

13 MR. RANDALL JONES: Object to the extent it calls
14 for speculation.

15 THE COURT: Sir, I don't want you to guess or
16 speculate, but if you know we're entitled to your personal
17 knowledge.

18 MR. PEEK: It also assumes facts not in evidence,
19 Your Honor, that the documents were not produced. He says
20 were you involved in the decision not to produce documents in
21 the U.S. Documents were produced.

22 THE COURT: They were redacted.

23 MR. PEEK: I understand that, but they were
24 produced. Personal information.

25 THE COURT: Sir, you can go ahead and answer if you

1 can.

2 THE WITNESS: I don't know. yeah. I have no
3 knowledge, yeah.

4 BY MR. BICE:

5 Q Do you know whether anyone in Las Vegas was involved
6 in making the decision not to comply with the court's order?

7 THE COURT: And by that you mean not to produce
8 documents in an unredacted form?

9 MR. BICE: Yes.

10 THE WITNESS: I don't know.

11 BY MR. BICE:

12 Q Did you ever talk to anyone in Las Vegas about that?

13 A No.

14 Q Who were the lawyers in Macau that were reviewing
15 records pursuant to the Court's order? Do you know?

16 THE COURT: And sir, that's a yes or a no answer.

17 THE WITNESS: Yes.

18 BY MR. BICE:

19 Q Who?

20 MR. RANDALL JONES: Your Honor, I object to the
21 extent that that would violate Macanese law.

22 THE COURT: Sir, is Mr. Hugh there with you?

23 MR. HUGHES: Yes, Your Honor.

24 THE WITNESS: Yeah.

25 THE COURT: Okay. Mr. Hugh, if at some point in

1 time you think you need to advise Mr. Toh related to answering
2 any questions, please feel free to do so. It will be easier
3 for you to do it if you think there is a potential issue where
4 he would have a -- what we would call in the United States a
5 Fifth Amendment problem, as opposed to trying to get the
6 lawyers here to make that decision. So if you as in-house
7 counsel foresee an issue, please feel free to tap him on the
8 shoulder. Okay?

9 MR. HUGHES: Yes, Your Honor.

10 THE COURT: Thank you. All right.

11 MR. RANDALL JONES: And, Your Honor, just to make it
12 clear, it's Hughes. It's H-U-G-H-E-S.

13 THE COURT: Oh, Hughes. Sorry, Mr. Hughes.

14 All right.

15 BY MR. BICE:

16 Q Mr. Toh, who were the lawyers, the Macau lawyers
17 that were reviewing the documents?

18 A I believe it's Mr. Hughes, yeah.

19 MR. HUGHES: You can identify Macau law firms that
20 aren't individual Macau lawyers.

21 THE WITNESS: Law firm, I can't recall that, yeah.

22 BY MR. BICE:

23 Q Do you recall any of the individual lawyers?

24 A No, I can't recall that.

25 Q Did you attend any meetings with the OPDP?

1 A No.

2 Q Did anyone brief you on the meetings at the OPDP?

3 A No.

4 Q Was any presentation ever made to the board
5 concerning the meetings with the OPDP?

6 A I can't remember, yeah.

7 Q Mr. Toh, did there come a time after the Jacobs
8 lawsuit was filed that you were interviewed by lawyers from
9 the United States?

10 A Can you come again?

11 Q Sure. After Mr. Jacobs filed this lawsuit, were you
12 subsequently interviewed by lawyers from the United States?

13 A I've been interviewed by the lawyers from the United
14 States, but I'm not sure whether it's related with Steve
15 Jacobs. It's more to the SEC investigations.

16 Q Okay. And were those lawyers from O'Melveny &
17 Myers?

18 MR. RANDALL JONES: Your Honor, object to relevance.

19 THE WITNESS: That's right.

20 MR. RANDALL JONES: Your Honor, I would object to
21 relevance. He's already said they weren't -- it had nothing
22 to do with Jacobs, so I would object to relevance.

23 THE COURT: The objection is overruled.

24 BY MR. BICE:

25 Q Mr. Toh, were you interviewed by O'Melveny & Myers

1 concerning a Las Vegas Sands corporate compliance
2 investigation?

3 MR. RANDALL JONES: Well, Your Honor, objection,
4 relevance.

5 THE COURT: Sustained.

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

7 MR. BICE: Your Honor, it goes to documents he has
8 reviewed with them.

9 THE COURT: Only to the extent it's in preparation
10 for his deposition. Documents he has reviewed in connection
11 with the other investigation is not relevant to this.

12 BY MR. BICE:

13 Q All right. I'll rephrase it this way. Mr. Toh, how
14 long were you interviewed by the lawyers at O'Melveny & Myers?

15 MR. RANDALL JONES: Objection, relevance.

16 THE COURT: Overruled.

17 THE WITNESS: You mean how long?

18 MR. BICE: Yes, sir.

19 THE WITNESS: You mean number of hours?

20 MR. BICE: Yes, sir.

21 MR. RANDALL JONES: Same objection, Your Honor.

22 THE COURT: Overruled.

23 THE WITNESS: Was, yeah.

24 BY MR. BICE:

25 Q How many?

1 A I can't remember exactly, but I think it's a couple
2 hours. A few hours, yeah.

3 Q Do you remember when that was?

4 MR. RANDALL JONES: Objection, relevance, Your
5 Honor.

6 THE COURT: Mr. Bice, can you tie this up for me?

7 MR. BICE: I can, Your Honor. I'll withdraw that
8 and I'll rephrase it this way.

9 THE COURT: Thanks.

10 MR. BICE: I'll start on a different line.

11 BY MR. BICE:

12 Q Mr. Toh, were those lawyers from O'Melveny & Myers,
13 they were U.S. lawyers, correct?

14 A I didn't check their I.D., but I assume yes.

15 Q Okay. And how many of them were in the meeting with
16 you?

17 A Come again? How many of them?

18 Q How many of them were in the meeting with you?

19 A Uh, about three persons.

20 Q Okay. Did you have your own counsel present at that
21 meeting?

22 MR. RANDALL JONES: Objection, Your Honor,
23 relevance.

24 THE WITNESS: Yes.

25 THE COURT: Overruled.

1 BY MR. BICE:
2 Q And, Mr. Toh, did they show you documents from Las
3 Vegas Sands or from VML? Did they show you documents during
4 that meeting from VML?
5 MR. RANDALL JONES: Well, Your Honor -- well --
6 THE COURT: He has two more questions before I shut
7 him down.
8 MR. BICE: My foundation I think will be laid, Your
9 Honor.
10 THE COURT: That's why you get two more.
11 BY MR. BICE:
12 Q Did they show you documents, sir, from VML?
13 A Yeah, I saw some documents from VML.
14 Q Did those documents have any redactions on them?
15 A Because I'm in Macau, the documents that -- yeah.
16 No, I can't recall that.
17 Q There were no redactions, right?
18 MR. RANDALL JONES: Objection, misstates his
19 testimony.
20 THE COURT: Overruled.
21 Sir, can you confirm whether there were redactions
22 or not? One of us didn't hear you.
23 THE WITNESS: The documents in Macau, I can't recall
24 that they did redaction or not, yeah.
25 //

1 BY MR. BICE:
2 Q Okay. And so, Mr. Toh, just to wrap this up, U.S.
3 lawyers from O'Melveny & Myers were in Macau and reviewed
4 documents with you that were not redacted, correct?
5 MR. RANDALL JONES: Objection, Your Honor.
6 THE COURT: Overruled.
7 MR. RANDALL JONES: Misstates his testimony.
8 THE COURT: Please. Overruled.
9 And, Mr. Toh, if you could -- Did you hear the
10 question?
11 THE WITNESS: Yes, I hear the question. I say I
12 can't recall exactly whether there's redactions or not, yeah.
13 BY MR. BICE:
14 Q Well, let me ask you this, Mr. Toh. When was the
15 first time you were aware that redactions were going to be
16 made to the documents in Macau?
17 A I can't remember that, yeah.
18 Q Well, that was relatively recently, wasn't it?
19 MR. RANDALL JONES: Objection, Your Honor, assumes
20 facts not in evidence.
21 THE COURT: Overruled.
22 THE WITNESS: I can't remember that, yeah. Maybe a
23 couple of years ago, two years, I guess. I can't remember
24 exactly, yeah.
25 //

1 BY MR. BICE:

2 Q So it's your belief that there was discussions about
3 redactions a couple of years ago?

4 A No. I only know it -- I only know it, heard about
5 from our general counsel recently, yeah.

6 Q Okay. And so my question to you, sir, was the
7 documents that O'Melveny & Myers went over with you, you
8 understood that that was part of an investigation, correct?

9 A My understanding is investigation related to the --
10 I believe the SEC.

11 MR. RANDALL JONES: Your Honor, I'm going to have to
12 object here. Now he's asking for his understanding about
13 information from lawyers. So that is outside counsel, that's
14 improper.

15 THE COURT: Okay. Well, let me --

16 MR. BICE: He had his own lawyer there.

17 THE COURT: Wait. Let me ask the question.

18 Mr. Toh, when you met with the lawyers from
19 O'Melveny & Myers, do you remember any of the documents having
20 blacked out, like the documents you're looking at as exhibits
21 today that Mr. Bice went through?

22 THE WITNESS: Uh, I can't really remember that,
23 yeah.

24 THE COURT: Okay. And is the first time, sir, that
25 you remember dealing with redacted documents the ones that are

1 blackened out that you went over with Mr. Bice earlier today as
2 part of this litigation a couple of years ago?

3 THE WITNESS: Uh, they showed me some documents.
4 I'm not sure exactly if it's, you know, much different. I
5 think -- yeah, this one, this is the first time I saw these
6 documents. I can't remember exactly what's the documents that
7 I have seen, yeah.

8 THE COURT: Is it unusual for you to see the
9 documents with the blacking out on them?

10 MR. RANDALL JONES: Your Honor, just to be clear,
11 they're not blackened out.

12 THE COURT: On his?

13 MR. RANDALL JONES: No, they're not. There are just
14 deletions and it says -- it will just have a deletion. So it
15 doesn't have like a strike out like you and I might normally
16 see. It says personal --

17 THE COURT: Just a white line?

18 MR. PEEK: No, it has a name.

19 MR. RANDALL JONES: It has like -- where the name is
20 it says personal.

21 MR. BICE: Can I show the Court? I'll show the
22 Court.

23 THE COURT: Can I see one real quick?

24 MR. RANDALL JONES: Sure.

25 THE COURT: Because I'm confusing the witness.

1 MR. BICE: The board minute meetings (sic).

2 THE COURT: So it has the X's?

3 MR. PEEK: No, no, no, Your Honor. Do you see the
4 word, personal redaction?

5 THE COURT: Never mind.

6 MR. BICE: All right. So --

7 MR. PEEK: And, Your Honor, I think I need to join
8 in this objection as well because the investigation --

9 MR. BICE: Then I need -- then I would like to --

10 MR. PEEK: May I finish my objection?

11 MR. BICE: I would like --

12 THE COURT: Hold on a second. Let's finish with Mr.
13 Toh. The issue about O'Melveny & Myers, I think you've made
14 your point and you've made an adequate record related to those
15 documents and this witness' knowledge. Do you have other
16 information from this witness that you want to try and elicit?

17 MR. BICE: I do, Your Honor.

18 THE COURT: Okay.

19 MR. BICE: But I want --

20 MR. PEEK: Your Honor, I want to at least --

21 THE COURT: We're going to make a record on a lot of
22 stuff once I get the gentleman off the phone. I don't want to
23 try and influence his testimony by the argument you're going
24 to make.

25 MR. PEEK: I don't either, Your Honor, but I

1 represent Las Vegas Sands. The investigation was of Las Vegas
2 Sands. And I'm not sure that what he's talking about is --

3 THE COURT: Okay.

4 MR. PEEK: I'm reluctant to say something for fear
5 of having one of those little pieces of paper; you think I'm
6 doing a speaking objection.

7 THE COURT: I can just sua sponte hold you in
8 contempt.

9 MR. PEEK: No, I don't want to do that, Your Honor.
10 But I do want to make the point is that there's not a clear
11 record that these were VML Macau documents as opposed to Las
12 Vegas Sands documents that he was shown.

13 THE COURT: You're right, there is not.

14 MR. BICE: Then I want to make that record.

15 THE COURT: Okay, then ask him some more questions.

16 BY MR. BICE:

17 Q Okay. Mr. Toh, the documents that you reviewed you
18 testified earlier were documents that came -- that were from
19 VML; isn't that true?

20 A The document, the exhibit in the computers that you
21 have in front of --

22 Q No, sir. The documents that you were shown by
23 O'Melveny & Myers were from VML, weren't they?

24 A Yes.

25 Q And did O'Melveny & Myers leave those documents in

1 Macau?

2 A Yes.

3 Q Did they put them on a server somewhere?

4 MR. RANDALL JONES: Objection, Your Honor, calls for
5 speculation.

6 THE COURT: Overruled.

7 Sir, but don't guess or speculate. We'd only like
8 your personal knowledge.

9 THE WITNESS: I don't know, yeah.

10 BY MR. BICE:

11 Q You don't know what they did with the documents,
12 sir?

13 MR. RANDALL JONES: Objection, asked and answered.

14 THE COURT: Overruled.

15 THE WITNESS: The document I believe is with our
16 general counsel. They leave it with our general counsel.

17 BY MR. BICE:

18 Q Your general counsel has retained copies of what
19 O'Melveny & Myers showed you, correct?

20 A Yes.

21 Q Okay. To your knowledge, Mr. Toh, were other
22 executives at Sands China interviewed by O'Melveny & Myers?

23 THE COURT: And sir, we only want your personal
24 knowledge. I don't want you to guess or speculate.

25 THE WITNESS: Uh, yes.

1 BY MR. BICE:

2 Q Tell me the executives that were interviewed by
3 O'Melveny & Myers.

4 MR. RANDALL JONES: Your Honor, object to this --

5 THE WITNESS: I don't know.

6 MR. RANDALL JONES: Thank you.

7 BY MR. BICE:

8 Q Well, you know that some were, don't you?

9 MR. RANDALL JONES: Your Honor, objection; the
10 relevance. Again, we're going far afield from the issues
11 related to this hearing, and I've been trying to be --

12 MR. BICE: Your Honor --

13 THE COURT: Okay. Then I'm going to say what I'm
14 going to say, and if it affects things -- It appears from the
15 testimony of the witness that documents that were Sands China
16 or VML documents were provided to a U.S. law firm while they
17 were in Macau for purposes of interviewing witnesses. It
18 appears that from the testimony. It may or may not be true.
19 But to the extent that it appears that from the testimony
20 that's elicited, that's an important factor for me to consider
21 in whether your client was consistent in the way they treated
22 documents that included personal identifying information and
23 arguably, from your perspective, may have violated the Macau
24 Data Privacy Act by showing to other people. I recognize that
25 is an issue. In order for me to be able to evaluate that

1 issue, I have to hear evidence, so I'm going to let Mr. Bice
2 ask some more questions.

3 MR. RANDALL JONES: I understand, Your Honor, but I
4 want to make it clear there is no evidence as to whether or
5 not those documents were redacted or not. So there's no
6 evidence in the record that those documents were in unredacted
7 form.

8 THE COURT: There are two ways for us to find that
9 out. One, your client could voluntarily provide somebody with
10 a copy of that information, or two, the witness can be
11 questioned. Since I doubt your client is going to voluntarily
12 provide the information, I'm going to let Mr. Bice ask him
13 some more questions.

14 MR. BICE: Well, presumably if they were redacted it
15 wouldn't be difficult to provide them at all.

16 THE COURT: Mr. Bice, don't --

17 MR. BICE: I understand.

18 THE COURT: Don't help.

19 MR. RANDALL JONES: Your Honor, my only point is
20 that this witness has now testified at least twice if not more
21 that he does not remember if they were redacted or not.
22 That's his testimony.

23 THE COURT: He's also testified the first time he's
24 seen documents or knew about them was about two years ago,
25 which is part of my case, which is when the redaction issue

1 came up in 12/12.

2 MR. RANDALL JONES: I didn't argue with that point,
3 Judge.

4 THE COURT: Okay. That's why I think it's important
5 for me to consider as part of the evidence.

6 So, Mr. Bice, you can continue; hopefully briefly.
7 BY MR. BICE:

8 Q Mr. Toh, did the documents that you were shown by
9 O'Melveny & Myers have names on them?

10 A Can you come again?

11 Q Did the documents you were shown by O'Melveny &
12 Myers' lawyers from the United States have names on them?

13 A I can't recall exactly, yeah.

14 Q You can't recall whether any names were in any of
15 the documents that you were shown by O'Melveny & Myers, sir?

16 MR. RANDALL JONES: Objection, asked and answered,
17 Judge.

18 THE COURT: Overruled.

19 THE WITNESS: Can you come with question again?

20 BY MR. BICE:

21 Q Sure. Did the documents you were shown by O'Melveny
22 & Myers contain any people's names?

23 MR. RANDALL JONES: Objection, asked and answered.

24 THE COURT: Overruled.

25 THE WITNESS: Uh, I'm trying to recall that, yeah.

1 This is quite awhile ago.

2 THE COURT: That's okay, sir, you can take your time
3 if it assists you in remembering.

4 THE WITNESS: I saw --

5 MR. RANDALL JONES: Your Honor, again, objection.
6 It calls for speculation based on his --

7 MR. BICE: Your Honor --

8 THE COURT: Mr. Jones, let's let him finish the
9 answer.

10 MR. RANDALL JONES: I thought he had. He's answered
11 it twice.

12 THE WITNESS: Yeah, I can't exactly remember.

13 THE COURT: Thank you, sir.

14 BY MR. BICE:

15 Q Mr. Toh, did they show you documents from VML
16 concerning Mr. Jacobs?

17 A No.

18 Q No?

19 A For that, yeah.

20 Q Do you remember -- do you recall what they showed
21 you then?

22 MR. RANDALL JONES: Objection, Your Honor, asked and
23 answered. And as it relates to the -- if it does not relate
24 to the Jacobs matter, Your Honor, again, I would object. It
25 goes beyond the basis of this discussion.

1 THE COURT: I disagree.

2 BY MR. BICE:

3 Q Mr. Toh, you're telling the Court that you can't
4 remember anything about the documents that O'Melveny & Myers
5 showed you?

6 A I remember it's more related to the SEC
7 investigations.

8 Q I understand that, sir. But what sort of documents
9 were they showing you concerning that investigation?

10 A I remember it's more toward the documents, the email
11 I write, yeah.

12 Q So they showed you emails, did they not?

13 A Yeah, they showed me email I wrote and they want to
14 clarify what that mean to me, yeah.

15 Q Okay. So they showed you an email that you wrote
16 that had your name on it, correct?

17 A Yeah. Um-hm.

18 Q Prior to that had you given any form of consent
19 under the Macau Data Privacy Act?

20 A Yeah. For me I have a consent to the company to
21 disclose my personal information.

22 Q You have given the company a consent to disclose
23 your personal information?

24 A That's right.

25 Q When did you do that?

1 A Uh, as probably employee, I mean, yeah. So to
2 disclose information to the U.S., I have to give the consent,
3 yeah.

4 Q Oh, okay. So you didn't give them a consent to
5 disclose to anyone from the U.S., is that right?

6 A Only disclose to the company, yeah.

7 Q Okay. So now the O'Melveny & Myers lawyers that
8 were at this meeting, they were not representing you, were
9 they?

10 A No.

11 Q Well, didn't they in fact tell you that you might
12 want to consider getting your own counsel?

13 MR. PEEK: Objection.

14 MR. RANDALL JONES: Well, Your Honor, I'm going to
15 object to the form of the question.

16 THE COURT: Sustained.

17 MR. BICE: On privilege?

18 THE COURT: Um-hm. It's irrelevant.

19 BY MR. BICE:

20 Q Again --

21 THE COURT: It's irrelevant. Not on privilege,
22 irrelevant. Sorry. It doesn't go to the documents. I'm
23 concerned about documents. I don't care about the SEC
24 investigation otherwise.

25 //

1 BY MR. BICE:

2 Q Before I was asking you, sir, and I don't think we
3 got an answer, and if you gave us one, my apologies, did you
4 ever -- Strike that. Do you know who were the other
5 executives or employees that they interviewed?

6 THE COURT: He previously said he didn't know.

7 BY MR. BICE:

8 Q Did they interview Mr. Tracy?

9 MR. RANDALL JONES: Your Honor, objection. Again,
10 relevance. We just keep going around and around here.

11 THE COURT: Sustained.

12 MR. BICE: I'm trying to lay a foundation that this
13 claim by this litigant that this has precluded them from
14 reviewing the documents in Macau, having U.S. lawyers, is a
15 recent fabrication because --

16 THE COURT: Mr. Bice.

17 MR. BICE: Yes?

18 THE COURT: He can't tell us what documents may or
19 may not have been shown to Mr. Tracy, which would be the issue
20 that was important to me.

21 MR. BICE: I understand that. But I would like to
22 know who it was so that we can establish that, Your Honor.

23 THE COURT: You mean O'Melveny & Myers?

24 MR. BICE: This isn't just limited to him. That's
25 my point.

1 THE COURT: Okay.

2 MR. BICE: They showed him, for example, as he
3 admitted, they showed him an email that he wrote. The only
4 way they could have gotten that is there. And I want to know
5 who else they looked at, because it sounds like -- I have a
6 suspicion that there -- because -- Let's just lay this out
7 crystal clear for the Court. This company, Las Vegas Sands
8 Corporation, sent its auditors over there, who had retained
9 O'Melveny & Myers, and they were supposed to be doing a report
10 to the Gaming Control Board to claim that they had
11 investigated what had gone over there and that they didn't do
12 anything wrong. Well, I find that fascinating that this
13 litigant could report that to the Gaming Control Board, since
14 they're now telling you their U.S. lawyers aren't even allowed
15 to see personal data in documents and they can't even know the
16 personal data that exists. That must have been quite a
17 comprehensive investigation that they did and told the Nevada
18 Gaming Control Board about, since they are now telling Her
19 Honor we can't even look at the documents and people can't
20 even know the email names that are in the documents. And we
21 can't even give any description of who those people might or
22 might not be. That obviously is not true, except for in this
23 courtroom for Sands China.

24 MR. RANDALL JONES: Your Honor, can I respond?

25 THE COURT: Hold on a second. This witness has

1 already told you he doesn't know who else they interviewed,
2 Mr. Bice. So because my primary concern is the inconsistency
3 in the treatment of documents which may have had personal
4 identifying information, which is related to what you just
5 discussed, the witness, though, has said he doesn't know who
6 else was interviewed.

7 MR. BICE: But, Your Honor --

8 THE COURT: There's another way for you to find that
9 out.

10 MR. BICE: I know there is, but one of the ways we
11 always do it, for example, in a deposition is you ask them
12 specific names because it might jar their memory.

13 THE COURT: But this isn't a deposition, this is an
14 evidentiary hearing.

15 MR. BICE: Because we weren't allowed to depose him.
16 I get that. But we are doing the best that we can in light of
17 what this litigant has done. So I will move on. I
18 understand.

19 THE COURT: I understand what you're trying to do,
20 Mr. Bice. And to the extent it relates to documents and the
21 way documents may have been treated differently at different
22 times with different people, I'm going to let you ask those
23 questions.

24 MR. BICE: Understood. All right, Your Honor, we'll
25 move on.

1 MR. RANDALL JONES: Your Honor.

2 THE COURT: Yes, Mr. Jones.

3 MR. RANDALL JONES: I just want to make -- Mr. Bice
4 wants to give his closing argument, I understand that. But I
5 would also point out that the witness testified he gave his
6 consent to the company to review his personal data, so that's
7 obviously how they would have his personal emails.

8 THE COURT: How the company might. But if they were
9 released to a third party that's beyond the consent, that
10 sounds like a little bit of a problem. If it's the compliance
11 committee, that's a different issue. You'd think I would be
12 included in such a waiver or such a consent, but I guess not.
13 We'll talk about that later.

14 MR. BICE: And in fact, it's the U.S. --

15 MR. PEEK: Your Honor, it's also --

16 THE COURT: It's not the time to talk about it right
17 now, it's the time to finish the examination.

18 MR. BICE: It's the U.S. compliance committee.

19 MR. RANDALL JONES: I agree. I'd like to finish the
20 witness as well.

21 MR. PEEK: But isn't it also timing, Your Honor, as
22 to when these interviews occurred?

23 THE COURT: Those are all good issues, Mr. Peek, but
24 I'd like to have the witness answer questions so that I have
25 the evidence so that you can then make the arguments related

1 to what the evidence shows.

2 MR. BICE: I feel quite confident I asked him when
3 those occurred and it drew an objection was sustained as to
4 when those interviews occurred.

5 MR. PEEK: No.

6 THE COURT: I don't think it was on the when.

7 MR. RANDALL JONES: That is not correct.

8 MR. BICE: Okay.

9 THE COURT: If you don't remember, you can ask him
10 if he remembers.

11 BY MR. BICE:

12 Q All right. Mr. Toh, do you recall approximately
13 when you were interviewed by O'Melveny & Myers? I understand
14 you won't remember the exact date, but give me the approximate
15 date when.

16 A Uh, probably around 2011.

17 Q Sometime in 2011, right?

18 A Yeah.

19 Q All right.

20 A Yes.

21 Q And you understood that O'Melveny & Myers was -- the
22 work that they were doing concerned the United States
23 Securities and Exchange Commission, not the Hong Kong,
24 correct?

25 A Yes.

1 Q Okay. And you understood, did you not, that the
2 O'Melveny & Myers firm was representing the Las Vegas Sands
3 Corporation's audit committee and not Sands China, correct?

4 MR. RANDALL JONES: Well, Your Honor, again, I'm
5 going to have to interpose an objection here. Now he's
6 getting into attorney-client communications and how he would
7 get an understanding. That's irrelevant. It's also not
8 relevant to these proceedings about sanctions for my client in
9 this situation.

10 THE COURT: Are you saying -- I just need to make
11 sure that I understand your position. Are you saying that
12 O'Melveny & Myers' communications with him are privileged?

13 MR. RANDALL JONES: They may be. I don't know. All
14 I'm saying, Your Honor, you're talking about a lawyer --

15 THE COURT: Well, but you either got to say yes or no
16 now, because I'm in a hearing and I've got to make a ruling on
17 a privilege.

18 MR. RANDALL JONES: And, Your Honor, because I don't
19 know all the details of that situation --

20 THE COURT: O'Melveny & Myers, it was testified to
21 yesterday by Mr. Fleming that O'Melveny & Myers represented
22 the audit committee for the Las Vegas Sands.

23 MR. BICE: Mr. Raphaelson insisted that they were
24 separate.

25 THE COURT: And he said he had no direction and

1 authority over them because they relate to the audit committee

2 --

3 MR. BICE: Exactly.

4 THE COURT: -- which is typical in most publicly
5 traded companies.

6 So are you making a privilege objection or not?

7 MR. RANDALL JONES: Let me -- because this --
8 anytime you deal with privilege, it's sensitive. I want to
9 make sure I'm not --

10 MR. PEEK: We'll do it collectively, Your Honor.

11 (Defense counsel confer among themselves)

12 THE COURT: Mr. Toh, I am sorry for the repeated
13 delays and I know it is taking up a lot of your time very
14 early in the day for you. We appreciate your patience with
15 us. If you need to take a break now to go to the restroom or
16 get something to drink, please feel free to do so, get up and
17 move around while the lawyers over here consult about this
18 issue. Okay?

19 THE WITNESS: Okay, thank you.

20 THE COURT: Uh-huh. I'm going to take a break while
21 they consult, too.

22 MR. BICE: Thank you, Your Honor.

23 (Court recessed at 3:50 p.m., until 4:00 p.m.)

24 THE COURT: Mr. Toh, are you ready?

25 Mr. Bice, we're ready. Mr. Toh and I are ready.

1 MR. BICE: I'm ready.

2 THE COURT: And Mr. Jones is here.

3 MR. BICE: Where's Mr. Peek?

4 MR. RANDALL JONES: Everybody else is right behind
5 me.

6 MR. BICE: Can we go without Mr. Peek?

7 THE COURT: You can.

8 BY MR. BICE:

9 Q Okay. Mr. Toh, can you hear me, sir?

10 A Yes, I can hear you.

11 Q During the break, Mr. Toh, did you speak to anyone?

12 A Yeah. Just talked to Wyn.

13 Q Okay. You didn't speak to anyone else?

14 A No.

15 Q Okay.

16 MR. RANDALL JONES: I will represent we had no
17 contact whatsoever with Mr. Toh during the break, just to make
18 sure.

19 BY MR. BICE:

20 Q Earlier, Mr. Toh, you'd indicated that the O'Melveny
21 & Myers lawyers showed you some of your own emails; correct?

22 A Yes.

23 Q And they were asking you questions about what did
24 you mean by certain things that you said in the emails;
25 correct?

1 MR. RANDALL JONES: Well, objection, Your Honor. As
2 to any communications between Mr. Toh and O'Melveny I'm going
3 to object on the basis of attorney-client privilege.

4 THE COURT: Okay. And so tell me who O'Melveny &
5 Myers, based upon your understanding, was representing.

6 MR. RANDALL JONES: I'm very confident now in my
7 understanding about that situation. William Myers was
8 retained by the Audit Committee on behalf of the company --

9 THE COURT: The company being Las Vegas Sands?

10 MR. RANDALL JONES: Correct.

11 -- in an investigation involving Las Vegas Sands and
12 its affiliates, which specifically included Sands China, and
13 that there was a mutual interest in that investigation of all
14 companies, including Las Vegas Sands and Sands China, and I
15 would instruct him not to answer the question on that basis.

16 THE COURT: Okay. I just needed you to confirm for
17 me who you thought. That's why I asked you the questions
18 before.

19 MR. RANDALL JONES: I understand, Your Honor. And I
20 want to be very clear about my answer, because I know you
21 wanted a very precise response.

22 THE COURT: I was trying to get it.

23 Mr. Bice, you wanted to say something before I rule.

24 MR. BICE: That's right, Your Honor. This --
25 O'Melveny & Myers is representing the Audit Committee. They

1 are not representing the companies, and in fact they can't be
2 representing the companies. And so to pretend like they were
3 somehow representing the companies is legally impossible. Mr.
4 Toh has already testified he had his own counsel there and
5 they were interviewing him. They were not representing him.
6 They were conducting an investigation to try and convince the
7 United States Securities & Exchange Commission, as well as the
8 Nevada gaming authorities, that nothing had gone on over there
9 that they need to worry themselves about. And so to come into
10 court and now represent that Mr. Toh has an attorney-client
11 relationship with the O'Melveny & Myers lawyers is -- there is
12 no evidence to substantiate that. And it's their burden to
13 demonstrate it.

14 THE COURT: Because privilege is an important issue
15 and this privilege is one that is I think an important one
16 that needs to be briefed, I am going to sustain the objection
17 at this point in time subject to further briefing. If I make
18 a determination after receiving further briefing that in fact
19 the objection was not well founded, Sands China will have to
20 make Mr. Toh available for deposition.

21 MR. PEEK: That's fine, Your Honor. Thank you.

22 THE COURT: Okay. And it can be by video
23 conference, as opposed to live.

24 MR. PEEK: Thank you, Your Honor.

25 //

1 BY MR. BICE:

2 Q Mr. Toh, the emails that you were O'Melveny, to whom
3 had you sent them? In other words, there were emails that you
4 had with somebody else. Who was the someone else, sir?

5 A I can't recall exactly, but bending more to what the
6 [unintelligible].

7 Q I'm sorry. Can you spell the name for us.

8 A No, I can't recall the name. I say there are a
9 number of emails. I can't recall exactly who was in the
10 email, but mainly a lot of emails more local [unintelligible]
11 when the team in Macau, yeah.

12 Q Okay. So your recollection is that they were just
13 communications within Macau; correct?

14 A Maybe some -- or let's see. I can't recall exactly,
15 because it's long time ago, yeah.

16 Q I understand that. But do you have a recollection
17 that the email -- at least some of the email communications
18 were just communications within Macau?

19 A Yes.

20 Q Mr. Toh, did you oversee the IT Department at any
21 point in time?

22 A Not officially, but, I mean, just helping out. So
23 no.

24 Q All right. So helping out being what?

25 A Some administrative stuff, like, you know, approve

1 some expenditures and some administrative stuff, yeah.

2 Q Okay. Was there anyone else -- just one followup
3 question on your meetings with O'Melveny & Myers. Was there
4 anyone else present for those meetings -- or the meeting you
5 had except for you, your lawyer, and the O'Melveny & Myer
6 lawyers?

7 MR. RANDALL JONES: I'm sorry. Could you --

8 THE COURT: Who else was present?

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

10 THE COURT: I'm not as good as a court reporter,
11 but --

12 THE WITNESS: I can't remember who else is present,
13 I mean, 'cause it's couple years ago. I can't remember, Your
14 Honor.

15 BY MR. BICE:

16 Q Fair enough, Mr. Toh. Mr. Toh, can you tell me
17 this. Was the interview recorded?

18 A The interview -- yeah, my lawyer actually did, yeah,
19 what [[unintelligible]].

20 Q I'm sorry.

21 A I don't know whether the other [unintelligible]. My
22 lawyer represent me did record the [unintelligible] talk.

23 Q He recorded the questions you were asked?

24 A Yep. And then the answer I provide.

25 Q And the answers you provided. And you do not know

1 whether or not O'Melveny & Myers recorded those; correct?

2 A That's right.

3 Q Were you ever asked to give a consent under the Macau
4 Data Privacy Act for this lawsuit, the Jacobs lawsuit?

5 A No.

6 Q Okay. Were you asked to give one with respect to
7 the O'Melveny & Myers investigation?

8 A For the investigations -- just how I say that the
9 consent -- my privacy data, my personal data is to provide to
10 the company.

11 Q Uh-huh. Did they -- so you did not execute any sort
12 of other consent for that investigation; correct?

13 A No. I can't recall that. My consent is only to the
14 company, yeah.

15 Q All right. And so did you talk about -- did anyone
16 ask you to give a consent in this case regarding the Jacobs
17 case?

18 MR. RANDALL JONES: Well, Your Honor, I only object
19 to the extent that calls for attorney-client privilege. If
20 somebody asked him, that's a communication with counsel. And
21 to the extent that it's -- and, Your Honor, this is one of
22 those situations where I've -- I'm not so concerned about the
23 answer per se, but I am concerned about waiving privilege, and
24 so --

25 THE COURT: You're concerned about the precedent it

1 sets?

2 MR. RANDALL JONES: I am concerned about the
3 precedent it sets, Your Honor.

4 THE COURT: All right. Sir, I am going to ask you
5 not to answer that question and ask Mr. Bice to move on.

6 BY MR. BICE:

7 Q You said that your consent was only to the company
8 that you gave, the prior one. To which company was that, sir?

9 A To the VML.

10 Q Okay. All right. Before I was asking you about
11 your role with respect to the IT Department. As part of that
12 investigation that you're aware of that O'Melveny was
13 conducting did they -- did Mr. Dillon [phonetic] do data
14 searches for them on the VML databases?

15 A I don't know.

16 Q Did you ever discuss that with anyone?

17 MR. RANDALL JONES: Objection, Your Honor. To the
18 extent he discussed it with counsel I would object and ask him
19 not to answer.

20 THE COURT: Sir, if you can answer that question
21 without revealing anything you discussed with counsel, please
22 do. Otherwise, tell us you can't answer it. Or you could
23 tell me you don't remember or you don't know.

24 THE WITNESS: I don't know.

25 THE COURT: Thank you, sir.

1 BY MR. BICE:

2 Q Sir, do you know what the Clearwell database was?

3 A I don't know.

4 Q You never heard of that before? Have you ever heard
5 that word before, Clearwell?

6 A Again. Clear --

7 Q Clearwell.

8 A No.

9 Q And you said that the documents that you were
10 reviewed -- that you reviewed with O'Melveny & Myer are
11 currently in the possession of Mr. Fleming; is that right?

12 MR. RANDALL JONES: Objection. Asked and answered.

13 THE WITNESS: I believe is in our Legal Department.
14 I'm not sure the process of [unintelligible] or not. It's in
15 our Legal Department.

16 BY MR. BICE:

17 Q Thank you, sir. Mr. Toh, in 2010 did Venetian Macau
18 Limited, VML, did it maintain a backup system for its IT in
19 Mainland China outside of Macau?

20 A I'm not aware. I don't know, yeah.

21 Q You're not aware whether there were any backups in
22 Jhuhai?

23 MR. PEEK: Objection. Asked and answered, Your
24 Honor.

25 THE COURT: Overruled.

1 MR. BICE: I'm asking specific questions.
2 THE COURT: Don't you "sheez."
3 Sir, can you answer?
4 BY MR. BICE:
5 Q Zhuhai sound familiar?
6 A Yes.
7 Q Were there backups in Zhuhai?
8 A No. The backup is in Macau, because Zhuhai has only
9 access to the Macau system the perform job.
10 Q Okay. So there were never any backup systems that
11 were outside of Macau. Is that what you're saying?
12 A That's my understanding.
13 Q And where did you get that understanding?
14 A Based on some informations from the IT, yeah.
15 Q Mr. Toh, did you learn that data had been
16 transferred to the United States concerning Mr. Jacobs?
17 MR. RANDALL JONES: Objection, Your Honor, to the
18 extent that that question invades the attorney-client
19 privilege. I would instruct him not to answer.
20 MR. BICE: I'll rephrase.
21 MR. PEEK: And also relevancy, Your Honor.
22 THE COURT: Thank you. Wait. We're going to
23 rephrase the question.
24 BY MR. BICE:
25 Q I'll rephrase. Other than lawyers, Mr. Toh, did you

1 ever discuss with anyone the transfer of data to the United
2 States concerning Mr. Jacobs?
3 MR. PEEK: Objection. Relevancy, Your Honor.
4 THE COURT: Overruled.
5 THE WITNESS: No.
6 BY MR. BICE:
7 Q When did you find out that it had been transferred?
8 MR. PEEK: Same objection, Your Honor, relevancy.
9 THE COURT: Overruled.
10 THE WITNESS: From our legal counsel.
11 BY MR. BICE:
12 Q Okay. But when, sir?
13 A I can't recall exactly. Maybe couple years ago.
14 Q Okay. Was that at a board meeting where that was
15 discussed?
16 A I can't recall that, yeah.
17 Q Did you attend any meetings with the Office of Data
18 Protection concerning either this matter or the SEK
19 investigation?
20 MR. PEEK: Objection.
21 THE COURT: The objection asked and answered is
22 sustained. He said no.
23 MR. BICE: I apologize, Your Honor.
24 THE COURT: It's okay.
25 MR. BICE: I did not recall asking him that. And

1 I'm losing track of my notes.

2 THE COURT: It's all right. I'm here to keep you
3 straight.

4 MR. BICE: Thank you.

5 THE COURT: Trying to get the witness out of here.
6 Promised my staff we would break early -- or at 5:00 today.

7 MR. PEEK: I told you it'd be two hours, Your Honor.

8 THE COURT: Thank you, Mr. Peek.

9 MR. BICE: Thank you. As the Court knows, I don't
10 think I've been doing all that much talking.

11 THE COURT: It just doesn't matter. Let's just get
12 this gentleman done so he can go about his life.

13 BY MR. BICE:

14 Q Mr. Toh, you knew Jeffrey Schwartz; correct?

15 A Yes.

16 Q He served on the board with you?

17 A He was, yeah.

18 Q Did also Mr. Irwin Siegel serve on the board with
19 you?

20 A Yes, he was.

21 Q And neither of them are any longer with the company;
22 correct?

23 A Yes.

24 Q Did Mr. Schwartz have interaction and knowledge
25 about Mr. Jacobs's work in Macau?

1 MR. RANDALL JONES: Object to the extent it calls
2 for speculation.
3 THE COURT: Overruled. To the extent you know, sir.
4 THE WITNESS: The question again?
5 BY MR. BICE:
6 Q Sure. Did Jeff Schwartz have knowledge and
7 information about Mr. Jacobs's work in Macau?
8 A Yes, I believe so, yeah.
9 Q How about Irwin Siegel? Did he have knowledge and
10 information about Mr. Jacobs's work in Macau?
11 MR. RANDALL JONES: Object again. Same objection,
12 Your Honor.
13 THE WITNESS: Yes.
14 THE COURT: To the extent you know, sir. Thank you.
15 MR. BICE: I want a short -- confer with my folks,
16 Your Honor.
17 THE COURT: Mr. Toh, we're getting near the end.
18 They're looking at their notes to see, and then I'm going to
19 let Mr. Jones stand up, and he may have some additional
20 questions for you.
21 THE WITNESS: Thanks.
22 MR. BICE: We'll pass the witness, Your Honor.
23 THE COURT: Mr. Jones, did you have any questions
24 you'd like to ask Mr. Toh?
25 MR. RANDALL JONES: Your Honor, Court's indulgence.

1 THE COURT: Mr. Peek, do you think you have any
2 questions you want to ask Mr. Toh?

3 MR. PEEK: Not at this moment, Your Honor, but I --

4 THE COURT: Mr. Morris, do you think you have any
5 questions you want to ask Mr. Toh?

6 MR. MORRIS: No.

7 THE COURT: All right. So let's wait till Mr. Jones
8 answers my question.

9 MR. RANDALL JONES: Let me just confer with my
10 colleagues, Your Honor.

11 THE COURT: Mr. Jones, I'm not putting pressure on
12 you.

13 MR. RANDALL JONES: I appreciate that, Your Honor,
14 very much. I've got enough pressure as it is.

15 (Pause in the proceedings)

16 MR. BICE: Your Honor, Mr. Smith pointed out that
17 there was one additional exhibit I wanted to offer with this
18 witness. And my apology. It's Proposed Exhibit Number 59.

19 THE COURT: Is it one you've already asked the
20 witness if he can identify?

21 MR. BICE: No, actually. That's why --

22 THE COURT: Mr. Toh, could you please look at
23 Exhibit 59.

24 MR. BICE: That's why Mr. Smith was pointing it out
25 to me. I overlooked it.

1 MR. RANDALL JONES: Your Honor, I would make my same
2 offer that I made last time, and if that offer is agreed to,
3 then I would be happy to stipulate to the admission of this
4 document.

5 THE COURT: Okay. My guess is they're still saying
6 no.

7 Did you want to ask some questions about it?

8 MR. BICE: We will not as a condition of having
9 foundation for relevant documents stipulate to a foundation
10 for irrelevant ones when they are the documents from the
11 defendants. Presumably, they would know who the witnesses are
12 that are on those documents.

13 THE COURT: All right. So you're going to ask some
14 questions of Mr. Toh on 59 now.

15 MR. BICE: I am.

16 THE COURT: Okay. Go.

17 MR. RANDALL JONES: I'm sorry. Just for the record,
18 you admitted that, Your Honor?

19 THE COURT: I haven't admitted it.

20 MR. RANDALL JONES: Oh. I'm sorry.

21 THE COURT: I'm letting him ask some questions so I
22 can decide if I'm going to admit it.

23 MR. RANDALL JONES: I was distracted. I wasn't
24 sure.

25 THE COURT: He decided not to accept your proffered

1 stipulation.

2 MR. RANDALL JONES: I am not surprised.

3 CROSS-EXAMINATION (Continued)

4 BY MR. BICE:

5 Q Exhibit 59, sir, have you seen it?

6 A Yes, I'm looking at it.

7 Q You can tell me what this document is, can't you?
8 Because your name's not redacted on it.

9 A Yes. This is a Credit Committee meeting minutes.

10 Q Okay. And you're actually one of the attendees;
11 correct?

12 A That's right.

13 Q And all the attendees are listed on this one as
14 present; correct?

15 A Right.

16 Q All right. Does this appear to be a true and
17 correct copy of those minutes subject to a bunch of redactions
18 that are on it?

19 A Yep.

20 MR. RANDALL JONES: Your Honor, just I guess for the
21 record, not that I don't assume the Court's probably going to
22 admit this, but he's asking the witness to testify about
23 what's in the document before it's admitted, which is
24 improper.

25 THE COURT: No. He asked the witness if it appeared

1 to be a true and correct copy of the minutes of the Credit
2 Committee meeting at which the witness was an attendee.

3 MR. RANDALL JONES: Actually, I think the question
4 before that, where he said, and all the personal information
5 is in this document, isn't it --

6 THE COURT: That's not what he said. And it says
7 everybody was present at the meeting.

8 MR. RANDALL JONES: Well, that's the same -- I guess
9 I would take that as the same difference. But, in any event,
10 if the Court's going to admit it, it doesn't probably make any
11 difference.

12 THE COURT: Right.

13 MR. RANDALL JONES: Other than I'd make -- I'm just
14 pointing out the inconsistency.

15 THE COURT: Okay.

16 MR. BICE: I'm not sure what the inconsistency is,
17 but I would move this one into evidence, Your Honor.

18 THE COURT: Sir, does it appear to you to be an
19 accurate representation of what occurred at the meeting?

20 MR. RANDALL JONES: Your Honor, maybe you'll
21 rephrase it, maybe he'll understand it better.

22 THE WITNESS: There's noise in this -- are you
23 asking me questions?

24 MR. BICE: Yes.

25 THE COURT: Sir, is it an accurate copy of the

1 minutes?

2 MR. RANDALL JONES: Hey, guys, maybe if -- Steve,
3 Steve. You're coming across. I can't hear.

4 MR. PEEK: Sorry.

5 BY MR. BICE:

6 Q Mr. Toh, can you hear us, sir?

7 THE COURT: Somebody turn off your cell phone,
8 whoever it is that has it on.

9 BY MR. BICE:

10 Q Yes. Mr. Toh, the document that you're looking at,
11 Exhibit Number 59, does that appear to be a accurate copy of
12 the Credit Committee minute meetings [sic] from --

13 A Yes.

14 MR. BICE: Okay. Your Honor, I'd move it into
15 evidence.

16 THE COURT: Any additional objections, Mr. Jones?

17 MR. RANDALL JONES: No objections.

18 THE COURT: Be admitted.

19 (Plaintiff's Exhibit 59 admitted)

20 THE COURT: Now, Mr. Bice, do you have any further
21 questions for the witness?

22 MR. BICE: Yes.

23 BY MR. BICE:

24 Q Mr. Toh, do you know why on this document where all
25 the attendees are present are not redacted, but the names of

1 everyone else is? You go down and you look at "Topics
2 Discussed," all the individuals there have their names
3 redacted.

4 A I believe the name redacted is the customer
5 informations.

6 MR. BICE: Okay. Pass the witness. And I thank you
7 for the Court's indulgence.

8 THE COURT: Any additional questions, Mr. Jones?

9 MR. RANDALL JONES: Your Honor, I have no questions.

10 THE COURT: Mr. Toh, Mr. Jones has no questions.
11 I've got two more to ask.

12 Mr. Peek, any questions for Mr. Toh?

13 MR. PEEK: I have no questions, Your Honor. Thank
14 you.

15 THE COURT: And, Mr. Morris?

16 MR. MORRIS: None, Your Honor.

17 THE COURT: Thank you, Mr. Toh and Mr. Hughes. We
18 truly appreciate your patience with us. Have a very nice day.
19 Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: All right. It is now 4:24. There were
22 some issues that we had discussions about during this
23 particular of the video testimony, and I told you I would let
24 you make an additional record on any of those issues if you
25 would like. Does anyone feel there is anything else that you

1 need to make a record on that you did not get a full
2 opportunity to make a record on while we had this witness
3 appearing by video conference?

4 MR. MARK JONES: This witness, or Mr. Fleming?

5 THE COURT: This one. Because I stopped Mr. Peek at
6 least twice and told him I would give him an opportunity after
7 we finished the witness to elaborate on the objection he was
8 making.

9 MR. PEEK: And I think the objection was made, Your
10 Honor. I think the Court understood it. I don't think
11 there's any need to make further objection, because the
12 testimony's already come in.

13 THE COURT: All right. I'm just giving you the
14 opportunity if there is something.

15 MR. RANDALL JONES: Thank you.

16 THE COURT: Okay. We still have some video clips of
17 Mr. Leven to finish and Mr. -- is it Goldstein?

18 MR. RANDALL JONES: Goldstein, yes, Your Honor.

19 THE COURT: -- Goldstein to finish. And then I have
20 some cleanup issues I'll hit with you if we still have time.
21 So if we could return to the video deposition of Mr. Leven.

22 MR. RANDALL JONES: Your Honor --

23 THE COURT: Yes, sir.

24 MR. RANDALL JONES: -- because we took that last
25 break I was not able to take advantage of it to use the

1 facilitates.

2 THE COURT: 'Bye. We'll see you in a minute.
3 They've got to queue up. They're getting everything queued up
4 and ready to go.

5 MR. RANDALL JONES: All right. I'll be right back.

6 THE COURT: And, Mr. Bice, Mr. Pisanelli, the
7 question I am going to ask that you probably want to think
8 about the answer and Mr. Peek will probably think about the
9 answer, as well as Mr. Morris, is whether you want to do any
10 briefing on the O'Melveny --

11 MR. RANDALL JONES: It's closed. But that's okay.
12 I can deal with it.

13 (Pause in the proceedings)

14 THE COURT: -- is whether you want to do any
15 briefing on the O'Melveny & Myers privilege issue prior to me
16 making a ruling and/or arguing tomorrow. So are we ready?

17 MR. RANDALL JONES: Say that again, Your Honor.

18 MR. PEEK: Further briefing on the O'Melveny &
19 Myers? I thought you said you were going to -- I apologize.
20 I thought you said that you were going to then have it briefed
21 -- I don't know if you wanted it by tomorrow -- and then bring
22 Mr. Toh back or not bring Mr. Toh back?

23 THE COURT: I'm in the middle of an evidentiary
24 hearing.

25 MR. PEEK: I know.

1 THE COURT: It is an answer I didn't hear that
2 somebody may think it's relevant after I hear the answer. The
3 issues related to that investigation. I know that Mr. Bice
4 feels strongly about it, I know that Mr. Jones and you feel
5 strongly about it.

6 MR. PEEK: We do. And --

7 THE COURT: In order to put anybody in a bad
8 position because I thought there was a colorable basis for the
9 assertion of the privilege, I said I that I would sustain the
10 privilege, but I would entertain further briefing on it, and
11 then if I made briefing and found it wasn't well founded what
12 would happen. The question is, since somebody thinks it's an
13 important issue, is it important enough that they want that
14 briefing done before we argue and I issue a decision on this
15 evidentiary hearing, or is it one that they feel we can do
16 later and I can finish this. So that's the question I'm
17 asking their side of the room, since they lost on the
18 objection.

19 MR. PEEK: I'll let them answer, then.

20 THE COURT: Then you can comment.

21 MR. PEEK: Thank you, Your Honor.

22 MR. BICE: Your Honor, we would like to make that
23 decision tomorrow --

24 THE COURT: That's fine. That's why I'm asking you
25 the question --

1 MR. BICE: -- after we examine Mr. Raphaelson.

2 THE COURT: -- so you can think about it.

3 MR. BICE: After we -- yes. And we'd like to think
4 about the evidence tomorrow after we examine Mr. Raphaelson.

5 THE COURT: Well, I would really like you to give me
6 the answer pretty soon after you examine Mr. Raphaelson so
7 that we'll all know --

8 MR. BICE: Thank you.

9 THE COURT: -- how much time you're going to spend.
10 Are we queued up for Mr. Leven's remaining
11 testimony? If we could "play," please.

12 DEPOSITION OF MICHAEL LEVEN, VOL. 2, PLAYED AS FOLLOWS:

13 DIRECT EXAMINATION

14 BY MR. BICE:

15 Q Good morning, Mr. Leven.

16 A Good morning.

17 Q You understand that this a continuation of your
18 deposition?

19 A Yes.

20 Q Who is Jeff Schwartz?

21 A He's a board member of Las Vegas Sands and a board
22 member of Sands China.

23 Q Okay. Did you ever have any discussions with Mr.
24 Schwartz about Sands China be a controlled entity?

25 A I could have. I don't remember specifically.

1 Q Showing you what's been marked as Exhibit Number 21,
2 Mr. Leven, let me know when you're done reviewing it.

3 MR. PEEK: What is the exhibit number?

4 MR. SMITH: Exhibit 21 of the depo is Proposed
5 Exhibit 46.

6 MR. PEEK: Thank you. That'd be nice to know.

7 MR. BICE: Sorry.

8 Dustin, hold on.

9 MR. PEEK: 46, or 47?

10 MR. SMITH: 46.

11 MR. RANDALL JONES: Can we do the rest of them while
12 we're sort of getting situated.

13 MR. PEEK: Can we do them one at a time?

14 BY MR. BICE:

15 Q Do you know -- do you have any reason to Las Vegas
16 that you did not receive this email from Mr. Schwartz?

17 A No.

18 MR. BICE: We would move it into -- we would move
19 the proposed exhibit into evidence, Your Honor.

20 THE COURT: Any objection?

21 MR. RANDALL JONES: I guess the objection would
22 be --

23 THE COURT: 46.

24 MR. RANDALL JONES: -- would be relevance.

25 MR. PEEK: Join in that objection, Your Honor.

1 THE COURT: And do you want to tell me why you don't
2 think it's relevance, since there's nobody here to be
3 influenced but me?

4 MR. RANDALL JONES: It's full unredacted, and it's
5 email between Las Vegas Sands and, as I understand, an email
6 between Las Vegas SANDS and Las Vegas Sands. And it's fully
7 unredacted. I understand Mr. Schwartz is not alive anymore,
8 but it's not relevant to the issue.

9 THE COURT: Mr. Bice, why is it relevant to my
10 evidentiary hearing on the sanctions issue?

11 MR. BICE: Goes to the issue to show you, Your
12 Honor, that Mr. -- this will be one of multiple exhibits shows
13 you that Mr. Schwartz was integrally involved in matters in
14 Macau, finances, compensation of Mr. Jacobs, and Mr. Jacobs's
15 performance, including, you will see towards the end of this
16 clip with Mr. Leven, Mr. Jacobs -- or Mr. Schwartz was one of
17 the people who had sought to -- or raised questions about
18 intervening and trying to save Mr. Jacobs from Mr. Adelson's
19 course of path. And Mr. Schwartz is now gone.

20 THE COURT: As opposed to the substantive issue,
21 since the document that is being shown is an unredacted
22 document, how does this relate to the prejudice issue for the
23 redacted documents?

24 MR. BICE: Because with the passage of time that
25 these defendants have secured with these redactions and their

1 invocation of the MPDPA to stall this case to a standstill for
2 now past four years, Mr. Schwartz has passed away, Mr. Siegel
3 is no longer around, Mr. Leven, as we now know, is gone. That
4 is part of our prejudice that we are outlining in this case to
5 the Court --

6 THE COURT: Okay.

7 MR. BICE: -- is because I do not believe that the
8 prejudice is limited to us that we have to show the redaction
9 alone is what causes the prejudice to us. Their misuse of the
10 MPDPA, including the redactions, has so stalled this case for
11 so long that witnesses are gone, memories of faded, and in
12 this particular case -- you'll see from the documents a rather
13 significant witness is gone.

14 THE COURT: So assume for a minute that I disagree
15 with you and that I think that our hearing is based upon the
16 prejudice related to the violation of my order related to the
17 production of documents related to the MDPA. Tell me how this
18 particular document relates to that prejudice issue.

19 MR. BICE: Because it shows for the record the
20 importance of Mr. Schwartz -- this and other documents that in
21 this frame show the importance of Mr. Schwartz and Mr.
22 Schwartz's role, and all of the evidence from Mr. Swartz is
23 now gone. And, Your Honor, the reason Mr. Schwartz passed
24 away in November of last year, this case has been stalled by
25 the defendants' misuse of this statute and claims that they

1 didn't understand your order. Remember, Your Honor, had they
2 been just up front with you and with us about this order and
3 just said, you know what, Your Honor, we're not going to
4 comply, we're not going to comply with it so let's just deal
5 with it now, this issue would have been resolved, what, two
6 years ago. But here we are again with witnesses gone,
7 memories faded, we're still arguing about the MPDPA.

8 THE COURT: The objection is sustained.

9 MR. BICE: So we will go to -- and I'm going to
10 submit these -- Your Honor, by tomorrow I will submit these
11 exhibits and the deposition transcript as an offer of proof so
12 that it is part of the record should the Supreme Court --

13 THE COURT: Absolutely.

14 MR. BICE: -- be asked to review this, all right.
15 Thank you.

16 MR. PEEK: Does that conclude all the clips, then,
17 Mr. Bice?

18 THE COURT: They're already proposed exhibits. Mr.
19 Bice, they're already proposed exhibits, so it's part of your
20 record along -- if you want to make an additional proffer,
21 though, or any additional things, we can certainly talk about
22 that. But the proposed exhibits that have been not admitted
23 are part of your record.

24 MR. BICE: We will submit -- what we will do, Your
25 Honor, is we will submit a short pleading that just outlines

1 the transcripts and the proposed -- or the deposition
2 testimony on this point and the proposed exhibits that relate
3 to it just to preserve our record.

4 Now if we --

5 THE COURT: We can talk about that if you want to do
6 that tomorrow.

7 MR. BICE: We'll submit that to you in the morning.

8 THE COURT: That's great.

9 MR. BICE: All right.

10 MR. PEEK: And I guess I would need to file --

11 THE COURT: Wait. I need to finish Mr. Leven's
12 deposition.

13 MR. PEEK: Okay. [Inaudible] need to file a
14 corresponding pleading objecting to it.

15 THE COURT: If you want. I mean, you know.

16 MR. BICE: So now, Dustin, we'll jump ahead to --

17 MR. SMITH: It's Depo Exhibit 57, and that equals --

18 MR. BICE: So hold on.

19 So, Jordan, tell them what the exhibit number is.

20 MR. SMITH: Depo Exhibit 57 is Plaintiff's

21 Proposed 77.

22 MR. PEEK: Thanks, Jordan.

23 MR. BICE: Do you have any objections to its
24 admission?

25 MR. RANDALL JONES: I would make the same proposal.

1 This exhibit I understand the relevance, and so I certainly
2 can't object on relevance to the issue before the Court. So I
3 would -- I am -- I am happy to admit it, Your Honor, if I
4 could get a similar --

5 THE COURT: You're not going to get the stipulation.
6 So do you have an objection?

7 MR. RANDALL JONES: Only on foundation, Your Honor.
8 Otherwise I think it's a fine exhibit.

9 MR. BICE: Your Honor, we would normally have such a
10 stipulation, but the point is --

11 THE COURT: I understand. I'm not trying to make
12 you stipulate. It doesn't offend me. Can we play.

13 MR. BICE: Yep. Please.

14 BY MR. BICE:

15 Q We've been marking 56, Mr. Leven -- or 57. I
16 apologize. Can you tell me what Exhibit Number 57 is, Mr.
17 Leven?

18 A I don't have the slightest idea what this is.

19 Q Could you make heads or tails out of even when it
20 addresses [[inaudible]].

21 A I'm looking at it three times. I have not the
22 slightest idea what it is.

23 Q Okay.

24 A I'm supposed to know? [Inaudible].

25 Q [Inaudible] tell me anything about Exhibit

1 Number 60?

2 MR. PEEK: What's this one now?

3 MR. SMITH: Depo Exhibit 60 is Plaintiff's Proposed

4 38.

5 THE COURT: Are you going to offer the last one?

6 MR. BICE: Yes. Which was --

7 MR. SMITH: 77.

8 MR. BICE: We offer Proposed 77, Your Honor.

9 THE COURT: Any additional objection?

10 MR. RANDALL JONES: Same objection we had before.

11 THE COURT: 77 will be admitted.

12 (Plaintiff's Exhibit 77 admitted)

13 THE COURT: Now we're up to 38?

14 MR. SMITH: Yes, Your Honor.

15 MR. BICE: Play, Dustin.

16 THE WITNESS: No. I wish you'd tell me, because

17 it's very strange. I don't know who it is. [Inaudible]

18 redactions.

19 MR. BICE: We would move Exhibit 38 into evidence,

20 also, Your Honor.

21 THE COURT: Any additional objections?

22 MR. RANDALL JONES: No additional objections, Your

23 Honor.

24 THE COURT: Be admitted.

25 (Plaintiff's Exhibit 38 admitted)

1 MR. BICE: The next one, Jordan?

2 MR. SMITH: The next one is Depo Exhibit 62 and,
3 ironically, Plaintiff's Exhibit 62.

4 MR. PEEK: I'm sorry?

5 MR. SMITH: 62.

6 MR. BICE: Proposed 62.

7 MR. PEEK: Thank you.

8 MR. BICE: Continue, Dustin.

9 BY MR. BICE:

10 Q -- what's been marked as Exhibit 62, Mr. Leven. Can
11 you tell me anything about this document?

12 A No.

13 Q And is the reason you can't tell me because it's got
14 all these redactions on it?

15 A I don't even recognize the -- this stuff at the
16 bottom.

17 MR. BICE: Your Honor, we would move Proposed
18 Exhibit 62 into evidence, Your Honor.

19 THE COURT: Any additional objections?

20 MR. RANDALL JONES: No additional objections.

21 MR. PEEK: No additional, Your Honor.

22 THE COURT: Be admitted.

23 (Plaintiff's Exhibit 62 admitted)

24 MR. BICE: Thank you. I believe that takes us now
25 to Mr. Goldstein, does it not?

1 MR. BICE: Randall, you had some -- okay.

2 THE COURT: You've got 20 minutes or less.

3 MR. BICE: We're going to play 1, and then 2 will be
4 next. So I'm just telling you up front, okay.

5 It's 8 minutes long. Dustin, play Clip Number 1.

6 DEPOSITION OF ROERT GOLDSTEIN PLAYED AS FOLLOWS:

7 DIRECT EXAMINATION

8 BY MR. BICE:

9 Q Could you please state your name for the record.

10 A Yes. Robert Glen Goldstein.

11 Q And, Mr. Goldstein, can you tell me where you work.

12 A Las Vegas Sands.

13 Q All right. You know Steven Jacobs?

14 A I do.

15 Q All right. And how long have you known Mr. Jacobs?

16 A I met him when I came to work at the Sands. I'm not
17 sure what year that was.

18 Q All right. And did you ever reverse -- well, strike
19 that.

20 Did you ever have a -- after you had the discussion
21 with Mr. -- you say you had a discussion with Mr. Jacobs about
22 terminating any relationship with Cheung Chi Tai. Did you
23 ever direct Mr. Jacobs to change that?

24 A Change what?

25 MR. RANDALL JONES: Your Honor, objection. There's

1 a whole line of questioning that is again about Mr. Cheung Chi
2 Tai that I don't believe, at least from my reading of it, is
3 relevant to this hearing. And so I would object on relevance
4 grounds. And it's about -- it's about -- it's several pages
5 of testimony about that issue.

6 THE COURT: And again for our record, Cheung Chi Tai
7 is one of the junket operators.

8 MR. RANDALL JONES: That's right.

9 THE COURT: All right. Mr. Bice.

10 MR. BICE: Not only is Mr. Cheung Chi Tai one of the
11 junket operators, Your Honor, Larry Chiu, one of the Las Vegas
12 Sands Corporation's executives here, was interacting with him,
13 which is part of this testimony. And, as the Court knows, as
14 we have told you, we, of course cannot determine any of the
15 redactions about Cheung Chi Tai because the redactions conceal
16 the identity, as well as not only Cheung Chi Tai, Larry Chiu,
17 anyone that was dealing with them. That's our point.

18 THE COURT: Thank you.

19 The objection is overruled. Document's admitted.

20 MR. RANDALL JONES: Actually it's not --

21 MR. PEEK: It's not a document, it's the testimony,
22 Your Honor.

23 THE COURT: The testimony.

24 MR. RANDALL JONES: And, Your Honor, again, just so
25 it's clear, I'm not arguing about the redaction issue. My

1 only point is that there's a whole bunch of testimony here
2 about Mr. Cheung Chi Tai and Mr. Chiu that has nothing to do
3 with redactions whatsoever. It goes on for pages. And I
4 understand their argument. I'm not -- they can argue about
5 redactions related to Mr. Cheung Chi Tai and Mr. Chiu all they
6 want. I just don't see -- and I'd be happy to show the
7 testimony to the Court.

8 THE COURT: Well, but here's the issue. In order
9 for me to determine whether there's prejudice and the extent
10 of the prejudice I've got to know how pervasive some of these
11 people are and why if redactions are an issue where a search
12 term was used that included that person's name I have search
13 results, I have someone who conducted a review in Macau who's
14 unrelated to all of us here and who I can't ask to certify
15 anything to me who then makes a relevance determination, and
16 then I have the same group of people making a determination on
17 whether to do redactions, it's important to me to know for
18 purposes of determining the extent of the prejudice how much
19 involved this is so when Mr. Bice argues it or you argue
20 against it I have something for my backdrop.

21 So overruled. Play.

22 BY MR. BICE:

23 Q To not sever any relationship with Cheung Chi Tai?

24 MR. PEEK: Object to the form of the question, the
25 word "direct." There's no evidence of that.

1 THE WITNESS: I don't recall specifics other than we
2 -- Steve and I spoke about him. And then there was a decision
3 we should not have him involved in junkets, and I told him we
4 should not have have him there. It was his decision, because
5 he ran the place. But that's all I recall. I mean,
6 subsequently we also had Larry Chiu, who worked for Cheung Chi
7 Tai.

8 BY MR. BICE:

9 Q And did that happen, to your knowledge?

10 A It did happen.

11 Q And who is Mr. Chiu?

12 A He ran an Asian premium marketing for the Venetian
13 and today Las Vegas Sands.

14 Q Okay. And when you say Asian premium marketing what
15 does that mean?

16 A Mostly high-end business, the junkets. He's
17 involved in the junket relationships and also high rollers.

18 Q All right. And then so the decision was made to
19 have Mr. Chiu deal with Cheung Chi Tai?

20 A As I recall, we offered to have Larry speak to
21 Cheung Chi Tai because of the language barrier and also to
22 clarify what his role was with junket, and with all negative
23 press we decided to, as I recall, terminate the relationship.

24 Q All right. Did you ever get any reports back from
25 Larry Chiu about his communications with Cheung Chi Tai?

1 A Yes.

2 Q And what were those -- what was the report back?

3 A Well, that Cheung Chi Tai wanted to move away from
4 the junket business and would cease and desist.

5 Q Well, did you get the impression from Mr. Chiu that
6 Cheung Chi Tai acknowledged that he was involved in the junket
7 business?

8 A I don't recall either way.

9 MR. BICE: Stop, please. Dustin, is it possible for
10 you to just skip ahead to 17, line 15? I didn't really
11 realize there was a long discussion between myself --

12 MR. RANDALL JONES: Hence my objection, Your Honor.

13 THE COURT: You want him to play the rest of this,
14 all your objections?

15 MR. RANDALL JONES: No. I said hence my objection.

16 THE COURT: Oh. We can cut it out.

17 MR. RANDALL JONES: Right.

18 THE COURT: All right.

19 MR. BICE: I didn't perceive -- and I apologize. I
20 didn't perceive Mr. Jones's objection being to me playing this
21 portion of it.

22 MR. RANDALL JONES: Well, there was an objection
23 here of Mr. Peek where he says, "I'm going to object to this
24 line of questioning. It's not jurisdictional based. This is
25 going to the merits. I'm going to instruct the witness not to

1 answer."

2 THE COURT: Mr. Bice has already said he's going to
3 take it out, so we don't need to argue about it.

4 MR. RANDALL JONES: Oh. Okay. Very good.

5 THE COURT: He's skipping ahead.

6 MR. RANDALL JONES: Well, it was all about -- but
7 anyway, we're all on the same page now.

8 MR. BICE: 17, line 15, to the end of the clip.

9 Sorry, Dustin.

10 THE COURT: It's like when I ask people who are
11 winning an argument if there's anything else they want to say
12 and then they won't sit down and then they lose. Never mind.

13 BY MR. BICE:

14 Q Did you get the impression from Larry Chiu that
15 Cheung Chi Tai was acknowledging that he was involved in the
16 junket business in Macau?

17 A I don't recall whether he was or he wasn't. We just
18 wanted Cheung Chi Tai to be out if he was, to remove himself.

19 Q Okay. Now, did you get any form of written
20 information from Larry Chiu about his communication with
21 Cheung Chi Tai?

22 A I don't believe so.

23 Q Now, is Mr. Adelson involved in the decisions
24 relative how to deal with Cheung Chi Tai?

25 A He was involved in the discussions.

1 Q Okay. Was there any form of reporting I guess
2 requirements that the Macau casinos were required to make to
3 your department at the time in which Mr. Jacobs was there?

4 A I don't believe so.

5 Q Did you receive any form of daily reporting from the
6 Macau casinos at the time Mr. Jacobs was there?

7 A I saw flash reports, sure. They were companywide.

8 Q All right. And who all receives those?

9 A I don't know. A lot of -- dozens of people.

10 Q Is there a certain rank in which you have to be to
11 receive those?

12 A I'm not sure it's formal. You people -- the food
13 chain could be accounting folks, it could be audit people. I
14 don't recall. I don't recall.

15 Q Okay. And how would you receive those?

16 A Email.

17 Q Email. And you'd get them every day?

18 A Yeah.

19 Q All right. And what's the -- what's the basically
20 content of the flash?

21 A It's all numbers. It's, you know, table draw, slot
22 winning, ETGs, hotel occupancy, usual things you'd see in a
23 casino-hotel flash.

24 Q Okay. Was there a -- was there a -- provision isn't
25 the right word. Were there reports on significant customers

1 that would come out?

2 A No. I -- no.

3 Q Sorry.

4 A But there would be, you know, comments about -- on

5 the flash of large winners and losers.

6 Q Okay. And that would be on a daily -- would you --

7 would that -- I'm not -- I'm not being articulate. I

8 apologize. I just need to break it down.

9 There would be the large winners and losers, and

10 that would be in every flash essentially?

11 A Yes.

12 Q What would be the process by how you would approve

13 or disapprove of these credit line requests?

14 A I would speak to David.

15 Q Via phone?

16 A Mostly phone, yes.

17 Q Okay. And then would you ever send any form of

18 written approval, such as an email, response email?

19 A Yes.

20 Q Would that be the norm, or would that be the

21 exception?

22 A The norm.

23 Q Were there any that you are aware of that you denied

24 the requests?

25 A Yes.

1 Q Do you recall how many?

2 A No.

3 Q Are there particular ones that you denied? And
4 let's deal with anything prior to October of 2010.

5 A Particular ones? What?

6 Q Any -- any requests -- increases for requests that
7 you denied?

8 A I mean, if there were, I don't recall.

9 Q Who they were?

10 A Yeah.

11 Q Do you recall in this time frame or prior to October
12 of 2010 did you have any involvement in approving any credit
13 for any junket affiliated with Cheung Chi Tai?

14 MR. PEEK: What time frame now?

15 MR. BICE: Prior to October of 2010.

16 MR. PEEK: Okay.

17 THE WITNESS: I don't recall.

18 BY MR. BICE:

19 Q Prior to October of 2010, though, is it your
20 testimony that you had instructed -- or that Mr. Jacobs -- you
21 had advised Mr. Jacobs to cease doing business with Cheung Chi
22 Tai?

23 A Yes.

24 Q And you never advised him otherwise; is that fair?

25 A I -- I don't recall after reading the article any

1 other advice but to stop the association.

2 MR. BICE: That's the end of the video, Your Honor.

3 THE COURT: Is there another volume?

4 MR. BICE: Nope.

5 THE COURT: That's the end of our video deposition
6 that we're playing in lieu of live testimony.

7 MR. BICE: Yes.

8 THE COURT: Do you have any additional portions of
9 either the Leven deposition or of Mr. Goldstein's deposition
10 that you wish to play, Mr. Jones?

11 MR. RANDALL JONES: Perhaps. There was -- in the
12 original designations, and this is where it was not clear to
13 me and it's been reduced down of Mr. Leven Volume 2, I think
14 the original designations -- that's why it's a little
15 confusing to me, Your Honor.

16 THE COURT: I'm just asking, just like I do in every
17 case, if there's any additional portions of the depositions
18 that you would like played.

19 MR. RANDALL JONES: My hope.

20 THE COURT: Or read.

21 MR. RANDALL JONES: My hope is that --

22 MR. BICE: I actually -- sorry. I apologize, Mr.
23 Jones. My apologies.

24 MR. RANDALL JONES: That's all right. I don't know
25 if you were going to clarify something.

1 MR. BICE: Yeah. I have an objection.
2 MR. RANDALL JONES: Oh.
3 MR. BICE: He's within their possession and custody
4 and control. We asked that he be here. They're not allowed
5 to offer his testimony.
6 THE COURT: You offered the video deposition. If
7 they want to supplement, they can.
8 MR. BICE: That's under the rule of completeness,
9 Your Honor.
10 MR. RANDALL JONES: Anyway -- and I may not. I just
11 -- again, because I've got a cut-down version of the --
12 THE COURT: I understand. I'm just asking.
13 MR. RANDALL JONES: -- I'm just trying to look, I'm
14 just trying to find out, Judge. So --
15 (Pause in the proceedings)
16 MR. RANDALL JONES: So, Your Honor, we would want to
17 play just a portion of two pages.
18 THE COURT: Can you just read it?
19 MR. BICE: Can I know what it is first, please?
20 MR. RANDALL JONES: Sure. Starting on page 440.
21 MR. BICE: 440.
22 THE COURT: Is it Volume 1, or Volume 2?
23 MR. RANDALL JONES: Volume 2, Your Honor.
24 THE COURT: We don't have Volume 2. Mr. Bice, I've
25 got to have Volume 2 to publish it.

1 MR. BICE: I'm pretty sure you do have Volume 2.

2 MR. PEEK: He did hand you two volumes of Mr. Leven.
3 I saw him do it.

4 THE COURT: Here you go, Mr. Peek. Refer to page
5 440. Mr. Peek, you've got to stand up so I can swear you as a
6 reader.

7 STEPHEN PEEK SWORN AS READER

8 THE CLERK: Thank you. Please state and spell your
9 name for the record.

10 MR. PEEK: Stephen Peek, S-T-E-P-H-E-N P-E-E-K.

11 THE COURT: Mr. Jones, what line were you on?

12 MR. RANDALL JONES: I'm looking -- starting at
13 line 24 on page 440. And this had been in their original
14 designation.

15 THE COURT: It's okay. You don't have to explain.
16 All you have to do is read the question.

17 (Deposition of Michael Leven, Vol. 2, read as follows:)

18 CROSS-EXAMINATION

19 BY MR. RANDALL JONES:

20 "Q Exhibit 58 -- actually, I'm sorry, Exhibit 58
21 marked. This is 58, Mr. Leven. Can you tell me what 58 is.

22 "A Well, it seems to be related to 57, but I don't have
23 any idea what it is.

24 "Q Okay.

25 "A Very strange.

1 "Q Exhibit 59 marked. I'll show you what has been
2 marked as Exhibit 59, Mr. Leven. Can you make heads or tails
3 out of this document, Mr. Leven?

4 "A No. It's very strange."

5 MR. RANDALL JONES: And I believe that Exhibit 60
6 was referred to in the testimony and has been admitted into
7 evidence.

8 THE COURT: I admitted 60, but it was the 60 that's
9 marked here. What are 57, 58, and 59?

10 MR. BICE: Jordan, Exhibit 60 in the depo is exhibit
11 what in the proposed?

12 THE COURT: Well, I just need to cross-reference 57,
13 58, 59, and 60, I guess.

14 MR. SMITH: Exhibit 60 is Plaintiff's Proposed 38.

15 THE COURT: And 38's already been admitted.

16 MR. RANDALL JONES: Right. So I just want to make
17 sure --

18 THE COURT: 57, 58, and 59. Which are 57, 58, and
19 59 cross-reference?

20 MR. SMITH: Depo Exhibit 57 is Plaintiff's
21 Proposed 77.

22 THE COURT: Okay.

23 MR. SMITH: Deposition 58 is Plaintiff's
24 Proposed 76.

25 THE COURT: Okay.

1 MR. SMITH: Depo Exhibit 59 is Plaintiff's
2 Proposed 28.

3 THE COURT: And have I said how impressed I am that
4 you were able to do that so quickly? Good job.

5 So some of those were admitted, and some weren't.

6 MR. RANDALL JONES: So -- and I'll finish, and then
7 I'm going to move the admission of those exhibits, Your Honor.
8 But first let me -- I've just got a little bit more to read.

9 Starting at line 22 -- I'm sorry. Nope. Going to
10 the next page, page 442.

11 BY MR. RANDALL JONES:

12 "Q So this will be Exhibit 61."

13 MR. BICE: Hold on. What line are you on?

14 MR. RANDALL JONES: Line 1 on page 442.

15 MR. BICE: Sorry. My apologies.

16 MR. PEEK: And what line? Line 1?

17 MR. RANDALL JONES: Line 1, yeah. So the question
18 was:

19 BY MR. RANDALL JONES:

20 "Q So this will be Exhibit 61.

21 "A Well, if I'm looking at the first page, then this
22 action is against Las Vegas Sands Corporation. So it answers
23 the question as to who I would be representing if I went to
24 see the lawyers about the suit. I believe that's the first
25 page reading."

1 Do we know what 61 is?

2 MR. RANDALL JONES: You know what, Your Honor, I'm
3 sorry. I've got the ones that I wanted to get in, and so I
4 don't need to read any more.

5 THE COURT: So --

6 MR. SMITH: I need to make one clarification, Your
7 Honor. After you complimented me I realized I might have made
8 a slight mistake. I know. Jinxed myself.

9 Depo Exhibit 59 is not actually an identical copy of
10 Plaintiff's Proposed 28, so Depo Exhibit 59 isn't amongst one
11 of plaintiff's proposed.

12 THE COURT: Okay. It's not. Okay.

13 MR. SMITH: I apologize for the confusion.

14 MR. PEEK: Mr. Bice, may I step down?

15 THE COURT: If anyone wants to supplement with
16 Exhibit -- with Depo Exhibit 59 from Leven's deposition, I
17 will consider it.

18 MR. RANDALL JONES: We would like to supplement with
19 that exhibit.

20 THE COURT: Okay. You'll bring it to me in the
21 morning.

22 MR. RANDALL JONES: We will.

23 THE COURT: Multiple copies, three-hole punched.

24 MR. RANDALL JONES: We'll bring copies to the Court,
25 to the clerk, and to opposing counsel.

1 THE COURT: Anything else for the [unintelligible]
2 today?

3 MR. PEEK: Mr. Bice said I may step down, Your
4 Honor.

5 THE COURT: Thank you, Mr. Peek. But leave me the
6 transcript.

7 MR. RANDALL JONES: The only thing I would do is
8 move the admission of Exhibits 77, 76, and our proposed next
9 exhibit in order, which I believe would be 554 -- I'm sorry.
10 354. I got 200 exhibits ahead of myself, Your Honor.

11 THE COURT: Mr. Bice.

12 MR. BICE: What are these?

13 THE COURT: 76 and 77, one of which is already
14 admitted.

15 THE CLERK: 76 and 28 are not yet.

16 THE COURT: So you're offering 76 and 354?

17 MR. SMITH: 77 is already admitted.

18 THE CLERK: And 28.

19 MR. PEEK: And 28, wasn't that also, Dulce?

20 MR. RANDALL JONES: That's not -- no.

21 (Pause in the proceedings)

22 THE COURT: And 28?

23 MR. BICE: Okay. And what's their -- three what?

24 THE COURT: 28, 76, 77, and 354.

25 MR. BICE: I don't know what 354 is.

1 THE COURT: 354 is Exhibit 59 from the deposition.

2 MR. BICE: All right. Well, I have the exhibits
3 right here.

4 All right. I have no objection.

5 THE COURT: Okay. They'll be admitted.

6 (Plaintiff's Exhibits 28 and 76 admitted)

7 (Defendants' Exhibit 354 admitted)

8 THE COURT: Anything else before we break for the
9 evening?

10 MR. BICE: No.

11 MR. PEEK: Just an inquiry from me, Your Honor, as
12 to tomorrow. We have Mr. Raphaelson at 9:00 a.m.

13 THE COURT: We do?

14 MR. PEEK: And that is in the rebuttal. May I again
15 have a proffer?

16 THE COURT: Well, let me -- let me ask a question.

17 Mr. Bice --

18 MR. BICE: Yes.

19 THE COURT: -- have we now completed your case in
20 chief?

21 MR. BICE: Yes.

22 THE COURT: Are all of the exhibits that you believe
23 you wanted admitted admitted?

24 MR. BICE: I believe so, Your Honor.

25 THE COURT: All right. So do you rest for purposes

1 of the hearing?

2 MR. BICE: Yes.

3 THE COURT: Okay. Now, do you have any defense
4 witnesses?

5 MR. RANDALL JONES: We do not have any defense
6 witnesses, other than ones we've put on so far.

7 THE COURT: Okay. Those that you called out of
8 order.

9 MR. RANDALL JONES: That's correct.

10 THE COURT: All right. And do you have any
11 additional exhibits that have not already been admitted that
12 you would like to admit?

13 MR. RANDALL JONES: We do, Your Honor. And I know
14 Mark Jones has talked to Mr. Pisanelli about some stipulated
15 exhibits. I just want to make sure I know which have been
16 agreed to and which have not so I can make sure I'm not
17 duplicating.

18 THE COURT: Are there any that have been agreed to?

19 MR. PISANELLI: Yes.

20 THE COURT: Can somebody tell me what numbers they
21 are.

22 MR. MARK JONES: Your Honor, I believe that they are
23 Numbers 328, 338.

24 THE COURT: 328 and 338 will be admitted.

25 (Defendants' Exhibits 328 and 338 admitted)

1 MR. BICE: Hold on. We need to verify what these
2 are. We had discussions about documents, not about numbers.

3 THE COURT: Okay. Hold on a second while we confirm
4 that the numbers match the documents they believe they
5 stipulated to.

6 MR. MARK JONES: 328.

7 MR. BICE: 328 is fine.

8 THE COURT: Now you're on 338.

9 MR. PEEK: And there's 329, too.

10 THE COURT: 329 was admitted on Monday.

11 THE COURT: You're on 338.

12 MR. BICE: That's fine. Yes to 338.

13 THE COURT: 338's admitted. What's your next one
14 you believe you have a stipulation on, Mr. Jones?

15 MR. MARK JONES: Not a stipulation, Your Honor, on
16 these, but --

17 THE COURT: Were those all of the ones you believe
18 you and Mr. Pisanelli reached a stipulation on?

19 MR. MARK JONES: Right.

20 THE COURT: Okay. Now give me the rest of your list
21 of ones you would love to have in evidence.

22 MR. RANDALL JONES: We would love to have in
23 evidence Exhibit 323, which is a letter from Mr. Bice to Mark
24 Jones -- actually, I'm sorry, a letter from Mr. Jones to Mr.
25 Bice.

1 THE COURT: 323 on my list says an email request to
2 Steven Jacobs for consent with proposed consent attached.

3 MR. RANDALL JONES: Letter is probably a bad way --
4 it was an email request for that purpose, Your Honor.

5 THE COURT: I'm looking at a description.

6 MR. RANDALL JONES: That is -- that's an accurate
7 description, Your Honor.

8 THE COURT: Is there an objection to 323?

9 MR. PISANELLI: We can take a look at it real quick.

10 THE COURT: Okay.

11 MR. RANDALL JONES: And, Your Honor, the related one
12 is Exhibit 324, which is Mr. Bice's letter -- actual letter in
13 response, as opposed to an email.

14 THE COURT: Well, let's do 323 first.

15 MR. RANDALL JONES: I just want to let you -- give
16 you a heads up. That's -- because they're related. But
17 understood.

18 (Pause in the proceedings)

19 THE COURT: Somebody's got to have an electronic
20 device on near a mike.

21 MR. BICE: We don't have any issue on 323 or 324,
22 Your Honor. But if those are going to be offered now --

23 THE COURT: They are.

24 MR. BICE: -- then we will have some response
25 exhibits --

1 THE COURT: Well, but that would be rebuttal.
2 MR. BICE: -- to them.
3 THE COURT: And I'm not to your rebuttal yet.
4 MR. BICE: Got it. Thank you, Your Honor.
5 THE COURT: So 323 and 324 are admitted.
6 (Defendants' Exhibit 323 and 324 admitted)
7 MR. BICE: Okay.
8 THE COURT: Next, Mr. Jones?
9 MR. RANDALL JONES: I believe the next ones are
10 admitted. Exhibit 341, which is just a copy of the MPDPA. I
11 believe they have a copy on their exhibit list, too, but it's
12 a different exhibit number.
13 THE COURT: Any objection to the MDPDPA [sic]? Is
14 it translated?
15 MR. RANDALL JONES: Yes it is, Your Honor.
16 THE COURT: Lovely.
17 MR. BICE: Well, it says "Unofficial Translation."
18 MR. RANDALL JONES: It is the unofficial
19 translation. Well, the Chinese and I think Portuguese
20 versions are attached, but I don't know if any of us in the
21 courtroom can read them, but --
22 THE COURT: I have repeatedly said I don't read
23 either Portuguese or Chinese.
24 MR. RANDALL JONES: Nor do I. And that is the
25 unofficial version from the Chinese Government Website, just

1 so the Court's aware of that. I believe it even says that on
2 the document.

3 THE COURT: Any objection? Be admitted.

4 (Defendants' Exhibit 341 admitted)

5 THE COURT: Now, do you want to tell me which one of
6 yours you want admitted? Do you want your version admitted
7 too, Mr. Bice, if it's different?

8 MR. BICE: No. That's fine.

9 THE COURT: Okay. Any additional exhibits you would
10 like admitted, Mr. Jones?

11 MR. RANDALL JONES: Exhibit 350, which is the Okada
12 discovery.

13 THE COURT: That you have a fight on. So we'll get
14 to that in a minute.

15 Is there any additional exhibits beyond the 354 that
16 I admitted earlier.

17 MR. RANDALL JONES: Yes, Your Honor. There are
18 parts of Exhibit 325, and they were -- this is part of the
19 electronic --

20 THE COURT: I don't admit parts of electronic
21 exhibits.

22 MR. RANDALL JONES: Well, what I wanted to tell the
23 Court is that we only have -- we only have -- let's see. I
24 think there --

25 THE COURT: 213,000 documents in that list.

1 MR. RANDALL JONES: Yes. And we do not want to
2 actually introduce those. We want to introduce I think
3 12 pages. I could give the Court Bates Numbers of those
4 12 pages, and obviously counsel will want to see those. But
5 so it's easy for them to reference them, all of those
6 documents are documents that they attached as exhibits of
7 redacted documents to their March -- I believe it was March of
8 2013 Rule 37 motion for sanctions related to this very issue.

9 THE COURT: Lovely.

10 MR. RANDALL JONES: So it was their --

11 THE COURT: Please read the numbers for Mr. Bice so
12 he can check.

13 MR. RANDALL JONES: I will do so.

14 THE COURT: Because this may be something he has to
15 check overnight.

16 MR. RANDALL JONES: These would be Sands China Bates
17 numbers. So SCL -- and I'll give him an easier way to find
18 them, but just for the record, the Bates numbers would be
19 SCL110407 through -- okay. I'm sorry. The next one would be
20 SCL102669, SCL10 --

21 THE COURT: So they're not sequential.

22 MR. RANDALL JONES: Correct, Your Honor.

23 MR. BICE: Your Honor, since we're not going to --

24 THE COURT: Okay. So what I'm going to ask you to
25 do, Mr. Jones, is I'm going to ask you to email those pages to

1 Mr. Bice after you get back to your office. So that means
2 before 8:00 o'clock tonight that someone will email those to
3 Mr. Bice so he can either look at them this evening or
4 tomorrow morning, and then you will identify them by your next
5 in order exhibit numbers, and then I will address them as
6 proposed exhibits. But it's important to me that you get them
7 to him tonight so he has the opportunity to look at them
8 before he gets here tomorrow at 9:00 o'clock.

9 MR. RANDALL JONES: And I will also tell him that
10 they are exhibits 9 through 23 of his motion. So that's an
11 easier way for him to find them.

12 But I'll still do this, Todd. I'll get them to you
13 tonight. But your Exhibits 9 through 23 -- well, there's a
14 unredacted version, it's the same Bates Number, Your Honor,
15 and a redacted version of the same exact document.

16 THE COURT: It's okay. You're going to send copies
17 to Mr. Bice tonight.

18 MR. RANDALL JONES: Yes, I'm going to do that.

19 THE COURT: And then you're going bring printed
20 copies to me tomorrow and mark them individually as the
21 exhibits next in order, and our first item of business will be
22 to talk about your Proposed Exhibits 355 to whatever.

23 MR. RANDALL JONES: Understood, Your Honor. And the
24 only other -- then that's it other than the Exhibit 350.

25 THE COURT: Okay. So Exhibit 350 we have previously

1 had an objection to relevance that I overruled. However, I
2 did not admit the document, because there was not a foundation
3 to it. Since it is not a filed document, it is a discovery
4 document, it's not part of my court record and I'm not going
5 take judicial notice of it. So you're now offering it just to
6 offer it.

7 Is there an objection to its admission?

8 MR. PISANELLI: Yes.

9 THE COURT: Okay. So you're going to have to do
10 something more.

11 MR. RANDALL JONES: I would call Ms. Spinelli to the
12 witness stand.

13 MR. BICE: We will object to that.

14 MR. PISANELLI: We would object to that, as well.

15 MR. RANDALL JONES: Your Honor, the rules provide --
16 sorry.

17 MR. PISANELLI: We've heard the expert of -- I can't
18 even think of the case now -- Club Vista and how it's
19 protected for trial counsel, tell us what it means and doesn't
20 mean, now wanting to call us to the stand because they didn't
21 put anyone on their trial list for something which we believe
22 has no relevance whatsoever, since Wynn was never sanctioned,
23 we've never even had a discussion about its objection. So I
24 know you've overruled that objection, but it's hearsay, it's
25 lack of foundation, and there is no basis whatsoever to call

1 Ms. Spinelli, who she's supposed to be the only person that
2 this information can come from.

3 If they really wanted this thing and it was so
4 important to their case, they would have put someone like Mr.
5 Peek, for instance, on their own witness list, who I would
6 welcome the opportunity to cross-examine. But that's not the
7 point. He's not on their list, either.

8 THE COURT: If he's called, you're only going to get
9 to ask him questions related to the document.

10 MR. PISANELLI: But whatever he does, Your Honor, he
11 can't get around the hearsay problem there, either.

12 MR. RANDALL JONES: Your Honor, I was only going to
13 ask foundational questions. Just to be clear, that's all I
14 was going to ask. I understand the concern, but the Court
15 itself actually called Ms. Spinelli up to the witness stand --

16 THE COURT: I did.

17 MR. RANDALL JONES: -- to lay a foundation for a
18 document they wanted to get into evidence. So I don't think
19 that -- and by the way, the rules provide that anybody in the
20 courtroom is subject to being called as a witness.

21 THE COURT: That's absolutely true. The rules do
22 provide that.

23 MR. RANDALL JONES: So I would not ever, ever want
24 to intrude into attorney-client privilege. I'm only going to
25 lay -- ask her questions, if necessary, and I would rather

1 avoid doing that, but I believe it's relevant to the
2 litigation, and so I would simply ask her foundational
3 questions, if it's a true and correct copy of a response to a
4 discovery request that their office filed in the Okada-Wynn
5 case. That's all I would ask.

6 THE COURT: With no additional questions?

7 MR. RANDALL JONES: With no additional questions.

8 MR. PISANELLI: Your Honor, does this open up --
9 this type of gamesmanship open up the opportunity for us to
10 call Mark Jones to the stand in rebuttal to talk about his
11 meetings with the OPPD or however that is?

12 THE COURT: I sure hope not, because that would more
13 than a foundational question about a document. All I need to
14 know is whether the document is a true and correct of one that
15 has been prepared by someone. Now, Mr. Peek can only say it's
16 a true and correct copy of a document he received.

17 MR. PISANELLI: Hold on. Hold on a minute.

18 THE COURT: I certainly don't want anybody to tell
19 me if it's a -- you know, any of the issues related to it, but
20 I'm not simply going to admit the document. And there's only
21 two people who can tell me if it's a true and correct copy,
22 Ms. Spinelli, who is the author of it, or the recipient of it.
23 Those are my two choices.

24 MR. PISANELLI: There are some real concerns about a
25 party and their lawyer using discovery in one case to be used

1 in another case, which open counsel up to disqualification
2 motions. So if we're going to put someone on the stand, it
3 should be Mr. Peek, and we should be able to establish the
4 foundation that will probably result in an analysis of whether
5 he belongs in the Okada case after this stunt. Ms. Spinelli
6 has nothing to do with this, and if this is the path they want
7 to go down, they have to bear all consequences of that path.

8 THE COURT: I don't agree. There are two people who
9 can get called. You have a choice of who the two people are.
10 You've asked Ms. Spinelli to be the person. Ms. Spinelli,
11 I've previously sworn you, so, if you want, I can still have
12 that oath.

13 My question is -- to you is is Exhibit -- and I'm
14 going to ask the question so there is no question about going
15 further than the question that is intended to you. Is
16 Proposed Exhibit 350 a true and correct copy of a document you
17 prepared?

18 MS. SPINELLI: I need to see the document, Your
19 Honor.

20 THE COURT: That will be great. The clerk has them.

21 But I'm going to ask the question, because I don't
22 want to run the risk of someone else --

23 Dulce where is the exhibit? Up there in the second
24 -- the third binder?

25 THE CLERK: Of the defendants.

1 THE COURT: Don't even sit down in that witness
2 chair, because I don't want a risk of someone else asking you
3 a question.

4 MR. PISANELLI: Your Honor, while she's looking at
5 that, we still have the unaddressed problem of hearsay.

6 THE COURT: Hold on a second. 350.

7 MR. RANDALL JONES: If they'll stipulate, I would
8 prefer that.

9 THE COURT: Guys, stop arguing. You know they're
10 not going to stipulate.

11 MR. RANDALL JONES: All right. I was just trying to
12 make an offer.

13 THE COURT: Don't sit down.

14 MS. SPINELLI: I'm not sitting down again.

15 THE COURT: But you can have M&Ms.

16 MS. SPINELLI: It isn't.

17 THE COURT: It isn't.

18 MS. SPINELLI: It is an incomplete document.

19 THE COURT: Okay. So the objection is sustained.

20 MR. PISANELLI: Thank you, Your Honor.

21 MR. RANDALL JONES: Your Honor, just so the Court's
22 aware, and I understand the point, we only attached those
23 pages that relate to the MPDPA. So if that's the case, then I
24 will --

25 THE COURT: You'll have to try again with 350A.

1 MR. RANDALL JONES: I will do that, Your Honor.

2 THE COURT: All right.

3 MR. BICE: Your Honor, since -- we do want to be
4 heard on this. Since Mr. Jones says anyone who is in the
5 courtroom can be called as a witness, we would call Mark Jones
6 tomorrow as a rebuttal witness concerning the disclosures
7 about the MPDPA and his meetings.

8 THE COURT: You are welcome to call anybody you want
9 on rebuttal. I will address whether I will hear from the
10 witness tomorrow morning when you call him.

11 MR. BICE: Okay. Thank you, Your Honor.

12 THE COURT: All right. So right now I've got what?
13 I've got a 350A coming, I've got exhibits following 355
14 coming. Are there any additional witnesses that --

15 (Off-record colloquy - Clerk and Court)

16 THE COURT: Are there any additional exhibits that
17 you're going to want admitted?

18 MR. RANDALL JONES: No, Your Honor, and -- well --

19 THE COURT: Okay. So we're going to address 354
20 through whatever your next in order are, potentially 350A, and
21 then after I ask if you're going to rest, I will then go to
22 the rebuttal case of the plaintiff.

23 MR. BICE: Thank you, Your Honor.

24 THE COURT: Yeah. We're planning on starting at
25 9:00. Is there anything else?

1 MR. RANDALL JONES: Your Honor, I would just make a
2 point that -- and I understand they can do whatever they want,
3 but I don't want to be in a position where -- I would hate to
4 have to be in a position where I have to subpoena Ms.
5 Spinelli, but she's been in the courtroom every day for these
6 hearings. She doesn't have to be here.

7 MS. SPINELLI: I will be present.

8 MR. BICE: We'd ask the same --

9 MR. PISANELLI: And even if she's not, they still
10 have Mr. Peek, who I invite to get on that stand.

11 THE COURT: Okay. Guys.

12 MR. RANDALL JONES: And Mr. -- and Mr. Jones is
13 going to be here tomorrow.

14 MR. BICE: Fair enough.

15 THE COURT: We're going to all still act like
16 professionals and adults, because I respect all of you. I've
17 worked with all of you for a long time, you're all good
18 lawyers. And we're going to get through this difficult
19 process related to this very sensitive issue. It's going to
20 have a really good record, and then you're all going to go up
21 to Carson City and hopefully get six or seven people to listen
22 to you as to who's right and whether the decision that I
23 ultimately make is appropriate or not given the Supreme
24 Court's review.

25 MR. BICE: Thank you, Your Honor.

1 THE COURT: My goal is simply to make sure you have
2 a good record. And if that means that we do a couple little
3 things differently than we otherwise do and I don't admit
4 documents that I might typically just take because there's
5 concerns, then I'm going to have you lay that foundation, and
6 it may mean a lawyer gets to lay the foundation. I'm sorry.

7 MR. BICE: And we understand that, Your Honor. But
8 our only point on this is we think that we are entitled to
9 rebuttal, and that includes both Mark Jones and Mr. Peek
10 tomorrow. Especially if the Okada document comes in.

11 THE COURT: And Mr. Raphaelson.

12 MR. BICE: And Mr. Raphaelson. And let me tell you
13 why this issue comes in about Okada. Mr. Peek has
14 information, they're making insinuations about this document
15 establishes X, we are entitled to cross-examine Mr. Peek,
16 since he's the one that gave it to him, about the
17 circumstances and evidence that we believe would contradict
18 the alleged inference that they are trying to assert that is
19 within his knowledge.

20 THE COURT: You can tell me you're going to call
21 anybody you want in your rebuttal case.

22 MR. BICE: Thank you, Your Honor.

23 THE COURT: I will then decide whether I will hear
24 from them --

25 MR. BICE: Thank you.

1 THE COURT: -- tomorrow when you tell me you want to
2 call them.

3 MR. BICE: Thank you, Your Honor.

4 THE COURT: In the meantime, I want you to think
5 about that issue I raised with you earlier, Mr. Bice.

6 MR. BICE: Yes.

7 THE COURT: Which is whether you're going to want
8 briefing on that privilege issues related to O'Melveny & Myers
9 before we close. I'm not asking you to answer now. I'm
10 asking you to think about it tonight.

11 MR. BICE: Whether I'm going to need to do briefing
12 is going to depend upon Mr. Raphaelson tomorrow, Your Honor.
13 We think we can establish that for him.

14 MR. PEEK: And, Your Honor, that brings up the point
15 as to the proffer as to the rebuttal testimony for Mr.
16 Raphaelson. Because I think we are entitled to a proffer.

17 THE COURT: Mr. Bice, what do you want Mr.
18 Raphaelson to say? Because somebody's saying he can't
19 possibly be rebuttal.

20 MR. BICE: He obviously is rebuttal, Your Honor.
21 We've heard --

22 THE COURT: What is the subject matter that he is
23 rebuttal?

24 MR. BICE: We heard testimony today, not only
25 rebuttal, but we had witnesses, including Mr. Toh, claiming

1 that, number one, he couldn't recall a number of documents
2 about this investigation that O'Melveny & Myers did. We've
3 heard a representation today that there was attorney-client
4 communications relative to that relationship when Mr.
5 Raphaelson had testified otherwise prior before, we're
6 entitled to pursue that. We're entitled to pursue the point
7 with Mr. Raphaelson -- let me get my notes here, Your Honor.

8 MR. PEEK: So far I've heard documents and
9 representation.

10 THE COURT: And I was originally told he was going
11 to be called related to the testimony of the general counsel,
12 too, that there was some issue there. And I don't remember
13 what that was, I didn't write it down. The local general
14 counsel.

15 MR. BICE: We also -- yes. We also intend to --

16 MR. PEEK: Too many people talking, Your Honor. I
17 couldn't hear you.

18 MR. BICE: We intend to cross-examine Mr. -- or to
19 seek rebuttal from Mr. Raphaelson, since Mr. -- as you'll
20 recall, Mr. Fleming claimed he couldn't recall what input he
21 got from people, including Mr. Raphaelson. We intend to
22 inquire into that. They want to assert the privilege so we'll
23 have the record, that's fine, but we're going to make -- we
24 think that --

25 THE COURT: I think you already inquired into that.

1 Mr. Raphaelson said he had no recollection of providing any
2 input.

3 MR. BICE: I don't believe that was his
4 recollection.

5 MR. PEEK: That is what he said, Your Honor.

6 MR. BICE: I don't believe that was his testimony,
7 Your Honor, is that --

8 THE COURT: That's my recollection of what he said.

9 MR. BICE: And then again this issue comes back to
10 the O'Melveny & Myers information is also part of it, Your
11 Honor.

12 THE COURT: Well, I think clearly the O'Melveny &
13 Myers issue is one that he can be brought back on rebuttal
14 given the testimony we had today and the objection, because he
15 had testified inconsistently with that on Monday.

16 MR. PEEK: I disagree that there's inconsistency,
17 but I will follow up with him.

18 THE COURT: Okay.

19 MR. PEEK: Because I don't understand when you say
20 the inconsistency. Are you talking about the representation
21 we made in claiming the privilege?

22 THE COURT: No. He told me that O'Melveny & Myers
23 didn't represent the company, he couldn't give them any
24 direction, he had no contact with them, he had to assist them,
25 but they were the audit or compliance committee, I can't

1 remember which one he said, and that so they were separate.
2 That's my recollection of his testimony.

3 MR. PEEK: That's a different issue, Your Honor,
4 than whether or not they are the lawyer for the company as the
5 audit committee's lawyer making an investigation of the
6 company.

7 THE COURT: Okay.

8 MR. PEEK: It has to be independent.

9 THE COURT: All right.

10 MR. PEEK: That is not necessarily inconsistent with
11 what he said.

12 THE COURT: And he may well explain that to me so I
13 don't think it's inconsistent anymore, but to me it seemed
14 like the two didn't gibe from what I heard today.

15 MR. PEEK: I understand that, Your Honor.

16 THE COURT: So I'm saying that he was -- it seemed
17 different to me.

18 MR. PEEK: I understand that.

19 THE COURT: I don't have the connection that I need.
20 So to that extent I think he should be here. I would like to
21 take him as soon as we finish the exhibits, but if the
22 defendants haven't yet rested, I'm not going to take him until
23 after the defendants rest.

24 MR. PEEK: I understand, Your Honor.

25 THE COURT: Okay.

1 MR. RANDALL JONES: So at 9:00 o'clock, Judge?
2 THE COURT: We're starting -- you can start earlier,
3 if you want.
4 MR. RANDALL JONES: We could start at 9:00 just
5 because of all the things we got to do tonight.
6 THE COURT: Okay. I'll see you at 9:00 o'clock.
7 MR. PEEK: Okay. Before, Your Honor --
8 Mark or Randall. Before everybody leaves, Randall.
9 THE COURT: They're huddling again.
10 (Pause in the proceedings)
11 THE COURT: Was there something else?
12 MR. RANDALL JONES: We have nothing else, Your
13 Honor.
14 THE COURT: Lovely. I will see you about 9:00 in
15 the morning. Please try to be on time. I did -- as I told
16 you, I moved my doctor's appointment to tomorrow afternoon so
17 we could accommodate Mr. Toh today. So if we're not done when
18 it's time for me to leave for the doctor, we'll have to come
19 back on Friday.
20 MR. BICE: Thank you, Your Honor.
21 MR. PEEK: That's fine, Your Honor.
22 MR. RANDALL JONES: Thank you, Your Honor.
23 (Court recessed at 5:21 p.m., until the following day,
24 Thursday, February 12, 2015, at 9:00 a.m.)
25 * * * * *

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PLAINTIFF'S WITNESSES

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EXHIBITS

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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

2/12/15
DATE

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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

**PLAINTIFF STEVEN C. JACOBS'
OFFER OF PROOF REGARDING THE
DEPOSITION OF MICHAEL LEVEN
OFFERED DURING THE FEBRUARY 9,
2015 EVIDENTIARY HEARING**

AND RELATED CLAIMS

Plaintiff Steven C. Jacobs' hereby submits as Exhibit 1 this offer of proof of the excluded
excerpts and associated exhibits for the deposition of Michael Leven.

DATED this 12th day of February, 2015.

PISANELLI BICE PLLC

By: 

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Attorneys for Plaintiff Steven C. Jacobs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 12th day of February, 2015, I caused to be served in open Court, true and correct copies of the above and foregoing **PLAINTIFF STEVEN C. JACOBS' OFFER OF PROOF REGARDING THE DEPOSITION OF MICHAEL LEVEN OFFER DURING THE FEBRUARY 9, 2015 HEARING** properly addressed to the following:

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An employee of PISANELLI BICE PLLC

EXHIBIT 1

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. |) | |
| |) | |
| <hr/> | | |
| AND RELATED CLAIMS |) | |
| <hr/> | | |

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

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:

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10 The Videographer:

11 Litigation Services

12 By: Benjamin Russell

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14 Las Vegas, Nevada 89169

15 (702) 314-7200

16 Also Present:

17 Steven Jacobs

18 LITIGATION SERVICES & TECHNOLOGIES - (702) 648-2595

I N D E X

WITNESS: MICHAEL LEVEN

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LITIGATION SERVICES & TECHNOLOGIES - (702) 648-2595

1 LAS VEGAS, NEVADA; FRIDAY, FEBRUARY 1, 2013;

2 11:24 A.M.

3 -oOo-

4 THE VIDEOGRAPHER: This is the beginning of
5 Videotape Number 1 in the deposition of Michael 11:24:10
6 Leven in the matter of Jacobs versus Las Vegas Sands
7 Corporation, held at Pisanelli Bice at 3883 Howard
8 Hughes Parkway, Suite 800, Las Vegas, Nevada 89169
9 on the 1st of February, 2013 at approximately
10 11:28 a.m. 11:24:33

11 The court reporter is Carre Lewis. I am
12 Benjamin Russell, the videographer, an employee of
13 Litigation Services.

14 This deposition is being videotaped at all
15 times unless specified to go off the record. 11:24:45

16 Would all present please identify
17 themselves, beginning with the witness

18 THE WITNESS: Michael Leven.

19 MR. PEEK: Stephen Peek representing Sands
20 China Limited and Las Vegas Sands Corp. 11:25:00

21 MR. JONES: Mark Jones on behalf of Sands
22 China Limited.

23 MR. RAFAELSON: Ira Rafaelson on behalf of
24 Las Vegas Sands Corp.

25 MR. ALDRIAN: Eric Aldrian on behalf of 11:25:05

1 Steve Jacobs

2 MR. JACOBS: Steve Jacobs.

3 MR. BICE: Todd Bice on behalf of the
4 plaintiff.

5 THE VIDEOGRAPHER: Would the court reporter 11:25:14
6 please swear in the witness.
7 Whereupon --

8 MICHAEL LEVEN
9 having been first duly sworn to testify to the
10 truth, was examined and testified as follows:

11 EXAMINATION

12 BY MR. BICE:

13 Q. Good morning, Mr. Leven. You understand
14 that this is a continuation of your deposition?

15 A. Yes. 11:25:29

16 Q. All right. Since the last installment of
17 your deposition, have you spoken with anyone other
18 than legal counsel about your deposition?

19 A. No.

20 Q. Did you review any documents? 11:25:35

21 A. No.

22 Q. Did you review the transcript of the first
23 installment of your deposition?

24 A. No

25 Q. Has anything changed in terms of your 11:25:50

1 (Exhibit 21 marked.)

2 BY MR. BICE:

3 Q. I show you what's been marked as
4 Exhibit 21, Mr. Leven, and let me know when you're
5 done reviewing.

12:41:24

6 A. Okay.

7 Q. Do you know -- strike that.

8 Do you have any reason to believe that you
9 did not receive this e-mail from Mr. Schwartz?

10 A. No.

12:41:44

11 Q. Do you know what it was in reference to?

12 A. Well, from the previous conversations, it
13 looks like this was in reference to the option
14 program or some -- some compensation program through
15 the SCL board.

12:42:05

16 Q. And what was your -- and again, is this
17 your involvement as an advisor to the SCL board, is
18 why you're involved?

19 A. Yes, sir.

20 Q. Do you know what you mean when you
21 responded to Mr. Schwartz saying, "Not easy, but
22 done"?

12:42:14

23 A. Yes.

24 Q. Okay. Can you tell me what you meant by
25 that?

12:42:24

1 A. Well, this involved a negotiation with the
2 chairman, and when it was finished, my reaction was
3 it was not easy, but it got done.

4 Q. A negotiation with the chairman being
5 Mr. Adelson?

12:42:35

6 A. Uh-huh.

7 Q. In his capacity as chairman for SCL?

8 A. Yes.

9 Q. Okay. And who was having the negotiation
10 with him?

12:42:41

11 A. Probably I was, representing my opinion and
12 that of the board of SCL to the chairman.

13 Q. And when you had those negotiations with
14 him, where did they occur?

15 A. I don't remember.

12:42:59

16 Q. And do you recall who all was involved in
17 the negotiations --

18 A. No.

19 Q. -- that you're referencing?

20 A. I don't know.

12:43:09

21 Q. Do you recall what the negotiations were,
22 in other words, why there was a negotiation?

23 A. Not specifically.

24 (Exhibit 22 marked.)

25 BY MR. BICE:

12:43:54

1 MR. BICE: Can't help you, Mr. Peek. The
2 documents say what they say.

3 MR. PEEK: Then why do you have to keep
4 asking the witness, then? If you have knowledge
5 that the documents say what they say, why do you 02:32:39
6 keep asking the witness to agree that they say what
7 they say?

8 MR. BICE: So your witness doesn't show up
9 and try and explain them away later on, let's hear
10 the explanation today. 02:32:47

11 MR. PEEK: Mr. Bice --

12 MR. BICE: That you don't want him to
13 answer today.

14 MR. PEEK: No, Mr. Bice --

15 THE REPORTER: Wait.

16 MR. PEEK: -- I want him to answer at a
17 time when it's appropriate.

18 (Exhibit 34 marked.)

19 BY MR. BICE:

20 Q. I show you what's been marked as 02:33:45
21 Exhibit 34, Mr. Leven. Let me know when you have
22 reviewed.

23 A. Okay.

24 Q. Okay. Do you have any reason to believe
25 that you did not receive this e-mail from 02:34:21

1 Mr. Schwartz?

2 A. No.

3 Q. Did you have any subsequent conversations
4 from -- with Mr. Schwartz subsequent to this?

5 A. I don't remember. 02:34:28

6 Q. Is it your belief that you received this
7 e-mail in your capacity as advisor to the Sands
8 China board?

9 A. This e-mail came from Mr. Schwartz, and I
10 assume it was in reference to Sands China. 02:34:45

11 Q. In your capacity as Sands China board
12 member -- or special advisor to the Sands China
13 board, did you ask Mr. Schwartz to speak to
14 Mr. Jacobs?

15 A. I don't recall doing that. 02:35:02

16 (Exhibit 35 marked.)

17 BY MR. BICE:

18 Q. I show you what's been marked as
19 Exhibit 35, Mr. Leven.

20 This is a continuation on of the e-mail 02:35:35
21 string I showed you in Exhibit 34, so you can look
22 at the first two entries. Let me know when you have
23 done so.

24 A. Uh-huh.

25 Q. Okay. The first e-mail you sent is on 02:35:59

1 July 6 at 5:13 a.m. It says: "Of course, you can
2 try. As Yogi says, it's never over till it's over."

3 Do you see that?

4 A. Uh-huh.

5 Q. Was that true? Was the decision not over 02:36:14
6 at that point in time?

7 A. I think.

8 MR. PEEK: Just a simple yes or no.

9 THE WITNESS: Possibly.

10 BY MR. BICE: 02:36:31

11 Q. Okay. How is it possibly yes and possibly
12 no, then?

13 A. There may have been a chance to -- to
14 recover. But this is what I'm saying to Jeff
15 Schwartz, but it would have been difficult. 02:36:42

16 Q. Do you -- did you ever have any follow-up
17 conversation with Jeff Schwartz about his making an
18 attempt?

19 A. I don't recall.

20 Q. Now, you copied -- on the next e-mail up, 02:36:57
21 you had copied -- well, strike that.

22 In the e-mail below where Mr. Schwartz
23 writes "Such a shame," do you recall whether you had
24 any conversation with him about what that -- what he
25 meant by that? 02:37:11

1 MR. PEEK: Don't answer that.

2 BY MR. BICE:

3 Q. In the first e-mail on the page, Mr. Leven,
4 it says: "By the way, this is a perfect example of
5 how Steve works." 02:37:27

6 Do you see that?

7 A. Yes.

8 Q. When you sent this e-mail on July 6 of 2010
9 to Mr. Schwartz and copied Mr. Kay on it and
10 blind-copied Mr. Adelson on it, in what capacity 02:37:41
11 were you sending such an e-mail?

12 A. This is the same -- the same capacity that
13 I sent all these e-mails about.

14 Q. Is that in both?

15 A. This -- this involved -- this involved both 02:38:00
16 the Sands China board and Las Vegas Sands'
17 interests.

18 Q. Okay. Is that why Mr. Kay is copied on
19 this?

20 A. Yes. 02:38:14

21 Q. So in the statement where you say he
22 believes he reports to the board, not the chair, are
23 you referencing the Sands China board or the LVSC
24 board?

25 A. The Sands China board and the chair of both 02:38:44

1 Sands China -- the Sands China board and the chair
2 of Sands China.

3 Q. Okay.
4 (Exhibit 36 marked.)

5 MR. PEEK: We'll take a break in a couple 02:39:35
6 minutes.

7 THE WITNESS: Okay.
8 Okay.

9 BY MR. BICE:

10 Q. Okay. Starting at the bottom of the 02:40:20
11 Exhibit 36, Mr. Leven, do you have any reason to
12 believe this is not an e-mail you sent where it says
13 "SGA okay"?

14 A. No, I believe I sent it.

15 Q. Okay. "He wants me to talk to Turnbull." 02:40:36
16 And that's David Turnbull, correct?

17 A. Absolutely.

18 Q. Okay. And again, you were having your
19 communications with Mr. Turnbull in what capacity?

20 A. As an advisor to the board. 02:40:51

21 Q. Okay. You also say in there -- you said:
22 "Spoke to Rob"?

23 A. Uh-huh.

24 Q. Would that be Mr. Goldstein?

25 A. Correct. 02:41:00

1 Q. Okay. Was Mr. Adelson involved in those --
2 in those discussions?

3 A. No.

4 (Exhibit 38 marked.)

5 MR. BICE: It's 38, right? Yep. 03:03:41

6 THE WITNESS: Yep.

7 BY MR. BICE:

8 Q. All right. Showing -- showing you
9 Exhibit 38, the bottom e-mail is from
10 Patricia Murray to Steve Jacobs. 03:03:48

11 Do you see that?

12 A. Yes.

13 Q. Okay. Is this an e-mail that was sent by
14 your assistant?

15 A. Yes. 03:03:54

16 Q. On your behalf?

17 A. Yes.

18 Q. Did you dictate the e-mail?

19 A. I either wrote it or dictated it.

20 Q. Understood. 03:04:02

21 It says that you were planning to take a
22 trip to Macau for the board meeting at the end of
23 the month.

24 And then you go on to say: "Fly with me.

25 It will be Ken Kay, Gayle Hyman, Irwin Siegel, 03:04:13

1 Patrick Dumont, and perhaps two others."
2 Do you see that?
3 A. Yes.
4 Q. Did those people make the trip with you?
5 A. I don't recall if all of them made it or 03:04:21
6 not.
7 Q. And what was the purpose of this trip?
8 A. I think the purpose was just what it says
9 with an addition of what it doesn't say, which I
10 believe we were coming to, to -- to get 03:04:58
11 Steve Jacobs' resignation.
12 Q. All right. Isn't it true, Mr. Leven, that
13 the only purpose of this trip was to fire
14 Mr. Jacobs?
15 A. I'm not sure it was the only purpose. 03:05:14
16 Q. Okay. Was that -- the only purpose of your
17 planned meeting with Mr. Jacobs was to fire him?
18 A. My actual purpose in the meeting with
19 Mr. Jacobs was to obtain his resignation.
20 Q. Okay. And did you have any other purpose 03:05:32
21 in meeting with Mr. Jacobs other than obtaining his
22 resignation?
23 A. No.
24 Q. Okay. And the people that were
25 accompanying you on that trip, were they also 03:05:53

1 involved in that purpose?

2 A. Mr. Siegel was.

3 Q. Okay. How about the other three?

4 A. I don't think they had any specific
5 responsibilities in terms of that meeting with 03:06:08
6 Mr. Jacobs.

7 Q. All right. But by this point in time,
8 which, under this e-mail, is July 12, the decision
9 to terminate him had already been made, correct?

10 A. The decision was to attempt to get his 03:06:21
11 resignation. If we could not get his resignation,
12 then he would have to be terminated.

13 Q. All right. And -- so this -- this trip was
14 merely a -- a means of executing what you had
15 already planned to do; is that fair? 03:06:35

16 A. Yes.

17 Q. Okay. More of a formality?

18 MR. PEEK: Is that a question, or is that
19 a --

20 MR. BICE: Yes. 03:06:56

21 MR. PEEK: What's the question?

22 MR. BICE: More of a formality.

23 THE WITNESS: I don't understand what you
24 mean.

25 BY MR. BICE: 03:07:01

1 Q. The decision had been made, correct?

2 A. Of course.

3 (Exhibit 39 marked.)

4 BY MR. BICE:

5 Q. I show you what's been marked as 03:07:58

6 Exhibit 39.

7 A. Okay.

8 Q. If you would start on the second page,
9 Mr. Leven, the top e-mail is -- well, the top full
10 e-mail is an e-mail from Luis Melo to the board of 03:08:40
11 directors.

12 Do you see that?

13 A. Yes.

14 Q. And it's regarding notice of meeting for
15 Sands China Limited audit committee? 03:08:47

16 A. Yes.

17 Q. Were you on the audit committee?

18 A. No.

19 Q. Did you -- but you did participate as an
20 advisor? 03:08:55

21 A. Sometimes.

22 Q. Understood.

23 All right. So then the follow- -- the next
24 e-mail, which is -- begins on the first page is from
25 David Turnbull, where he responds: "Fine by me." 03:09:03

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 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

Michael Leven, Volume II

Jacobs vs. Las Vegas Sands
Corporation



Job: 173048

Exhibit: 00021



Exhibit 21
Date 2-1-13
Witness LEVEN
C. Lewis #497

Re:

From: "Leven, Michael" </o=venetian_resort/ou=venetian/cn=recipients/cn=levenm">
To: jschwartz@glprop.com
Date: Sat, 13 Mar 2010 14:37:24 +0000

Not easy but done
Mike Leven
President and Chief Operating Officer
Las Vegas Sands Corp.

----- Original Message -----
From: Schwartz, Jeffrey <jschwartz@glprop.com>
To: Adelson, Sheldon; Leven, Michael
Cc: David Turnbull (dmt@pacificbasin.com) <dmt@pacificbasin.com>
Sent: Sat Mar 13 06:33:37 2010
Subject:

Sheldon, Mike,

Just wanted to let you know I had a very productive call with David this morning where we covered the items discussed in your call yesterday. I am in agreement with those decisions taken and believe they serve the interests of our multiple stakeholders well.

Sorry I missed call yesterday, but was traveling to Shanghai. I will be in China through Monday when I travel to Japan for two days.

Please call if you would like to discuss further. I hope your trip went well.

Best,
Jeff

Jeffrey H. Schwartz
Chairman
Global Logistic Properties
Mobile +1 424 229 2088
jschwartz@GLProp.com

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LVS00112863

PA15714

Re:

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To: jschwartz@glprop.com
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Jeff

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Chairman
Global Logistic Properties
Mobile +1 424 229 2088
jschwartz@GLProp.com

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LVS00112863

Plaintiff Ex. 046_00001

PA15715

Michael Leven, Volume II

Jacobs vs. Las Vegas Sands
Corporation



Job: 173048

Exhibit: 00034



Fw: Q2 Preliminaries

From: "Schwartz, Jeffrey" <jschwartz@glprop.com>
To: "Leven, Michael" <mike.leven@lasvegassands.com>
Date: Tue, 06 Jul 2010 11:29:53 +0000

Exhibit 34
Date 2-1-13
Witness LEVEN
C. Lewis #497

Such a shame.

Can I help by talking to him? Know its a long shot.

Understand if its too late.

Best,
Jeff

Jeffrey H. Schwartz
Co-founder
Chairman
Global Logistic Properties

From: Jacobs, Steve <steve.jacobs@venetian.com.mo>
To: SGA <SGA@venetian.com>; Leven, Michael <Mike.Leven@lasvegassands.com>; Iain.bruce@kcs.com <iain.bruce@kcs.com>; dmt@pacificbasin.com <dmt@pacificbasin.com>; rchlang@pacific-alliance.com <rchlang@pacific-alliance.com>; Siegel, Irwin <Irwin.siegel@venetian.com>; Schwartz, Jeffrey; Toh, Benjamin <benjamin.toh@venetian.com.mo>
Cc: Kay, Kenneth <Ken.Kay@lasvegassands.com>
Sent: Tue Jul 06 18:35:50 2010
Subject: Q2 Preliminaries

Dear Board Of Directors,

While we are preparing the semi-annual report which will be filed with the HKSE in August (mandatory filing), I thought I would share with you June and second quarter highlights... both of which are positive.

Please note that all numbers are based on our preliminary close and as such are subject to change. They are in bullet form to make them more blackberry readable!

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- **Record SCL revenue for Q2 2010:** Gross Revenue was \$1,310 million usd vs \$899.7 for Q2 2009 (46% increase). Revenue share returned to 22% in June (+2.4+% MOM) driven by higher than average win and our strategy of driving VIP premium roll and mass (higher margins). SCL had the highest growth in June revenue of any of the concessionaires, both in absolute terms and on a win adjusted basis.
- **Record Q2 SCL ebitda:** ~\$300.3 million usd vs \$167 in Q2 2009... 80% growth.... despite two individuals winning \$14.3 million usd in the closing few weeks!

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PA15717

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And last but not least...

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I look forward to seeing you all on the 27th of July and discussing Q2 as well as the challenges ahead for the 2H of 1020.

Regards,

Steve



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TELEPHONE OR REPLY BY E-MAIL AND THEN PROMPTLY DELETE THE MESSAGE. THANK YOU. HTML

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PA15719

Fw: Q2 Preliminaries

From: "Schwartz, Jeffrey" <jschwartz@glprop.com>
To: "Leven, Michael" <mike.leven@lasvegassands.com>
Date: Tue, 06 Jul 2010 11:29:53 +0000

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Cc: Kay, Kenneth <Ken.Kay@lasvegassands.com>
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PA15720

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Michael Leven, Volume II

Jacobs vs. Las Vegas Sands
Corporation



Job: 173048

Exhibit: 00035



Exhibit 35
Date 2-1-13
Witness LEVEN
C. Lewis #497

RE: Q2 Preliminaries

From: "Leven, Michael" <"/o=venetian_resort/ou=venetian/cn=recipients/cn=levenm">
To: "Leven, Michael" <"leven, michael">, "Schwartz, Jeffrey" <jschwartz@glprop.com>
Cc: "Kay, Kenneth" <"kay, kenneth">
Bcc: SGA <sga>
Date: Tue, 06 Jul 2010 12:20:17 +0000

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Sent: Tue 7/6/2010 5:13 AM
To: Schwartz, Jeffrey
Subject: RE: Q2 Preliminaries

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PA15724

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LVS00122019

PA15725

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LVS00122020

PA15726

RE: Q2 Preliminaries

From: "Leven, Michael" <"o=venetian_resort/ou=venetian/cn=recipients/cn=levenm">
To: "Leven, Michael" <"leven, michael">, "Schwartz, Jeffrey" <jschwartz@glprop.com>
Cc: "Kay, Kenneth" <"kay, kenneth">
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Plaintiff Ex. 053_00001

PA15727

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Highlights include:

- **Strong Q2 Growth in Macao Gaming Revenue:** Macau gaming revenue for the second quarter grew circa 60-70% YOY on a normalized basis. Growth was predominantly junket based and was fueled by the substantial influx of capital / credit from concessionaires.
- **Record SCL revenue for Q2 2010: Gross Revenue was \$1,310 million usd vs \$899.7 for Q2 2009** (46% increase). Revenue share returned to 22% in June (+2.4+% MOM) driven by higher than average win and our strategy of driving VIP premium roll and mass (higher margins). SCL had the highest growth in June revenue of any of the concessionaires, both in absolute terms and on a win adjusted basis.
- **Record Q2 SCL ebitda: ~\$300.3 million usd vs \$167 in Q2 2009...** 80% growth.... despite two individuals winning \$14.3 million usd in the closing few weeks!
- **Record SCL Q2 Net Income:** NI for Q2 should be in the **\$118 million usd** range for the quarter and roughly \$202 million usd for the first half of 2010. This represents a **377% increase over Q2 2009** and 348% over the first half of 2009.
- **Record EBITDA for Plaza:** Plaza continues to be the growth engine for SCL as we finish the repositioning of this asset. June EBITDA growth was in excess of 400% YOY, driven primarily by our strategy to grow our premium direct (higher margin) and second tier junket relationships (lower commission).
- **Record Non Gaming Operations Revenue:** Total NGO revenue for Q2 2010 was \$161 m usd or 25% favorable to 2009. Hotel occupancy finished circa 89% occupancy with revenue growth up 25% yoy. Mall, and food and beverage were similarly positive with 15% and 25% growth respectively. Entertainment, retail and others lead the NGO segment with growth of 39%, lead primarily through reformulating our entertainment line-up in the Cotai Arena which lowered costs and increased attendance.
- **Growth in total visitation.** Q2 visitation was up over 8% over Q2 2009.
- **Strong Growth in MICE: Up 42% yoy** with momentum building for the second half of 2010.

And last but not least...

- **Serviced apartments:** A meeting was held last week with the heads of the entities overseeing the transfer of the apart hotel into HoldCo. As you will recall, the title transfer is the only remaining impediment to selling the units. The group is favorably inclined to issue the transfer. The dispatch order has been written and awaits signature. PLEASE NOTE: The government has stressed that it is critical that we do not mention anything regarding the apart hotels in the press until such time as the order is signed.
- **Construction:** Work has begun in earnest on sites 5&6 and while we remain vigilant for any delays due to labor constraints so far none have been reported. In keeping with the government's request we

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have asked the subcontractors to request and manage quotas... and the few test cases we have report a 2-3 day approval cycle.

I look forward to seeing you all on the 27th of July and discussing Q2 as well as the challenges ahead for the 2H of 1020.

Regards,

Steve



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Michael Leven, Volume II

Jacobs vs. Las Vegas Sands
Corporation



Job: 173048

Exhibit: 00038



Exhibit 38
Date 2-1-13
Witness LEVEN
C. Lewis #497

RE: Upcoming Board Meeting

From: "Leven, Michael" <"o=venetian_resort/ou=venetian/cn=recipients/cn=levenm">
To: "Siegel, Irwin" <irwin.siegel@venetian.com>
Date: Tue, 13 Jul 2010 12:59:36 +0000

I HEARD HE WAS COMING BACK ON JULY 19TH NOT FROM HIM I HAVE NOT HEARD FROM HIM

From: Siegel, Irwin
Sent: Tuesday, July 13, 2010 4:44 AM
To: Leven, Michael
Subject: FW: Upcoming Board Meeting

Did you get any response from Jacobs??

Irwin A. Siegel
Cell (404) 272-1822
Home (404) 467-9701
Fax (404) 814-9691
N.C. (828) 526-1793

From: Murray, Patricia
Sent: Monday, July 12, 2010 9:32 PM
To: Jacobs, Steve
Cc: Kay, Kenneth; Hyman, Gayle; Siegel, Irwin; Dumont, Patrick
Subject: Upcoming Board Meeting

I am planning to take one of the company planes to Macao for the Board meeting at the end of the month. Flying with me will be Ken Kay, Gayle Hyman, Irwin Siegel, Patrick Dumont and perhaps two others. We're planning to arrive on Pers and I would like to meet with you if you're there. One of my objectives is to review Board materials, as well as attend the meeting being held July 24th regarding Parcel 5 and 6. If you are there on the Pers, I'd like to meet with you for breakfast shortly after I arrive to discuss my agenda. I was told today that you were on vacation in France – not sure when you are returning. If you're not going to be there on the Pers let me know and I will adjust the flight accordingly.

Mike

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PA15731

RE: Upcoming Board Meeting

From: "Leven, Michael" </o=venetian_resort/ou=venetian/cn=recipients/cn=levenm">
To: "Siegel, Irwin" <irwin.siegel@venetian.com>
Date: Tue, 13 Jul 2010 12:59:36 +0000

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Mike

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