

## Meetings Macao –12-14 Sept.xls

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**From:**

Personal Redaction

**To:**

Personal Redaction @venetian.com.mo>

**Date:**

Fri, 10 Sep 2010 19:28:41 +0800

**Attachments:**

Meetings Macao –12-14 Sept.xls (36.86 kB)

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CONFIDENTIAL

SCL00128147

PA42858

| A Personal B C |   |  |
|----------------|---|--|
| 1              | Mr. Personal & Mr. Personal Meeting Schedule in Macau 12-14 Sept (Confidential) |  |
| 2              | Date & Time   | Agenda Venue   |
| 3              | Sunday, 12 Sept. 10   |  |
| 4              | 7:00pm  | Mr. Personal Group's arrival   |
| 5              | Monday, 13 Sept. 10   |  |
| 6              | 10-10:30am (tbc)  | Mr. Personal Arrival from Singapore  |
| 7              | Morning (tbc)   | Mr. Personal tour of Malo Clinic (c/o Mr. Personal)  |
| 8              | 11:00am   | Mr. Personal Meeting with Mr. Personal   |
| 9              | Morning (tbc)   | Introduction Meeting - Ms. Personal  |
| 10             | Morning (tbc)   | Mr. Personal meeting with Mr. Personal   |
| 11             | Lunch   | Open   |
| 12             | 2:30pm-4:00pm<br>(TBC)  | Shangri-la and Sheraton Mock Up Room Review<br>* limo departs Paiza at 2:30pm (TBC)                |
| 13             | 4:30pm **   | Meeting with Personal  |
| 14             | 6:30pm (TBC)  | Introduction of Junkets  |
| 15             | 7:00pm  | Group Dinner (c/Personal)  |
| 16             | Tuesday, 14 Sept. 10  |  |
| 17             | FYI: full day<br>(time tbc)   | Int'l Marketing Summit -(Personal)   |
| 18             | 7:30am  | Mr. Personal's Cotai Ferry to Hong Kong<br>* Limo departs Paiza to CFT, ETD at 7:10am              |
| 19             | 9:00am  | Meeting with Mr. Personal  |
| 20             | 9:30am  | Cotai Ferry to Hong Kong (Personal)<br>* Limo departs Paiza to CFT, ETD at 9:10am                  |
| 21             | 10:30am   | Arrived HK Ferry Terminal<br>* Limo to Grand Hyatt Hotel, ETA at 11:00am                           |
| 22             | 11:30am   | Personal   |
| 23             | 2:00pm  | Depart Hyatt to HK Ferry Terminal<br>* 2:30pm Cotai Ferry to Mac                                   |
| 24             | 3:30pm  | Arrive Cotai Ferry Terminal<br>* Limo to Mac Business Aviation Center > custom/immigration process |
| 25             | 4:30pm  | Wheels up  |
| 26             | Wednesday, 15 Sept. 10  |  |
| 27             | 9:00am - 1:00pm<br>(TBC)  | Int'l Marketing Summit -(LVSC, MBS, Mac Mgmt)  |

CONFIDENTIAL

SCL00128148

PA42859

# BUSINESS TECHNOLOGY

LAS VEGAS SANDS CORP.

## CHAIN OF CUSTODY RECORD

|  |  |   |  |
|--|--|---|--|
| Item Numbered 110223-0001:                                   |  | Contents of Zip lock bag are described as follows:<br>1. 2 Chain of custody forms, one dated 03/22/2011 and the other dated 02/22/2011.<br>2. One hard drive with the following markings Western Digital, Serial Number WCAV36825181, Capacity 160GB.<br>3. There was also one sticky attached to the external part of the package with the following markings, "Steve Jacobs 88890855" |  |
| Description of Item:   |  | Per the request of Legal, Laura Morgan removed this item from the Vault located in the Security department. Tony Whiddon was present to allow entry into the vault and to record the visit on the vault log. Laura Morgan removed the hard drive from the vault and delivered it to Rob Rubenstein  |  |
| Who made the collection and why were they assigned to do so: |  | Physical  |  |
| Method of Collection:  |  | Legal requested the item  |  |
| Reason for Collection:                                       |  | Case ID:  |  |
| Date & Time Collected:                                       |  | Evidence #:   |  |

Transferred From

Transferred To

| Date & Time | Location | Name         | Signature & TMID | Date & Time | Location    | Name              | Signature & TMID |
|-------------|----------|--------------|------------------|-------------|-------------|-------------------|------------------|
| 4:45 PM     | Security | Tony Whiddon | 902              | 4:45 PM     | Legal       | Laura Morgan      | 27417            |
| 6/29/12     |          |              |                  |             |             |                   |                  |
| 4:50 PM     | Legal    | Laura Morgan | 27417            | 4:50 PM     | Legal       | Robert Rubenstein | 19033            |
| 6/29/2012   |          |              |                  | 6/29/2012   |             |                   |                  |
| 7/6/2012    | Legal    | Abrahamstein | 19033            | 7/6/2012    | Security    | Tony Whiddon      | 27417            |
| 7/16/2012   | Security | Steve Jacobs | 88890855         | 7/16/2012   | Image drive | Steve Jacobs      | 88890855         |
| 7/16/12     | Security | T. Whiddon   | 902              | 7/16/12     | FTI         | Steve Jacobs      | 88890855         |
| 7/16/12     | FTI      | Steve Jacobs | 88890855         | 7/16/12     | Security    | T. Whiddon        | 902              |
| 7/16/12     | Security | T. Whiddon   | 902              | 7/16/12     | Security    | T. Whiddon        | 902              |
| 7/16/12     | Security | T. Whiddon   | 902              | 7/16/12     | Security    | T. Whiddon        | 902              |
| 7/16/12     | Security | T. Whiddon   | 902              | 7/16/12     | Security    | T. Whiddon        | 902              |

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BUSINESS  
TECHNOLOGY  
COUNCIL

CHAIN OF CUSTODY RECORD

Description of Item:  
Who made the collection and why were they assigned to do so:  
Method of Collection:  
Reason for Collection:  
Date & Time Collected:  
Case ID:  
Evidence #:

| Transferred From |          | Transferred To  |                  |
|------------------|----------|-----------------|------------------|
| Date & Time      | Location | Name            | Signature & TMMD |
| 9/19/12          | RSC      | BILLIE JO CRAIG | [Signature]      |

Comments: \_\_\_\_\_

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F T I

FOI599-1-344-E088

**COMPUTER EVIDENCE ACQUISITION & COLLECTION RECORD**

This form is to be filled out for each piece of evidence acquired. **Write applicable notes on reverse side.**

**General Information**

|                |                             |
|----------------|-----------------------------|
| Matter Name:   | PROJECT ELVIS/MIRAGE/NEVADA |
| Matter Number: | FOI599                      |

**Host System Information**

|                          |   |                      |     |
|--------------------------|---|----------------------|-----|
| Computer User Name:      | JACOBS, STEVE   |                      |     |
| Location of System:      | LOCKUP CONTROLLED BY TONY WHIDDON AT LVSC   |                      |     |
| Type of Host System:     | <input type="checkbox"/> Desktop <input type="checkbox"/> Laptop <input type="checkbox"/> Server <input checked="" type="checkbox"/> Other: UNKNOWN   |                      |     |
| Type of Evidence:        | <input checked="" type="checkbox"/> Hard Drive <input type="checkbox"/> CD/DVD <input type="checkbox"/> Floppy Disk <input type="checkbox"/> Zip/Jazz Disk<br><input type="checkbox"/> RAID <input type="checkbox"/> Other: |                      |     |
| Host System State:       | <input type="checkbox"/> On <input type="checkbox"/> Logged in <input checked="" type="checkbox"/> Off: <input type="checkbox"/> Other:   |                      |     |
| Bios Date & Time:        | N/A   | Current Date & Time: | N/A |
| Hard Drive Removed By:   | NOT REQUIRED  |                      |     |
|                          | Computer  | Hard Drive           |     |
| Manufacturer of Evidence | UNKNOWN   | WESTERN DIGITAL      |     |
| Model No. Evidence       | UNKNOWN   | WD1600AJS-08L7A0     |     |
| Serial No. Evidence      | UNKNOWN   | WCAV35054566         |     |

**Acquisition Information**

|                                   |  |                   |   |
|-----------------------------------|--|-------------------|---|
| Acquired By:                      | S HAJEK  |                   |   |
| Acquisition Location:             | <input type="checkbox"/> Lab <input checked="" type="checkbox"/> On Site <input type="checkbox"/> Off: <input type="checkbox"/> Other:   |                   |   |
| Acquisition Method:               | <input type="checkbox"/> Encase <input type="checkbox"/> Safeback <input type="checkbox"/> Backup (Software: )<br><input type="checkbox"/> Unix DD <input type="checkbox"/> File Copy <input type="checkbox"/> ICS Solo <input checked="" type="checkbox"/> Other: TABLEAU TD1 |                   |   |
| Acquisition Details (for Encase): | <input type="checkbox"/> FastBlock <input type="checkbox"/> Direct Connection <input type="checkbox"/> Crossover Cable<br><input type="checkbox"/> Firewire W/B <input type="checkbox"/> SCSI-IDE W/B <input checked="" type="checkbox"/> Other: TABLEAU TD1                   |                   |   |
| Target Media                      | <input checked="" type="checkbox"/> Hard Drive <input type="checkbox"/> Tape <input type="checkbox"/> Other:   |                   |   |
| Amount of time to image:          |  | Megabytes imaged: | 149.1GB   |
| Image verified:                   | <input type="checkbox"/> Yes <input type="checkbox"/> No   | Encase Verified:  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Sectors Verified                  | <input type="checkbox"/> Yes <input type="checkbox"/> No   | Photographs Taken | <input type="checkbox"/> Yes <input type="checkbox"/> No            |
| Hash or CRC value (circle one):   | 95CB57F53E3671D360029E2CE01475C5   |                   |   |

**Reassembly & Backup Information**

|                            |              |                                  |
|----------------------------|--------------|----------------------------------|
| Hard Drive Reinstalled By: | NOT REQUIRED | <input type="checkbox"/> Boot Ok |
| Backup Drive Barcode:      |              |                                  |



# BUSINESS TECHNOLOGY

LAS VEGAS SANDS CORP.

## CHAIN OF CUSTODY RECORD

Description of Item: 1 Sony CD-R Disc 700-mb Titled Investigation in Plastic Case PST files (from Sand)

Who made the collection and why were they assigned to do so:

Method of Collection: From R. Rubenstein

Reason for Collection: Preservation (PST for litigation)

Date & Time Collected: 7/6/12 @ 10:47 am Case ID: Evidence #:

Transferred From

Transferred To

| Date & Time        | Location | Name            | Signature & TMID | Date & Time        | Location | Name          | Signature & TMID |
|--------------------|----------|-----------------|------------------|--------------------|----------|---------------|------------------|
| 7/6/2012<br>10:47a | Legal    | Rob Rubenstein  | 1903 [Signature] | 7/6/12<br>10:47am  | Security | William Allen | [Signature]      |
| 7/6/12<br>11:42    | Security | T. Williams     | [Signature]      | 7/6/12<br>11:42    | Security | William Allen | [Signature]      |
| 7/10/12<br>11:53   | Security | Steven Hager    | [Signature]      | 7/10/12<br>11:53   | Security | Steven Hager  | [Signature]      |
| 7/19/12<br>10:55A  | Security | T. Williams     | [Signature]      | 7/19/12<br>10:55am | Security | T. Williams   | [Signature]      |
| 7/20/12<br>11:38   | Security | EDDIE KIM       | [Signature]      | 7/20/12<br>11:38   | Security | EDDIE KIM     | [Signature]      |
| 9/10/12            | ESG      | BILLIE JO CRAIG | [Signature]      |                    |          |               |                  |

Comments:

Disk was given to Rob Rubenstein by Carrie Boling prior to her termination, on 6/28/12 and held in Rob Rubenstein's office until transferred to Security on 7/6/2012.

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F T I

FOI599-1-SHA-E095

**COMPUTER EVIDENCE ACQUISITION & COLLECTION RECORD**

This form is to be filled out for each piece of evidence acquired. **Write applicable notes on reverse side.**

|                            |                             |
|----------------------------|-----------------------------|
| <b>General Information</b> |                             |
| Matter Name:               | PROJECT ELVIS/MIRAGE/NEVADA |
| Matter Number:             | FOI599                      |

| <b>Host System Information</b> |   |          |            |     |      |     |      |     |     |
|--------------------------------|---|----------|------------|-----|------|-----|------|-----|-----|
| Computer User Name:            | INVESTIGATION   |          |            |     |      |     |      |     |     |
| Location of System:            | LOCK UP UNDER TONY WHIDDONS CONTROL   |          |            |     |      |     |      |     |     |
| Type of Host System:           | <input type="checkbox"/> Desktop <input type="checkbox"/> Laptop <input type="checkbox"/> Server <input checked="" type="checkbox"/> Other: OPTICAL   |          |            |     |      |     |      |     |     |
| Type of Evidence:              | <input type="checkbox"/> Hard Drive <input checked="" type="checkbox"/> CD/DVD <input type="checkbox"/> Floppy Disk <input type="checkbox"/> Zip/Jazz Disk<br><input type="checkbox"/> RAID <input type="checkbox"/> Other: |          |            |     |      |     |      |     |     |
| Host System State:             | <input checked="" type="checkbox"/> On <input type="checkbox"/> Logged in <input type="checkbox"/> Off: <input type="checkbox"/> Other:   |          |            |     |      |     |      |     |     |
| Bios Date & Time:              | N/A   |          |            |     |      |     |      |     |     |
| Current Date & Time:           | N/A   |          |            |     |      |     |      |     |     |
| Hard Drive Removed By:         | NOT REQUIRED  |          |            |     |      |     |      |     |     |
|                                | <table border="1"><thead><tr><th>Computer</th><th>Hard Drive</th></tr></thead><tbody><tr><td>N/A</td><td>SONY</td></tr><tr><td>N/A</td><td>CD-R</td></tr><tr><td>N/A</td><td>N/A</td></tr></tbody></table>                  | Computer | Hard Drive | N/A | SONY | N/A | CD-R | N/A | N/A |
| Computer                       | Hard Drive  |          |            |     |      |     |      |     |     |
| N/A                            | SONY  |          |            |     |      |     |      |     |     |
| N/A                            | CD-R  |          |            |     |      |     |      |     |     |
| N/A                            | N/A   |          |            |     |      |     |      |     |     |
| Manufacturer of Evidence       | N/A   |          |            |     |      |     |      |     |     |
| Model No. Evidence             | N/A   |          |            |     |      |     |      |     |     |
| Serial No. Evidence            | N/A   |          |            |     |      |     |      |     |     |

|                                   |   |
|-----------------------------------|---|
| <b>Acquisition Information</b>    |   |
| Acquired By:                      | S HAJEK   |
| Acquisition Location:             | <input type="checkbox"/> Lab <input checked="" type="checkbox"/> On Site <input type="checkbox"/> Off: <input type="checkbox"/> Other:  |
| Acquisition Method:               | <input type="checkbox"/> Encase <input type="checkbox"/> Safeback <input type="checkbox"/> Backup (Software:<br><input type="checkbox"/> Unix DD <input type="checkbox"/> File Copy <input type="checkbox"/> ICS Solo <input checked="" type="checkbox"/> Other: FTK IMAGER |
| Acquisition Details (for Encase): | <input type="checkbox"/> FastBlock <input type="checkbox"/> Direct Connection <input type="checkbox"/> Crossover Cable<br><input type="checkbox"/> Firewire W/B <input type="checkbox"/> SCSI-IDE W/B <input checked="" type="checkbox"/> Other: DVD PLAYER                 |
| Target Media                      | <input checked="" type="checkbox"/> Hard Drive <input type="checkbox"/> Tape <input type="checkbox"/> Other:  |
| Amount of time to image:          | Megabytes imaged:   |
| Image verified:                   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   |
| Encase Verified:                  | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No FTK VERIFIED  |
| Sectors Verified                  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   |
| Photographs Taken                 | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   |
| Hash or CRC value (circle one):   | 495075275295EAD E522529FF7C862178   |

|  |   |
|--|---|
| <b>Reassembly &amp; Backup Information</b> |   |
| Hard Drive Reinstalled By:                 | NOT REQUIRED <input type="checkbox"/> Boot Ok |
| Backup Drive Barcode:                      |   |

## This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

(all transfers of this item will be recorded below)

[illegible]

# BUSINESS TECHNOLOGY

LAS VEGAS SANDS CORP.

## CHAIN OF CUSTODY RECORD

|  |   |
|--|---|
| Contents of Zip lock bag are described as follows  |   |
| <ul style="list-style-type: none"> <li>2 Chain of custody forms, one dated 03/22/2011 and the other was not dated (original).</li> <li>A group of 6 pages stapled together, each showing a screen shot of file directories.</li> <li>One hard drive with the following markings</li> <li>Label tape with William Bonar</li> <li>Label tape with HP xw4400 Workstation</li> <li>Label tape with 09-Mar-2011</li> <li>Label tape with Cindy Yang Email</li> <li>Manufacture label with Serial MW0ZUASC, Capacity 160 gigs</li> </ul> |   |
| Who made the collection and why were they assigned to do so: Laura Morgan collected the hard drive from the vault as per request from Legal  |   |
| Method of Collection: Physical   |   |
| Reason for Collection: Legal Requested   |   |
| Date & Time Collected: 03/04/2011 3:40PM   | Case ID: Evidence #: HDDD000604 / 110318-0003 |

Transferred From

Transferred To

| Date & Time          | Location            | Name                | Signature & TMID | Date & Time          | Location                 | Name              | Signature & TMID |
|----------------------|---------------------|---------------------|------------------|----------------------|--------------------------|-------------------|------------------|
| 7/27/2012<br>2:50PM  | Security/Vault      | Mackertley, Michael | 593              | 7/2/2012<br>2:50PM   | Data Security            | Morgan, Laura     | 27417            |
| 07/02/2012<br>3:00PM | Data Security       | Morgan, Laura       | 27417            | 07/02/2012<br>3:45PM | Legal                    | Robert Rubenstein | 19032            |
| 7/6/2012<br>10:40a   | Legal               | Rob Rubenstein      | 19032            | 7/6/2012<br>10:40a   | Security                 | Robert Rubenstein | 19032            |
| 7/16/12<br>11:40     | Security            | T. W. Hager         | 11440            | 7/16/12<br>11:40     | FTI                      | Steven Hager      | 11440            |
| 7/18/12<br>11:45a    | FTI                 | Steven Hager        | 11440            | 7/19/12<br>11:45a    | Security                 | T. W. Hager       | 11440            |
| 7/19/12<br>10:58     | Security            | T. W. Hager         | 11440            | 7/19/12<br>10:58     | Advanced Technology (ad) | EDGE Kim          | 11440            |
| 7/20/12              | Advanced Technology | EDGE Kim            | 11440            | 7/20/12              | Security                 | T. W. Hager       | 11440            |

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# CHAIN OF CUSTODY RECORD

**Transferred From**

**Transferred To**

| Date & Time | Location |
|-------------|----------|
| 1           |          |

Name \_\_\_\_\_

**Signature & TMID**

Date & Time : Location :

Name

## Signature & TMID

9/19/12 ESE

BILLIE JO CRAIG-BV

**Comments:**

## Corporate Data Security

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F T I

FOI599-1-SH4-E085

**COMPUTER EVIDENCE ACQUISITION & COLLECTION RECORD**

This form is to be filled out for each piece of evidence acquired. Write applicable notes on reverse side.

**General Information**

|                |                             |
|----------------|-----------------------------|
| Matter Name:   | PROJECT NEVADA/ELVIS/MIRAGE |
| Matter Number: |                             |

**Host System Information**

| Computer User Name:    | STEVEN JACOBS   |          |            |     |                 |     |            |     |              |
|------------------------|---|----------|------------|-----|-----------------|-----|------------|-----|--------------|
| Location of System:    |   |          |            |     |                 |     |            |     |              |
| Type of Host System:   | <input type="checkbox"/> Desktop <input type="checkbox"/> Laptop <input type="checkbox"/> Server <input checked="" type="checkbox"/> Other: UNKNOWN   |          |            |     |                 |     |            |     |              |
| Type of Evidence:      | <input checked="" type="checkbox"/> Hard Drive <input type="checkbox"/> CD/DVD <input type="checkbox"/> Floppy Disk <input type="checkbox"/> Zip/Jazz Disk<br><input type="checkbox"/> RAID <input type="checkbox"/> Other: |          |            |     |                 |     |            |     |              |
| Host System State:     | <input type="checkbox"/> On <input type="checkbox"/> Logged in <input checked="" type="checkbox"/> Off: <input type="checkbox"/> Other:   |          |            |     |                 |     |            |     |              |
| Bios Date & Time:      | N/A Current Date & Time: N/A  |          |            |     |                 |     |            |     |              |
| Hard Drive Removed By: | NOT REQUIRED  |          |            |     |                 |     |            |     |              |
|                        | <table><tr><th>Computer</th><th>Hard Drive</th></tr><tr><td>N/A</td><td>WESTERN DIGITAL</td></tr><tr><td>N/A</td><td>WD1600AAJS</td></tr><tr><td>N/A</td><td>WCAV36825181</td></tr></table>                                 | Computer | Hard Drive | N/A | WESTERN DIGITAL | N/A | WD1600AAJS | N/A | WCAV36825181 |
| Computer               | Hard Drive  |          |            |     |                 |     |            |     |              |
| N/A                    | WESTERN DIGITAL   |          |            |     |                 |     |            |     |              |
| N/A                    | WD1600AAJS  |          |            |     |                 |     |            |     |              |
| N/A                    | WCAV36825181  |          |            |     |                 |     |            |     |              |

**Acquisition Information**

|                                   |  |
|-----------------------------------|--|
| Acquired By:                      | S HAJEK  |
| Acquisition Location:             | <input type="checkbox"/> Lab <input checked="" type="checkbox"/> On Site <input type="checkbox"/> Off: <input type="checkbox"/> Other:   |
| Acquisition Method:               | <input type="checkbox"/> Encase <input type="checkbox"/> Safeback <input type="checkbox"/> Backup (Software:<br><input type="checkbox"/> Unix DD <input type="checkbox"/> File Copy <input type="checkbox"/> ICS Solo <input checked="" type="checkbox"/> Other: TABLEAU TD1 |
| Acquisition Details (for Encase): | <input type="checkbox"/> FastBlock <input type="checkbox"/> Direct Connection <input type="checkbox"/> Crossover Cable<br><input type="checkbox"/> Firewire W/B <input type="checkbox"/> SCSI-IDE W/B <input checked="" type="checkbox"/> Other: TABLEAU TD1                 |
| Target Media                      | <input checked="" type="checkbox"/> Hard Drive <input type="checkbox"/> Tape <input type="checkbox"/> Other:   |
| Amount of time to image:          | 1 HOUR 26 MIN Megabytes imaged: 160GB  |
| Image verified:                   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Encase Verified: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No   |
| Sectors Verified                  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Photographs Taken <input type="checkbox"/> Yes <input type="checkbox"/> No   |
| Hash or CRC value (circle one):   | 2C0D0F404CD8F5AF611A96E6C8FE54H6   |

**Reassembly & Backup Information**

|                            |   |
|----------------------------|---|
| Hard Drive Reinstalled By: | NOT REQUIRED <input type="checkbox"/> Boot Ok |
| Backup Drive Barcode:      |   |





---

**From:** Ray, Jason <Jason.Ray@FTIConsulting.com>  
**Sent:** Tuesday, July 17, 2012 2:26 PM  
**To:** Moyzeson, Misha  
**Subject:** RE: Jacobs data

Already holding ☺

Thanks

Jason Ray  
Senior Director - Technology Solutions

FTI Consulting  
+1.213.471.2867 direct  
+1.971.563.4196 mobile  
+1.213.596.3765 fax

---

**From:** Moyzeson, Misha [<mailto:Misha.Moyzeson@mto.com>]  
**Sent:** Tuesday, July 17, 2012 2:19 PM  
**To:** Ray, Jason  
**Subject:** Jacobs data

Jason,

Can you please hold on processing the two sources you mentioned today that may contain Jacobs data?

**Misha Moyzeson | Litigation Technology Team Lead**  
Munger, Tolles & Olson LLP | 355 South Grand Avenue | Los Angeles, CA 90071  
Tel: 213.452.5525 | Fax: 213.593.2825 | [misha.moyzeson@mto.com](mailto:misha.moyzeson@mto.com) | [www.mto.com](http://www.mto.com)

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**From:** Byerson, Julia <IMCEAEX-O=FTICORP\_OU=US-MIDWEST\_CN=RECIPIENTS\_CN=JBYERSO@FTIConsulting.com>  
**Sent:** Tuesday, July 31, 2012 3:52 PM  
**To:** 'Perl, Doris'; Ray, Jason  
**Cc:** 'Schneider, Bradley'; Project\_Nevada  
**Subject:** RE: Jacobs ESI, Follow Up Re Remediation Process  
**Attachments:** Jacobs Remediation Hit Report 20120731.xlsx

Hi Doris,

We've used the search terms provided by Tien in the email string below.

Please note:

- 1) "I" and "You" are noise words for indexing purposes. Thus, the term "I Love You" effectively brings in only documents that hit on the word "Love".
- 2) "From" and "the" are noise words for indexing purposes. Thus, the term "From the Edge" effectively brings in only documents that hit on the word "edge".

From the **239,598** total documents sourced to or potentially sourced to Jacobs, **12,401** documents (**19,476** with Sourced & Attachments) hit on one of the search terms. Attached is the hit report for your review. Please let us know if any term needs to be modified, otherwise, we look forward to discussing next steps.

Thanks,  
Julia

---

**From:** Perl, Doris [mailto:Doris.Pperl@mto.com]  
**Sent:** Tuesday, July 31, 2012 2:55 PM  
**To:** Ray, Jason; Byerson, Julia  
**Cc:** Schneider, Bradley; Project\_Nevada  
**Subject:** RE: Jacobs ESI, Follow Up Re Remediation Process

Jason,  
That would be perfect. Thank for your assistance.  
Doris

---

**From:** Ray, Jason [mailto:Jason.Ray@FTIConsulting.com]  
**Sent:** Tuesday, July 31, 2012 12:54 PM  
**To:** Perl, Doris; Byerson, Julia  
**Cc:** Weissmann, Henry; Owens, John; Schneider, Bradley; Project\_Nevada  
**Subject:** RE: Jacobs ESI, Follow Up Re Remediation Process

Doris:

Thanks. We have already segregated the data to be searched, and we will generate this list of search terms into a search term family for application to the data.

Please note that several of these terms are going to be significantly overbroad. Terms like "Laura" and "Progress Report" are examples. Once we run these terms, we will generate a hit report for you so that you can review the volume and potentially discuss any additional qualifiers before we finalize the Advanced Discovery data to be provided.

I would expect we could have this completed by tomorrow at the latest. I will discuss with Julia her timing on when we can have the searches run.

Thanks

Jason Ray  
Senior Director - Technology Solutions

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+1.971.583.4186 mobile  
+1.213.596.3765 fax

---

**From:** Perl, Doris [<mailto:Doris.Pearl@mto.com>]  
**Sent:** Tuesday, July 31, 2012 12:35 PM  
**To:** Ray, Jason  
**Cc:** Weissmann, Henry; Owens, John; Schneider, Bradley  
**Subject:** FW: Jacobs ESI, Follow Up Re Remediation Process

Jason,

We wished to follow up with you on the remediation process for Jacobs' data loaded to Ringtail. The parties have reached a further agreement as to the handling of this data set. FTI, alone, is now to run the attached list of search terms and identify any hits.

The terms provided are the same terms that Advanced Discovery was provided and that they then converted to dtSearch for searching in Relativity to identify plaintiff's privileged and confidential data in that data set. To the extent that any of the searches require modification in order to run in Ringtail, please do so and provide us with a list of final search syntax used. The searches are to be applied only against data that came from or can be sourced to Jacobs, as discussed during our call with Brad Schneider last week, and outlined in your July 27th email attached below.

Please let us know when the process is complete. Resultant hits will later be transferred to Advanced Discovery. We can discuss in greater detail once the process is complete. Any resultant hits deemed privileged or confidential will then need to be fully screened from the MTO database. As we stressed in our prior conversations and correspondence on this matter, our team cannot have any access to any resultant content. Please let us know when we expect that the process might be complete. Thank you.

Thank you.  
Doris

---

**From:** Nguyen, Tien [<mailto:tiennguyen@advanceddiscovery.com>]  
**Sent:** Tuesday, July 31, 2012 12:07 PM  
**To:** Perl, Doris  
**Cc:** Brian Kawasaki; Weissmann, Henry; Owens, John; Schneider, Bradley  
**Subject:** Re: Remediation of Jacobs' Data in Ringtail, Privilege Terms List

Doris,

Sure, please see below for search terms. This is the list we were provided and converted into dtSearch syntax for searching in Relativity.

laura  
laurie  
lj1113@yahoo.com  
"I Love You"  
"From the edge"  
Tuscany  
Jackie w/2 Jacobs  
Jackie  
Jacqueline  
jjplaytime\*  
Sophie w/2 "Karl"  
Sopherillious  
AIS  
"Atlanta International School"  
"Hong Kong School"  
"Hong Kong Schools"  
Kellet  
"Progress Report"  
Heather w/2 Karl  
David w/2 Karl  
Atos w/2 Origin  
Atos w/2 Consulting  
Crescent w/2 Resources  
Riverclub w/2 House  
Seth w/2 Farber  
howard w/2 adler  
dewey w/25 (associates or partners or assistants)  
Lebeouf  
"dl.com"  
Scottrade  
BNU  
"Personal Banking"  
hsbs  
amex  
BOA  
"Bank Of America"  
"BNP Paribas"  
Garcia  
"Jennings and associates"  
jenningscpa  
"Marine Specialties"  
Taipanrow  
JCInteriors  
"Jenifer Cook Interiors"  
"KLS contracting"  
"Kevin Seal"  
"Vagus Technologies"  
VGI  
"Vagus Tech"  
"Vagus Group Inc"  
"VGI Tax Returns"  
"Vagus Tax Returns"  
"Vagus General ledger"

Thanks and please let us know of any questions.

Tien

---

**From:** Ray, Jason [mailto:Jason.Ray@FTIConsulting.com]  
**Sent:** Friday, July 27, 2012 3:26 PM  
**To:** Perl, Doris  
**Cc:** Project\_Nevada; Moyzeson, Misha; Spanoudakis, Dennis  
**Subject:** RE: Jacobs ESI, Follow Up Re Remediation Process

Doris:

Following up to our conversation about this process, we are going to prepare for Advanced Discovery to execute their remediation searches on Ringtail against data that came from, or can be sourced to, Jacobs. You will connect us with the point person at Advance Discovery so we can set up their user access and prepare to walk them through using Ringtail to complete the searches.

The definition of what came from , or can be sourced to, Jacobs is described below.

**ALL DATA from the followings evidence items:**

| Custodian      | Evidence Number    | Evidence Type     | Notes  |
|----------------|--------------------|-------------------|--|
| Jacobs_Steve   | F01661-1-AY1-E206  | CP (Cell Phone)   | Originally attributed to Eric Chiu   |
| Jacobs_Steve   | F01599-1-AY1-E003  | GS (Group Share)  | MDATA Share  |
| Jacobs_Steve   | F01661-1-AY1-E080a | HD (Hard Drive)   | Media Safe Item: Per Steve Vaden, the drive contains a G Media Safe Item:  |
| Jacobs_Steve   | F01661-1-AY1-E080b | HD (Hard Drive)   | Contains:  |
| Investigations | F01599-1-SH4-E095  | OP (Optical Disk) | Steven Jacobs: email files only, user had a personal laptop<br>Delivered to Advanced Discovery, unknown to FTI if it con |

**Only calendar items and emails where Jacobs was a sender or recipient at any point in the conversation:**

|              |                   |                  |   |
|--------------|-------------------|------------------|---|
| Jacobs_Steve | F01599-1-AY1-E001 | GS (Group Share) | CounselLegal Share (contains some Jacobs calendar files a |
|--------------|-------------------|------------------|---|

All other loose documents which cannot be sourced to Jacobs and all emails where he was not a sender or recipient will be excluded.

**Only the SJCanlendar.PST file and its contents:**

|                    |                   |                 |                                 |
|--------------------|-------------------|-----------------|---------------------------------|
| Kostrinsky_Michael | F01599-1-SH4-E086 | HD (Hard Drive) | Contains a SJCanlendar.PST file |
|--------------------|-------------------|-----------------|---------------------------------|

These documents above will be placed into a binder as the defined universe for Advanced Discovery to search, and they will only be allowed to search these items.

If you have any questions please let me know.

Thanks

Jason Ray  
Senior Director - Technology Solutions

FTI Consulting  
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+1.971.563.4196 mobile  
+1.213.596.3765 fax

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**From:** Ray, Jason  
**Sent:** Wednesday, July 25, 2012 10:01 AM  
**To:** 'Perl, Doris'  
**Cc:** Project\_Nevada; Moyzeson, Misha; Spanoudakis, Dennis  
**Subject:** RE: Jacobs ESI, Follow Up Re Remediation Process

Apologies for the delay. There was some confusion about the CD that you mentioned below. The data FTI has for Jacobs is:

| Custodian          | Evidence Number    | Evidence Type     | Notes  |
|--------------------|--------------------|-------------------|--|
| Jacobs_Steve       | F01661-1-AY1-E206  | CP (Cell Phone)   | Originally attributed to Eric Chiu   |
| Jacobs_Steve       | F01599-1-AY1-E001  | GS (Group Share)  | CounselLegal Share (contains some Jacobs calendar files ;                    |
| Jacobs_Steve       | F01599-1-AY1-E003  | GS (Group Share)  | MDATA Share  |
| Jacobs_Steve       | F01661-1-AY1-E080a | HD (Hard Drive)   | Media Safe Item: Per Steve Vaden, the drive contains a C<br>Media Safe Item: |
| Jacobs_Steve       | F01661-1-AY1-E080b | HD (Hard Drive)   | Contains:<br>Steven Jacobs: email files only, user had a personal laptop     |
| Kostrinsky_Michael | F01599-1-SH4-E086  | HD (Hard Drive)   | Contains a SJCalendar.PST file   |
| Investigations     | F01599-1-SH4-E095  | OP (Optical Disk) | Delivered to Advanced Discovery, may not contain any Ja                      |

We had been holding on the processing of the MDATA share until there was clarity about remediation process – we will put that data in the queue today. We will also need to stage the Investigations CD data. Everything else has already been loaded into the Staging repository.

The two Jacobs hard drives listed, a hard drive containing the MDATA share, and the Investigations CD are the sets of data delivered to Advanced Discovery. I do not believe they received the CounselLegal share or the cell phone image.

1. A hard drive containing an image of Jacobs's last work desktop computer; F01661-1-AY1-E080a
2. A hard drive containing Jacobs email files (among other data); F01661-1-AY1-E080b
3. An image of Michael Kostrinsky's hard drive, which may contain Jacobs email data; F01599-1-SH4-E086
4. A CD which may (but is unlikely to) contain Jacobs ESI; F01599-1-SH4-E095

If any additional sources of Jacobs' data exist, we would need to obtain a description of same.

If you have any questions please let me know.

Thanks

Jason Ray  
Senior Director - Technology Solutions

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+1.213.596.3765 fax

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**From:** Perl, Doris [mailto:Doris.Pearl@mta.com]  
**Sent:** Wednesday, July 25, 2012 9:24 AM  
**To:** Ray, Jason  
**Cc:** Project\_Nevada; Moyzeson, Misha; Spanoudakis, Dennis  
**Subject:** RE: Jacobs ESI, Follow Up Re Remediation Process

Hello Jason,

I wished to check in with you to determine when we might expect to obtain the "Evidence Items Sourced to Jacobs". Our team is eager to begin the process. Thank you.

Doris

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**From:** Ray, Jason [<mailto:Jason.Ray@FTIConsulting.com>]  
**Sent:** Tuesday, July 24, 2012 5:49 PM  
**To:** Perl, Doris  
**Cc:** Project\_Nevada; Moyzeson, Misha; Spanoudakis, Dennis  
**Subject:** RE: Jacobs ESI, Follow Up Re Remediation Process

Yes, will provide tonight. And I am glad the process will run this way.

Thanks

Jason Ray  
Senior Director - Technology Solutions

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**From:** Perl, Doris [<mailto:Doris.Pperl@mto.com>]  
**Sent:** Tuesday, July 24, 2012 5:44 PM  
**To:** Ray, Jason  
**Cc:** Project\_Nevada; Moyzeson, Misha; Spanoudakis, Dennis  
**Subject:** Jacobs ESI, Follow Up Re Remediation Process  
**Importance:** High

Jason,

Our team has met and conferred with plaintiff and received the go ahead to proceed with your recommended option for review and remediation of Jacobs data. It appears that we will be planning to load and process Jacobs sourced data (including a CD I am informed apparently may contain some of Jacobs' data, but likely does not), and then, likely have FTI run search Jacobs' search terms against the data set. Any hits would need to be excluded from the staging base accessible to MTO. It is still unclear at this point whether or not Advanced Discovery will also play a role in the process. We will provide further guidance in the coming days.

*Before we move forward with this process, or any further Jacobs data loads, I would like to please obtain "Evidence Items Sourced to Jacobs" -- a list of all sources available that likely include some of Jacobs' data so that we can clearly define the population to be searched. My understanding is that we will at least plan to load and search the following items that I understand were sent to Advanced Discovery, which have been described to me as follows:*

1. A hard drive containing an image of Jacobs's last work desktop computer;
2. A hard drive containing Jacobs email files (among other data);
3. An image of Michael Kostrinsky's hard drive, which may contain Jacobs email data;
4. A CD which may (but is unlikely to) contain Jacobs ESI;

If any additional sources of Jacobs' data exist, we would need to obtain a description of same.



I realize that it is late in the day, but would it be possible to obtain the list of "Evidence Items Sourced to Jacobs" tonight or very early tomorrow? The team is very eager to begin the process. Please let me know. Thank you.

Doris

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| Term  | Term Hits     |
|---|---------------|
| <b>Totals</b>                                     | <b>86,999</b> |
| Search Term                                       | 18            |
| laura   | 6,124         |
| laurie  | 2,706         |
| lj1113@yahoo.com                                  | 0             |
| I Love You  | 17,045        |
| From the edge                                     | 10,563        |
| Tuscany   | 208           |
| Jackie w/2 Jacobs                                 | 221           |
| Jackie  | 1,940         |
| Jacqueline  | 8,729         |
| jjplaytime*                                       | 511           |
| Sophie w/2 "Karl"                                 | 331           |
| Sopherillious                                     | 0             |
| ALS   | 509           |
| Atlanta International School                      | 846           |
| Hong Kong School                                  | 111           |
| Hong Kong Schools                                 | 0             |
| Kellet  | 26            |
| Progress Report                                   | 260           |
| Heather w/2 Karl                                  | 112           |
| David w/2 Karl                                    | 1,222         |
| Atos w/2 Origin                                   | 1,664         |
| Atos w/2 Consulting                               | 512           |
| Crescent w/2 Resources                            | 530           |
| Riverclub w/2 House                               | 0             |
| Seth w/2 Farber                                   | 156           |
| howard w/2 adler                                  | 116           |
| dewey w/25 (associates or partners or assistants) | 0             |
| Lebeouf   | 0             |
| dl.com  | 244           |
| Scottrade   | 27            |
| BNU   | 8,387         |
| Personal Banking                                  | 16            |
| hsbs  | 0             |
| amex  | 407           |
| BOA   | 615           |
| Bank Of America                                   | 7,434         |
| BNP Paribas                                       | 9,532         |
| Garcia  | 968           |
| Jennings and associates                           | 0             |
| jenningscpa                                       | 49            |
| Marine Specialties                                | 216           |

|                        |       |
|------------------------|-------|
| Taipanrow              | 60    |
| JCInteriors            | 0     |
| Jenifer Cook Interiors | 0     |
| KLS contracting        | 104   |
| Kevin Seal             | 2,206 |
| Vagus Technologies     | 0     |
| VGI                    | 579   |
| Vagus Tech             | 0     |
| Vagus Group Inc        | 1,695 |
| VGI Tax Returns        | 0     |
| Vagus Tax Returns      | 0     |
| Vagus General ledger   | 0     |

| Number of Documents<br>Hitting on Term | Number of Documents (with<br>Sources & Attachments)<br>Hitting on Term | Total Unique Documents<br>Hitting on Term |
|--|--|---|
| 12,401                                 | 19,476   |   |
| 6                                      | 11   | 6   |
| 1,881                                  | 2,631  | 769                                       |
| 1,384                                  | 1,676  | 543                                       |
| 0                                      | 0  | 0   |
| 3,360                                  | 4,879  | 2,435                                     |
| 1,309                                  | 2,980  | 897                                       |
| 72                                     | 92   | 33  |
| 60                                     | 85   | 0   |
| 651                                    | 951  | 127                                       |
| 2,635                                  | 5,432  | 2,008                                     |
| 96                                     | 114  | 10  |
| 88                                     | 211  | 35  |
| 0                                      | 0  | 0   |
| 116                                    | 166  | 13  |
| 81                                     | 86   | 3   |
| 14                                     | 30   | 14  |
| 0                                      | 0  | 0   |
| 12                                     | 14   | 4   |
| 111                                    | 333  | 99  |
| 42                                     | 56   | 4   |
| 194                                    | 235  | 22  |
| 128                                    | 164  | 0   |
| 128                                    | 164  | 0   |
| 71                                     | 99   | 30  |
| 0                                      | 0  | 0   |
| 34                                     | 40   | 0   |
| 18                                     | 24   | 0   |
| 0                                      | 0  | 0   |
| 0                                      | 0  | 0   |
| 34                                     | 38   | 4   |
| 20                                     | 22   | 13  |
| 1,067                                  | 2,435  | 442                                       |
| 6                                      | 9  | 4   |
| 0                                      | 0  | 0   |
| 337                                    | 519  | 262                                       |
| 179                                    | 528  | 77  |
| 568                                    | 1,176  | 301                                       |
| 1,351                                  | 2,720  | 876                                       |
| 165                                    | 346  | 52  |
| 0                                      | 0  | 0   |
| 24                                     | 24   | 0   |
| 58                                     | 84   | 50  |

|     |     |     |
|-----|-----|-----|
| 24  | 24  | 22  |
| 0   | 0   | 0   |
| 0   | 0   | 0   |
| 52  | 72  | 14  |
| 226 | 260 | 135 |
| 0   | 0   | 0   |
| 307 | 735 | 37  |
| 0   | 0   | 0   |
| 435 | 975 | 105 |
| 0   | 0   | 0   |
| 0   | 0   | 0   |
| 0   | 0   | 0   |

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**From:** Moyzeson, Misha <Misha.Moyzeson@mta.com>  
**Sent:** Tuesday, September 04, 2012 8:49 AM  
**To:** Byerson, Julia  
**Cc:** Project\_Nevada  
**Subject:** RE: Nevada - Review Casebook Jacobs Sources Minus Remediation

Thank you!

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**From:** Byerson, Julia [<mailto:Julia.Byerson@fticonsulting.com>]  
**Sent:** Tuesday, September 04, 2012 8:47 AM  
**To:** Moyzeson, Misha  
**Cc:** Project\_Nevada  
**Subject:** Nevada - Review Casebook Jacobs Sources Minus Remediation

Hi Misha,

The binder of documents that are Jacobs sources minus remediation terms is: "Jacobs Sources Minus Remediation 20120904".

Julia Byerson  
Ringtail Consulting

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Government of the Macao Special Administrative Region

Office for Personal Data Protection

CONFIDENCIAL  
GDP

To: Responsible Sir or Madam  
The Venetian Macao, Venetian Cotai Limited  
The Venetian ® Macao-Resort-Hotel  
Estrada da Baía de N. Senhora da  
Esperança, s/n  
Taipa, Macao

| Rec'd Letter Number | Rec'd Letter Date | Sent Letter Number | Macao Postal Number |
|---------------------|-------------------|--------------------|---------------------|
| N.Ref.:LD0903-2012  | 6/27/2012         | 0957/GDP/2012      | 08/08/2012          |

Re: The Venetian Macao Venetian Cotai Limited's Intent to Transfer Personal Data to a Designation Other Than Macao Special Administrative Region

Responsible Sir or Madam:

The above mentioned letter was received.

In regards to your company's ("The Venetian Macao Venetian Cotai Limited, VML") letter, it indicated that in order to respond to the requests from "United States Securities and Exchange Commission" (hereinafter referred to as "SEC") and "United States Department of Justice" (hereinafter referred to as "DOJ"), your company has an intent to transfer your company's and/or Sands China Limited's (hereinafter referred to as "SCL") current and former employees' personal data and transaction records in the storage forms of emails, electronic records, and paper forms to "Las Vegas Sands Corporation" (hereinafter referred to as LVSC) in the United States and SCL to be convenient to further submit to SEC, DOJ, and one or more United States Courts. This office has mailed letter numbered 1090/GDP/2011 to your company on October 28, 2011 to state the

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Translated by Joseph Shah, Nevada Supreme Court Registered Interpreter

APP0465

PA15911

D-1597

position of this office held. Therefore, on June 27, 2012, this office again received your company letter. After our analysis, our responses are as follows.

1. Applicability of "Personal Data Protection Act"

In accordance with your company's provided data, the intended data to be transferred to the United State include (1) your company's current and former employees and directors' names, company addresses, telephone numbers, and email addresses; (2) names, company addresses, telephone numbers, and email addresses for those employees of the entities that had business relations with your company and/or SCL; (3) associated emails and data (Metadata) of the individuals mentioned at (1) and (2) above; (4) Copies of the documents that were produced, transferred, or received by your company's current and former employees and directors when they executed in their positions held. Because the above mentioned information related to data that are readily identified or identifiable to a natural person, in accordance with the definition of Macau's Law number 8/2005, the "Personal Data Protection Act" Article 4 item 1.1, they are personal data.

In accordance with the "Personal Data Protection Act" Article 4 and item 1.3, processing of personal data shall mean *"any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or*

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Translated by Joseph Shah, Nevada Supreme Court Registered Interpreter

APP0466

D-1598

PA15912



combination, blocking, erasure or destruction." (Underline is added for this letter). Your company is considered an entity that is responsible for processing personal data. Referring to above mentioned processing of personal data, your entity is not a natural person, which is defined at "Personal Data Protection Act" Article 3 Item 2, in the course of a purely personal or household activity. Therefore, in accordance with the same Act Article 3 Item 1, the "Personal Data Protection Act" is applicable.

In addition, this office is a public bureau defined by "the Macau Civil Code" Article 79 Item 3 and the "Personal Data Protection Act". It exercises the duties authorized by Laws of 8/2005, 83/2007, and 6/2010 that were designated by the Chief Executive. Its responsibilities are to monitor and coordinate the compliances and executions of the "Personal Data Protection Act". Therefore, this office has the authority and legal fundamental basis to determine whether the "Personal Protection Act" is applicable to this case.

2. The Personal Data Processing Entity and the Data Recipient

In accordance with the "Personal Protection Act" Article 4 Item 1 and Item 8, the personal data processing entity means *"the natural or legal person, public entity, agency or any other body which alone or jointly with others determines the purposes and means of the processing of personal data"*; data recipient means *"a natural or legal person, public entity, agency or any other body to whom data are disclosed, whether a third party or not; however,*

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Translated by Joseph Shah, Nevada Supreme Court Registered Interpreter

APP0467

*authorities which may receive data in the framework of a law or a statutory regulation with organizational nature shall not be regarded as recipients".*

In this case, because your company has the rights to control and the rights to decide the above mentioned data, which includes the decisions to transfer data to other companies, this is a responsible personal data processing entity. Then, LVSC and SCL, which are told about such data, are merely data recipients. Additionally, because your company does not directly submit the above mentioned data to SEC, DOJ, and one or more United States Courts, these agencies are not data recipients in this case.

### 3. Legitimacy of Processing Personal Data

The "Personal Data Protection Act" Article 6 through Article 8 defined the legitimacy of processing personal data. Except for those personal data considered as sensitive data defined at the "Personal Data Protection Act" Article 7 and those personal data considered as suspicion of illegal activities, criminal and administrative offenses defined at the "Personal Data Protection Act" Article 8, all other personal data should be processed in the criteria for making data processing legitimate defined at "Personal Data Protection Act" Article 6.

Even though your company indicated that the personal data that are intended to transfer do not include sensitive data, your company listed four kinds of data and they were merely types of documents, which did not specify data's types and contents. This office cannot rule out the inclusions of sensitive data or data considered as suspicion of illegal

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Translated by Joseph Shah, Nevada Supreme Court Registered Interpreter

APP0468

activities, criminal and administrative offenses. Therefore, just as those stated at the letter numbered 1090/GPDP/2011, which was sent to you on October 28, 2011 by this office, your company should separate different types of data and then obtain the legitimacy of the data for each different type in accordance with the "Personal Data Protection Act" Article 6 through Article 8. Then you could process the data accordingly. Hereby, this office reiterates the following:

(i) Legitimacy of Ordinary Data

In accordance with the "Personal Data Protection Act" Article 6, *"Personal data may be processed only if the data subject has unambiguously given his consent or if processing is necessary: (1) for the performance of a contract or contracts to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract or a declaration of his will to negotiate; (2) for compliance with a legal obligation to which the controller is subject; (3) in order to protect the vital interests of the data subject if the latter is physically or legally incapable of giving his consent; (4) for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed; (5) for pursuing the legitimate interests of the controller or the third party to whom the data are disclosed, except where such interests should be*

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Translated by Joseph Shah, Nevada Supreme Court Registered Interpreter

APP0469

PA15915

D-1601

*overridden by the interests for fundamental rights, freedoms and guarantees of the data subject."*

In this case, your company's goal is to assist LVSC and SCL to respond to the requests made by SEC and DOJ. When processing the data other than sensitive data and data considered as suspicion of illegal activities, criminal and administrative offenses (ordinary data), your company is only possible to obtain the consents from the data subjects or meet the legitimacies defined at Article 6 items 1, 2 or 5.

In regards to the consents from the data subject, it will be analyzed at number 4 below.

Because your company did not provide this office the employees' employment contracts or contracts between your company and your customers, currently there are no information that demonstrate your company's meeting legitimacy defined at Article 6 Item 1.

Additionally, the legal obligation defined at Article 6 Item 2, in general, does not include the responsible processing entity to fulfill its legal obligation to process personal data outside the Macao Special Administrative Region. Also, in accordance with the "Macao Special Administrative Region Casino Gambling or

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Translated by Joseph Shah, Nevada Supreme Court Registered Interpreter

APP0470

Other Gambling Operation Designated Contract"<sup>1</sup> (hereinafter referred as "Designated Contract") that was signed by the Galaxy Casino, S.A. and the Macau Special Administrative Region, in Article 3 and 4, "This Designated Contract is only subject to the laws of the Macau Special Administrative Region." "The contracted company must obey the applied laws of the Macau Special Administrative Region and give up and release the compelled obligations and activities that were quoted by the laws of the jurisdictions other than the Macau Special Administrative Region." Therefore, based on the above mentioned the goal to process related personal data, your company does not qualify the legitimacy of the Article 6 Item 2. Also, this must be emphasized that for the same reason when collecting personal data, no one is able to foresee your company's goal to process personal data is to "fulfill the legal obligations of the laws outside the Macau Special Administrative Region." The practice of you company qualified as "the use of personal data for purposes not giving rise to their collection." In accordance with the same Law Article 22 Item 1, it must be monitored in advance by this office.

To qualify the legitimacy defined by Article 6 Item 5, your company must prove that the interests for fundamental rights, freedom and guarantees of the

<sup>1</sup> According to 207/2004 signed by the Chief Executive, the Galaxy Casino S.A. assigned the above mentioned contract to its sub-concession the Venation Macau Venetian Cotal Limited.

data subject are not overridden by your company's interests and the related process is necessary. Currently there is no data that could demonstrate the interests for fundamental rights, freedom and guarantees of the data subject are not overridden by your company's interests. Therefore, your company again does not qualify the legitimacy defined by Article 6 Item 5.

(ii) Legitimacy of the Processing of Sensitive Data

In regards to the related processing of sensitive data, your company may qualify the legitimacy defined by Article 7 Item 2.3 and 3.4. In regards to the explicit consent referred by Article 7 Item 2.3, it will be analyzed at number 4 below.

If the processing of data was due to the legal claims referred by Article 7 and Item 3.4, the processing of the related data then met the "necessary" condition. Also, in general, it also refers to the legal claims inside the Macau Special Administrative Region. For the legal claims outside the Macau Special Administrative Region, it is viewed as case by case and it is analyzed in detail in connection with other existent applicable laws of the Macau Special Administrative Region, especially to analyze the essentiality of the related process. Therefore, in this case, your company and the related data subject are not the parties in the legal claims. It has no essentiality to disclose the related

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the processing of data. As a result, your company does not qualify for the legitimacy defined by Article 7 Item 3.4.

(iii) Legitimacy of Processing Data that Contain Suspicion of Illegal Activities,  
Criminal and Administrative Offenses

In regards to the "Personal Data Protection Act" Article 8 suspicion of illegal activities, criminal and administrative offenses, the Article states, "1. *Central registers relating to persons suspected of illegal activities, criminal and administrative offences and decisions applying penalties, security measures, fines and additional penalties may only be created and kept by public services vested with that specific responsibility by a legal provision or a statutory regulation with organizational nature, subject to observance of procedural and data protection rules in force.* 2. *The processing of personal data relating to persons suspected of illegal activities, criminal and administrative offences and decisions applying penalties, security measures, fines and additional penalties may be carried out, subject to observance of the rules for the protection of data and the security of information, when such processing is necessary for pursuing the legitimate purposes of the controller, provided the fundamental rights and freedoms of the data subject are not overriding.* 3. *The processing of personal data for the purposes of police investigations shall be restricted to the processing necessary to prevent a specific danger or to prosecute a particular offence and to exercise the*

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*responsibilities provided for in a legal provision, in a statutory regulation with organizational nature, or in the terms of instruments of international law or inter-regional agreements applicable in the MSAR."*

Because your company is not a public service agency as mentioned at Item 1 above and is also not a police investigation agency as mentioned at Item 3 above, in this case, your company is only possible to qualify the guidelines defined at Item 2 above. However, again, your company must prove that the interests for fundamental rights, freedom and guarantees of the data subject are not overridden by your company's interests and the related process is necessary. Currently there is no data that could demonstrate the interests for fundamental rights, freedom and guarantees of the data subject are not overridden by your company's interests. Therefore, you company again does not qualify the legitimacy defined by Article 8 Item 2.

### 3. The Data Subject's Consent

In regards to the legitimate condition of the data subject's consent, in accordance with the "Personal Data Protection Act" Article 4 Item 1.9, the data subject's consent shall mean any "freely" "given specific" and "informed" indication of his or her wishes by which the data subject signifies his or her agreement to personal data relating to him or her being processed. The importance of "freely" refers that the data subject is able to make choices on his or her own. Even refusal to consent,

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there will be no adverse consequences. For example, in the employment relation, it is particularly important to pay special attentions to whether the data subject is influenced by his or her employer and might not freely make choices. On the other hand, the consent could be withdrawn freely. Once the data subject withdrew his or her consent, the responsible entity then does not qualify for the legitimate condition and cannot further process the data. "Specific" shall mean relevant consent, which means that the process of personal data was specifically designated for one specific purpose. In this case, the consent was specifically designated for the specific purpose of your company's assistance with LVSC and SCL to respond to SEC and DOJ in the United States. If the consent articulated beyond this purpose, it then cannot be considered as a "Specific" consent.

In regards to processing of the sensitive data, it requires the data subject's "explicit consent".

Additionally, the data subject could only express consents to his or her own personal data. Another word, the data subject's consent could only apply to the processing of his or her own data and cannot represent others to address consents unless this individual obtained a valid and legit power of attorney for others or met other existent legal conditions.

Therefore, only if you company obtained data subject's valid consents, the data then could be processed.

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4. Transferring Data Outside of Macau

The "Personal Data Protection Act" Article 19 and Article 20 have provided guidelines in regards to transfer of personal data to a destination outside the Macau Special Administrative Region. However, your company's letter stated that transferring above mentioned personal data from Macau to the United States is in compliance with the guidelines defined at the "Personal Data Protection Act" Article 19 and Article 20.

However, in accordance with this office's letter numbered 1090/GPDP/2011 dated October 28, 2011 and part 2 and part 3 of the letter, if your company obtained the data subject's consent or explicit permit, according to the "Personal Data Protection Act" Article 20 Item 1, the related personal data could be transferred to a destination outside Macau. It is necessary to notify this office so. Additionally, if the transfer of personal data is under the condition defined at the "Personal Data Protection Act" Article 20 Item 3, which states a transfer of personal data that is necessary for the protection of defense, public security and public health, and for the prevention, investigation and prosecution of criminal offences, should be governed by special legal provisions or by the international conventions and regional agreements to which the Macau Special Administrative Region is the named party. Other than the two conditions stated above, in this case, because your company

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does not have the legitimacies to process personal data, it is not even applicable to mention transferring personal data to a destination outside Macau.

You company does not qualify for the legitimate conditions stated at the "Personal Data Protection Act" Article 6 through Article 8 to process personal data. However, your last letter considered your transferring personal data from Macau to the United States to be in compliance with the guidelines defined at "Personal Data Protection Act" Article 19 and Article 20. Your company's claim lacks legal basis.

Even so, in order to assist your company to further understand this office's decision, this office provides the following analysis in regards to your references of the "Personal Data Protection Act" Article 19 and Article 20 as your related basis.

The "Personal Data Protection Act" Article 19 states that the transfer of personal data to a destination outside the Macao Special Administrative Region may only take place subject to compliance with this Act and provided the legal system in the destination to which they are transferred ensures an adequate level of protection.

Your company believed that even though your company did not directly respond to the subpoena from SEC or did not have the legal obligations pertaining to Jacob's case. However, your company's parent company has such legal obligations. Because these two are closely associated, the United States then asked the parent company to provide all company data of its subsidiaries. Therefore, your company's

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transferring related data is suitable to the guidelines defined at the "Personal Data Protection Act" Article 6 Item 2. Additionally, as a data processing entity, your company should have your appropriate interests not to bear any legal liabilities that might be resulted in harmful consequences in the events that SCL and/or LVSC fail to provide information related to Jacob's case. Also, the third party data recipients (the first is SCL and LVSC, the second is SEC, DOJ, and defendant, then thereafter might be one or more courts) have the same appropriate interests in their civil and criminal investigations, in SEC and DOJ cases, in civil litigations, and in the defendant's case. They could obtain the related information in the hearing of Jacob's court case. Under the circumstance, also based on point 11 in your letter pertaining to the protection of the confidential data, the interests to the protected data under the "Personal Data Protection Act" do not take precedence over the legitimate interests stated above. Therefore, you company transferring the related data is suitable with the guidelines defined at the "Personal Data Protection Act" Item 5. And the intended recipient destination is the United States, which has suitable protection and legal system. Therefore, in this case, the intent to transfer related data to the United States is suitable with the guidelines defined at the "Personal Data Protection Act" Article 19 Item 1.

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At first, it is necessary to point out that as an authorized public bureau, as of today, this office has never declared the legal systems of any counties or regions to be suitable for personal data protection.

Additionally, as they have been clearly stated at Part 2 and Part 3, your company's transferring personal data to the United States does not qualify for the legitimate conditions defined at the "Personal Data Protection Act" Article 6 Item 2 and Item 5. Hereby, it is unnecessary to reiterate. But, it has to be emphasized that the provision stated at the "Personal Data Protection Act" Article 19 Item 1 as "only take place subject to compliance with this Act" is not only referring to the legitimate conditions defined at Article 6 but also to compliance with regulations of data processing, data subjects' interests, and safety and confidentiality of the process, etc. If processing sensitive data or data that contain suspicion of illegal activities, criminal and administrative offenses, your company should obtain the legitimacies defined at Article 7 or Article 8 separately in accordance with the different types of the data. Then you could process.

Therefore, your company's claim is invalid by stating your intent to transfer related data to the United States being in compliance with the guidelines defined at "Personal Data Protection Act" Article 19 Item 1.

On the other hand, the law also states that a transfer of personal data to a destination in which the legal system does not ensure an adequate level of

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protection may be allowed on the condition that this office is notified by the personal data processing entity or obtained the permission from this office. The conditions include:

- (1) Compliance with the guidelines defined at Item 1, which states that the data subject has given unambiguous consent or is necessary for the performance of a contract, is necessary or legally required on important public interest grounds, or for the establishment, exercise of defense of legal claims, or is necessary in order to protect the vital interests of the data subjects. Then in accordance with Article 23, notifying this office.
- (2) Compliance with the guidelines defined at Item 2, which states that the controlling entity adduces adequate safeguards with respect to the protection of the privacy and fundamental rights and freedoms of individuals and has already obtained this office's permission.
- (3) Compliance with the guidelines defined at Item 3, which states that a transfer of personal data which is necessary for the protection of defense, public security and public health, and for the prevention, investigation and prosecution of criminal offenses, shall be governed by special legal provisions or by the international conventions and regional agreements which the Special Administrative Region is the named party.

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After a comprehensive review of the guidelines defined at Article 20 Item 1, in this case, your company intends to transfer personal data to the United States in order to assist LVSC and SCL to respond the requests made by SEC and DOJ in the United States. Because of the failure to obtain the explicit consents of the data subjects and the lack of basis for the essentiality to execute a contract or to protect the vital interests of the data subjects, your company is only possible to be in compliance to the guidelines defined at Item 1.3 to transfer the related data.

Your company's letter indicated that even though the legal systems in the United States are not equipped to an adequate level of personal data protection, the related data are transferred to the United States and are under the investigations of SEC and DOJ. It is necessary to protect the interests in the Jacob's case. Therefore, it is in compliance with the "Personal Data Protection Act" Article 20 Item 1. Even though your company did not specify in detail on which sub item under Article 20 Item 1, based on the demonstrated information, it is believed that the sub item is Article 20 Item 1.3, which states that it is necessary or legally required on important public interest grounds, or for the establishment, exercise of defense of legal claims. Also after notifying this office, the personal data could be transferred to a destination without adequate level of personal data protection.

Please pay attention to the "Personal Data Protection Act" Article 20 Item 1. The main concern is the interests of the data subjects, not the responsible personal

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data processing controlling entity, especially not the interests of the data recipients. Furthermore, your company is not the one of the parties in the litigation and has no obligation to provide evidential documents and it is not affirmative that it is legally required to transfer the data. Therefore, your company's claim that it is legally required to protect the rights and to transfer the related data to the United States in the investigation conducted by SEC and DOJ in related Jacob's litigation is actually not in compliance with the guidelines defined by the said Article said Item sub item 3.

Your company mentioned in your letter number 11 for the procedures of confidentiality that included the requirements of Freedom of Information Act ("FOIA") in the United States. Also mentioned, the "Protective Order" in the related Jacob's litigation is sufficiently protected in compliance with the guidelines defined by the "Personal Data Protection Act" Article 20 item 2.

For this claim, it is necessary to point out that in Article 20 Item 2 the legislature designated this office to issue permits. The purpose is to allow this office's required involvements and to monitor in advance. It is not difficult to understand that the condition for this office to issue "permit" is the process of the personal data processing controlling entity to be in compliance with the "Personal Data Protection Act". However, just what have mentioned earlier in this letter, unless your company obtained the data subjects' consents or explicit permissions to transfer the related personal data outside Macau or the related data transfers met

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the conditions defined at the "Personal Data Protection Act" Article 20 Item 3.

Otherwise, your company is not considered properly processing the personal data.

This office is impossible to permit these personal data to be transferred to a destination outside Macau.

Additionally, if your related data transfer met the conditions defined at "Personal Data Protection Act" Article 20 Item 3, which states that a transfer of personal data which is necessary for the protection of defense, public security and public health, and for the prevention, investigation and prosecution of criminal offenses, shall be governed by special legal provisions or by the international conventions and regional agreements which the Special Administrative Region is the party.

Hereby, to remind your company again, in the case of the responsible personal data processing controlling entity's failure to comply with the obligations in the "Personal Data Protection Act" Article 6 through 9, 19 and 20, in accordance with the same Act Article 33 Item 2, it is punishable with a fine of MOP8,000 to MOP80,000. Also, if data are improperly transferred, it might be a violation of professional secrecy defined at the "Personal Data Protection Act" Article 18. In accordance with the Article 41, it might be a crime. If the data misappropriates or uses personal data for other purposes, in accordance with Article 37 Item 1.3, it might be a crime. In the meantime, regardless it is either an administrative offense

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Government of the Macao Special Administrative Region

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or a crime, it may be ordered in additional penalty according to Article 43, which includes temporary or permanent prohibition of processing data, publication of the judgments, and public warning, etc.

At last, this office believes that the transfer of those related to the juridical litigation documents in this case should be resolved by the means of international juridical assistance.

The contact person for this office: Mr. Lio or Mr. Ho, Telephone: 28716066

Sincerely

Director

Chan Hoi Fan

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D-1616



14 NOV 2012

Exma. Senhora Coordenadora do  
Gabinete de Protecção de Dados Pessoais  
Avenida da Praia Grande, n. 804  
Edif. China Plaza, 13  
Andar, A-F, Macau

Assunto: Notificação sobre revisão de documentos com dados pessoais na  
RAEM

N/ Ref.: LD1671-2012

Exmo. Senhora Coordenadora:

“Venetian Macau S.A.”, em Chinês “威尼斯人澳門股份有限公司” e em Inglês “Venetian Macau, Limited”, sociedade comercial com sede em Macau, na Estrada da Baía de Nossa Senhora da Esperança, The Venetian Macao Resort Hotel, Executive Offices – L2, Taipa, registada na Conservatória do Registos Comercial e de Bens Móveis de Macau sob o número SO 15702, na sequência do V/ ofício com a referência 0957/GPDP/2012 de 8 de Agosto p.p. e da reunião de 6 de Novembro p.p., vem, neste acto representada por David Fleming, expor a V. Exa. o seguinte:

1. Conforme foi referido na nossa carta de 27 de Junho p.p. com a ref. No. LD0903-2012 e na reunião de 6 de Novembro p.p., a Sands China Limited (“SCL”) é Ré num processo cível pendente no *District Court of Clark County*, em Nevada (o “Tribunal”) sob o nome *Steven C. Jacobs v. Las Vegas Sands Corp.; Sands China Ltd; Sheldon G. Adelson, et al.*, processo no.



A627691-B (o "Processo *Jacobs*"). A Venetian Macau S.A. ("VML") é uma sociedade constituída em Macau, subconcessionária de jogos de fortuna e azar, detida indirecta e maioritariamente pela SCL.

2. A VML acredita que pode ter em sua posse, em Macau, documentos que podem ser relevantes para a preparação da defesa da SCL no Processo *Jacobs*. No entanto, para confirmar a existência ou inexistência de tais documentos, a VML necessita de rever certa documentação que está na sua sede.

3. A presente carta serve para notificar o V/ Gabinete das circunstâncias que envolvem a revisão de documentos necessária para determinar se a VML tem em sua posse documentos relevantes para a defesa da SCL no Processo *Jacobs* e explicar as razões pelas quais acreditamos que a mesma é consistente com o disposto na Lei de Protecção de Dados Pessoais, a Lei 8/2005. Caso assim não se entenda – o que não se concede mas se admite por mera cautela – a presente carta sempre servirá para, alternativamente, requerer a V. Exa. autorização para proceder ao processamento de dados pessoais necessariamente envolvido no processo de revisão de documentos que aqui será descrito.

4. Neste momento, no âmbito do Processo *Jacobs*, o Tribunal está em fase de determinar se tem competência pessoal (*jurisdiction*) sobre a SCL. Brevemente, em data que ainda não foi formalmente decidida, o Tribunal conduzirá uma audiência probatória (*evidentiary hearing*) durante a qual serão submetidas por ambas as partes provas para o Tribunal avaliar e decidir a questão da competência pessoal (*jurisdiction*) do Tribunal sobre a SCL. Se o Tribunal determinar que tem competência pessoal sobre a SCL no Processo *Jacobs*, os autos prosseguirão os seus termos contra a SCL. Se o Tribunal determinar que não tem competência pessoal sobre a SCL, a SCL será absolvida do processo e a acção prosseguirá os seus termos apenas contra a Las Vegas Sands Corporation ("LVSC").

5. É neste contexto, que o Tribunal ordenou que a SCL apresentasse determinada informação relevante para aferir se o Tribunal tem competência pessoal sobre a SCL. Genericamente, o que se pede é informação que demonstre a relação entre a SCL e a LVSC, ver Anexo 1 (*Court Order* de 8 de Março p.p.). Para determinar a sua competência, o Tribunal não pretende analisar documentos que possam ser relevantes para o mérito da acção ou relativos a pessoas determinadas. A obrigação da SCL neste momento é apenas de determinar se existem documentos adicionais em Macau relevantes – única e exclusivamente – para a questão da competência do Tribunal.

6. Na medida em que, nesta fase, o Tribunal está interessado na relação entre a SCL e a LVSC apenas, estamos em crer que a maioria dos documentos, se não todos, que possam ser relevantes para a questão da competência estejam já nos Estados Unidos, e como tal tenham já sido apresentados em juízo pela LVSC, mas tal apenas poderá confirmar-se depois de a VML ter feito a revisão dos documentos em sua posse em Macau.

7. Se a SCL não cumprir com a ordem do Tribunal, poder-lhe-ão ser impostas sanções, nomeadamente, o Tribunal pode decidir ter competência pessoal sobre a SCL.

8. Ora, como se expôs *supra*, a VML é uma subsidiária indirecta detida maioritariamente pela SCL. Como tal, tem todo o interesse em que a SCL seja absolvida neste Processo *Jacobs*. Afigura-se também claro que o interesse da VML em prevenir consequências adversas para a SCL, que podem verificar-se caso a SCL não cumpra com a ordem do Tribunal, é um interesse legítimo.

9. Neste contexto, a VML pretende contratar advogados de Macau, inscritos na Associação de Advogados de Macau, e uma firma de advogados de Hong Kong, para trabalharem juntos e reverem os documentos que estão em posse da VML, em Macau, para que

possam determinar se existem documentos em Macau relevantes para a questão da competência do Tribunal sobre a SCL. Para o efeito, a firma de advogados de Hong Kong deverá celebrar com a VML um contrato de prestação de serviços de consultadoria em termos semelhantes aos termos constantes do documento que ora se junta como Anexo 2.

10. A VML não descarta o facto de que se fosse parte num litígio em Macau, a revisão de documentos para efeitos de preparação da sua defesa em Tribunal, não careceria de notificação ou de pedido de autorização para o processamento dos dados pessoais constantes dos respectivos documentos. No entanto, atendendo à natureza especial do presente caso, e à circunstância de a VML não ser parte no processo e o litígio estar a correr termos fora de Macau, e ainda na sequência dos contactos que foram anteriormente estabelecidos pela VML com o V/ Gabinete, consideramos apropriado notificar o V/ Gabinete antes de iniciar a revisão de documentos aqui descrita.

Em face de todo o exposto, consideramos que, nos termos do disposto na alínea 5) do artigo 6.º, da Lei de Protecção de Dados Pessoais (Lei 8/2005), o exercício de revisão de documentos aqui descrito, levado a cabo por advogados de Macau conjuntamente com a firma de advogados de Hong Kong, e o processamento de dados pessoais possivelmente constantes dos documentos em causa, corresponde ao exercício de um direito legítimo por parte da VML, necessário, na medida em que apenas se o mesmo for levado a cabo se poderá determinar se existem documentos relevantes para a defesa da SCL em Macau, e que no presente caso os interesses ou os direitos, liberdades e garantias dos titulares dos dados não saíram comprometidos pela simples revisão e catalogação da informação por advogados e, como tal, tais interesses ou direitos, liberdades e garantias não devem prevalecer sobre o interesse da VML.



Assim, vem a VML, nos termos do disposto no artigo 21.º, n.º 1 da Lei 8/2005, notificar V. Exa. da sua intenção de conduzir o exercício de processamento de dados *supra* descrito.

No entanto, caso assim não se considere — o que não se concede mas se admite por mera cautela — requiere-se, mui respeitosamente, V. Exa. se digne autorizar o exercício de processamento de dados *supra* descrito, nos termos do disposto na alínea 4) do artigo 22.º da Lei 8/2005.

Requer-se ainda a V. Exa. Se digne conferir carácter de urgência ao presente pedido na medida em que a audiência probatória será agendada para breve e atendendo ao potencial volume de documentação da VML que necessita de ser revista.

Junta: 2 documentos

Protesta junta: tradução para Português dos 2 documentos ora juntos

Com os melhores cumprimentos,

General Counsel  
Venetian Macau Limited





(Translation from Portuguese to English, for reference only)

*Dear Coordinator of the  
Office for Personal Data Protection  
Avenida da Praia Grande, n. 804  
Edif. China Plaza, level 13, A-F, Macau*

*Re: Notification about review of documents with personal data in Macau SAR  
Our Ref.: LD1671-2012*

*Dear Coordinator,*

*"Venetian Macau S.A.", in Chinese "威尼斯人澳門股份有限公司" and in English "Venetian Macau, Limited", a limited liability company, with its head office in Macau, Estrada da Baía de Nossa Senhora da Esperança, The Venetian Macao Resort Hotel, Executive Offices – L2, Taipa, registered with the Macau Commercial Registration Office under the number SO 15702, following your letter ref. 0957/GPDP/2012 of 8 August p.p. and the meeting of 6 November p.p., hereby represented by David Fleming, informs as follows:*

*1. As we have referred to in our letter dated 27 June p.p. ref. no. LD0903-2012 and during the meeting held on the 6 November 2012, Sands China Ltd. ("SCL") is a named defendant in a civil lawsuit pending in the District Court of Clark County, Nevada (the "Court")*





*captioned Steven C. Jacobs v. Las Vegas Sands Corp.; Sands China Ltd; Sheldon G. Adelson, et al., case No. A627691-B (the "Jacobs Lawsuit"). Venetian Macau Limited ("VML") is a company incorporated in Macau, sub-concessionaire for the operation of games of fortune and chance, indirectly owned by SCL.*

*2. VML believes it may have in its possession, in Macau, documents that might be relevant for the preparation of the defense of SCL in the Jacobs Lawsuit. However, to confirm whether or not these documents exist, in Macau, VML needs to review information located in its headquarters.*

*3. This letter serves to notify OPDP of the circumstances that involve VML's review of its documents to determine whether VML has in its possession documents relevant to the defense of SCL in the Jacobs Lawsuit, and to explain the reasons why VML believes that this document review is consistent with the Personal Data Protection Act ("PDPA"), approved by Law 8/2005. In case the OPDP has a different understanding of the PDPA – with which we do not agree but concede – this letter serves – alternatively – to request authorization from OPDP for VML to process the personal data which may be contained in the information that will be reviewed, as herein below described.*

*4. The Court in the Jacobs lawsuit is in the process of determining whether it has jurisdiction in that case over SCL. In the near future, at a date that has not yet been formally determined, the Court will conduct an evidentiary hearing during which the parties will submit evidence relevant to the question of the Court's jurisdiction over SCL. If the Court determines that it has jurisdiction over SCL in the Jacobs lawsuit, the proceedings will continue against SCL. If the Court determines that it does not have jurisdiction over SCL, SCL will be dismissed from the lawsuit and the lawsuit will proceed against only the Las Vegas Sands Corporation ("LVSC").*

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

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

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

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

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



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

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

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

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

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



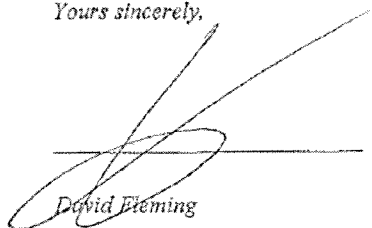
*to Article 22, paragraph 4 of Law 8/2005, this letter serves as a request for OPDP's approval to conduct the data review process herein described.*

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

*Enclosed: 2 documents*

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

*Yours sincerely,*



*David Fleming*

*General Counsel*

To whom this may concern,

The abovementioned official letter has been well received.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Yours faithfully,

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

LD11-2012-187

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

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

事由:  
Assunto

關於通知／許可之申請

負責人先生 / 女士：

上述公函收悉。

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

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

地址：澳門氹仔大馬路804號中華廣場13樓A-F座  
Endereço: Av. do Povo Grande, n.º 804, Edifício China Plaza, 13.º andar, A-F, MACAU  
個人資料保護辦公室 啓  
GDPD - Macieiro

電話：(853)2821-6006  
TEL:

傳真：(853)2821-6416  
FAX:

電子郵箱：info@gdpd.gov.mo  
E-Mail:

APP0625  
A-4 規程附件 0012 00110  
Formato A-4 Imp. Nov. 2012

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

頁碼號 \_\_\_\_\_ 2 \_\_\_\_\_  
Fig. n.º \_\_\_\_\_  
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Of. n.º \_\_\_\_\_  
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法》所指的公共當局，根據第 83/2007 號及第 6/2010 號行政長官批示所賦予的職責，負責監察、協調對《個人資料保護法》的遵守和執行。經本辦公室分析後，茲回覆如下：

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

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

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

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

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

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

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

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

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

<sup>2</sup> 來函的原文為“nos termos do disposto na alínea 4) do artigo 22.º da Lei 8/2005.”。  
HL



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之處，兩條文分別針對不同的個人資料處理，因此，即使 貴公司已根據該法律第 21 條第 1 款向本辦公室作出通知申報，但如涉及在與收集資料的目的不同的情況下使用個人資料，亦應根據同一法律第 22 條第 1 款（四）項及第 23 條的規定，向本辦公室申請許可。由於 貴公司沒有提供足夠的資料，亦沒有說明原本收集資料的目的及與收集的目的不同使用個人資料的必要性，故本辦公室未能審批許可申請。

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

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

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

本辦公室聯絡人：廖先生或何先生，電話：28716066。

此，順頌

台祺！

主任

陳海帆

印信及圖章 - Imagem e Selo

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| <div data-bbox="998 598 1088 682" data-label="Image"> </div> <div data-bbox="925 472 998 808" data-label="Text"> <p>澳門特別行政區政府<br/>         Governo da Região Administrativa Especial de Macau<br/>         權人質釋保領辦公室<br/>         Gabinete para a Protecção de Detidos Presenciais</p> </div> <div data-bbox="690 514 738 798" data-label="Text"> <p>Ofício 1682/9P0P/2012</p> </div> <div data-bbox="552 472 617 619" data-label="Text"> <p>個人資料及通訊處登記表<br/>         Formulário de Registo de Dados Pessoais e<br/>         Endereços de Contacto<br/>         Formulário 21.199.0 - Rev. 2011</p> </div> | <div data-bbox="917 1270 966 1501" data-label="Text"> <p>LD11-2012-187</p> </div> <div data-bbox="633 1018 876 1543" data-label="Image"> </div> <div data-bbox="560 1375 584 1564" data-label="Text"> <p>10000 註冊號碼 - Registo electrónico</p> </div> |
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Defendants' Supplemental Relevancy Log  
January 5, 2015

| Document ID                | Parent Document ID | Date     | Document Type | Author | From         | To   | CC  | BCC | Subject Matter / Purpose           | Reason  |
|----------------------------|--------------------|----------|---------------|--------|--------------|--|---|-----|------------------------------------|---|
| 1<br>F01559-E0001-00002789 |                    | 7/7/2008 | Email         |        | VML Employee | Austal Employee;<br>CKS Employee;<br>CKS Employee;<br>CKS Employee;<br>CKS Employee;<br>CKS Employee;<br>Country Foods Employee;<br>Unaffiliated third party; VML Attorney; VML Employee; VML Employee; VML Employee; VML Employee | VML Employee;<br>VML Employee;<br>VML Employee;<br>VML Employee |     | Bi-Weekly Ferry Operations Meeting | Document is not responsive or relevant to agreements for shared services between SCL and LVSC or to services performed by LVSC on behalf of SCL |

The remainder of this exhibit has been uploaded through the Court's FTP site.

Dear:

Person in charge:

The Venetian Macao. Venetian Cotai Limited

The Venetian Macao -Resort-Hotel

Estrada da Baía de N. senhora da Esperança, s/n

Tapa, Macau

Our ref. 1090/GPDP/2011 of 28/10/2011

**Re: Eventual transfer of personal data from Venetian Macao, Venetian Cotai Limited to offshore Macau SAR**

Re your letter sent to this Office a few days ago, in respect of your company responding to a subpoena issued by the Securities and Exchange Commission (SEC) in the USA and cooperating with the Department Of Justice's (DOJ) investigation, and with an eventual transfer of personal data from employees and former employee of the company and Sands China Limited (SCL), as well as the registration of transactions in emails, hard copies and soft copies, we hereby reply as follows:

**I. About the application of the Macau Personal Data Protection Act**

Pursuant to Article 4 (1) (1) of the Macau Personal Data Protection Act (Act), personal data is any information relating to any identified or identifiable individual. According to the information provided by your company, the information to be transferred is personal data of employees, former employees and clients of the Company and of SCL, as well as any registration of transactions in emails, hard copies and soft copies. In addition, the information also involves, inevitably, personal data of the Company's clients, which is also data relating to an identified or identifiable individual.

Pursuant to article 4 (1) (3) of the Act, the processing of personal data is any "*operation or set of operations which is performed upon personal data, with or without the use of automatic means, such as collection, registration, organization, conservation, adaptation or amendment, recuperation, consultation, usage, communication by transmission, diffusion or disclosure, with comparison and combination, as well as its blockage, deletion or destruction*". Therefore, the processing of personal data above referred is subject to the Act, in accordance with its article 3 (1).

**II. About the data controller**

Pursuant to article, 4 (1) (5) of the Act, data controller is "*the natural or legal person, public entity, public agency or department or any other body, which alone or jointly with others, determines the purposes and means of processing of personal data*". In this case, your company has the authority of control and of decision over the data and therefore is deemed to be the data controller.



### **III. About the purpose of processing of data**

Pursuant to Article 5 of the Act, personal data must be collected for specific, explicit and legitimate purposes which are directly related with the scope of business of the data controller. In addition, personal data should not be processed in a way incompatible with the purpose which determined its collection. This means that the legality, legitimacy and proportionality of the processing of personal data depend on the purposes determined by the data controller at the time of its collection.

In accordance with the information provided by your company, the purpose of processing of personal data, in the present case, is to reply to a request of SEC and to collaborate with DOJ's investigation.

### **IV. Legitimacy of the processing of personal data**

It is having this purpose in mind – to respond to a subpoena issued by the SEC and to collaborate with the DOJ's investigation – that we have to analyze whether or not your company has legitimacy to process the personal data.

Articles 6 to 8 of the Act, set forth the rules on the legitimacy of processing of personal data. If the personal data involved in the processing is not sensitive personal data (article 7) or personal data relating to suspicious of illicit activities, criminal or administrative offences (article 8), the data may only be processed under one of the legitimacy conditions stated in article 6.

The purpose of processing of personal data in this case is to respond a subpoena of the SEC and to collaborate with the DOJ, and it involves the processing of personal data relating to the commission of illegal activities including criminal offences. According to the information provided by your company, within the data to process there is sensitive data. As a consequence, your company should be under one of the legitimacy conditions mentioned in articles 6, 7 or 8 (according to the nature of the personal data involved) of the Act to be able to process such sensitive data.

#### **1. Legitimacy for processing general personal data**

Pursuant to article 6 of the Act, the processing of personal data is only allowed with the unambiguous consent of the data subject or in case the processing is necessary as follows: *1) for the performance of a contract or contracts to which the data subject is a party or in order to take steps at the request of the data subject prior to entering into a contract or a declaration of will to negotiate the contract; 2) for compliance with a legal obligation to which the data controller is subject to; 3) in order to protect vital interests of the data subject, if the latter is physical or legally incapable of giving its consent; 4) for the performance of a task carried out in the public interest or in the exercise of official authority vested in the data controller or a third party to whom the data is disclosed; 5) for pursuing legitimate interests of the data controller or of the third party to whom the data is disclosed, where such interests should be prevail over the fundamental rights, freedoms and guarantees of the data subject.*

In the present case, the processing of personal data, that is not of sensitive nature or in respect of suspicious of criminal or illegal activities, with the purpose above mentioned, may only be carried out where the company has secured the consent from the data subjects or on one of the conditions for processing personal data with legitimacy under paragraphs 1), 2) or 5) of article 6 of the Act.

In respect of the consent of the data subject, it will be subject to our analyses in the point V *infra*. According to the available information, your company does regulate the processing of personal data on the employment agreements. For that reason, your company does not have the legitimacy set forth in Article 6 (1) of the Act to process personal data for the purposes above mentioned.

As regards to Article 6 (2) of the Act, please note that the reference to *compliance with a legal obligation to which the data controller is subject* does not include compliance with legal requirements from jurisdictions other than Macau. In addition, the Concession Agreement for Games of Fortune and Chance, signed by Macau SAR and Galaxy Casino Limited, states in clause 3 and clause 4 the following: *"This agreement of concession is subject exclusively to Macau SAR laws."* *"The concessionaire hereby agrees and abides to comply with Macau laws and shall not invoke any legislation enacted outside of Macau, namely to be able to be exempted to comply with Macau laws or to be exempted from conducts to which the concessionaire is obliged or subject to."* Consequently, under Article 6 (2) of the Act, the company does not have legitimacy to process personal data with the purpose above mention. It is to stress that no one expects your company to process personal data to comply with *legal obligations from outside of Macau*. In case your company processes personal data to comply with legal obligations from outside Macau that should be considered as *"processing of personal data for purposes not giving rise to its collection"* in accordance with article 22(1) (4), which is subject to the approval of OPDP.

In case your company wants to make use of Article 6(5) of the Act, it would have to provide evidences that the interests or fundamental rights, freedoms and guarantees of the data subjects should be overridden by the interest of the company and it must correspond to a need of the company. Up to the moment, there are no evidences that the interests for fundamental rights, freedoms and guarantees of the data subject should be overridden by the interests of the company. Thus, pursuant to article 6(5) of the Act, your company does not have legitimacy to process personal data for the purposes above mentioned.

## **2. Legitimacy for processing sensitive personal data**

The legitimacy for processing sensitive personal data is regulated under Article 7 (2) (3) and 7 (3) (4). As regards to the unambiguous consent of the data subject referred to in Article 7 (2) (3), it will be analyzed in Point V *infra*. In case the processing of personal data is for the purposes of a court proceeding, the processing should be necessary. In addition, the court proceeding should be in Macau. Court proceedings outside Macau SAR have to be analyzed on a case by case basis, considering, namely, the need for the processing of data. In the present case, the company and the data subjects are not a party to the litigation, and there is no evidence of the need of the related data processing. Therefore, under article (7) (4) (3), your company does not have the legitimacy to process personal data for the purposes above referred.

## **3. Legitimacy for processing data of suspicion of illegal activities, criminal and administrative offences**

Article 8 of the Act, states that: " 1. *Central registers relating to persons suspected of illegal activities, criminal and administrative offences and decisions applying penalties, security measures, fines and additional penalties may only be created and kept by public services vested with that specific responsibility by a legal provision or a statutory regulation with organizational nature, subject to observance of procedural and data protection rules in force.* 2. *The processing of personal data relating to persons suspected of illegal activities, criminal and administrative offences and decisions applying penalties, security measures, fines and additional penalties may be carried out, subject to observance of the rules for the protection of data and the security of information, when such processing is necessary for pursuing the legitimate purposes of the controller, provided the fundamental rights and freedoms of the data subject are not overriding.* 3. *The processing of personal data for the purposes of police investigations shall be restricted to the processing necessary to prevent a specific danger or to prosecute a particular offence and to exercise the responsibilities provided for in a legal provision, in a statutory regulation with organizational nature, or in the terms of instruments of international law or inter-regional agreements applicable in the MSAR."*

Your company is not any of the public departments mentioned in Article 7(1) and is also not an entity responsible for criminal investigation referred to in Article 7(3), and therefore does not have legitimacy to process personal data related with the suspicious of illegal and criminal activities based on Article 7 (1) or (3).

As regards to article 7(2), your company would need to prove that the interests for fundamental rights, freedoms and guarantees of the data subject should be overridden by the interest of the company and the related processing is necessary. Up to the moment, no data shows that the fundamental rights, freedoms and guarantees of the data subjects should be overridden by the interests of the company. In light of the above, your company does not have the legitimacy set forth in Article 8(2) of the Act to process personal data for the above mentioned purposes.

#### **V. The data subject's consent**

The processing of any personal data with the consent of the data subject is legitimate. Pursuant to Article 4 (1) (9) of the Act, the data subject's consent shall mean any *freely given, specific and informed, indication of his wishes by which the data subject signifies his agreement to personal data relating to him being processed.* The requirement of a free consent indicates the free choice of the data subject and in case of refusal that the data subject will not be subject to unfavorable consequences. For instance, in an employment relationship, it has to be carefully assessed whether or not the consent of an employee was free or if it was affected by the influence of the employer. In addition, consent must be freely revocable, and once it is revoked the data controller may not further process the personal data of such data subject, unless as provided in the law. *Specific* means that the consent is given for a specific and predetermined purpose. On the present case, the consent should be specific for a specific purpose which is to respond to a SEC subpoena and to collaborate with DOJ's investigation. In case the consent goes farther than the referred two purposes, it won't be considered a specific consent.

The processing of personal sensitive data requires an "*explicit consent*" of the data subject.

In addition, the data subject may only provide its consent in relation to its own personal data and not in relation to the personal data of third party data subjects, unless they were granted a specific Power of Attorney for the purpose or as provided in the law.

In summary, your company may only process the personal data after securing the consents of the data subjects.

## VI. Transfer of personal data to outside the MSAR

The transfer the personal data to outside the MSAR is subject to articles 19 and 20 of the Act. If your company is able to secure the consent the data subject for the transfer of personal data to outside Macau, for the purposes mentioned above, it has to notify our department.

In addition, pursuant to article 20(3) of the Act, the transfer of personal data which is necessary for the protection of defense, public security and public health, and for the prevention, investigation and prosecution of criminal offences shall be governed by special legal provisions or by the international conventions and regional agreements to which the MSAR is party.

Moreover, in the present case, as your company does not have legitimacy to process the personal data it also does not have legitimacy to transfer the same personal data to outside MSAR.

## VII. Liabilities

Pursuant to Article 33(2), the breach of Articles 6 to 9, 19 and 20 of the Act, is subject to a fine MOP8,000 – MOP80,000. In addition, if data is improperly transferred to outside Macau, the person responsible for such transfer shall be liable for breaching the professional secrecy (article 18 of the Act) and shall be considered to have committed the crime foreseen in article 41 of the Act; if data is transferred improperly and processed for other purposes, it may be considered a crime pursuant to Article 37 (1) (3). At the same time, the data controller might be also subject to accessory penalties as foreseen in Article 43 of the Act, namely: temporary or permanent prohibition of processing data, publication of the judgment, public censure.

If you have any doubts or queries, please do not hesitate to contact Mr. XXX or Mr. XXX by phone on XXXXXX.

Best Regards,

The Coordinator of the Office For Protection of Personal Data,

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

澳門氹仔望德聖母灣大馬路  
澳門威尼斯人度假村酒店  
威尼斯人澳門股份有限公司  
負責人先生 / 女士 台啓  
Para: Senhor Responsável de  
The Venetian Macao, Venetian Cotai Limited.  
The Venetian® Macao-Resort-Hotel  
Estrada da Baía de N. Senhora da Esperança, s/n,  
Taipa, Macao

來函編號  
Sua referência

來函日期  
Sua comunicação de

發函編號  
Nossa referência  
1090/GPDP/2011

澳門郵政信箱  
C. Postal

號  
- Macau

28/10/2011

事由：  
Assunto

關於威尼斯人澳門股份有限公司擬將個人資料轉移到澳門特區以外的地方  
Sobre a eventual transferência de dados pessoais de The Venetian Macao.  
Venetian Cotai Limited para fora da RAEM

負責人先生 / 女士 Exmo. Senhor Responsável :

關於本辦公室早前收到 貴公司的來函，指為回應美國 “O Securities and Exchange Commission dos Estados Unidos da América” 的要求和配合其與美國 “O Departamento de Justiça Norte Americano” 的調查， 貴公司擬將威尼斯人澳門股份有限公司及/或金沙中國有限公司僱員、前僱員的個人資料，以及相關的，以電郵、電子和紙張表格方式儲存的交易紀錄轉移到美國一事，回覆如下：

Sobre o assunto levantado pelo ofício da vossa firma enviado há dias para este Gabinete, no que diz, para responder às exigências do *Securities and Exchange Commission* dos Estados Unidos da América e em cooperação com a investigação do Departamento de Justiça norte-americano, a vossa firma irá transferir dados pessoais dos empregados e ex-empregados da vossa firma e *Sands China Limited*, bem como registos de transacções guardados por forma de email, formulários electrónicos e em papel, respondemos de seguinte forma:

地址：澳門南灣大馬路804號中華廣場13樓A-F座  
Endereço：Av. da Praia Grande, n.º 804, Edifício China Plaza, 13.º andar, A-F, MACAU

個人資料保護辦公室 格式一  
GPDP - Modelo I

電話：(853)2871 6006  
TEL.

傳真：(853)2871 6116  
FAX.

電子郵件：info@gpdp.gov.mo  
E-Mail

A-4 規例附件 2010 年 11 月  
Formato A-4 Incp. Nov. 2010

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澳門特別行政區政府  
Governo da Região Administrativa Especial de Macau  
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一、關於《個人資料保護法》的適用

根據澳門第 8/2005 號法律(《個人資料保護法》)第 4 條第 1 款(一)項的規定，個人資料是指與某個身份已確定或身份可確定的自然人有關的任何資訊。據 貴公司提供的資料，擬轉移的資料包括威尼斯人澳門股份有限公司及/或金沙中國有限公司僱員和前僱員的個人資料，以及以電郵、電子和紙張表格方式儲存的交易紀錄。這些資料不可避免涉及顧客的個人資料。可見，上述資料為與某個身份已確定或身份可確定的自然人有關的資訊，因此屬於個人資料。

I. Sobre a aplicação da Lei da Protecção de Dados Pessoais

Conforme o disposto da alínea 1) do número 1 do artigo 4.º da Lei da Protecção de Dados Pessoais, dados pessoais são qualquer informação relativa a uma pessoa singular identificada ou identificável. De acordo com as informações fornecidas pela vossa firma, as informações que serão transferidas são dados pessoais dos empregados, ex-empregados e clientes da vossa firma e *Sands China Limited*, bem como registos de transacções guardados por forma de email, formulários electrónicos e em papel. Por outro lado, os dados envolvem inevitavelmente os dados pessoais de clientes, sendo visivelmente dados pessoais relativos a uma pessoa singular identificada ou identificável.

根據《個人資料保護法》第 4 條第一款(三)項的規定，個人資料的處理是指“有關個人資料的任何或者一系列的操作，不管該操作是否通過自動化的方法進行，諸如資料的收集、登記、編排、保存、改編或修改、復原、查詢、使用，或者以傳送、傳播或其他透過比較或互聯的方式向他人通告，以及資料的封存、刪除或者銷毀”。因此，貴公司對上述個人資料進行處理，根據同一法律第 3 條第 1 款的規定，受《個人資料保護法》規範。



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Conforme a alínea 3) do número 1 do artigo 4.º da Lei da Protecção de Dados Pessoais, o tratamento de dados pessoais é "qualquer operação ou conjunto de operações sobre dados pessoais, efectuadas com ou sem meios automatizados, tais como a recolha, o registo, a organização, a conservação, a adaptação ou alteração, a recuperação, a consulta, a utilização, a comunicação por transmissão, por difusão ou por qualquer outra forma de colocação à disposição, com comparação ou interconexão, bem como o bloqueio, apagamento ou destruição". Por conseguinte, o tratamento das informações pessoais atrás referidas é regulado pela referida lei de acordo com o seu número 1 do artigo 3.º.

## 二、關於個人資料處理的實體

根據《個人資料保護法》第4條第一款(五)項的規定，負責處理個人資料的實體是指“就個人資料處理的目的和方法，單獨或與他人共同作出決定的自然人或法人，公共實體、部門或任何其他機構”。本案中，因貴公司對上述資料具有操控權和決定權，故為負責處理個人資料的實體。

## II. Sobre a entidade responsável de tratamento de dados pessoais

Conforme a alínea 5) do número 1 do artigo 4.º da Lei da Protecção de Dados Pessoais, o responsável pelo tratamento refere-se a: "a pessoa singular ou colectiva, a entidade pública, o serviço ou qualquer outro organismo que, individualmente ou em conjunto com outrem, determine as finalidades e os meios de tratamento dos dados pessoais". No caso presente, a vossa firma tem competência de controlo e decisão para com as informações, assim constitui o responsável pelo tratamento.

## 三、關於處理個人資料的目的



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根據《個人資料保護法》第5條的規定，個人資料應為了特定、明確、正常和與負責處理實體的活動直接有關的目的而收集，之後對資料的處理亦不得偏離有關目的。也就是說，個人資料處理的合法性、正常性、適度性等均取決於負責處理個人資料的實體所訂定的目的。

### III. Sobre as finalidades do tratamento de dados pessoais

De acordo com o artigo 5.º da Lei da Protecção de Dados Pessoais, os dados pessoais são recolhidos para finalidades determinadas, explícitas e legítimas e directamente relacionadas com o exercício da actividade do responsável pelo tratamento, não podendo ser posteriormente tratados de forma incompatível com essas finalidades. Ou seja, a legalidade, legitimidade e proporcionalidade do tratamento de dados pessoais dependem das finalidades fixadas pelo responsável do tratamento.

根據 貴公司提供的資料，處理相關資料的目的是為了回應美國“O Securities and Exchange Commission dos Estados Unidos da América”的要求和配合其與美國“O Departamento de Justiça Norte Americano”的調查。

Conforme os dados fornecidos pela vossa firma, a finalidade desse tratamento é para corresponder às exigências do *Securities and Exchange Commission* dos Estados Unidos da América e colaborar com a investigação do Departamento de Justiça norte-americano.

### 四、處理個人資料的正當性

在此目的之下，須分析 貴公司是否具有正當性處理相關的個人資料。

《個人資料保護法》第6條至第8條規定了負責處理個人資料的實體處理個





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人資料的正當性。如有關個人資料屬於《個人資料保護法》第7條所指的敏感資料和第8條所指的懷疑從事不法活動、刑事違法行為或行政違法行為資料以外的其他個人資料，則須具有第6條所指的任一正當性條件，才可以進行處理。

#### IV. Legitimidade do tratamento de dados pessoais

Com esta finalidade, há que analisar se a vossa firma tem a legitimidade para o tratamento de dados pessoais.

Os artigos entre 6.º a 8.º da Lei da Protecção de Dados Pessoais estipulam as legitimidades para o tratamento de dados pelo responsável do tal acto. Se os dados não forem dados sensíveis apontados no artigo 7.º e dados relativos a pessoas suspeitas de actividades ilícitas, infracções penais, infracções administrativas apontados no artigo 8.º, só podem ser tratados com uma das condições de legitimidade estipuladas pelo artigo 6.º.

由於本個案的處理目的為：回應美國“O Securities and Exchange Commission dos Estados Unidos da América”的要求和配合其與美國“O Departamento de Justiça Norte Americano”的調查，因此，涉及對不法行為，甚至刑事違法行為資料的處理。而 貴公司提供的資料顯示，相關資料中亦會包括敏感資料。因此，在處理過程中， 貴公司須因應資料性質的不同而分別取得上述法律第6條、第7條或第8條規定的正當性。

A finalidade do tratamento do caso presente é para corresponder às exigências do *Securities and Exchange Commission* dos Estados Unidos da América e colaborar com a investigação do Departamento de Justiça norte-americano, envolvendo o tratamento de dados de actos ilegais até infracções penais. De acordo com as informações fornecidas pela vossa firma, entre essas informações estão incluídas dados sensíveis. Em consequência,



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a vossa firma deve obter as legitimidades referidas nos artigos 6.º, 7.º e 8.º respectivamente para dados de natureza diferente.

(一) 處理一般資料的正當性

根據《個人資料保護法》第6條的規定：“個人資料的處理僅得在資料當事人明確同意或在以下必要的情況下方可進行：(一)執行資料當事人作為合同一方的合同，或應當事人要求執行訂立合同或法律行為意思表示的預先措施；(二)負責處理個人資料的實體須履行法定義務；(三)為保障資料當事人的重大利益，而資料當事人在身體上或法律上無能力作出同意；(四)負責處理個人資料的實體或被告知資料的第三人在執行一具公共利益的任務，或者在行使公共當局權力；(五)為實現負責處理個人資料的實體或被告知資料的第三人的正當利益，只要資料當事人的利益或權利、自由和保障不優於這些正當利益。”

1. Legitimidade para o tratamento de dados gerais

De acordo com o artigo 6.º da Lei da Protecção de Dados Pessoais: O tratamento de dados pessoais só pode ser efectuado se o seu titular tiver dado de forma inequívoca o seu consentimento ou se o tratamento for necessário para: 1) Execução de contrato ou contratos em que o titular dos dados seja parte ou de diligências prévias à formação do contrato ou declaração da vontade negocial efectuadas a seu pedido; 2) Cumprimento de obrigação legal a que o responsável pelo tratamento esteja sujeito; 3) Protecção de interesses vitais do titular dos dados, se este estiver física ou legalmente incapaz de dar o seu consentimento; 4) Execução de uma missão de interesse público ou no exercício de poderes de autoridade pública em que esteja investido o responsável pelo tratamento ou um terceiro a quem os dados sejam comunicados; 5) Prossecução de interesses legítimos do



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responsável pelo tratamento ou de terceiro a quem os dados sejam comunicados, desde que não devam prevalecer os interesses ou os direitos, liberdades e garantias do titular dos dados.

本個案中，基於上述的目的，在處理屬於敏感資料或懷疑從事不法活動、刑事違法行為或行政違法行為資料以外的資料(一般資料)時，貴公司僅可能取得資料當事人的同意或具有第6條(一)項、(二)項或(五)項所指的正当性。

關於當事人同意的部分將在下面第五點進行分析。現有的資料顯示，貴公司未有就相關的個人資料處理在與員工簽署的僱傭合同中有加以規定，因此不具有第6條(一)項所指的正当性。

No caso presente, ao tratar dados sem ser sensíveis ou de suspeitas de actividades ilícitas, infracções penais e infracções administrativas com a finalidade descrita acima, a vossa firma só pode obter o consentimento do titular dos dados ou as legitimidades apontadas nas alíneas 1), 2) e 5) do artigo 6.º.

Relativamente ao consentimento do titular dos dados, será alvo de análise no próximo ponto V. As informações existentes demonstram que a vossa firma não regulou o tratamento de dados pessoais no contrato de trabalho assinado com os trabalhadores, perdendo assim a legitimidade descrita na alínea 1) do artigo 6.º.

而第6條(二)項所指的必須履行法定義務的規定，一般而言，並不包括負責處理個人資料的實體履行澳門特別行政區以外的法律所規定的義務。再者，根據銀河娛樂場股份有限公司與澳門特別行政區簽署的《澳門特別行政區娛樂場幸運



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博彩或其他方式的博彩經營批給合同》<sup>1</sup>（下簡稱《批給合同》）第3及第4條的規定：“本批給合同僅受澳門特別行政區法律的約束。”“承批公司必須遵守澳門特別行政區的適用法例，並放棄尤其以免除履行其必須履行的或施加於其身上的義務或行為為目的而援引澳門特別行政區以外地方的法例。”因此，基於上述的目的處理相關個人資料，貴公司並不具有第6條(二)項所指的正常性。而且，必須強調，因同樣原因，在收集個人資料時，任何人都不會預期貴公司以“須履行澳門特別行政區以外的法律所規定的義務”作為個人資料處理目的，貴公司的有關操作屬於在“與收集資料的目的不同的情況下使用個人資料”，按同一法律第22條第一款（四）項規定，須受本辦公室預先監控。

E o cumprimento de obrigação legal a que o responsável pelo tratamento previsto na alínea 2) do artigo 6.º não abrange em princípio o cumprimento das obrigações legais fora da RAEM do mesmo responsável. Mais de acordo com as cláusulas 3.ª e 4.ª do Contrato de Concessão para a Exploração de Jogos de Fortuna ou Azar ou Outros Jogos em Casino na Região Administrativa Especial de Macau, assinado entre a Região Administrativa Especial de Macau e Galaxy Casino, S.A.<sup>1</sup> (adiante designado como Contrato de Concessão); “O presente contrato de concessão está sujeito exclusivamente à lei da Região Administrativa Especial de Macau.” “A concessionária obriga-se a cumprir a legislação aplicável na Região Administrativa Especial de Macau, renunciando a invocar legislação do exterior da Região Administrativa Especial de Macau, nomeadamente para se eximir ao cumprimento de obrigações ou a condutas a que esteja obrigada ou que sobre ela impendam.” Por consequência, para o tratamento de dados

<sup>1</sup> 根據第 207/2004 號行政長官批示，銀河娛樂場股份有限公司將上述批給合同轉批給威尼斯人澳門股份有限公司。

<sup>1</sup> De acordo com o Despacho do Chefe do Executivo n.º 207/2004, a Galaxy Casino, S.A. subconcessionou o contrato para a Venetian Macao. Venetian Cotai Limited.



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personais com a finalidade descrita acima, a vossa firma não tem a legitimidade apontada na alínea 2) do artigo 6.º. É de salientar também que por mesma razão ninguém espera que a vossa firma assuma "o cumprimento das obrigações legais fora da RAEM" como finalidade para tratamento de dados pessoais, a conduta da vossa firma pertence ao disposto da alínea 4) do n.º 1 do artigo 22.º da mesma lei, "A utilização de dados pessoais para fins não determinantes da recolha.", sob controlo prévio deste Gabinete.

如要符合第 6 條(五)項規定的正當性, 則 貴公司須證明資料當事人的利益或權利、自由及保障不優於 貴公司的利益, 且有關處理具有必要性。到目前為止, 沒有資料顯示資料當事人的利益或權利、自由及保障不優於 貴公司的利益。因此, 貴公司同樣不具備第 6 條(五)項所指的正確性。

Caso queira corresponder ao disposto da alínea 5) do artigo 6.º, a vossa firma tem que provar que o interesse ou direito, liberdade ou garantia dos titulares não prevaleçam perante o interesse da vossa firma e que haja necessidade. Até ao momento presente, não há informações que justifiquem a hipótese acima mencionada. Por isso, a vossa firma não dispõe da legitimidade da alínea 5) do artigo 6.º.

## (二) 處理敏感資料的正確性

對於相關處理中涉及的敏感資料, 貴公司可能具有的正確性包括第 7 條第二款(三)項及第三款(四)項所指的正確性。關於第 7 條第二款(三)項所指的當事人明確許可, 亦將在第五點作分析。如因第 7 條第三款(四)項所指的“司法訴訟”而處理資料, 則須符合有關資料的處理具有“必要性”的條件。另外, 一般而言也是指在澳門特別行政區進行的司法訴訟, 而對於在澳門特別行政區以外的司法



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訴訟則需視個案性質，結合其他適用的澳門特別行政區現行法律規定作具體分析，尤其需分析有關處理的必要性。因此，在本個案中，貴公司及相關的資料當事人不是訴訟當事人，亦沒有資料顯示相關資料的處理具必要性。故貴公司不具有第7條第三款(四)項所規定的正當性。

## 2. Legitimidade para o tratamento de dados sensíveis

Para os dados sensíveis envolvidos no tratamento, a vossa firma poderia dispor da legitimidade apontada pela alínea 3) do n.º 2 e alínea 4) do n.º 3 do artigo 7.º. Em relação ao consentimento expresso do titular dos dados previsto na alínea 3) do n.º 2 do mesmo artigo será abordado no ponto V. Caso o tratamento de dados tenha origem do “processo judicial” referido na alínea 4) do n.º 3 do artigo 7.º, tem que satisfazer a condição de “necessidade”. Por outro lado, fala-se normalmente dos processos judiciais ocorridos na RAEM. Em relação aos casos fora da RAEM, dependem da natureza dos casos com análise em conjunto com outras legislações vigentes adequadas da RAEM, nomeadamente a análise da necessidade do tratamento. Consequentemente, neste caso, tanto a vossa firma como o titular dos dados não se trata de uma parte do referido processo judicial, e não há informações que justifiquem a necessidade do tratamento de dados. Por conseguinte, a vossa firma não dispõe da legitimidade definida pela alínea 4.º do n.º 3 do artigo 7.º.

(三) 處理懷疑從事不法活動、刑事違法行為或行政違法行為的資料的正當性

關於《個人資料保護法》第8條對處理懷疑從事不法活動、刑事違法行為或行政違法行為資料的規範，該條文規定：“一、只有法律規定或具組織性質的規



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章性規定賦予特定權限的公共部門，在遵守現行資料保護程序和規定的情況下，可設立和保持關於懷疑某人從事不法行為、刑事或行政違法行為，以及判處刑罰、保安處分、罰金或附加刑決定的集中登記。二、如處理是負責實體實現其正當目的所必需，且資料當事人的權利、自由和保障不優先，在遵守資料保護和資訊安全規定的情況下，得對關於懷疑某人從事不法行為、刑事或行政違法行為，以及判處刑罰、保安處分、罰金或附加刑決定的個人資料進行處理。三、基於刑事偵查目的而處理個人資料，應僅限於預防一具體的危險或阻止一特定違法行為，以及行使法律規定或具組織性質的規章性規定所賦予的權限而必需的，並應遵守適用於特區的國際法文書或區際協定的規定。”由於貴公司不屬於上述條文第一款所指的公共部門，亦非第三款所指的負責刑事偵查的機構，因此，在本個案中，貴公司只有可能符合上述條文第二款的規定。但同樣須證明資料當事人的權利、自由和保障不優先於貴公司的正當利益，且有關處理為必須。到目前為止，亦沒有資料顯示資料當事人的利益或權利、自由及保障不優於貴公司的利益。因此，貴公司同樣不具備第8條(二)款所指的正当性。

3. Legitimidade para o tratamento de dados de suspeitas de actividades ilícitas, infracções penais e infracções administrativas

Relativamente à regulação do tratamento dos dados de suspeitas de actividades ilícitas, infracções penais e infracções administrativas do artigo 8.º da Lei da Protecção de Dados Pessoais, o artigo diz: 1. A criação e manutenção de registos centrais relativos a pessoas suspeitas de actividades ilícitas, infracções penais, infracções administrativas e decisões que apliquem penas, medidas de segurança, multas e sanções acessórias só pode ser mantida por serviços públicos com competência específica prevista em disposição legal ou disposição regulamentar de natureza orgânica e observando normas procedimentais e de protecção de dados vigentes. 2. O



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tratamento de dados pessoais relativos a suspeitas de actividades ilícitas, infracções penais, infracções administrativas e decisões que apliquem penas, medidas de segurança, multas e sanções acessórias pode ser efectuado desde que observadas as normas de protecção de dados e de segurança da informação, quando tal tratamento for necessário à execução de finalidades legítimas do seu responsável, desde que não prevaleçam os direitos, liberdades e garantias do titular dos dados. 3. O tratamento de dados pessoais para fins de investigação policial deve limitar-se ao necessário para a prevenção de um perigo concreto ou repressão de uma infracção determinada, para o exercício de competências previstas em disposição legal ou disposição regulamentar de natureza orgânica e ainda nos termos de instrumento de direito internacional ou acordo inter-regional a que a RAEM se ache vinculado. A vossa firma não é serviços públicos mencionados no n.º 1 do artigo nem organismos de investigação criminal referido do n.º 3 do mesmo artigo, só podendo corresponder ao disposto do n.º 2 deste artigo. Porém, a vossa firma tem que provar igualmente que o interesse ou direito, liberdade ou garantia dos titulares não prevaleçam perante o interesse da vossa firma e que haja necessidade. Até ao momento presente, não há informações que justifiquem a hipótese acima mencionada. Por isso, a vossa firma não dispõe da legitimidade da alínea 2) do artigo 8.º.

#### 五、關於資料當事人的同意

對於資料當事人同意這一正當性條件，根據《個人資料保護法》第4條第一款(九)項的規定，資料當事人的同意是指任何“自由”、“特定”且在“知悉”的情況下作出的意思表示，且該表示表明當事人接受對其個人資料的處理。“自由”的要件是指資料當事人能自行作出選擇，即使拒絕作出同意，亦無須承擔任何不利後果。例如，在僱傭關係中，須特別注意資料當事人會否受到其僱主的影





響而未能作出自由的選擇<sup>2</sup>。另一方面，同意亦可以自由收回，一旦資料當事人收回同意，而負責實體又不具其他正當性條件時，其不得再處理有關資料。“特定”是指相關的同意，是就一特定的目的所需的個人資料處理而作出。就本個案的情況，即為 貴公司“回應美國 ‘O Securities and Exchange Commission dos Estados Unidos da América’ 的要求和配合其與美國 ‘O Departamento de Justiça Norte Americano’ 的調查”的特定目的而作出的特定同意。如同意所表達的內容超出這一目的，則不能視為“特定”的同意。

#### V. Sobre o consentimento dos titulares

Em relação à condição de legitimidade de consentimento do titular, conforme a alínea 9) do n.º 1 do artigo 4.º, «Consentimento do titular dos dados»: qualquer manifestação de vontade, livre, específica e informada, nos termos da qual o titular aceita que os seus dados pessoais sejam objecto de tratamento. O requisito de “Livre” indica a escolha livre do titular, e mesmo que escolhe a recusa, não tem que assumir consequências desfavorecidas. Por exemplo, na relação entre empregador e empregado, há de dar atenção se o titular de dados não efectua uma escolha livre sob a influência do empregador<sup>2</sup>. Por outro lado, o consentimento pode ser retirado livremente, e logo retirado, o responsável não pode tratar os dados se não tiver outras condições de legitimidade. “Específica” quer dizer que o consentimento é feito para tratamento de dados para uma determinada finalidade. No caso presente, trata-se de um consentimento específico para uma determinada finalidade de corresponder às exigências do *Securities and Exchange Commission* dos Estados Unidos da América e colaborar com a investigação do Departamento de Justiça norte-americano. Caso o conteúdo do consentimento ultrapassar a finalidade, não pode ser considerado um consentimento “específico”.

<sup>2</sup> 參考歐盟發出的 “Opinion 15/2011 on the definition of consent”, adopted on 13 July 2011, 01197/11/EN, WP187.

<sup>2</sup> Vide “Opinion 15/2011 on the definition of consent” da União Europeia, adopted on 13 July 2011, 01197/11/EN, WP187



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而對於敏感資料的處理，則要求取得資料當事人的“明確許可”。

另外，資料當事人僅能對與其本人有關的個人資料處理作出同意。換言之，其不能代表其他人作出同意，除非取得其他人的有效和合法的授權，又或存在其他符合法律規定的情況。

因此，只有 貴公司取得資料當事人的有效同意，才可以對該等資料進行處理。

O tratamento de dados sensíveis obriga o “consentimento expresso”.

Por outro lado, o titular dos dados só pode dar consentimento ao tratamento dos dados próprios, não podendo ser dos outros a não ser que obtenha procurações válidas e legais, ou corresponda às outras condições previstas pelas legislações.

Em resumo, a vossa firma só pode tratar os dados após a obtenção do consentimento efectivo dos titulares.

#### 六、關於將資料轉移到澳門以外的地方

針對將個人資料轉移到特區以外的地方，《個人資料保護法》第 19 及第 20 條作出了規定，如 貴公司在資料當事人同意或明確許可的情況下，為上述目的將相關的個人資料轉移出澳門，須向本辦公室作出通知。

另外，如相關資料的轉移屬《個人資料保護法》第 20 條第 3 款的情況，即：如個人資料的轉移成為維護公共安全、預防犯罪、刑事偵查和制止刑事違法行為以及保障公共衛生所必需的措施時，個人資料的轉移應由專門法律或適用於特區的國際法文書以及區際協定規範。



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除此之外，在本個案中，由於 貴公司不具有正當性進行該項個人資料處理的操作，更談不上將這些個人資料轉移到澳門以外的地方。

VI. Sobre a transferência de dados para fora de Macau

Relativamente à transferência de dados pessoais para local situado fora da RAEM, a Lei da Protecção de Dados Pessoais regula a situação com os seus artigos 19.º e 20.º, caso a vossa firma tenha obtido o expresse consentimento ou autorização do titular dos dados, a transferência de dados pessoais para fora de Macau com a finalidade acima referida, tem que notificar este Gabinete.

Por outro lado, se a transferência dos dados for a situação prevista pelo n.º 3 do artigo 20.º, ou seja: A transferência de dados pessoais que constitua medida necessária à protecção da defesa, da segurança pública, da prevenção, investigação e repressão das infracções penais e da protecção da saúde pública é regida por disposições legais específicas ou pelos instrumentos de direito internacional e acordos inter-regionais a que a RAEM se ache vinculada.

Para além disso, no caso presente, a vossa firma não dispõe de legitimidades para o tratamento dos dados pessoais, muito menos de transferir os dados para fora de Macau.

七、相關的法律責任

須注意的是，倘若負責處理個人資料的實體違反《個人資料保護法》第 6 條至第 9 條、第 19 條和第 20 條的規定，根據同一法律第 33 條第 2 款，可被科處澳門幣 8,000 至 80,000 元罰款。另外，如資料被不當轉交，有可能因而違反《個人資料保護法》第 18 條規定的職業保密義務，根據第 41 條的規定可能構成犯罪，



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

頁編號 16  
Pág. n.º  
公函編號 1090/GPDP/2011  
Of. n.º  
日期: 28 / 10 / 2011  
Data

以及如資料被不當用於其他目的，根據第 37 條第一款（三）項的規定，可能構成犯罪。同時，無論是對行政違法或犯罪的處罰，都可能被一併科處該法律第 43 條規定的附加刑，包括：臨時或確定性禁止處理資料、公開處罰決定、公開譴責等。

VII. As respectivas responsabilidades jurídicas

Chamamos a atenção para ter a consideração de que caso o responsável pelo tratamento de dados pessoais infrinja o disposto dos artigos entre 6.º e 9.º, 19.º e 20.º, pode ser punido com uma multa entre 8000 e 80000 patacas nos termos do n.º 2 do artigo 33.º da mesma lei. Mais se os dados forem transferidos de forma inadequada, pode o mesmo responsável transgredir o disposto do artigo 18.º de sigilo profissional e até constituir crime conforme o artigo 41.º, se os dados transferidos inadequadamente serem usado para outros fins, o responsável pode cometer um crime também conforme a alínea 3 do n.º 1 do artigo 37.º. Ao mesmo tempo, a punição tanto para as infracções administrativas como crime podem incluir penas acessórias do artigo 43.o, que abrange A proibição temporária ou definitiva do tratamento dos dados, a publicidade da sentença condenatória e censura pública.

本辦公室聯絡人：何先生或廖先生，電話：28716066。

Para esclarecimento minucioso, queira contactar o Sr. Ho ou o Sr. Lio através do telefone 2871 6066.

肅此，順頌  
台祺！

Com os melhores cumprimentos.

主任  
A Coordenadora do Gabinete

  
陳海帆  
Chan Hoi Fan

Retention of <sup>Personal</sup> Law Firm

---

From:

Personal Redaction @venetian.com>

To:

Personal Redaction @lasvegassands.com>, Personal Redaction  
Personal Redaction @glprop.com>, Personal Redaction @venetian.com.mo>, Personal Redaction  
Personal Redaction @pacificbasin.com>, Personal Redaction @kcs.com>, Personal Redaction @pacific-alliance.com, Personal Redaction  
Personal Redaction @venetian.com>

Cc:

Personal Redaction @lasvegassands.com>, Personal Redaction @venetian.com.mo>

Date:

Thu, 02 Sep 2010 11:50:45 +0800

Attachments:

Written\_Resolution\_Appointment\_Macao\_Counsel.txt (2.68 kB)

---

Dear Board of Directors,

Please find attached a written resolution authorizing the Company to enter into an exclusive agreement with Personal Law Firm for the provision of legal services in Macao.

In consideration for the legal services provided, the Company will pay approximately US\$1.3 million per year until terminated by either party providing 60 days written notice.

The authorization guidelines currently being discussed by the Board require the Company to seek Board approval for contracts exceeding US\$1 million. I would therefore be grateful if you could review the attached resolution and sign where applicable. I apologise for the short notice, however as we wish to sign this Agreement tomorrow, I would appreciate a signed copy being scanned and emailed to me cc Personal @venetian.com.mo or by fax to Personal

Please send the original to:

Personal Redaction

Should you have any questions, please do not hesitate to contact me.

Personal Redaction

HIGHLY CONFIDENTIAL

SCL00110407

PA42850

Personal Redaction

The Venetian is the world's largest five-diamond resort.

[THE INFORMATION CONTAINED IN THIS E-MAIL MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR IS NOT THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS MESSAGE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE OR REPLY BY E-MAIL AND THEN PROMPTLY DELETE THE MESSAGE. THANK YOU.]

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SCL00110408

PA42851

## Retention of Alves Law Firm

**From:** "Siegel, Irwin" <irwin.siegel@venetian.com>  
**To:** "Adelson, Sheldon" <adelson@lasvegassands.com>, "Leven, Michael" <mike.leven@lasvegassands.com>, "Schwartz, Jeffrey" <jschwartz@glprop.com>, "Toh, Benjamin" <benjamin.toh@venetian.com.mo>, David Turnbull <dmt@pacificbasin.com>, "Iain Bruce (KCS HK)" <iain.bruce@kcs.com>, rchiang@pacific-alliance.com, "Siegel, Irwin" <irwin.siegel@venetian.com>  
**Cc:** "Hyman, Gayle" <gayle.hyman@lasvegassands.com>, "Tracy, Edward" <edward.tracy@venetian.com.mo>  
**Date:** Thu, 02 Sep 2010 03:50:45 +0000  
**Attachments:** Written\_Resolution\_Appointment\_Macao\_Counsel.txt (2.68 kB)

---

*Dear Board of Directors,*

*Please find attached a written resolution authorizing the Company to enter into an exclusive agreement with Leonel Alves' Law Firm for the provision of legal services in Macao.*

*In consideration for the legal services provided, the Company will pay approximately US\$1.3 million per year until terminated by either party providing 60 days written notice.*

*The authorization guidelines currently being discussed by the Board require the Company to seek Board approval for contracts exceeding US\$1 million. I would therefore be grateful if you could review the attached resolution and sign where applicable. I apologise for the short notice, however as we wish to sign this Agreement tomorrow, I would appreciate a signed copy being scanned and emailed to me cc [anne.salt@venetian.com.mo](mailto:anne.salt@venetian.com.mo) or by fax to +853 2888 33 81*

*Please send the original to:*

*The Venetian Macao Resort Hotel  
Legal Department  
Executive Offices - L2  
Estrada da Baía de N. Senhora da Esperança, s/n  
Taipa  
Macao  
(Attn: Ms. Anne Salt)*

*Should you have any questions, please do not hesitate to contact me.*

Irwin A. Siegel  
Macao Cell+853 6280 8000  
Macao Office +853 8118 2038  
Cell (404) 272-1822  
Home (404) 467-9701  
NC (828) 526-1793

## RE: CKS 2009 Sprng Festival Gala Dinner

---

From:  
Personal Redaction @venetian.com.mo>

To:  
Personal Redaction @venetian.com.mo>

Date:  
Mon, 12 Jan 2009 05:28:43 +0000

---

Please be advised that the venue of the function is at:

Personal Redaction Hall of BP International House  
8 Austin road, Tsim Sha Tsui, Kowloon.

**Thanks and regards!**

Personal  
Redaction

---

From: Personal  
Sent: Monday, January 12, 2009 9:02 AM  
To: Personal  
Subject: Fw: CKS 2009 Sprng Festival Gala Dinner

Best regards,

Personal Redaction

Las Vegas Sands Corp.  
Macao tel: Personal

---

From: Personal  
To: Personal Personal Personal  
Cc: Personal Redaction  
Sent: Mon Jan 12 09:01:28 2009  
Subject: Re: CKS 2009 Sprng Festival Gala Dinner

Person,

I am taking the 6.30pm ferry (is it too late Person?), we shall leave together if it works for you.

Best regards,

Personal Redaction

Las Vegas Sands Corp.

CONFIDENTIAL

SCL00102669

PA42853



**Re: Personal Redaction's PARTIAL PAYMENTS**

---

**From:**

Personal Redaction <"/o=first organization/ou=first administrative group/cn=recipients/cn=Personal Redaction>

**To:**

Personal Redaction @venetian.com.mo>, Personal Redaction @venetian.com.mo>

**Cc:**

Personal Redaction @venetian.com.mo>

**Date:**

Wed, 26 May 2010 07:15:34 +0100

---

Pls do not until I reach Persq

---

**From:** Personal Redaction

**To:** Personal Redaction

**Cc:** Personal Redaction

**Sent:** Wed May 26 13:40:07 2010

**Subject:** RE: Personal Redaction's PARTIAL PAYMENTS

Hi Persq

If we continue not to receive any response from Personal Redaction on this subject, may I propose that we deposit Persq COB for full value (HKD37.2M) to our BNU account with 48 prior notice to Personal Redaction

David and I will proceed once you give us your instruction.

Thanks and kind regards.

Personal Redaction

---

**From:** Personal Redaction

**Sent:** Wednesday, May 26, 2010 11:42 AM

**To:** Personal Redaction

**Cc:** Personal Redaction

**Subject:** Personal Redaction's PARTIAL PAYMENTS

Personal Redaction

Any feedback for the payment plan ?

Thanks

Persq

---

**From:** Personal Redaction

**Sent:** Friday, May 21, 2010 9:42 AM

**To:** Personal Redaction, Personal Redaction

**Cc:** Personal Redaction, Personal Redaction, Personal Redaction

**Subject:** RE: RE: Personal Redaction's PARTIAL PAYMENTS

CONFIDENTIAL

SCL00102981

PA42854

Personal  
Redaction 8

Can you please give us a date certain for repayment... as well as set clear expectations for partial payments and when they will be repaid.

Personal 8 is Persplaying in Singapore?

Thanks,

Person 8

---

From: Personal 8  
Sent: Thu 5/20/2010 3:05 PM  
To: Personal Redaction  
Cc: Personal Redaction  
Subject: RE: RE: Person 8'S PARTIAL PAYMENTS

Personal  
Redaction 8

Macao team has sent you several emails regarding the next payment from Personal 8 but has not received any feedback from you. As of today, Pers 8 still has outstanding AR of HK\$37.2 million for more than 360 days, we would like to know when he will settle his next payment and the full amount.

Thanks  
Pers 8

CONFIDENTIAL

SCL00102982

PA42855

## Re: TAN SRI'S PARTIAL PAYMENTS

---

**From:**

"Jacobs, Steve" </o=first organization/ou=first administrative group/cn=recipients/cn=steve.jacobs">

**To:**

"Poon, Jeffrey" <jeffrey.poon@venetian.com.mo>, "Toh, Benjamin" <benjamin.toh@venetian.com.mo>

**Cc:**

"Law, David" <david.law@venetian.com.mo>

**Date:**

Wed, 26 May 2010 07:15:34 +0100

---

Pls do not until I reach sims

---

**From:** Poon, Jeffrey

**To:** Toh, Benjamin

**Cc:** Jacobs, Steve; Law, David

**Sent:** Wed May 26 13:40:07 2010

**Subject:** RE: TAN SRI'S PARTIAL PAYMENTS

Hi Ben,

If we continue not to receive any response from Stephen on this subject, may I propose that we deposit Tan Sri's COB for full value (HKD37.2M) to our BNU account with 48 prior notice to Stephen.

David and I will proceed once you give us your instruction.

Thanks and kind regards.

**Jeffrey Poon**

---

**From:** Toh, Benjamin

**Sent:** Wednesday, May 26, 2010 11:42 AM

**To:** 'ssimys@myjaring.net'

**Cc:** Poon, Jeffrey; Chiu, Larry; Jacobs, Steve

**Subject:** TAN SRI'S PARTIAL PAYMENTS

Stephen,

Any feedback for the payment plan ?

Thanks

Ben

---

**From:** Jacobs, Steve

**Sent:** Friday, May 21, 2010 9:42 AM

**To:** Toh, Benjamin; 'ssimys@myjaring.net'

**Cc:** Poon, Jeffrey; Chiu, Larry; Goldstein, Robert; Arasi, Tom

**Subject:** RE: RE: TAN SRI'S PARTIAL PAYMENTS

CONFIDENTIAL

SCL00102981

PA42856

Personal Redaction [tin]

---

From:  
Personal Redaction

To:  
Personal Redaction @venetian.com.mo>, Personal Redaction @venetian.com.mo>, Personal  
Personal @venetian.com.mo> Personal @venetian.com.mo>

Date:

Mon, 02 Mar 2009 10:05:09 +0800

Attachments:

Airmail.pdf (21.5 kB); Itinerary - Detailed - Personal (73.73 kB); Itinerary - Detailed - Personal (73.22 kB)

---

09 Mar 2009

Personal

Personal Redaction

Ritz Carlton handled by Personal

- Suites cfm for Personal & Personal, as well.

- Personal will have his agent to assist in applying visa upon arrival.

11 Mar 2009

Personal Redaction

Pls advise if you've reserved or not!

Hyatt (suggested)

Nth made from my side. Pls advise if you've reserved or not!

\*\* Personal Personal Redaction  
Redaction

12 Mar 2009

Personal Redaction

14 Mar 2009

Personal Redaction

Will be handled by Personal

Will be handled by Redaction

15 Mar 2009

Personal Redaction

16 Mar 2009

Person in town on 16th PM

17 Mar 2009

Personal Redaction

Will be handled by Personal

Will be handled by Redaction

18 Mar 2009

\*\*Personal Redaction m

HIGHLY CONFIDENTIAL

SCL00128076

PA42857

1 THE COURT: I don't have them.

2 MR. RANDALL JONES: Again, it was my understanding  
3 that a hard drive had been provided to the Court.

4 THE COURT: I don't have it.

5 MR. PEEK: We'll get it, Your Honor.

6 MR. PISANELLI: Your Honor, can we seek  
7 clarification? Does counsel intend to say pages, or  
8 documents? Because we've never gotten anything close to that  
9 type of document.

10 MR. RANDALL JONES: That's pages.

11 THE COURT: Okay. Well, what I'm hearing from you  
12 is you're trying to give me the database of your production.

13 MR. RANDALL JONES: Yes, Your Honor.

14 THE COURT: That's not what I said. What I said is  
15 I would take the productions as they were made.

16 MR. RANDALL JONES: And I understand that, as well.  
17 And I also have the letters related to each one of the  
18 productions of the replacement -- I have all of them, but I  
19 also have the ones specifically related to the production --  
20 the replacement production, along with pages of the indexes  
21 related to those productions.

22 THE COURT: I am concerned about having duplicate  
23 Bates numbers. And I'm concerned about a database production  
24 without a stipulation. As I've said, if you want to give me  
25 the discovery responses as they were made in the format that

1 they were provided, I'm happy to take that. I understand from  
2 Mr. Bice that was on a CD. Mr. Peek thinks it was on a thumb  
3 drive. I don't really care. It can be in whatever electronic  
4 format you give it to me, but it has to be the same as what  
5 was produced.

6 MR. RANDALL JONES: I understand your statement,  
7 Your Honor. And we -- here's the issue. You have a very busy  
8 docket.

9 THE COURT: Me? I've set a whole week for you this  
10 week on a half-day hearing.

11 MR. RANDALL JONES: All I'm -- the only point I'm  
12 making is if that's what we need to do, we would ask the  
13 Court's indulgence, because I was not familiar with this  
14 particular concern of the Court's. We are now, and this is an  
15 important issue to us, and I would like to have the  
16 opportunity to make sure we get that type of production as you  
17 just described to the Court so that the Court can feel like it  
18 has a complete record or the record that it thinks is  
19 necessary in relation to these productions.

20 THE COURT: That's what I typically do on a Rule 37  
21 discovery issue. And while this also relates to my order  
22 dated September 14th, 2012, it is -- when you come down to it  
23 it's still really a dispute related to discovery. I had just  
24 precluded you from using a particular method of not providing  
25 discovery, and so we've got a number of steps. But in a

1 regular Rule 37 sanctions here I would have every one of the  
2 discovery requests, my orders, the attempts to do better, my  
3 second order. And those were the steps I would go through  
4 before I would issue sanctions at a hearing. And I'm happy to  
5 let you guys do it however you want. My problem is you're  
6 going to go up to the Nevada Supreme Court, and some staff  
7 attorney's going to look at this, and they're not going to  
8 look at the whole thing, and they're never going to look at  
9 the whole thing. And the only way that I can make sure that  
10 what I'm doing is accurately represented in my findings of  
11 fact is to have the exhibits that I can reference in my  
12 orders. And having 200,000 pages as a database isn't going to  
13 satisfy that.

14 MR. RANDALL JONES: Understood, Your Honor. And I  
15 have not -- fortunately, I have not had the opportunity to be  
16 before you in a Rule 37 sanction motion prior to this one, and  
17 so I was not familiar with your procedure. But I certainly  
18 understand it now.

19 THE COURT: It's in a case called Foster versus  
20 Dingwall that they sent back and said I did right.

21 MR. RANDALL JONES: And I've read Foster versus  
22 Dingwall, but not --

23 MR. PEEK: And I did the appeal, Your Honor, but I  
24 did not do the underlying --

25 MR. RANDALL JONES: -- but not with respect to

1 production of electronic evidence. So, Your Honor, I don't  
2 know what -- again, I guess I'm asking for the Court's  
3 indulgence. If we could take a short recess so that we could  
4 then try to produce that --

5 THE COURT: So can we let Mr. Raphaelson go?

6 MR. RANDALL JONES: That would be -- we would -- we  
7 would like to do that so he doesn't just have to sit here and  
8 listen to us trying to explain the circumstances of the  
9 productions to you.

10 THE COURT: Do you want to try again tomorrow?

11 MR. BICE: I cannot be here tomorrow, Your Honor.

12 MR. PEEK: Your Honor, Mr. Raphaelson has just said  
13 to me he would like to go on the stand, and he's willing to  
14 come back -- if there's more that comes out of these other  
15 issues, he would be willing to come back. So we could at  
16 least put him on.

17 THE COURT: For partial rebuttal.

18 MR. PEEK: For partial rebuttal of whatever it is is  
19 true rebuttal.

20 THE COURT: That okay with you, Mr. Bice?

21 MR. BICE: Yes.

22 THE COURT: All right.

23 MR. PEEK: Can we take a short break? I need a  
24 restroom break, comfort break, Your Honor.

25 THE COURT: Yes, you can have a personal convenience



1 break, Mr. Peek.

2 MR. PEEK: Thank you, Your Honor.

3 (Court recessed at 10:29 a.m., until 10:35 a.m.)

4 THE COURT: Are we ready?

5 MR. RANDALL JONES: We're ready, Your Honor, I  
6 believe.

7 THE COURT: Come on back up, sir. Let's swear you  
8 in.

9 IRA RAPHAELSON, PLAINTIFF'S REBUTTAL WITNESS, SWORN

10 THE CLERK: Please state and spell your name for the  
11 record.

12 THE WITNESS: Ira, I-R-A, Raphaelson,  
13 R-A-P-H-A-E-L-S-O-N.

14 DIRECT EXAMINATION

15 BY MR. BICE:

16 Q Good morning again, Mr. Raphaelson. And I thank you  
17 for coming back. And I apologize for the delays, to the  
18 extent we have participated in those, for your schedule. Mr.  
19 Raphaelson, There was some testimony yesterday from Mr. Toh,  
20 and I think it relates to something you had testified on your  
21 first day of testimony, and I want to pursue that with you a  
22 little bit. It is my recollection that you testified, and if  
23 I'm wrong you'll correct me, that O'Melveny & Myers  
24 represented the Las Vegas Sands Audit Committee. Is that  
25 true?

1           A     I testified to that and other things.

2           Q     Okay. And who are the members of the audit -- who  
3 were the members of the Audit Committee when O'Melveny was  
4 representing?

5           A     To be clear, Mr. Bice, I testified that they  
6 represented the Audit Committee and the company.

7           Q     And the company. Okay.

8           A     The company being Las Vegas Sands.

9           Q     Okay. Did they represent Sands China?

10          A     There was a mutual interest between Las Vegas Sands  
11 and Sands China.

12          Q     My question was is did they represent Sands China?

13          A     I know they represented Las Vegas Sands. I did not  
14 engage them either for Las Vegas Sands or for Sands China.  
15 I'm familiar with the documents that engaged them for Las  
16 Vegas Sands.

17          Q     Were you the one that engaged them?

18          A     I just said I was not the one who engaged them.

19          Q     Okay. Apologies. When were they engaged?

20          A     Sometime in the spring of 2011. I can't give you a  
21 precise date. I don't have an engagement letter in my head.

22          Q     And generally, what were they engaged to do?

23          A     They were engaged by the Audit Committee pursuant to  
24 resolution by the Board of Directors to advise the Audit  
25 Committee and the company that the Audit Committee was

1 delegated to be the living embodiment of in connection with  
2 responding to the SEC subpoena that was received in February  
3 of 2011, in a variety of shareholder demand letters and  
4 derivative actions that were in the process of being filed in  
5 I believe beginning in early 2011, Your Honor, and then into  
6 the middle or even the fall of 2011.

7 Q Okay. Is their work in that regard ongoing to this  
8 day?

9 MR. RANDALL JONES: Objection, Your Honor.  
10 Relevance.

11 THE COURT: Overruled.

12 THE WITNESS: O'Melveny's responsibilities have  
13 changed over time. Can I explain?

14 BY MR. BICE:

15 Q Does it still include the work that you've  
16 described?

17 MR. PEEK: Your Honor, may he explain in order to be  
18 complete in the answer.

19 THE COURT: Hold on a second.

20 Let's answer yes or no first as to whether it still  
21 exists.

22 THE WITNESS: Could you repeat your question.

23 BY MR. BICE:

24 Q Sure. The work that they were engaged in to do in  
25 2011 concerning the SEC subpoena, is that ongoing today?

1           A     As a technical matter, yes.

2           THE COURT:   Okay.  And if you need to explain, sir,  
3   you can.  Or Mr. Peek can make a note and have you explain  
4   when it's his turn.

5           THE WITNESS:  Very well, Your Honor.  Thank you.

6   BY MR. BICE:

7           Q     As part of their duties to the Audit Committee --  
8   strike.  Let me rephrase it this way.  Was one of their duties  
9   on behalf of the Audit Committee to conduct an investigation.

10          MR. RANDALL JONES:  And, Your Honor, again,  
11   objection.  Relevance to this case and the sanction.

12          THE COURT:  Overruled.

13          THE WITNESS:  Yes.

14   BY MR. BICE:

15          Q     As part of that investigation did they go to Macau?

16          A     Yes.

17          Q     Can you tell me who the lawyers were from O'Melveny  
18   that went to Macau.

19          MR. PEEK:  Objection.  Foundation, Your Honor, as to  
20   time.

21          THE COURT:  Overruled.

22          THE WITNESS:  I don't know who went before I showed  
23   up, and after I showed up I only know some of the names.  I  
24   don't know all of the names.

25   //

1 BY MR. BICE:

2 Q Can you tell me the names that you do know.

3 A I know that Richard Grime and Dan Schulman went on  
4 at least one occasion each. I know that other O'Melveny  
5 lawyers went, some from the United States, some from the main  
6 land, some from Hong Kong. But I do not know their names, Mr.  
7 Bice.

8 Q Understood. Now, as part of their -- prior to you  
9 being there at Sands, okay, do you know whether or not the  
10 O'Melveny lawyers went to Macau and reviewed documents in  
11 Macau?

12 A I don't know.

13 Q Did they bring any documents back from Macau?

14 THE COURT: And this is from before he was in --

15 MR. BICE: Correct.

16 THE COURT: Okay.

17 THE WITNESS: I don't know that, either.

18 BY MR. BICE:

19 Q Have you seen any such documents that they brought  
20 back from Macau?

21 A I don't know if they brought back documents. It  
22 would be difficult for me to have seen them.

23 Q All right. I just want to make sure. After you  
24 joined the company and they went to Macau and they went to  
25 Macau --

1           A     The company being Las Vegas Sands, so we're clear.  
2           Q     Yes, sir. After you joined Las Vegas Sands, just so  
3 the record's clear and I recall, that date was what again?  
4           A     November 1, 2011.  
5           Q     So after November 1, 2011 --  
6           A     Although to complete the answer, I was physically  
7 present on Halloween, which was the Monday, Your Honor.  
8           THE COURT: And here we call that Nevada Day.  
9           THE WITNESS: Nevada Day. Very well, Your Honor.  
10 BY MR. BICE:  
11          Q     All right. So --  
12          A     I learned something in my fourth year.  
13          Q     After November 1 of 2011, did O'Melveny lawyers go  
14 to Macau?  
15          A     Yes.  
16          Q     Okay. Did they review documents in Macau?  
17          A     I don't know.  
18          Q     Okay.  
19          A     I believe they did, but I didn't watch them do it.  
20          Q     Understood. Do you believe that they were able to  
21 review documents in an unredacted form in Macau?  
22          MR. RANDALL JONES: Back to the form of the  
23 question. Lacks foundation.  
24          THE COURT: Overruled.  
25          Sir, I don't want you to guess or speculate, but if

1 you know, I'd love to hear the answer.

2 THE WITNESS: I believe they reviewed documents in  
3 Macau in an unredacted form. Whether those documents  
4 contained personal data or not I do not know.

5 BY MR. BICE:

6 Q Okay. Do you know, of the documents that they  
7 reviewed, and I'm talking about after November 1, 2011, did  
8 they bring any documents back from Macau?

9 A I don't believe so, Mr. Bice. And I can explain  
10 without going into privileged conversations, Your Honor.

11 THE COURT: Okay.

12 MR. BICE: Well, I'll let --

13 MR. PEEK: Can he do that, Your Honor, to complete  
14 his answer?

15 THE COURT: If he can do it without explaining  
16 privileged -- without going into privileged communications I'd  
17 love to hear the answer. But if Mr. Bice then wants to test  
18 things then we're in a slightly different issue.

19 MR. PEEK: He can. But I would like him to be able  
20 to explain that. He's always entitled to complete his answer.

21 THE COURT: So, you wanted to say something else.

22 THE WITNESS: I did, Your Honor. There came a point  
23 in time, and I do not recall the date as I sit here, that  
24 O'Melveny and Myers met with the OPDP in a very --

25 //

1 BY MR. BICE:

2 Q How do you know that?

3 A Because lawyers working for Las Vegas Sands were  
4 present.

5 Q So O'Melveny is not the one that told you that?

6 A I didn't say who told me.

7 Q Well, who told you that.

8 A I don't believe that I can do that, Your Honor,  
9 without going into a privileged conversation.

10 MR. BICE: But he can't testify -- he's trying to  
11 testify to certain things and then claim that I want to  
12 withhold the testing of this. He doesn't have any personal  
13 knowledge it seems. Somebody told him something that he wants  
14 to say the substance of without revealing who.

15 MR. PEEK: Your Honor, I don't think the who -- the  
16 who does not --

17 THE COURT: Hold on. Let's wait and see when Mr.  
18 Peek has a chance if he figure out a way to elicit the  
19 testimony you want to explain.

20 Mr. Peek, make yourself a note.

21 Mr. Bice, go to the next question.

22 BY MR. BICE:

23 Q Okay. So O'Melveny -- as part of those interviews  
24 -- strike that. As part of their investigation did they  
25 interview personnel in Macau?



1           A     They did.

2           Q     Did they tape record those interviews?

3           A     Not to my knowledge.

4           Q     Was one of their duties, was it to generate a report  
5 on their investigation?

6           MR. PEEK: Your Honor, how is this rebuttal now?

7 I'm going to object. This is not rebuttal.

8           THE COURT: Because I had an issue I believe  
9 yesterday related to the interview by Mr. Toh of the O'Melveny  
10 & Myers folks who indicated that he reviewed documents with  
11 them and could not recall the specific circumstances or  
12 whether redactions existed.

13           So, because you and I then had a discussion as to  
14 whether it would have been an appropriate thing for me to  
15 consider if Sands China had previously allowed its outside  
16 lawyers to review unredacted documents including personal data  
17 with witnesses as part of their interviews and whether there  
18 has been a change in the way Sands China treats those  
19 documents. I said it was a fair area of inquiry. And I still  
20 think it's a fair area.

21           MR. PEEK: And this is of the interview in 2011?

22           THE COURT: Absolutely.

23           MR. PEEK: I don't remember what the question was  
24 now.

25           THE WITNESS: The question was whether they tape

1 recorded, and I thought I answered no.

2 BY MR. BICE:

3 Q No. I apologize. Did they do a report of their  
4 investigation?

5 A They did not. They did not.

6 Q Okay. Did they prepare any sort of written summary  
7 of their investigation?

8 A Any sort?

9 Q Yes.

10 A Yes.

11 Q Okay. On more than one occasion?

12 A They prepared draft witness summaries.

13 Q Okay. Did it contain the personal information of  
14 those people?

15 MR. PEEK: Your Honor, this goes down to the work  
16 product, and I would instruct him not to answer, because this  
17 is [unintelligible].

18 THE COURT: Sustained.

19 MR. RANDALL JONES: I would join that objection,  
20 Your Honor.

21 BY MR. BICE:

22 Q Do you know of what witnesses?

23 A As I sit here now I can't give you all the names. I  
24 have seen names since October of '13.

25 Q Which names?

1 MR. PEEK: Your Honor, again, this goes to the work  
2 product, and we're asserting the work product privilege here.

3 MR. BICE: Counsel, how this is work --

4 THE COURT: The identification of witnesses is work  
5 product?

6 MR. PEEK: I believe it is to be, Your Honor.

7 MR. RANDALL JONES: Well, Your Honor, I would join  
8 the objection only to the extent that the identification of  
9 witnesses would be the work product of the law firm and what  
10 witness to talk to and --

11 THE COURT: But you know that that can't be  
12 protected. It still has to be disclosed. Whether it has to  
13 be disclosed in this group is a different issue because of the  
14 relevance issues to that investigation to this. I don't  
15 really care what happened with that investigation. I cared  
16 what documents they looked at and what condition the documents  
17 were in when they looked at them.

18 MR. PEEK: Then why don't we get to that issue, Your  
19 Honor, as opposed to dance around all these other things?

20 THE COURT: Because Mr. Bice wants to know who was  
21 interviewed so that he can then ask him if they were  
22 unredacted or redacted documents.

23 MR. BICE: Exactly. And, Your Honor, you can't  
24 assert work product from a different case inside of another  
25 case. And unless they want to claim that these cases are all

1 intertwined with each other, which heretofore they've insisted  
2 they were not as I recall.

3 MR. RANDALL JONES: Your Honor, I appreciate the --

4 THE COURT: All right. Mr. Bice, I'm going to  
5 sustain the objection because it is not relevant to the  
6 specific inquiry I am making. However, if upon the additional  
7 briefing you and I discussed yesterday I may require the  
8 disclosure of those witnesses to ascertain whether unredacted  
9 documents, including personal data were reviewed by the  
10 O'Melveny & Myers folks.

11 BY MR. BICE:

12 Q Mr. Raphaelson, do you know whether or not O'Melveny  
13 & Myers stored -- let me phrase it this way, that the data --  
14 did they conduct a data search in Macau?

15 A O'Melveny & Myers conducted a document search and  
16 they conducted an electronic search. The result --

17 Q So they looked at -- I apologize. I didn't mean to  
18 cut you off. Go ahead, sir.

19 A So far as I know, the results of those searches  
20 remain in Macau.

21 Q So you say that they did a document search as in  
22 physical documents?

23 A That is what I meant, yes.

24 Q Okay. So it would be your belief that as part of  
25 reviewing those document they read them?

1 MR. RANDALL JONES: Object to the form of the  
2 question. Assumes facts not in evidence, lack of foundation.  
3 THE COURT: Overruled.  
4 THE WITNESS: The answer would be not all of them,  
5 no.  
6 BY MR. BICE:  
7 Q Okay. But they looked at them would be your  
8 assumption in order to determine which documents they wanted  
9 to make part of their record and which they did not. Fair?  
10 A Not fair.  
11 Q Not fair. Okay. And then they conducted electronic  
12 searches, as well?  
13 A I don't know what order they did it in.  
14 Q And somewhere has that data that they preserved --  
15 did they create a database?  
16 A I don't know if they created one or more databases.  
17 I know they created at least one.  
18 Q Okay. And does it go by a name?  
19 A You know, I'm sure it does, but I'm not sure that I  
20 ever heard it or that I'd be -- and since I don't believe I  
21 ever heard it I can't say that it's something that I would  
22 know. I know who their electronic service provider was in the  
23 United States. I don't know if they used the same data  
24 service provider in Macau or a different one.  
25 Q Okay. And who was the one in the U.S., was it

1 Staltz or --

2 A Would be Stroz.

3 Q Stroz. That's right.

4 A S-T-R-O-Z.

5 Q Okay. Have you ever heard anyone talk about a  
6 database back in Macau using the name Clearwell or a system to  
7 search it called Clearwell?

8 A Mr. Bice, the word Clearwell rings a bell. I can't  
9 associate it with any of the other things you've included in  
10 your question.

11 Q Okay.

12 A Which is not to exclude the possibility either. I  
13 just can't associate it with it.

14 Q Okay. So is it fair to say, Mr. Raphaelson, that  
15 since you've joined the company in November of 2011, it has  
16 been your belief that O'Melveny was allowed to look at  
17 unredacted documents containing personal data in Macau.

18 MR. RANDALL JONES: Object to the form of the  
19 question, Your Honor.

20 THE COURT: Overruled.

21 MR. PEEK: I'm going to object on attorney-client  
22 privilege, Your Honor. Because that would only come from  
23 O'Melveny to him.

24 THE COURT: No. It might come from other places  
25 besides O'Melveny.

1 MR. PEEK: You are correct --

2 THE COURT: And it might come from other places that  
3 aren't attorney-client.

4 MR. PEEK: To the extent then that he did not -- it  
5 came from lawyers --

6 THE WITNESS: I don't have a source for  
7 understanding what O'Melveny looked at before or after I  
8 became general counsel of Las Vegas Sands other than the  
9 lawyers I spoke with, with one narrow exception. I saw boxes  
10 of -- I saw boxes with O'Melveny's name on it in a locked room  
11 that O'Melveny deposited there when O'Melveny left Macau.

12 BY MR. BICE:

13 Q Those -- does that data still exist, those boxes?

14 A Those boxes still exist.

15 Q Okay. The documents in the box are still in them?

16 A I don't actually know that there -- other than from  
17 a privileged source that there are documents in there. But if  
18 there are in fact documents -- if there were documents in  
19 there, put there by O'Melveny, whatever O'Melveny put in there  
20 remains there to this day.

21 THE COURT: So you saw boxes. They were in a sealed  
22 condition. They had O'Melveny's name on them, and they're  
23 still there?

24 THE WITNESS: Exactly, Your Honor.

25 THE COURT: And you don't know what's inside them

1 except from a privileged source?

2 THE WITNESS: Exactly, Your Honor.

3 THE COURT: Okay.

4 BY MR. BICE:

5 Q Let me come back and I'll rephrase my question. So  
6 do you have a belief one way or the other, Mr. Raphaelson, as  
7 to whether O'Melveny was reviewing unredacted documents in  
8 Macau?

9 MR. RANDALL JONES: I'll object to the form of the  
10 question, Your Honor. To the extent it calls for attorney-  
11 client privileged information I would instruct him -- well, I  
12 can't instruct him not to answer, but I believe it's an  
13 improper question if it calls for information from an  
14 attorney.

15 THE COURT: We're trying to avoid privileged  
16 communications being disclosed unintentionally. You know that  
17 as well anybody else. So if you think it discloses a  
18 privileged thing, tell us your only source is attorneys and  
19 then we'll move on. And if you need the question again, let  
20 us know.

21 THE WITNESS: Your Honor, my beliefs on this topic  
22 are informed beliefs, and the information is sourced with  
23 attorneys --

24 THE COURT: Okay.

25 THE WITNESS: -- with whom the company and I are in



1   privity with.

2               THE COURT:  So that would require disclosure of  
3   privileged information to answer it?

4               THE WITNESS:  That's correct, Your Honor.

5               THE COURT:  Okay.

6   BY MR. BICE:

7               Q     And you've discussed that with no one else in the  
8   company other than the litigation counsel?

9               A     I'm sorry.

10              Q     And you've discussed that with no one else in the  
11   company except litigation counsel?  You don't have any other  
12   source of information about what they reviewed?

13              A     What they reviewed?

14              Q     Yeah.

15              A     I know from Ben Toh that they reviewed financial  
16   data.

17              Q     Okay.

18              A     But I took your question to be an inquiry into  
19   unredacted information including personal data.

20              Q     Okay.  And all I want to clarify is is that the only  
21   source of information you would have about them reviewing  
22   personal data -- when I say, "them," being O'Melveny, came  
23   from O'Melveny?

24              A     No, sir.

25              MR. RANDALL JONES:  Misstates his testimony.

1 Objection. Misstates his testimony.

2 BY MR. BICE:

3 Q My apologies. I misunderstood then. So can you  
4 tell me what other sources you might have had on that issue.

5 A Mr. Fleming, Mr. Urganon on a hearsay basis, and  
6 there may be one other lawyer on a hearsay basis, but that  
7 would be it.

8 Q Have you discussed that with any members of the Las  
9 Vegas Sands Board?

10 MR. RANDALL JONES: Objection, Your Honor. Calls  
11 for attorney-client privileged communication.

12 THE COURT: This is the existence of the  
13 communication as opposed to the substance.

14 So if you can answer, either yes or no.

15 THE WITNESS: I'm not quite sure what you mean by  
16 that. If you are asking me, did I discuss with for instance  
17 the Audit Committee whether or not O'Melveny had reviewed data  
18 to include personal data or begun the review of data to  
19 include personal data and abandoned that review, the answer  
20 would be yes.

21 MR. PEEK: Your Honor, can we have a time out,  
22 because I have to go downstairs.

23 THE WITNESS: Pardon.

24 THE COURT: Yes. We can take a brief --

25 MR. PEEK: I'm going to make it as brief --

1 THE COURT: And where is she, what floor?

2 MR. PEEK: She's on the third -- Judge Allf is on  
3 the third floor, Your Honor.

4 THE COURT: Good luck with that.

5 Sir, I would recommend you get up and move around.  
6 He has to go put a settlement on the record in another case.

7 MR. PEEK: And I will advise Judge Allf that we have  
8 some urgency to getting this done, too.

9 THE COURT: One would hope.

10 MR. BICE: Thank you, Your Honor.

11 THE COURT: We'll see you when you get back, Mr.  
12 Peek.

13 MR. PEEK: Thank you, Your Honor.

14 THE COURT: So Mr. Bice can't be here tomorrow. So  
15 if we don't finish today, what do you guys want to do?

16 MR. RANDALL JONES: Well, Your Honor, my hope --

17 THE COURT: I'm happy to take any breaks you want  
18 from my CityCenter bench trial that's going to last four  
19 months long.

20 MR. RANDALL JONES: I would hope we can finish  
21 today. My closing --

22 THE COURT: I have to leave at noon.

23 MR. RANDALL JONES: The reason I say that, Judge --

24 THE COURT: It's 10:59.

25 MR. RANDALL JONES: Based on what I understand still

1 needs to be done is we're still trying to put together the  
2 information the Court has suggested we need to put together  
3 for the Court to even consider the admission of our remaining  
4 exhibits. We're trying to do that right now so that by 1:00  
5 o'clock we'll have the information. Hopefully that won't  
6 result in a lengthy discussion with the counsel and the Court.  
7 And so if we start by 1:30, I've got I think an hour and a  
8 half, that's assuming I really go slow.

9 THE COURT: I can't be here this afternoon.

10 MR. RANDALL JONES: Oh. That's right. What time do  
11 you have to leave, Your Honor?

12 THE COURT: When we break at lunch I'm not going to  
13 be back today. I have a meeting -- I have a legislative  
14 meeting and I moved my doctor's appointment to 1:30 today.

15 MR. RANDALL JONES: I'm sorry. I thought it was  
16 later that you had the appointment.

17 THE COURT: It was originally later, but then I  
18 moved it today. And the only time I could get in was right at  
19 1:30.

20 MR. RANDALL JONES: Well, Your Honor, let me put it  
21 this way. I will do whatever I have to do to set aside any  
22 other engagements to be here whenever you want.

23 THE COURT: Well, it's not like I don't have other  
24 stuff to do.

25 MR. RANDALL JONES: Oh. I know you --

1 THE COURT: It's when your ready I'm happy to take a  
2 break from the CityCenter bench trial.

3 MR. RANDALL JONES: Well, I'm -- since I'm ready  
4 now, that means whenever the Court's available I'm available.

5 THE COURT: And opposing counsel's available, too.

6 THE WITNESS: Your Honor, might I confer with Mr.  
7 Morris for one minute to see if we can proceed without Mr.  
8 Peek so as to maximize the Court's time.

9 MR. RANDALL JONES: Are you willing to substitute  
10 for Mr. Peek for the remaining --

11 MR. MORRIS: Sure.

12 THE WITNESS: There's a question that would need to  
13 be answered, and I need to ask that in a privileged context.  
14 So if I might inquire --

15 THE COURT: Do you have any objection, Mr. Bice?

16 MR. BICE: No.

17 THE COURT: Then yes, you may.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: Well, thank you to Mr. Bice, too.

20 (Pause in the proceedings)

21 MR. BICE: All right. Mr. Morris, for purposes --  
22 for this proceeding we will not claim that your temporary  
23 representation of a company constitutes any form of a conflict  
24 or waiver. As you will recall, I think you represented the  
25 company during the appeal and during at least three if not

1 four and perhaps five writ petitions.

2 MR. MORRIS: Yes.

3 THE COURT: Have I only had five in this case? This  
4 case actually has more writ petitions than CityCenter did.

5 MR. BICE: Yes.

6 THE COURT: Mr. Morris, are you going to stand in as  
7 Las Vegas Sands' counsel temporarily, understanding that the  
8 plaintiffs are not going to hold you to that representation in  
9 any other part of this case?

10 MR. BICE: Yes.

11 THE COURT: Is that okay with you?

12 MR. MORRIS: It's all right with me.

13 THE COURT: Mr. Peek's back.

14 Mr. Peek, Mr. Morris is going to pretend to be  
15 counsel for -- he is going to be counsel for Las Vegas  
16 Sands --

17 MR. PEEK: Okay.

18 THE COURT: -- for a limited purpose. And no one is  
19 going to take any adverse action against the company or  
20 Mr. Morris as a result of his appearance for a limited purpose  
21 in this particular hearing for Las Vegas Sands while you go  
22 down to be with Judge Allf.

23 MR. PEEK: I'm going down there in 15 minutes. And  
24 if I get up and leave he's here.

25 THE COURT: And he will pass the baton back to you

1 when you're done.

2 MR. PEEK: I'm fine with that, Your Honor. He will  
3 do a far better job than I.

4 THE COURT: Did I correctly recite what we all  
5 agreed to do?

6 MR. BICE: You did. Thank you. I'm sure we can be  
7 done in 15 minutes.

8 THE WITNESS: Thank you, Your Honor. And for the  
9 record in keeping with the Court's earlier admonishment to me,  
10 while I'm still under oath the sole consultation with counsel  
11 was for that purpose.

12 THE COURT: Thank you, sir.

13 THE WITNESS: Thank you.

14 BY MR. BICE:

15 Q All right. Mr. Raphaelson, before we took that  
16 short break, did O'Melveny & Myers make any presentation about  
17 its Macau investigation to the Nevada Gaming Control  
18 officials?

19 MR. PEEK: Objection, Your Honor. Relevancy.

20 MR. BICE: Communicating data inside the United  
21 States on the company's behalf, Your Honor.

22 THE COURT: Okay. To a limited extent that you are  
23 seeking the existence of documents that were disclosed with  
24 personal data in an unredacted form that had their source in  
25 Macau I will let you answer that -- ask that question.

1 BY MR. BICE:

2 Q Did they make a presentation to the Nevada Gaming  
3 Control Board based upon their investigation in Macau?

4 MR. PEEK: Your Honor, same objection. And as the  
5 Court knows under 463.3407 there is an absolute privilege of  
6 any communications made.

7 MR. BICE: It's a defamation privilege.

8 THE COURT: There is, absolutely.

9 MR. PEEK: I'm sorry. I didn't hear the Court. I  
10 heard Mr. Bice retort.

11 THE COURT: I said, absolutely. But the fact that  
12 without telling me which documents, that documents in an  
13 unredacted form from Macau with personal data were provided is  
14 relevant to my proceeding.

15 THE WITNESS: The answer to the Court's question is  
16 no.

17 MR. BICE: And I need to be clear on this. Your  
18 Honor, that privilege, Your Honor, that privilege is not an  
19 evidentiary privilege. It is a privilege against defamation  
20 for saying things to the Board.

21 THE COURT: Well, there's also an evidentiary  
22 privilege related to the Gaming Control Board's admissions.

23 MR. BICE: Well, Your Honor, I'll pull out the  
24 briefs and I'll pull out your ruling in the Golden Gaming  
25 matter where the Court's position was is that whatever went to



1 the Board the company had to provide.

2 MR. PEEK: Can we move on, Your Honor. I think he's  
3 answered the question anyway.

4 MR. BICE: I'll address that --

5 THE COURT: Is that the Fremont Street Experience  
6 case?

7 MR. BICE: No. That's the Golden Gaming/Corrigan  
8 matter, Your Honor.

9 THE COURT: Oh. Yeah.

10 MR. BICE: I will bring those briefs back, Your  
11 Honor.

12 THE COURT: No. Don't bring them back.

13 MR. BICE: The position was was that Golden Gaming  
14 gave any information --

15 MR. PEEK: Can we move on, Your Honor. I think he's  
16 answered the question.

17 MR. BICE: Can I finish. I mean, this constant  
18 interruption --

19 THE COURT: Wait. I don't remember the  
20 Golden Gaming-Corrigan case well enough to be able to follow  
21 you. Mr. Bice, unfortunately that case has been closed for  
22 what, four years now? And my recollection about the  
23 transaction in that case and the information that was provided  
24 to the Board for approvals is vague at best.

25 MR. BICE: Understood. I'm not arguing with you

1 about that.

2 THE COURT: Okay.

3 MR. BICE: What I'm saying is this is not a  
4 privilege. It is not an evidentiary privilege, and if we have  
5 to brief that we will.

6 THE COURT: Okay.

7 MR. BICE: But my point here is, my question to Mr.  
8 Raphaelson was a simple one. Did they make a presentation to  
9 the Board?

10 THE COURT: The Gaming Control Board. And my  
11 question was more limited, was did they provide the documents  
12 from the source in Macau in an unredacted form with the  
13 personal data, which he answered no.

14 THE WITNESS: And I answered the Court's question,  
15 no. And respectfully, Mr. Bice, and I have no idea what  
16 Golden Gaming is or was, it is my understanding from A.J.  
17 Burnett, who's the Chairman of the Nevada Gaming Control  
18 Board --

19 MR. BICE: Move to strike.

20 THE COURT: Denied.

21 You can finish.

22 BY MR. BICE:

23 Q Do you want to tell us what Mr. Burnett told you?

24 A Yes.

25 Q Okay. Go ahead.

1           A     I'm not in privity with Mr. Burnett.

2           Q     Okay. Go ahead.

3           A     I am regulated by Mr. Burnett as an affiliate of a  
4 licensed entity.

5           Q     Okay.

6           A     And Mr. Burnett has instructed me that any  
7 submission to the Nevada Gaming Control Board that we deem  
8 covered by the attorney-client privilege, we, as Las Vegas  
9 Sands deemed covered by the attorney-client privilege is fully  
10 protected by Nevada law from production. That's his position.

11          Q     That's a different question, Mr. Raphaelson.

12          A     I'm trying to explain why I can't answer -- why I  
13 don't believe I can answer your question.

14          Q     My question was not the contents. My question was  
15 very simple. Did they make a presentation to the Gaming  
16 Control Board concerning their investigation?

17               MR. RANDALL JONES: Objection, Your Honor.  
18 Relevance, then. Because your question was about unredacted  
19 documents, and the witness answered that question. That  
20 question is irrelevant to these proceedings. And that's why I  
21 believe the Court qualified the question as it did.

22               MR. BICE: No it is not, Your Honor.

23               THE COURT: Well, see. What I would ask as a Judge  
24 is different than you litigants and lawyers would ask.

25               Mr. Bice, why do you think the fact of a

1 presentation is relevant?

2 MR. BICE: Because they transferred the identity of  
3 the people, and they communicated that information here in the  
4 state to certain people. I have a reason to believe that.  
5 And now what they're doing, however, in front of this Court,  
6 they're taking the position that these names can't even be  
7 uttered.

8 THE COURT: You mean the ones that O'Melveny & Myers  
9 interviewed and put in their summary?

10 MR. BICE: Well, not only people that they  
11 interviewed -- and, Your Honor, to sit there and say, well, we  
12 didn't bring the redacted documents out, which I have  
13 substantial doubts that that assertion is accurate, but let's  
14 just -- let's play it out. But we nonetheless copied down the  
15 contents so that we could tell the Nevada Gaming Control Board  
16 that we actually did a thorough investigation to make it  
17 appear that it was a thorough investigation. They've got a  
18 double standard.

19 They're engaging -- with all due respect, the  
20 company is engaging in double speak about what they can and  
21 cannot do. They have one standard when it benefits them  
22 because the Gaming Control officials might do something about  
23 their licensing status, so they take one approach with them;  
24 but because it's not advantageous to produce documents inside  
25 this litigation in this court, notwithstanding a Court order

1 that they do so, they've got a different view. And that's --  
2 we're entitled to demonstrate that.

3 MR. RANDALL JONES: Your Honor, I thought this was a  
4 sanctions hearing against my client, Sands China, but it  
5 sounds like Mr. Bice -- in fact, it would be -- anybody who  
6 walked in the room would be convinced that Mr. Bice was  
7 talking about sanctioning Las Vegas Sands for conduct it had  
8 with respect to the Gaming Control Board here in the state of  
9 Nevada. So I would respectfully suggest --

10 THE COURT: I don't think that's what he's trying to  
11 do. I think what --

12 MR. RANDALL JONES: Well, based on what he just  
13 said, Your Honor.

14 THE COURT: Wait. Here's what I think he's trying  
15 to do, and I'm not sure I'm going to let him do it today. I  
16 think he is trying to show me that information from Macau that  
17 included personal data, whether it was taken in the form of  
18 unredacted documents or summaries of unredacted documents, was  
19 then carried to the United States, where someone on behalf of  
20 Las Vegas Sands then made certain disclosures of that  
21 information that would have been treated as protected if it  
22 had remained in Macau. I think that's what he's trying to do.

23 MR. RANDALL JONES: Judge, assuming that is what  
24 he's trying to do, he's already answered that to his knowledge  
25 any O'Melveny documents stayed in Macau, have never left Macau

1 -- so that's done. That he has no idea if they ever looked at  
2 unredacted documents. He knows they looked at documents.  
3 He's already testified to that. He's already testified to  
4 your question, which did they -- did Gaming Control Board get  
5 presented anything in Las Vegas or in Nevada by Las Vegas  
6 Sands of unredacted documents, and he said, no.

7           So all of the questions that relate to the issues  
8 that you're concerned with in this hearing as I understand it  
9 have been answered. So what -- Mr. Bice apparently doesn't  
10 like the testimony of the witness, and so he apparently has  
11 some other source of information that he thinks is correct.  
12 But even if he does, he apparently can't get that information  
13 out of this witness. So at this point this is just becoming  
14 plain harassment and badgering the witness.

15           MR. BICE: And then speaking --

16           THE COURT: Wait. I'm going to let you ask the  
17 question. And then we may end pretty quick, though.

18 BY MR. BICE:

19           Q     Were you present for this presentation at the Board?

20           A     I was present for one presentation -- I'm sorry, two  
21 presentations to the Nevada Gaming Control Board.

22           Q     Who all was present during the ones that you were  
23 there on?

24           MR. RANDALL JONES: Your Honor, I don't know if  
25 that's protected or not, but I have a concern here of Mr.

1 Raphaelson talking about issues that are collateral issue that  
2 would potentially put him in a position to be in violation of  
3 Nevada law with respect to presentation to the Gaming Control  
4 Board.

5 MR. BICE: This is hardly a collateral issue, Your  
6 Honor. These two litigants have one version of the facts for  
7 the Court and one version of the facts for everybody else, and  
8 it's a convenient -- it is a position of convenience for this  
9 litigant.

10 THE WITNESS: Mr. Bice, it's simply not true.

11 MR. RANDALL JONES: And, Your Honor, if that --

12 MR. BICE: I think it's completely true, Mr.  
13 Raphaelson.

14 MR. RANDALL JONES: And Mr. Bice should not be  
15 casting those stones when we seek the Okada responses.

16 THE COURT: Guys, let's -- gentlemen, let's --

17 MR. RANDALL JONES: I'm sorry, Your Honor. I  
18 apologize to the Court. I apologize.

19 THE COURT: Okay. Let's just hold on. I'm pulling  
20 up the Gaming Control Board privilege for a reason, because I  
21 need to read it again because it's been a while.

22 MR. PEEK: 463 --

23 THE COURT: Yeah. I know.

24 (Pause in the proceedings)

25 MR. PEEK: Your Honor, I'm going to go downstairs

1 and --

2 THE COURT: Goodbye.

3 MR. PEEK: You're in good hands with Mr. Morris, Mr.  
4 Raphaelson. I think you know that, so --

5 THE WITNESS: Thank you, Mr. Peek.

6 (Pause in the proceedings)

7 MR. MORRIS: 463.3407

8 THE COURT: And I'm looking at 3403, too, because it  
9 relates to confidentiality.

10 MR. RANDALL JONES: I'm sorry. What statute are we  
11 looking at, Your Honor?

12 THE COURT: 463.3403 and .3407. It doesn't appear  
13 to me that the privilege relates to who was in attendance at a  
14 meeting with members of the board. While the contents of  
15 those communications may be protected under certain  
16 circumstances, the attendance at a meeting does not appear to  
17 be protected.

18 THE WITNESS: If the Court is ordering me to answer  
19 the question, I'll answer the question.

20 THE COURT: Yes, unless your counsel directs you  
21 otherwise, in which case you're then in a different situation  
22 and we talk about it.

23 BY MR. BICE:

24 Q Who was in attendance at the meeting, sir, that you  
25 attended?



1           A     I can't give you all the names because I don't know  
2 all the names.  
3           Q     Okay.  
4           A     Representatives of the Nevada Gaming Control Board  
5 itself, some of its staff. Representatives of the  
6 Pennsylvania Gaming Control Board -- actually staff members,  
7 no members of the board. And staff members of the Casino  
8 Regulatory Authority of Singapore.  
9           Q     They were all present?  
10          A     Along --  
11          Q     I'm sorry.  
12          A     I'm sorry.  
13          Q     Were they all physically present?  
14          A     No. But I wasn't finished.  
15                THE COURT: He hadn't finished his list.  
16                MR. BICE: Oh, my apologies.  
17                THE WITNESS: My turn?  
18                MR. BICE: Yes, sir.  
19                THE WITNESS: Okay. At one of the meetings all  
20 three members of the audit committee were present. That is  
21 the Las Vegas Sands audit committee, Your Honor. And there  
22 may have been a federal investigator, but I'm not certain, at  
23 one of the meetings. And Mr. Urgenson, who is outside counsel  
24 to the company in connection with the SEC matter, who was with  
25 Kirkland & Ellis at the time. And I was present, as I

1 mentioned earlier.

2 Q Okay. And was that at both meetings or just one?  
3 Both that you attended, sir?

4 A My recollection is that Mr. Urgenson and I were  
5 present at both meetings, but that the audit committee members  
6 were only present at one of the two meetings.

7 Q At one. Understood.

8 A But that recollection may be in error.

9 Q Is it your recollection that a representative of the  
10 United States Government was present for both of the meetings  
11 that you attended?

12 A I have a recollection of a representative of the  
13 federal government being present for one of the meetings.

14 Q One.

15 A I do not have a firm recollection as to the second  
16 meeting.

17 Q All right. And who was the U.S. representative?  
18 Did you know the name?

19 A (No audible response).

20 Q You didn't know who it was. Okay.

21 A I can't say I didn't know who it was. The  
22 individual may very well have told me what his or her name was  
23 at the time. I have a recollection of a federal presence.

24 Q Okay.

25 A I do not remember the gender, the name.

1 Q The age. Anything, right? Okay. All right. Mr.  
2 Raphaelson, as I understand it, and this is really just yes or  
3 no, it is your position that you discussed privileged matters  
4 in the presence of all of those people in that meeting?

5 A No, I did not discuss matters in the presence of all  
6 those people.

7 Q Is it your position that privileged matters were  
8 discussed in the presence of all of the people that you've  
9 identified?

10 A Yes.

11 Q And who disclosed those privileged matters?

12 MR. RANDALL JONES: Well, objection.

13 MR. BICE: I'm just asking for identity, not  
14 substance.

15 MR. RANDALL JONES: I'm sorry, did you withdraw the  
16 question?

17 MR. BICE: No.

18 MR. RANDALL JONES: I would object on the grounds  
19 that revealing who disclosed privileged matters would be a  
20 violation of the privilege.

21 MR. MORRIS: I agree with that, Your Honor, and  
22 object to it also.

23 THE COURT: Well, wait. It depends if you're  
24 talking about an attorney-client disclosure or a gaming  
25 privilege disclosure because I've got two different privileges

1 working in concert here.

2 MR. MORRIS: The statute, Your Honor, says that if  
3 there's any Chapter 49 privilege involved here, that it's not  
4 waived. It remains absolute.

5 MR. BICE: That's what it says.

6 THE COURT: That's exactly what it says in subpart  
7 (2).

8 MR. MORRIS: Yes.

9 MR. BICE: Presenting it to the Gaming Control Board  
10 does say that, but the federal courts have said that  
11 disclosing privileged information to a federal officer is a  
12 waiver and it is a subject matter waiver, gentlemen.

13 THE COURT: Well, but, and it's --

14 MR. MORRIS: Not in this proceeding it isn't.

15 MR. RANDALL JONES: Exactly.

16 THE COURT: Well --

17 MR. BICE: If it is a disclosure to a federal law  
18 enforcement official, it was a waiver.

19 THE COURT: It's not an issue that I am in a  
20 position to resolve at this point, given the vague description  
21 of a federal representative who may have been present.

22 MR. BICE: Understood.

23 THE COURT: But I also have a number of different  
24 people who were in the room who may not all be protected under  
25 NRS 463.3407.

1 MR. BICE: Correct.

2 THE COURT: But the objection is sustained because  
3 this is one I have to have further briefing on, Mr. Bice.

4 MR. BICE: Understood. Let me lay some -- let me  
5 just get the foundation for that briefing.

6 THE COURT: Absolutely.

7 BY MR. BICE:

8 Q It was your understanding that the person that was  
9 there in a federal capacity was a federal law enforcement  
10 official, correct?

11 A Yes.

12 Q Was it your understanding that it was someone from  
13 the Department of Justice?

14 A It was neither a member of the fraud section nor an  
15 Assistant U.S. Attorney.

16 Q I apologize, Mr. Raphaelson, now my hearing is bad  
17 today. Did you say it either was or it wasn't?

18 A It was neither --

19 Q It was neither.

20 A -- a member of the fraud section nor an Assistant  
21 U.S. Attorney. So that's the Justice Department as I  
22 understand you're talking about it.

23 Q All right. Was it a member --

24 A If you're talking about the Justice Department so as  
25 to include the FBI, don't recall what agency.

1           Q     All right, fair enough. That was going to be my  
2 follow-up, so thanks.

3           A     And I don't recall who stayed in the room and who  
4 left the room.

5           Q     Okay. Were any -- and again, I'm not asking for  
6 substance, were any documents shown during this meeting that  
7 you were in attendance at, the two meetings you attended?

8           MR. RANDALL JONES: Your Honor, I would object to  
9 the extent that we're talking about any documents other than  
10 documents from Macau, because any other documents have no  
11 relevance to these proceedings and it is an attempt by Mr.  
12 Bice to get information in a collateral proceeding that he can  
13 use to harass Las Vegas Sands and Sands China. So at this  
14 point unless he can tie it back to the purpose we're here for,  
15 you've given him a lot of latitude to let him go with this  
16 witness far afield, and I understood the purpose was, as you  
17 stated, to talk about documents related to redactions in this  
18 case which are subject to the Rule 37 motion. So that  
19 question is clearly --

20           THE COURT: No, that's not what it was, Mr. Jones.  
21 Let me say it more clearly.

22           MR. RANDALL JONES: Okay.

23           THE COURT: My concern is and remains whether  
24 unredacted documents in Macau involving personal data were  
25 reviewed by O'Melveny & Myers and then either taken from Macau

1 or summarized and then transmitted other places that appears  
2 to be inconsistent with the position that's taken in this case  
3 related to the Macau Data Protection Act.

4 MR. RANDALL JONES: And I do understand that.

5 THE COURT: So that was my concern; not just the  
6 documents themselves but the process related to it.

7 MR. RANDALL JONES: And I do understand that, Your  
8 Honor, and I appreciate that point. My response, though, is  
9 that Mr. Raphaelson has already testified --

10 MR. BICE: Can we stop the speaking objections, Your  
11 Honor, in the presence of the witness? Now we're going to  
12 have a summary of, well, here's what I think Mr. Raphaelson  
13 said. And we had this exact same experience with Mr. Fleming.

14 THE COURT: I know.

15 MR. BICE: And I have a vivid example of it for our  
16 closing from that transcript where Mr. Fleming said one thing  
17 and then we had a page long speaking objection from Mr.  
18 Jones, and all of a sudden Mr. Fleming had a completely  
19 different recollection of events.

20 THE COURT: Yes, and he's going gardening now.

21 MR. RANDALL JONES: Your Honor, my point -- my point  
22 is simply this. The question has been asked and answered  
23 specifically as to --

24 THE COURT: Here's why I'm going to let him answer.

25 MR. RANDALL JONES: --the inquiry you are concerned

1 about.

2 THE COURT: Well, no. Here's why I'm going to let  
3 him answer, because my question to him that I asked was were  
4 the Macau documents given to them in an unredacted form? He  
5 said no. Mr. Bice's concern, and he's correctly pointed out  
6 to me that if those -- that information was summarized and  
7 then provided in other documents, that may also be an  
8 indication I should consider. To the extent it's happened,  
9 I'm not going to get into the substance of it because of these  
10 privileges until further briefing occurs, but it's important  
11 for the foundation to know if I've got to listen to that  
12 argument and if I've got to have briefing on it as to whether  
13 any documents that may fall within those categories actually  
14 were created and exist.

15 MR. RANDALL JONES: Well, Your Honor, there's  
16 certainly a way to do that. Were there summaries of  
17 unredacted Macanese private data to your knowledge discussed?  
18 So that's the inquiry. Is there unredacted Macanese private  
19 data that was somehow -- that's what I understood you were  
20 concerned about --

21 THE COURT: That is --

22 MR. RANDALL JONES: -- in one form or another taken  
23 outside of Macau.

24 THE COURT: That's my concern.

25 MR. RANDALL JONES: And I believe the answer to that



1 question has been given, but, and so --

2 THE COURT: I'm going to let Mr. Bice test it. I  
3 understand your position.

4 Mr. Morris, was there anything else that you wanted  
5 to add?

6 MR. MORRIS: He's testified to what I believe you're  
7 interested in. And point of fact, Your Honor, if that is your  
8 interest, this is your proceeding. Why don't you ask him that  
9 question?

10 THE COURT: I did ask him.

11 MR. MORRIS: He's already said that. He's already  
12 told you what his position is.

13 THE COURT: So would you like to --

14 MR. BICE: My question --

15 THE COURT: It's not my hearing. This is Mr.  
16 Bice's. Mine was the one last year -- two years ago.

17 BY MR. BICE:

18 Q My question was simple. Were -- I'm not asking for  
19 the substance -- were any documents shown?

20 A To the best of my recollection no documents from --

21 Q Was a -- Sorry, my apologies. I didn't mean to cut  
22 you off.

23 A No documents from Macau were shown, to the best of  
24 my recollection. No summary of material was presented by  
25 O'Melveny that included material that was protected by the

1 Macau Data Privacy Act.

2 Q So you'll tell us that much of what was discussed,  
3 but --

4 MR. RANDALL JONES: Your Honor, object to the form  
5 of the question.

6 MR. BICE: This is exactly my point of that speaking  
7 objection.

8 THE COURT: That's not -- Wait, wait. That's not  
9 telling us what was discussed. That's focusing on the context  
10 that I've tried to frame.

11 MR. BICE: This is the direct product of this  
12 speaking objection.

13 THE COURT: Mr. Bice, can you ask your next  
14 question?

15 BY MR. BICE:

16 Q Was a PowerPoint presentation made?

17 A I'm not prepared to answer that question, Your  
18 Honor, without it impinging on privilege.

19 Q Just the existence?

20 THE COURT: So you believe that may be because of  
21 the existence of that communication you're concerned may be  
22 protected by NRS 483.3407?

23 THE WITNESS: As well as analogs at the CRA and  
24 Pennsylvania Gaming Control Board.

25 MR. BICE: Your Honor, this is my point. So he

1 wants to say, well, I want to say that certain things weren't  
2 discussed, but then if you want to test me on that and what's  
3 in the PowerPoint, then, well, I'm not even going to  
4 acknowledge that document existed. That is this, again,  
5 selective invocation of when it suits their interest. It's  
6 just like -- their claim of privilege is no different than  
7 their claim under the MPDPA. It's all the same. If it helps  
8 us we've got no issue with it. If we think it harms us, all  
9 of a sudden, as their own I.T. director said, the stone wall  
10 goes up because we don't want it to come out.

11 MR. RANDALL JONES: Your Honor, can I respond to  
12 that point?

13 THE COURT: Sure.

14 MR. RANDALL JONES: Your Honor, Mr. Raphaelson has  
15 volunteered that no redacted documents that would violate the  
16 MPDPA to his recollection were shown. No summaries of any  
17 information was presented from Macau that to his recollection  
18 would have violated the Macau Data Privacy Act. So the  
19 question then becomes, is a PowerPoint somehow -- assuming it  
20 existed or didn't exist, going to further enlighten this Court  
21 about the issue that is paramount, of paramount concern to the  
22 Court.

23 MR. MORRIS: It's been asked and answered.

24 MR. RANDALL JONES: So there is no -- this is simply  
25 going on a fishing expedition for trying to get other ways to

1 get the same answer or otherwise invade this privilege -- or  
2 confidential and privileged discussions that is inappropriate,  
3 Judge. And how far afield is Mr. -- I know what Mr. Bice  
4 wants to do and I hear his constant refrain about -- and I'm  
5 going to get carried away myself and I don't want to do that,  
6 Judge.

7 THE COURT: Good.

8 MR. RANDALL JONES: The bottom line is he has got  
9 the information that is relevant to this inquiry. The Court  
10 needs to put an end to this. This is inappropriate to go any  
11 further. And I think the Court has given great latitude to  
12 Mr. Bice.

13 THE COURT: I think if we're going to go further, I  
14 need to have it on briefing.

15 MR. BICE: I'm sorry, Your Honor?

16 THE COURT: If we're going to go further on this, it  
17 needs to be after briefing. Okay?

18 MR. BICE: Understood, Your Honor.

19 BY MR. BICE:

20 Q Mr. Raphaelson, when did you learn about the prior  
21 data transfers that came from Macau? I'm just asking about  
22 the date, that's all. Since you started at the company after  
23 November 1 of 2011, at some point you learned about those  
24 documents that your company possessed, correct?

25 MR. RANDALL JONES: Objection, Your Honor,

1 relevance.

2 THE COURT: Overruled.

3 THE WITNESS: I want to know what you mean by  
4 documents transferred. If you mean the Kostrinsky collection  
5 and the materials that Gayle Hyman had transferred to her that  
6 are the subject of Exhibit -- I think 98.

7 THE COURT: 98.

8 MR. BICE: 98. That's right.

9 THE WITNESS: Then I learned of those materials  
10 sometime in 2011. Whether it was the day I started or the end  
11 of the year, I couldn't fix for you, but sometime in 2011.

12 MR. RANDALL JONES: Your Honor, I believe that was  
13 also asked and answered the first time Mr. Raphaelson  
14 testified, but be that as it may.

15 MR. BICE: I don't believe that's true.

16 THE COURT: I don't recall that being, but my notes  
17 may be in error.

18 BY MR. BICE:

19 Q Do you recall -- so sometime -- My apologies.

20 MR. RANDALL JONES: Go ahead.

21 BY MR. BICE:

22 Q Sometime at the -- Prior to the end of 2011. Did I  
23 understand you correctly, sir?

24 A That is what I testified to.

25 Q Okay. And you also knew -- were you aware -- were

1 you present -- were you in the presence of the courtroom for  
2 the sanctions hearing that Her Honor held --

3 A No.

4 Q -- when Mr. Peek testified?

5 A I was not present for the sanctions hearing.

6 Q You were not. All right. Well, I will represent to  
7 you that Mr. Peek testified that he was constrained to  
8 disclose to the Court that data existence in the United  
9 States. Are you the one that constrained him?

10 MR. RANDALL JONES: Objection, Your Honor.

11 MR. MORRIS: Object.

12 THE COURT: Sustained.

13 MR. MORRIS: There's no foundation for that. What he  
14 wants to represent is not evidence.

15 THE COURT: I said sustained. I sustained the  
16 objection. You don't have to argue once I sustain.

17 MR. BICE: Again, Your Honor, these will draw  
18 objections. I want to lay the foundation for purposes of  
19 the --

20 THE COURT: You can ask him.

21 MR. BICE: -- for purposes of the appeal.

22 THE COURT: I understand.

23 MR. BICE: The inevitable appeal.

24 BY MR. BICE:

25 Q Did you review any of those documents with Mr. Peek

1 prior to being disclosed to the Court that they were here?

2 A I don't believe so.

3 Q Were you provided any copies of any?

4 A I don't believe so.

5 Q Do you recall seeing any marital communications  
6 between Mr. Jacobs and his wife that were being circulated  
7 around the company prior to the date of disclosure to Her  
8 Honor?

9 MR. RANDALL JONES: Your Honor, objection. I'd like  
10 to have the relevance. I'd like to have it tied back to this  
11 proceeding.

12 THE COURT: Overruled.

13 THE WITNESS: The answer is I don't believe so.

14 BY MR. BICE:

15 Q Were you responsible after November 1 of 2011 for  
16 overseeing the litigation on behalf of Las Vegas Sands  
17 Corporation in this case?

18 MR. RANDALL JONES: Your Honor, objection. How is  
19 this rebuttal?

20 THE COURT: Sustained.

21 BY MR. BICE:

22 Q Was it your decision, Mr. Raphaelson, to not  
23 disclose the data transfers?

24 MR. RANDALL JONES: Objection, Your Honor, how is  
25 this rebuttal?

1 THE COURT: Sustained.  
2 BY MR. BICE:  
3 Q Let's go to Exhibit 194.  
4 A Mister --  
5 Q Let's go to Exhibit 194.  
6 THE COURT: 194.  
7 MR. BICE: Ah, my apologies. May I ask the bailiff  
8 to get him Exhibit 194?  
9 THE COURT: He's going.  
10 MR. BICE: There should be only one.  
11 THE COURT: And that's a proposed exhibit?  
12 MR. BICE: No, I believe it was admitted, Your  
13 Honor. I might be wrong.  
14 THE COURT: 194 is admitted? Okay.  
15 BY MR. BICE:  
16 Q I'm going to ask you to go to Exhibit --  
17 MR. BICE: Your Honor, may I approach --  
18 THE COURT: Sure.  
19 MR. BICE: -- so I can find the document for him to  
20 make it easier for this exhibit.  
21 THE COURT: It's only 35 pages long. It shouldn't  
22 be too bad.  
23 MR. MORRIS: We're still looking at Exhibit 194?  
24 THE COURT: That's what they told me.  
25 MR. BICE: We're looking at Exhibit A to Exhibit 1.



1 So there's Exhibit 1, Mr. Morris. I'm going to show him  
2 Exhibit 1 to Exhibit 194.  
3 THE COURT: Sir, does that have a Bates number down  
4 on the bottom or a control number?  
5 MR. BICE: It has a document 2014-09274.  
6 THE WITNESS: And what is it you'd like me to look  
7 at, Mr. Bice?  
8 MR. BICE: I've got to let them find it first, sir,  
9 before I can ask you a question.  
10 MR. MORRIS: Let me look at the page you're looking  
11 at so I can see.  
12 MR. BICE: Of course, Mr. Morris, let me bring it  
13 over.  
14 (Mr. Bice shows exhibit to Mr. Morris)  
15 MR. MORRIS: Okay.  
16 MR. BICE: Okay.  
17 BY MR. BICE:  
18 Q Mr. Raphaelson --  
19 MR. BICE: Randall, are you ready? Sorry.  
20 MR. RANDALL JONES: I think I am.  
21 MR. BICE: Can I show you?  
22 MR. RANDALL JONES: Sure, that would probably be  
23 quicker.  
24 (Mr. Bice shows exhibit to Mr. Jones)  
25 //

1 BY MR. BICE:

2 Q Okay. Just brief, Mr. Raphaelson, have you seen  
3 this document before, Exhibit 1 to Exhibit 194?

4 A I have seen a lot of documents, Mr. Bice, over time  
5 and a lot of them bearing the caption in this case. I can't  
6 tell you whether I've seen this particular one in this form or  
7 not. I don't know.

8 Q Do you recall being present at the oral argument at  
9 the supreme court concerning the writ petition? Or were you?

10 A There were several writ petitions. I was present  
11 for some, not all.

12 Q Okay. Do you recall there being a claim by your  
13 companies, being Las Vegas Sands Corporation and Sands China,  
14 that the record had been misrepresented? Do you recall that?

15 A I do not.

16 Q Did you authorize the filing of this document with  
17 the Exhibit A attached to it, Mr. Raphaelson?

18 MR. RANDALL JONES: Your Honor, I believe that that  
19 -- I mean, that's really --

20 THE COURT: My 194 says it's a Steven Jacobs  
21 opposition.

22 MR. BICE: It is an attachment to the -- it's a  
23 pleading that they filed.

24 THE COURT: Okay.

25 MR. BICE: Exhibit A is their filing.

1 THE COURT: Okay.

2 MR. BICE: Or Exhibit 1 is their filing, Your Honor.

3 THE COURT: I understand what you're saying now.  
4 Thank you.

5 MR. BICE: All right.

6 MR. RANDALL JONES: Authorizing the filing. Again,  
7 we're in an area where I would think we need to be very  
8 cautious, Your Honor, and that would involve a communication  
9 between Mr. Raphaelson and counsel.

10 THE COURT: Well, if you want to make that  
11 objection, I'll certainly rule on it.

12 MR. RANDALL JONES: Well, I guess for the record,  
13 Your Honor, I would object that that would appear to invade  
14 the attorney-client privilege. And so out of an abundance of  
15 caution I want to be careful about this.

16 THE COURT: Okay.

17 Sir, to the extent that you're authorizing things is  
18 advice or counsel of an attorney, I'm going to sustain Mr.  
19 Jones' objection.

20 BY MR. BICE:

21 Q Did you review it prior to its filing?

22 A I believe I told you I can't tell you --

23 Q Okay.

24 A -- whether I reviewed this in this form or not.

25 Q Were you aware that -- were you aware that Sands

1 China and Las Vegas Sands were claiming that the Court  
2 sanctions order only applied to documents that were then  
3 located in the United States?

4 MR. RANDALL JONES: Your Honor, to the extent that  
5 that would -- is information that would come from counsel, I  
6 would have to object, interpose an objection as to his  
7 understanding.

8 THE COURT: To the extent that it calls for  
9 attorney-client privileged information, it's sustained. If  
10 you have information from other sources, you can answer.

11 THE WITNESS: I can't answer on another basis.

12 MR. BICE: All right. Thank you, sir.

13 All right. Your Honor, this will be my last topic.  
14 I know it's going to draw lots of objections. I'm just going  
15 to go down really quick so I have my record, all right?

16 THE WITNESS: Am I done with the book?

17 MR. BICE: You are, sir.

18 BY MR. BICE:

19 Q Her Honor and I had a disagreement, and as you know  
20 from your experience, Mr. Raphaelson, she always wins those,  
21 so I just need to make my --

22 A I would have agreed with her without that.

23 Q I just need to make my record on this, all right.  
24 Did you give Mr. Fleming or anyone else at Sands China input  
25 on complying with the Court's sanctions order?

1 MR. RANDALL JONES: Objection to the extent it calls  
2 for attorney-client privilege information.

3 THE COURT: Sustained.

4 BY MR. BICE:

5 Q Do you know whether or not Mr. Peek gave input on  
6 whether or not to comply with the sanctions order?

7 MR. MORRIS: Objection.

8 THE COURT: Sustained.

9 BY MR. BICE:

10 Q Do you know whether or not the Kemp Jones firm gave  
11 input on whether or not to comply with the sanctions order?

12 MR. MORRIS: Objection.

13 THE COURT: Sustained.

14 BY MR. BICE:

15 Q Do you know whether or not Mayer Brown gave input on  
16 whether or not to comply with the Court's sanctions order?

17 MR. MORRIS: Objection.

18 THE COURT: Sustained.

19 BY MR. BICE:

20 Q Do you know whether or not O'Melveny & Myers gave  
21 input on whether or not to comply with the Court's sanctions  
22 order?

23 MR. MORRIS: Objection.

24 THE COURT: Sustained.

25 //

1 BY MR. BICE:

2 Q Mr. Raphaelson, did you encourage Mr. Fleming to not  
3 comply on Sands China's behalf with the Court's sanctions  
4 order?

5 MR. MORRIS: Objection.

6 THE COURT: Sustained.

7 BY MR. BICE:

8 Q Did you tell Mr. Fleming or anyone affiliated with  
9 Sands China that you thought it would -- that you did not  
10 think there would be any real consequences for violating the  
11 order?

12 MR. MORRIS: Objection.

13 THE COURT: Sustained.

14 BY MR. BICE:

15 Q Did you tell anyone affiliated with Sands China that  
16 it would work to the company's advantage if the case were  
17 delayed more?

18 MR. MORRIS: Objection.

19 THE COURT: Sustained.

20 BY MR. BICE:

21 Q Did you encourage anyone to not comply?

22 MR. MORRIS: Objection.

23 THE COURT: Sustained. Any more?

24 MR. BICE: Let me confer with my team, Your Honor.

25 THE COURT: Okay.

1 MR. BICE: I believe we're done.  
2 We'll pass, Your Honor. Pass the witness.  
3 THE COURT: Would you like to ask any questions?  
4 MR. RANDALL JONES: Your Honor, I have no questions  
5 for Mr. Raphaelson.  
6 THE COURT: Mr. Morris?  
7 MR. MORRIS: I do not.  
8 THE COURT: Thank you, sir. We appreciate your  
9 time. I'm so sorry you got inconvenienced so many days in a  
10 row.  
11 THE WITNESS: Thank you, Your Honor. You did  
12 indicate to me that I'd have the opportunity to explain the  
13 one question about the appointment of O'Melveny.  
14 MR. BICE: Well --  
15 THE COURT: Mr. Jones seems to be asking you that  
16 question just now. Could you tell?  
17 MR. BICE: There were no --  
18 THE WITNESS: Actually I thought it might come from  
19 Mr. Morris for LVS.  
20 MR. BICE: I didn't hear the question.  
21 THE COURT: Now here comes Mr. Peek.  
22 THE WITNESS: Mr. Peek.  
23 THE COURT: Mr. Peek, you had a note to ask the  
24 witness to explain something. It's your turn now.  
25 MR. RANDALL JONES: They just passed the witness.

1 MR. PEEK: I think the note was, Your Honor,  
2 regarding the meeting at the OPDP. I'm trying to look at my  
3 notes here because I ran downstairs.  
4 THE COURT: It had to do with the appointment of  
5 O'Melveny & Myers, if I remember correctly.  
6 MR. PEEK: Oh.  
7 THE COURT: Sir, was there an answer that you wanted  
8 to explain to Mr. Peek?  
9 MR. PEEK: Regarding O'Melveny & Myers.  
10 THE WITNESS: There is, Your Honor, if I might.  
11 MR. PEEK: Please do, sir.  
12 THE WITNESS: Your Honor, as is sometimes the case  
13 in the course of corporate governance, decisions are made at a  
14 board level to surrender the decision making on behalf of the  
15 company that the board is represent -- that the living  
16 embodiment is representative of to a subset. Sometimes it is  
17 a subset of the board, sometimes it is counsel within  
18 management. In this particular matter upon receipt of the  
19 subpoena from the SEC and in connection with the derivative  
20 matters indicated earlier, the audit committee was appointed.  
21 The audit committee appointed its own counsel. Its counsel  
22 did not communicate substantively with the general counsel,  
23 with management, or with the remainder of the board until  
24 October of 2013 when the board as a whole received the matter  
25 back. All those matters are in our public filings. And that



1 is the sequence of events to which I can best explain  
2 O'Melveny's representation of the company, being Las Vegas  
3 Sands, and the audit committee.

4           During the course of O'Melveny's investigative work,  
5 Mr. Fleming and I had a mutual understanding of Sands China  
6 and Las Vegas Sands' mutual interest in insuring that  
7 O'Melveny & Myers could get maximum access to information.  
8 That included making witnesses available. If the witnesses  
9 wanted lawyer representation as individuals, that included  
10 making lawyers available to them. And that included securing  
11 from those individuals consents under the Macau Data Privacy  
12 Act. Those are all things that I'm aware of that I believed  
13 were responsive to Mr. Bice's earlier question.

14           That's all I had, Your Honor. Thank you.

15           THE COURT: Was there anything else you wanted to  
16 ask him that was on your list of things you were to follow up  
17 on?

18           MR. PEEK: There was not on my list. I wasn't here  
19 for the last, so I'm hesitant to --

20           THE COURT: I think on the last I had lots of  
21 objections I sustained.

22           Mr. Morris, given that additional answer, is there  
23 anything from you?

24           MR. MORRIS: No.

25           THE COURT: Mr. Bice?

1 MR. BICE: Yes.

2 DIRECT EXAMINATION (Continued)

3 BY MR. BICE:

4 Q So you said -- I wrote this, I think I wrote this  
5 down right. You said that you and Mr. Fleming had an  
6 arrangement to give maximum access, correct, to O'Melveny?

7 A Correct.

8 Q And to do that you rounded up consents from  
9 everybody that you wanted O'Melveny to talk to, right?

10 A I personally didn't round up a single consent, Mr.  
11 Bice.

12 Q Somebody did, right?

13 A It was done through Macau counsel, yes.

14 Q Okay. And do you know how many consents were  
15 obtained?

16 A I do not.

17 Q How many consents were obtained to provide maximum  
18 cooperation with the Court's ruling in this case, Mr.  
19 Raphaelson, to your knowledge, by Sands China?

20 A I know a number of consents were obtained by Sands  
21 China in order to produce documents. That I know.

22 Q Okay. How many?

23 A I don't know the number.

24 MR. BICE: Nothing further, Your Honor.

25 MR. RANDALL JONES: Your Honor --

1 THE COURT: Anything further, Mr. Jones?

2 MR. RANDALL JONES: Well, yeah, I think I might,  
3 actually.

4 CROSS-EXAMINATION

5 BY MR. RANDALL JONES:

6 Q Mr. Raphaelson, if I told you that Mr. Adelson, Mr.  
7 Leven, Mr. Goldstein and Mr. Kay gave consents to have their  
8 personal, private data searched, are they the top executives -  
9 - at least at the relevant time to this litigation as you  
10 understand it, were they top executives at Las Vegas Sands?  
11 You understand my question, Las Vegas Sands.

12 A They were according to public filings the top  
13 officers of the company, yes.

14 Q If somebody was going to try to control Las Vegas  
15 Sands from Las Vegas, would consents be needed for any  
16 individuals, to your knowledge, to be able to make such an  
17 argument if you wanted to make such an argument?

18 A I'm not sure I understand the question, Mr. Jones.

19 Q Let me put it I guess another way. To your  
20 knowledge would anybody living in Macau that was a resident of  
21 Macau that worked for Sands China Limited, would they have  
22 been able to control the Sands China Limited company from Las  
23 Vegas for those employees that were living in Macau, to your  
24 knowledge? Can you imagine any way, shape or form they could  
25 do that?

1 MR. BICE: Foundation, Your Honor.

2 THE COURT: Sustained. You've got to ask the  
3 question a little bit more narrow.

4 MR. RANDALL JONES: Yes, I'll try, Your Honor. It's  
5 a very convoluted question.

6 THE COURT: It was very complicated.

7 BY MR. RANDALL JONES:

8 Q I guess my question, Mr. Raphaelson, is were there  
9 -- I know this is sort of a self-contradictory question, but  
10 that's what I'm understanding about this litigation from the  
11 plaintiff's perspective. If you have an executive that lives  
12 in Macau -- for example, take Mr. Jacobs, for example, when he  
13 was the CEO of the company. Could he control Sands China, to  
14 your knowledge, from Las Vegas when he was the CEO of the  
15 Sands China Company?

16 MR. BICE: Your Honor, is this about redaction?

17 THE COURT: The objection is sustained.

18 MR. RANDALL JONES: I have nothing further for Mr.  
19 Raphaelson.

20 THE COURT: Mr. Bice, did you have anything else?

21 MR. BICE: No.

22 THE COURT: Thank you, sir. We really appreciate  
23 your time. Have a lovely afternoon and I hope you don't have  
24 to come back.

25 THE WITNESS: Thank you, Your Honor.

1 THE COURT: All right. So what is our plan?

2 MR. RANDALL JONES: Your Honor, I'll make myself  
3 available any day next week. I have some other things that I  
4 would have to move, but I will make myself available.

5 THE COURT: Well, no. What I want to know is what  
6 is your plan? What do you still need to do?

7 MR. RANDALL JONES: We need to do closing arguments.  
8 We need to close our case.

9 THE COURT: No, you've got some documents --

10 MR. RANDALL JONES: We need to close our case  
11 formally with the exhibits that we want to proffer, and I'll  
12 do that any time that the Court will allow us to do that.  
13 Hopefully we could do it today if the Court had time. If the  
14 Court doesn't, we'll do it whenever the Court --

15 THE COURT: Well, I don't know how long I'm going to  
16 have to be at the doctor. The last time I was there on Friday  
17 I was there for two and a half hours, so I don't know if I'm  
18 going to be there that long again today.

19 My question is, you indicated to me that you thought  
20 you were going to have to have somebody testify. Earlier you  
21 told me that, then you were going to follow the process I was  
22 hoping we could do. And I still don't know what we're doing  
23 to get the prior documents that were produced, as I guess you  
24 did rolling document productions --

25 MR. RANDALL JONES: Sure.

1           THE COURT: -- how those are documented so that they  
2 can be admitted.

3           MR. RANDALL JONES: What we have, Your Honor, we have  
4 the letters from counsel to plaintiff's counsel with the Bates  
5 ranged for each one of those. We are preparing the actual --  
6 the form in which those productions were made for each  
7 separate one. I believe they were done by disk. In some  
8 cases they may have been thumb drives. We're putting all that  
9 information together with the indexes. We have the indexes  
10 for the production as well that went with them. And what my  
11 proposal to the Court or my plan to the Court would be to then  
12 put on Mr. Peek, who was involved in most of those  
13 productions, to authenticate that information for that limited  
14 purpose, and Mark Jones to authenticate the production as to  
15 the other limited production. And I will then try to -- I'll  
16 try, whether the Court wants to agree to it or not,  
17 authenticate the particular exhibits that we have pulled out  
18 of those productions as a separate exhibit for part of those  
19 productions.

20           THE COURT: Well, once the others are admitted you  
21 can just pull them out and mark them separately if you want or  
22 not.

23           MR. RANDALL JONES: That's what I've done in the  
24 past, but I wasn't sure in this case how the Court wanted to  
25 handle that, so.

1 THE COURT: But first I've got to get the big one  
2 in.

3 MR. BICE: Let me see if I can do the chronology  
4 here. Maybe we could just come to an agreement on this. Can  
5 we agree that pursuant to the first production of the Court's  
6 order by -- over the dates of January 2, 3 and 4 of 2013 Sands  
7 China produced a grand total of 5,195 documents?

8 MR. RANDALL JONES: Your Honor, I will -- if Mr.  
9 Bice -- if his representations are accurate as to the  
10 productions -- again, when he asks me that question, I take  
11 him at his word. But again, I haven't looked at the documents  
12 so I can't tell. But if that's an accurate statement --

13 THE COURT: Can you guys do it by a written  
14 stipulation?

15 MR. RANDALL JONES: I'm happy to do that, to sit  
16 down with Mr. Bice and try to agree to exactly what happened  
17 when. And if he's concerned -- if he wants to make his point  
18 about the date the productions occurred and how little  
19 information was produced at a particular point in time, then  
20 he I think -- I understand that's a legitimate point for him  
21 to try to make. Obviously my intent would try to be get in  
22 the information that I want to get in the record to the Court.  
23 So if there is a reason that he feels it may make sense for  
24 him to do such a stipulation and it benefits his case, I'm  
25 willing to sit down and try to do that.

1 MR. BICE: It's not going to benefit my case. I'm  
2 just trying to streamline the process. I can't be here  
3 tomorrow.

4 THE COURT: Well, and my only concern --

5 MR. BICE: I just can't.

6 THE COURT: It's okay. I'm not criticizing you. It  
7 was a half day hearing and this is day four.

8 MR. RANDALL JONES: I'm willing to do it, Todd, if  
9 you want to try to do that. Sure.

10 THE COURT: My only concern is that typically I  
11 don't have a dispute among the parties about what the  
12 productions are. I have a dispute from the parties about the  
13 substance of the discovery responses and whether they're  
14 sufficient. So usually everyone stipulates to admit the  
15 discovery responses with the documents that were related to  
16 them and then we have a fight about whether there's  
17 compliance. I can't even, in this case, get you guys to  
18 stipulate to what the discovery responses are. And as you all  
19 know, I don't see the discovery responses except when I have a  
20 discovery motion. So that's my concern. I --

21 MR. BICE: I think we stipulated to all of their  
22 discovery responses on the first day. I mean, that was our --

23 THE COURT: But I don't think they had the documents  
24 attached to them.

25 MR. BICE: That was my recollection.



1 THE COURT: You stipulated on the first day to 301  
2 through 322, and then 226 -- No, I'm sorry, 227, 229.

3 MR. BICE: You're right. Those are their -- those  
4 early ones are their answers to the response or the requests  
5 for production. But the documents -- the only thing that they  
6 contain is a Bates range of certain alleged responsiveness.  
7 Okay. So your point is you don't know when each document was  
8 added pursuant to each request and when it came in, when the  
9 replacements purportedly arrived, etcetera, etcetera, and  
10 that's what you need to know.

11 THE COURT: Especially since the replacements bear  
12 the same Bates numbers.

13 MR. BICE: Bates numbers. Exactly.

14 MR. RANDALL JONES: And I'm willing to stipulate to  
15 that chronology. I think we can come to an agreement. If Mr.  
16 Bice just wants to say, look, I just want to put in there when  
17 each thing came in and what it was, we would -- I would  
18 stipulate to that.

19 THE COURT: Well, and I think there's an easy way to  
20 do it, given the stipulation that 301 through 318 is -- if I  
21 can just get an electronic storage device that's an "A" to  
22 those exhibits that says and these are the documents that were  
23 provided with this written discovery response, I think we've  
24 then tied off that loop.

25 MR. BICE: I'm sure we can do that for you because I

1 think that then gets what our point is and it satisfies what  
2 their point is. Their point is the following, as I understand  
3 it. We attached a bunch of documents to our motion. Their  
4 contention is, well, that's true and they were all redacted,  
5 but before you file that motion, we had given you unredacted  
6 versions of half of those documents or even more, all right.  
7 Our point is what happened from our perspective is you gave us  
8 a boatload of redacted documents. A few days before the  
9 depositions you gave us some unredacted documents, and then  
10 after the depositions you gave us more and more unredacted  
11 documents.

12 THE COURT: Right. And I understand. And I'm not  
13 trying to fight with you guys, I'm trying to document for  
14 purposes of my record what happened when and which documents  
15 were produced at a certain period of time because I have to  
16 evaluate the prejudice issue in addition to the willfulness  
17 issue. And so I've got all these competing issues I have to  
18 evaluate and I can't do it by just getting your database --

19 MR. RANDALL JONES: Your Honor --

20 THE COURT: -- because the database doesn't give me  
21 --

22 MR. RANDALL JONES: I follow what you're saying and  
23 I understand why the timing is important and I'm happy to work  
24 with Mr. Bice to work that out so the Court can see what came  
25 in when. The only other issue that I have that relates to

1 this is Mr. Bice I think has said something about their Rule  
2 37 motion, the exhibits weren't complete. I took those, at  
3 least I thought I did, right from the exhibits to the motion,  
4 but we didn't add all the pages. And if he's concerned that  
5 we didn't, because I didn't think some were relevant, but I  
6 wasn't trying to exclude things that were -- that he thought  
7 were relevant. I'm happy to replace those exhibits with the  
8 full exhibits from that motion.

9 MR. BICE: Fine.

10 MR. RANDALL JONES: And so all the pages could be in  
11 there.

12 THE COURT: And that relates to the documents that  
13 do not have A's that are 355 through 369.

14 MR. BICE: I actually think they do have A's.  
15 That's where the -- I think they've reversed it.

16 MR. RANDALL JONES: They did reverse it. I found  
17 that out last night about 9:00 o'clock or so.

18 THE COURT: Okay. So --

19 MR. RANDALL JONES: So that's what I will work with  
20 Mr. Bice, if that's acceptable.

21 THE COURT: That should be really easy.

22 MR. RANDALL JONES: I think it would be.

23 THE COURT: Somebody pulls a copy of the motion and  
24 then just tears it apart.

25 MR. BICE: I agree.

1 MR. RANDALL JONES: And then, Your Honor, the other  
2 thing that we are going to endeavor to do, which I didn't find  
3 out until I was preparing for this hearing last week, was that  
4 they replaced the unredacted documents with the same Bates  
5 number, which I have to agree with you I have not heard of  
6 doing before. And had I know about that earlier -- I was very  
7 confused myself on how we deal with that. So I'm going to go  
8 back and see if there is a method that we can come up with  
9 that I can discuss with Mr. Bice, in consultation with Mr.  
10 Bice so we can all try to have a better record of what was  
11 redacted versus what is unredacted.

12 THE COURT: Well, I won't need that if -- you'll  
13 need it in the future.

14 MR. RANDALL JONES: For the future.

15 THE COURT: But what I will need is if I get the  
16 electronic data that went with Exhibit 301 through Exhibit  
17 318, I don't need you to change the numbers. In fact, I don't  
18 want you to change the numbers.

19 MR. BICE: Right.

20 THE COURT: I want them as they were produced.

21 MR. RANDALL JONES: Oh, sure. No, I understand  
22 that.

23 THE COURT: And then eventually I think absolutely  
24 you should fix the situation that's creating confusion for all  
25 of us, but that's a different issue. I've got to have the

1 record as it exists in front of me now.

2 MR. RANDALL JONES: What I would suggest, and this  
3 is a suggestion for counsel and the Court to consider, is with  
4 respect to the unredacted documents that we have submitted to  
5 the Court as part of this record, whether they come -- I know  
6 they haven't come in yet or not, but if they do come in that  
7 we give some kind of a designation to the limited documents we  
8 are talking about, as with a -- in a parenthetical with a "U"  
9 for unredacted or something of that nature. And I can discuss  
10 that with Mr. Bice as well to see if that makes sense for this  
11 limited record that there is some designation that even though  
12 they have the same Bates number as a redacted document,  
13 there's an indication that this other document was unredacted  
14 by a different reference to the number.

15 THE COURT: Well, I have two groups of documents  
16 that I think are going to create concern with that, and those  
17 are the documents that are at Proposed 325 and at Proposed  
18 330. Those are what I'm referring to as your database.

19 MR. RANDALL JONES: Yes.

20 THE COURT: Because I've got no idea how those  
21 documents came to be in the way they are now.

22 MR. RANDALL JONES: Well, like I said, what I will  
23 do, Your Honor, I will work with Mr. Bice to try to figure out  
24 a system that makes some sense. And before we implement it,  
25 I'll get with Mr. Bice and maybe we can get with your clerk

1 and figure out a way -- if that makes sense to us, see if it  
2 makes sense to the Court.

3 THE COURT: And how much more time do you anticipate  
4 that you will need with me for any additional evidentiary  
5 presentation and closing arguments?

6 MR. RANDALL JONES: Your Honor, the only thing I  
7 have is the documents that -- the only thing I have is the  
8 documents that we're talking about.

9 THE COURT: Mr. Peek has more stuff.

10 MR. PEEK: Well, I have something, Your Honor, which  
11 we talked about earlier, which is to respond to the Court's  
12 inquiry and also Jason Ray's testimony regarding whether or  
13 not the transferred documents were searched for purposes of  
14 providing information to Mr. Jacobs.

15 THE COURT: I have Mr. Ray's testimony. Whether you  
16 want to provide it --

17 MR. PEEK: I know you do and I --

18 THE COURT: I haven't asked you to rest.

19 MR. PEEK: I know. And that's why I say I want to  
20 present somebody who will testify to the fact that that  
21 collection of transferred documents was searched, or which  
22 portions of it were searched.

23 THE COURT: And if you want to present evidence of  
24 that, I will listen.

25 MR. PEEK: Well, given there's --

1 THE COURT: But it's got to be evidence and not  
2 lawyer argument. So --

3 MR. PEEK: I agree with you, Your Honor. So we would  
4 need some time to be able to pull that together and make sure  
5 I get the right witness.

6 THE COURT: Do you want to brief the O'Melveny &  
7 Myers issue before you close?

8 MR. BICE: No. I'm going to --

9 THE COURT: Okay.

10 MR. BICE: That's going to be a much broader issue.  
11 We don't need you to resolve that --

12 THE COURT: Okay.

13 MR. BICE: -- to deal with this sanction. We will  
14 be dealing with that in a different --

15 THE COURT: That's different.

16 MR. BICE: -- in a different setting.

17 THE COURT: Okay. So, Mr. Peek and Mr. Jones, I  
18 want you next week to figure out how much additional time of  
19 mine you need for your evidentiary presentation before you  
20 rest. Once you figure that out, will you please call the  
21 other side and see if you can agree how much time you think  
22 you need. And let's please use Mr. Peek's method of  
23 estimating rather than anyone else's, because Mr. Peek has  
24 gotten yelled at by me more than you guys have for under-  
25 estimating, so he has a new way that he's done it for the last

1 six or seven years.

2 MR. PEEK: And part of that estimation will be  
3 predicated on whether or not Mr. Jones and Mr. Bice can agree  
4 on these other things.

5 THE COURT: Yeah, and if they don't agree then  
6 triple the time.

7 MR. PEEK: There you go.

8 THE COURT: And then once we've figured out how much  
9 that evidentiary presentation time is, how much time you need  
10 for argument. And then since I'm going to be in a long bench  
11 trial, I will then tell them what days they will have off  
12 after we negotiate what you need and I can figure it out in  
13 not inconveniencing too many international witnesses, because  
14 they've got a bunch of international witnesses, too.

15 MR. PEEK: Thank you, Your Honor. So we're excused  
16 now for the day?

17 THE COURT: I don't know. I'm waiting.

18 MR. BICE: So we're going to get back to you early  
19 next week and tell you --

20 THE COURT: How about mid-week, since Monday is a  
21 holiday?

22 MR. PEEK: Yeah, sometime mid-week. Monday is a  
23 holiday.

24 THE COURT: Mid-week.

25 MR. RANDALL JONES: I'll work with Mr. Bice. I'll



1 make myself available.

2 THE COURT: So Wednesday you guys are going to speak  
3 to each other and somebody will let my people know that you've  
4 either come up with an idea of how much more time you need or  
5 you haven't. And if you're still working on it, what I can do  
6 to speed your decision making.

7 Mr. Pisanelli, you're looking at me with that look  
8 you give me when I've done something that's totally off base,  
9 or at least you think I have.

10 MR. PISANELLI: No, I'm not quite there yet. I'm  
11 worried that we're on the clock for this jurisdictional  
12 hearing.

13 THE COURT: For me?

14 MR. PISANELLI: No, we are, on this jurisdictional  
15 hearing.

16 THE COURT: Oh, you're absolutely on a clock because  
17 I've got no idea how the Nevada Supreme Court calculates  
18 anything related to Rule 41(e) --

19 MR. PISANELLI: Not -- actually not that clock.

20 THE COURT: -- given some of their unpublished  
21 decisions.

22 MR. PISANELLI: Yeah, not that clock. I'm talking  
23 about your clock that you gave us for the jurisdictional  
24 hearing. Part of what we're doing here, of course, is putting  
25 our cards on the table to you of how badly we have been

1 prejudiced by the behavior of the defendants.

2 THE COURT: Well, aren't we doing that evidentiary  
3 hearing starting on April 22nd?

4 MR. PISANELLI: Right. And the longer this drags on  
5 we're going closer and closer to that hearing that we don't  
6 want to move by one minute.

7 THE COURT: Well, remember, I was -- I'm not moving  
8 it. Well, I shouldn't have to move it. I should be done with  
9 City Center. Remember, I originally had wanted to have the  
10 sanctions hearing at the same time right before. I moved it  
11 up here because Mr. Jones correctly pointed out there might be  
12 some due process issues for his client if he didn't know what  
13 type of evidentiary sanctions I decided to issue, if I choose  
14 to issue those instead of some other type of sanctions. He  
15 was absolutely correct. So I moved this hearing up a couple  
16 of months.

17 MR. PISANELLI: I recall.

18 THE COURT: So I think we have a little more time  
19 than what you're worried about.

20 MR. PISANELLI: If we wrap this thing up next week,  
21 then everything I'm saying right now is not a concern, but if  
22 this continues to drag on week after week in finding time and  
23 cooperation, that's when I'm going to get nervous.

24 THE COURT: You're not going to have -- they can't  
25 do that. I don't have that much time in my life.

1 MR. PISANELLI: Okay, good.

2 MR. RANDALL JONES: And just as I said, I'll make  
3 myself available if we do it -- I'm willing to do it next  
4 week. If we get -- I don't want to delay this. For personal  
5 reasons I would like to get this wrapped up. So I have no  
6 interest in delaying it further.

7 THE COURT: Well, my only concern is I need you to  
8 give me how much time you really think you need and then I'm  
9 going to add whatever amount I think is fair on top of the  
10 amount you give me, so that when I tell my people they're  
11 taking that many days off, it's really only that many days  
12 off.

13 MR. RANDALL JONES: Mr. Bice and I will be back to  
14 the Court by Wednesday, and I'm ready to go any time after  
15 that.

16 THE COURT: Well, Mr. Peek has to figure out what  
17 he's going to do with his witness issues.

18 MR. RANDALL JONES: Well, I mean, when I say that,  
19 Mr. Bice --

20 MR. PEEK: We do talk to each other here, Randall  
21 and I.

22 MR. BICE: Yeah, we would just propose that each  
23 side stipulate for argument, stipulate to a time amount each  
24 side gets and that's it. And let's just --

25 THE COURT: Well, I do that frequently.

1 MR. BICE: We should do that.

2 THE COURT: But that's argument. This is I've got  
3 to get the rest of their evidence in.

4 MR. BICE: Yeah, that's fine. That's fine.

5 MR. PEEK: Your Honor, I just wanted to address the  
6 filing of Mr. Bice this morning.

7 THE COURT: Leven's -- the testimony by Mr. Leven?

8 MR. PEEK: Yeah, which is a proffer regarding the  
9 deposition of Michael Leven which has to do with Mr. Schwartz,  
10 you may recall.

11 THE COURT: Uh-huh.

12 MR. PEEK: I don't think I have anything to add, nor  
13 do I think -- I'll ask Mr. Jones.

14 THE COURT: Okay. But if you do, then will you file  
15 it?

16 MR. PEEK: Have anything to add to what we already  
17 said.

18 THE COURT: I'm not worried about it. If you add  
19 something else -- we discussed it on the record. But if for  
20 purposes of the record because I told him to move the video up  
21 because I wasn't going to let him do that part, you can file  
22 something too if you need to. And that's only the pages of  
23 the deposition that I told people to skip.

24 MR. PEEK: That's correct.

25 THE COURT: Anything else? Have a lovely holiday.

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MR. RANDALL JONES: Thank you, Your Honor.  
MR. BICE: Thank you, Your Honor.  
MR. RANDALL JONES: Thank you for your patience.  
(Court recessed at 12:02 p.m., to reconvene  
at a date to be determined)

\* \* \* \* \*

INDEX

| <u>NAME</u> | <u>DIRECT</u> | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u> |
|-------------|---------------|--------------|-----------------|----------------|
|-------------|---------------|--------------|-----------------|----------------|

PLAINTIFF'S REBUTTAL WITNESSES

|                |        |     |  |  |
|----------------|--------|-----|--|--|
| Ira Raphaelson | 65/122 | 123 |  |  |
|----------------|--------|-----|--|--|

\* \* \*

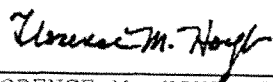
CERTIFICATION

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, TRANSCRIBER

| DATE RECEIVED | SCL NO.                   | BATES RANGE   | # OF DOCS PRODUCED** |
|---------------|---------------------------|---|----------------------|
| 1/2/2013      | SCL003 and SCL004         | SCL003: SCL00100101-320<br>SCL004: SCL00100321-1823   | 371                  |
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| 2/25/2013     | Repl Prod04 & Repl Prod05 | 04 - Various Bates Nos. between:<br>SCL00100577- 126993<br>05 - SCL00101779;<br>101795; 101799; 101801-02 | 91                   |
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| 4/12/2013     | SCL014                    | SCL00131855-145644  | 1733                 |
| 4/12/2013     | Repl Prod06               | Various Bates Nos. between:<br>SCL00100846-126903   | 10                   |
| 6/27/2013     | SCL015                    | SCL00145645-171053  | 2394                 |
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| 1/23/2015     | Repl Prod08               | Various Bates Nos. between:<br>SCL00171769-213649   | 569                  |

\*\* The parties agree that at least 7,904 documents produced by SCL still contain redactions pursuant to the MPDPA.



VAULT EXHIBIT FORM

CASE NO. A627691

TRIAL DATE: 9/10/12

DEPT. NO. XI

JUDGE: ELIZABETH GONZALEZ

CLERK: BILLIE JO CRAIG

STEVEN JACOBS  
PLAINTIFF

REPORTER: JILL HAWKINS

LAS VEGAS SANDS CORP  
VS

ASANELLI/BICE/SPINELLI

COUNSEL FOR PLAINTIFF  
S. LIONEL/MCCREA/BRIAN/PEEK/

WEISSMAN/S. OWENS

DEFENDANT

COUNSEL FOR DEFENDANT

DEFT. EXHIBITS

|      |   | OFFERED<br>DATE | OBJ | ADMITTED<br>DATE |
|------|---|-----------------|-----|------------------|
| A)   | LAPTOP  |                 |     |                  |
| A-1) | LAPTOP HARD DRIVE HDD000593                             |                 |     |                  |
| A-2) | CHAIN OF CUSTODY RECORD                                 |                 |     |                  |
| B)   | HARD DRIVE HDD000603                                    |                 |     |                  |
| B-1) | CHAIN OF CUSTODY RECORD                                 |                 |     |                  |
| C)   | HARD DRIVE HDD000604                                    |                 |     |                  |
| C-1) | CHAIN OF CUSTODY RECORD                                 |                 |     |                  |
| D)   | DISC  |                 |     |                  |
| D-1) | CHAIN OF CUSTODY RECORD                                 |                 |     |                  |
| E)   | HARD DRIVE 110223-0001                                  |                 |     |                  |
| E-1) | CHAIN OF CUSTODY RECORD                                 |                 |     |                  |
| F)   | ELECTRONIC EVIDENCE CONSULTING CHANGE OF CUSTODY RECORD |                 |     |                  |
|      |   |                 |     |                  |
|      |   |                 |     |                  |
|      |   |                 |     |                  |



F T I

**ELECTRONIC EVIDENCE CONSULTING  
CHANGE OF CUSTODY RECORD**Date: 7/16/2012FTI Matter: PROJECT NEVADA / ELVIS / MIRAGENumber: FOI599

The evidence described herein has been transferred on this date:

From: TONY WHIDDON  
(Name)Representing: LVSC  
(Organization)To: Stein Hajek  
(Name)Representing: FTI Consulting, Inc.  
(Organization)**DESCRIPTION OF EVIDENCE**

| Identification<br>(Serial No., etc.) | Description   |
|--------------------------------------|---|
| WCAV36325181                         | 160GB W/D DRIVE<br>"STEVE JACOBS"   |
| WCAV35054566                         | HDD000603 "STEVE JACOBS" "STEVEN WEAVER"<br>"MARK BROWN" PROFILE EMAIL "LUIB MELOS" |
| 6VC36E6C                             | MICHAEL KOSTRINSKY<br>HDD000543   |
| MWQZUA8C                             | WILLIAM BONAR CINDY YANG EMAIL<br>HDD000604   |
|                                      | CD "INVESTIGATIONS"   |
| R8-882BE 10/03                       | LAPTOP LENOVO KOSTRINSKY  |
|                                      |   |
|                                      |   |
|                                      |   |

Signature (from)

Date

Signature (to)

Date

PA15878

## This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

(all transfers of this item will be recorded below)

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# BUSINESS TECHNOLOGY

LAS VEGAS SANDS CORP.

## CHAIN OF CUSTODY RECORD

|  |                    |  |           |
|--|--------------------|--|-----------|
| Description of Item:   |                    | Seagate Laptop, Serial 6VC36E6C, Model ST9160314AS. Previously assigned to user Michael Kostinsky, former Team Member.   |           |
| Who made the collection and why were they assigned to do so: |                    | Michael Kostinsky separated from the company in December of 2011 at which time his laptop was delivered to Data Security to keep in the event it was needed again. After a period of about six months and the laptop was not needed Data Security created ServiceNow ticket INC0149947 on 06/26/2012 to have Computer Engineering collect the laptop and pull the hard drive. The hard drive was returned to Data Security and the case stayed with Computer Engineering. On 06/28/2012 Legal requested the Laptop and Hard Drive to be delivered to them. Computer Engineering returned the case and Data Security delivered both the case and the hard drive to Legal. |           |
| Method of Collection:  | Physical           |  |           |
| Reason for Collection:                                       | Requested by Legal |  |           |
| Date & Time Collected:                                       | December 2011      | Case ID:   | N/A       |
|  |                    | Evidence #:  | HDD000593 |

5-1-12 6VC36E6C

### Transferred From

### Transferred To

| Date & Time       | Location             | Name           | Signature & TMID          | Date & Time      | Location             | Name           | Signature & TMID |
|-------------------|----------------------|----------------|---------------------------|------------------|----------------------|----------------|------------------|
| 12/2011           | Legal                | Vaden, Steven  | 22699<br>No Longer Active | 12/2011          | Data Security        | Laura Morgan   | 27471            |
| 06/26/2012        | Data Security        | Laura Morgan   | 27471                     | 06/26/2012       | Computer Engineering | Danny Gonzalez | 17275            |
| 06/28/2012        | Computer Engineering | Danny Gonzalez | 17275                     | 12/2011          | Data Security        | Laura Morgan   | 27471            |
| 06/28/2012        | Data Security        | Laura Morgan   | 27471                     | 06/28/2012       | Legal                | Rob Rubenstein | 19033            |
| 7/6/2012          | Legal                | Rob Rubenstein | 19033                     | 7/6/2012 10:55am | Security             | Tyler Anderson | 002              |
| 7/12/2012 11:57   | Security             | Tyler Anderson | 002                       | 7/12/2012 11:57  | Security             | Steven Hays    | 017              |
| 7/14/2012 11:55am | PTI                  | Steven Hays    | 017                       | 7/19/12 11:55am  | Security             | Tyler Anderson | 017              |
| 7/19/12 10:55am   | Security             | Tyler Anderson | 017                       | 7/19/12 10:55am  | Security             | Tyler Anderson | 017              |

Corporate Data Security  
DataSecurityCouncil@venetian.com  
702.607.3734

Macau Data Security  
macausdc@venetian.com.mo  
853 811 83013

Singapore Data Security  
DataSecurityCouncil@MarinaBaySands.com  
65 6688 0399

## CHAIN OF CUSTODY RECORD

Description of Item:

**Who made the collection and why were they assigned to do so:**

**Method of Collection:**

Reason for Collection:

**Date & Time Collected:**

**Case ID:**

**Evidence #:**

Transferred From

*Transferred To*

Date & Time Location

Name

**Signature & TMID**

Date & Time Location

Name \_\_\_\_\_

**Signature & TMID**

7/20/12 Advanced

EDIE KIM

1

113741

## Security

T. Schindler

27/11/88

9/10/12 PSC

**BILLIE JO CRAIG**

John

**Comments:**

## Corporate Data Security

■ [DataSecurityCouncil@venetian.com](mailto:DataSecurityCouncil@venetian.com)

702 607 3734

## Macau Data Security

macaudsc@venetian.com.mo

853 811 83013

## Singapore Data Security

DataSecurityCouncil@MarinaBaySands.com

65 6688 0399



F T I

FO1599-1-SHA-E086

## COMPUTER EVIDENCE ACQUISITION &amp; COLLECTION RECORD

This form is to be filled out for each piece of evidence acquired. Write applicable notes on reverse side.

## General Information

Matter Name: PROJECT ELVIS/MIRAGE/NEVADA  
Matter Number:

## Host System Information

Computer User Name: MICHAEL KOSTRINSKY  
Location of System:  
Type of Host System: ☐ Desktop ☒ Laptop ☐ Server ☐ Other:  
Type of Evidence: ☒ Hard Drive ☐ CD/DVD ☐ Floppy Disk ☐ Zip/Jazz Disk  
☐ RAID ☐ Other:  
Host System State: ☐ On ☐ Logged in ☒ Off: ☐ Other:  
Bios Date & Time: N/A Current Date & Time: N/A  
Hard Drive Removed By: NOT REQUIRED

|                          | Computer                          | Hard Drive  |
|--------------------------|-----------------------------------|-------------|
| Manufacturer of Evidence | LENOVO <del>111</del> ASSET 10808 | SEAGATE     |
| Model No. Evidence       | T500 <del>111</del> 2089-AC4      | ST9160314AS |
| Serial No. Evidence      | R8-8826E <del>111</del> 10/03     | 6VC36E6C    |

## Acquisition Information

Acquired By: S HAJEK  
Acquisition Location: ☐ Lab ☒ On Site ☐ Off: ☐ Other:  
Acquisition Method: ☐ Encase ☐ Safeback ☐ Backup (Software:  
☐ Unix DD ☐ File Copy ☐ ICS Solo ☒ Other: TABLEAU TD1  
Acquisition Details (for Encase): ☐ FastBlock ☐ Direct Connection ☐ Crossover Cable  
☐ Firewire W/B ☐ SCSI-IDE W/B ☒ Other: TABLEAU TD1  
Target Media: ☒ Hard Drive ☐ Tape ☐ Other:  
Amount of time to image: Megabytes imaged: 149.1GB  
Image verified: ☒ Yes ☐ No Encase Verified: ☒ Yes ☐ No  
Sectors Verified: ☒ Yes ☐ No Photographs Taken: ☐ Yes ☐ No  
Hash or CRC value (circle one): 2E0D9F704C08F5AF611496E6C0FE5416  
92DA270C2FC20A435951C0A6F19EC587

## Reassembly &amp; Backup Information

Hard Drive Reinstalled By: NOT REQUIRED ☐ Boot Ok  
Backup Drive Barcode:

PA15882

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[illegible]

# CHAIN OF CUSTODY RECORD

Transferred From

**Transferred To**

Singapore Data Security

- [DataSecurityCouncil@MarinaBay Sands.com](mailto:DataSecurityCouncil@MarinaBay Sands.com)
- 65 6688 0399





F T I

FOI599-1-SH4-E089

**COMPUTER EVIDENCE ACQUISITION & COLLECTION RECORD**

This form is to be filled out for each piece of evidence acquired. **Write applicable notes on reverse side.**

**General Information**

|                |                             |
|----------------|-----------------------------|
| Matter Name:   | PROJECT ELVIS/MIRAGE/NEVADA |
| Matter Number: | FOI599                      |

**Host System Information**

|                          |   |                      |     |
|--------------------------|---|----------------------|-----|
| Computer User Name:      | WILLIAM BOKER   |                      |     |
| Location of System:      | SECURITY LOCK UP TONY WHIDDON AREA  |                      |     |
| Type of Host System:     | <input type="checkbox"/> Desktop <input type="checkbox"/> Laptop <input type="checkbox"/> Server <input checked="" type="checkbox"/> Other: UNKNOWN   |                      |     |
| Type of Evidence:        | <input checked="" type="checkbox"/> Hard Drive <input type="checkbox"/> CD/DVD <input type="checkbox"/> Floppy Disk <input type="checkbox"/> Zip/Jazz Disk<br><input type="checkbox"/> RAID <input type="checkbox"/> Other: |                      |     |
| Host System State:       | <input type="checkbox"/> On <input type="checkbox"/> Logged in <input checked="" type="checkbox"/> Off: <input type="checkbox"/> Other:   |                      |     |
| Bios Date & Time:        | N/A   | Current Date & Time: | N/A |
| Hard Drive Removed By:   | NOT REQUIRED  |                      |     |
|                          | Computer  | Hard Drive           |     |
| Manufacturer of Evidence | HP  | HITACHI              |     |
| Model No. Evidence       | XW4400 workstation  | HDT71016SLA380       |     |
| Serial No. Evidence      | UNKNOWN   | MW0ZUA8C             |     |

**Acquisition Information**

|                                   |  |                   |   |
|-----------------------------------|--|-------------------|---|
| Acquired By:                      | S HAJEK  |                   |   |
| Acquisition Location:             | <input type="checkbox"/> Lab <input checked="" type="checkbox"/> On Site <input type="checkbox"/> Off: <input type="checkbox"/> Other:   |                   |   |
| Acquisition Method:               | <input type="checkbox"/> Encase <input type="checkbox"/> Safeback <input type="checkbox"/> Backup (Software: )<br><input type="checkbox"/> Unix DD <input type="checkbox"/> File Copy <input type="checkbox"/> ICS Solo <input checked="" type="checkbox"/> Other: TABLEAU TD1 |                   |   |
| Acquisition Details (for Encase): | <input type="checkbox"/> FastBlock <input type="checkbox"/> Direct Connection <input type="checkbox"/> Crossover Cable<br><input type="checkbox"/> Firewire W/B <input type="checkbox"/> SCSI-IDE W/B <input checked="" type="checkbox"/> Other: TABLEAU TD1                   |                   |   |
| Target Media                      | <input checked="" type="checkbox"/> Hard Drive <input type="checkbox"/> Tape <input type="checkbox"/> Other:   |                   |   |
| Amount of time to image:          |  | Megabytes imaged: | 149.1GB   |
| Image verified:                   | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  | Encase Verified:  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Sectors Verified                  | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No  | Photographs Taken | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Hash or CRC value (circle one):   | AC5E6A6A25EBF97728344E0B3ED5BB74   |                   |   |

**Reassembly & Backup Information**

|                            |              |                                  |
|----------------------------|--------------|----------------------------------|
| Hard Drive Reinstalled By: | NOT REQUIRED | <input type="checkbox"/> Boot Ok |
| Backup Drive Barcode:      |              |                                  |



**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 08:32 a.m.  
Case Number  
Tracie K. Lindeman  
Clerk of Supreme Court  
District Court Case Number  
A627691-B

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

**Volume XXVII of XXXIII  
(PA15733 – 42859)**

MORRIS LAW GROUP  
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Robert J. Cassity, Esq., Bar No. 9779  
9555 Hillwood Drive, 2nd Floor  
Las Vegas, Nevada 89134

Attorneys for Petitioner

## **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 XXVII of XXXIII (PA15733 – 42859)** 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**

James J. Pisanelli  
Todd L. Bice  
Debra Spinelli  
Pisanelli Bice  
400 S. 7th Street, Suite 300  
Las Vegas, NV 89101

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

DATED this 20th day of March, 2015.

By: /s/ PATRICIA FERRUGIA

**APPENDIX TO PETITION FOR WRIT OF PROHIBITION OR  
MANDAMUS RE MARCH 6, 2015 SANCTIONS ORDER  
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| 10/06/2011  | Sands China Ltd.'s Motion for Clarification of Jurisdictional Discovery Order on OST (without exhibits)  | II            | PA353 – 412      |
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| 10/13/2011  | Transcript: Hearing on Sands China's Motion in Limine and Motion for Clarification of Order  | III           | PA424 – 531      |
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| 06/27/2012  | Defendants' Joint Status Conference Statement  | III           | PA583 – 92       |
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TRAN

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

STEVEN JACOBS

Plaintiff

vs.

LAS VEGAS SANDS CORP., et al..

Defendants  
.....

CASE NO. A-627691

DEPT. NO. XI

**Transcript of  
Proceedings**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**EVIDENTIARY HEARING RE MOTION FOR SANCTIONS - DAY 4**

THURSDAY, FEBRUARY 12, 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:

JILL HAWKINS  
District Court

TRANSCRIPTION BY:

FLORENCE HOYT  
Las Vegas, Nevada 89146

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

1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 12, 2015, 9:00 A.M.

2 (Court was called to order)

3 THE COURT: Good morning. All right. We were to  
4 offering -- or providing a copy of 354, which was admitted  
5 yesterday.

6 MR. RANDALL JONES: Yes, Your Honor.

7 THE COURT: Did we get that?

8 THE CLERK: Yes, Your Honor.

9 THE COURT: And then we were going to offer 355 and  
10 some additional exhibits.

11 MR. RANDALL JONES: That's correct.

12 THE COURT: What are those proposed numbers?

13 And, Mr. Raphaelson, I'm sorry about the scheduling  
14 disaster.

15 MR. RAPHAELSON: No worries, Your Honor. I told the  
16 Court I serve at the Court's pleasure. I meant it.

17 THE COURT: I appreciate that, sir. But I still  
18 don't like to inconvenience people.

19 MR. RANDALL JONES: Your Honor -- and I believe your  
20 clerk has this list, as well, but it's 355 --

21 THE COURT: To where?

22 MR. RANDALL JONES: I'm sorry?

23 THE COURT: What's the last number?

24 MR. RANDALL JONES: The last number through -- so  
25 355 through 369A. I know we got through [inaudible].

1 THE COURT: This list goes all the way to 374.  
2 MR. RANDALL JONES: That sounds right.  
3 THE COURT: But my question is yesterday we talked  
4 about some that were portions of an exhibit that I was not  
5 going to let you parse because it was 200,000 pages, and so I  
6 told you you had to pull out the separate sheets --  
7 MR. RANDALL JONES: That's right.  
8 THE COURT: -- provide them to counsel last night --  
9 MR. RANDALL JONES: We did.  
10 THE COURT: -- and give me the numbers. And so  
11 you're telling me it's 354 through 374 are all those?  
12 MR. RANDALL JONES: Yes, they are, Your Honor.  
13 THE COURT: Because some of them don't appear to be  
14 from those documents. For instance, starting at 370 I have a  
15 different document description.  
16 MR. RANDALL JONES: Court's indulgence, Your Honor.  
17 I now understand what the confusion is. The -- what  
18 is it? So it'd be 374. I believe, and I'll have to verify  
19 this, it's either 370 or 371 through 374 are the unredacted  
20 versions of the exhibits used in Mr. Leven's original  
21 deposition that are a part of that overall exhibit.  
22 THE COURT: Okay. So are there any objections to  
23 Proposed 354 through 374?  
24 MR. BICE: Yes. There's -- we got these last night.  
25 I don't know whether they are part of this 200,000-page

1 purported exhibit or not.

2 THE COURT: That's Proposed 325.

3 MR. BICE: Yeah. Because we got them at -- about  
4 9:00 o'clock we got these last night.

5 THE COURT: They didn't hit my aspirational goal of  
6 before 8:00, huh?

7 MR. BICE: I know. So we did not be able to check  
8 all these, Your Honor. But we aren't going to stipulate to  
9 their admission. They need to put a witness on, because what  
10 they're trying to do, Your Honor, is suggest that they gave us  
11 these redacted documents before the depositions. And --

12 THE COURT: So let me ask a question.

13 MR. BICE: -- let's see a witness who will testify  
14 to that.

15 THE COURT: Let me ask a question. There are some  
16 that are -- in the descriptors say, "to plaintiff's renewed  
17 motion," and then there are others that say, "Replacement."  
18 To the extent there are ones that say "to plaintiff's renewed  
19 motion," can you stipulate to those?

20 MR. BICE: To the extent that those are the real  
21 exhibits to our renewed motion?

22 THE COURT: Well, no. I just want to know if they  
23 are or not.

24 MR. BICE: Yeah. Our versions, Your Honor, were the  
25 redacted ones that they gave us.



1 THE COURT: Okay. So, for instance, let's look at  
2 Proposed Exhibit 355, everybody but me.

3 MR. BICE: Okay.

4 THE COURT: Is Proposed 355 what was attached as  
5 Exhibit 9 to your renewed motion for sanctions?

6 MR. BICE: No, it is not.

7 THE COURT: Okay. So, Mr. Jones, I seem to have an  
8 issue.

9 MR. RANDALL JONES: Well, Your Honor, the only issue  
10 you have -- we never said that these were documents they had a  
11 particular point in time.

12 THE COURT: That's not what I asked. What is asked  
13 Mr. Bice was very simple, was Proposed Exhibit 355 Exhibit 9  
14 to plaintiff's renewed motion. And he said no. You told me  
15 yesterday these were all documents that were attached to their  
16 renewed motion.

17 MR. RANDALL JONES: I guess it would be a semantic  
18 point there, Your Honor. Those were all the unredacted  
19 documents to their motion for sanctions.

20 THE COURT: Okay.

21 MR. RANDALL JONES: We have -- so, to be clear, and  
22 I certainly would -- did not intend to imply this, what I was  
23 trying to convey to the Court is we have since Mr. Leven's  
24 deposition and since that motion provided them with the  
25 unredacted versions of those documents, which they've had well

1 before, months and months before this hearing. Or in some  
2 cases months and months before.

3 THE COURT: That may be true. But remember, this is  
4 an evidentiary hearing, so I have to have evidence related to  
5 that issue.

6 So let me go back. Yesterday you told me that you  
7 wanted to admit certain documents that were attached to the  
8 plaintiff's renewed motion, and I said that shouldn't be an  
9 issue. You said they were within this 200,000-page range. Do  
10 you still want to admit the actual documents that were  
11 attached to plaintiff's renewed motion?

12 MR. RANDALL JONES: I do.

13 THE COURT: Which ones are they of this list?

14 MR. RANDALL JONES: They're every one that is not  
15 with an A. I'm sorry. They're the ones --

16 THE COURT: Well, but Mr. Bice just looked at 355  
17 and he said it's not Exhibit 9 to his renewed motion.

18 MR. RANDALL JONES: I'm sorry. It's all the ones  
19 without the A. We did it in reverse. I'm sorry. It's been a  
20 long night, Judge.

21 THE COURT: I can understand.

22 MR. RANDALL JONES: With the A is the version that  
23 was attached to the motion.

24 THE COURT: Okay. So let me try again. Let's look  
25 at 358, which has as its descriptor "Exhibit 12 to plaintiff's

1 renewed motion."

2 Mr. Bice, is Proposed 358 Exhibit 12 to plaintiff's  
3 renewed motion?

4 MR. BICE: It is.

5 THE COURT: Do you stipulate to that one?

6 MR. BICE: Yes.

7 THE COURT: Okay. How about Proposed 359? Is that  
8 Exhibit 13 to plaintiff's renewed motion?

9 MR. BICE: It is.

10 THE COURT: Okay. Do you stipulate to that one?

11 MR. BICE: Yes.

12 THE COURT: How about 360? Is that proposed exhibit  
13 Exhibit 14 to your plaintiff's renewed motion?

14 MR. BICE: It is not.

15 THE COURT: Okay. So I have some that are, and some  
16 that aren't. 9 wasn't, 14 wasn't. How long will it take  
17 somebody to figure out which ones of the proposed exhibits  
18 that don't have an A are really the copies that were attached  
19 to the motion?

20 MR. RANDALL JONES: Well, Your Honor, any one that  
21 is listed as an exhibit to the motion, I took them out of the  
22 motion. So I can't understand why --

23 THE COURT: But Mr. Bice is telling me they're not  
24 the same.

25 MR. SMITH: With a couple exceptions to -- and we

1 should also probably check with 359 and 358. Some of the  
2 exhibits to our actual motion were longer. And I don't  
3 remember if these particular documents were the entire exhibit  
4 or just portions of them. I know the defendant only  
5 identified portions of some exhibits, not the full exhibit.

6 MR. RANDALL JONES: Well, Your Honor, I guess if  
7 there's an issue here -- what they may be talking about -- I  
8 don't -- if there are other pages to it, I have no problem  
9 incorporating the entire document. That was not the intent.

10 THE COURT: Okay.

11 MR. RANDALL JONES: There's certain pages I was  
12 going to use in my PowerPoint. So if they want the whole  
13 document, I have no problem with that.

14 THE COURT: For those documents that are actual  
15 copies, identical to what was marked as an exhibit to  
16 plaintiff's renewed motion for sanctions, I will admit those  
17 in their entirety if you want me to. But I need somebody to  
18 go through this list and identify which ones match, which ones  
19 are incomplete, and which ones just don't match.

20 MR. PISANELLI: I assume they're going to do that.  
21 It's their proposed exhibits.

22 THE COURT: You know, you've told me you object, so  
23 it shifts back to them.

24 MR. RANDALL JONES: Understood, Your Honor.

25 THE COURT: Okay. So the A-s are a different issue.

1 The A-s are documents that were not attached to plaintiff's  
2 renewed motion, but were produced in discovery at some point  
3 in time. Is that what you're telling, Mr. Jones?

4 MR. RANDALL JONES: That is true.

5 THE COURT: What is your evidentiary basis for that?

6 MR. RANDALL JONES: The same evidentiary basis that  
7 the plaintiffs used when they were able to get their documents  
8 that they wanted to be admitted into evidence where they said  
9 -- and I would not agree to stipulate to the admission of  
10 those, and this Court said, I'm going to admit them even  
11 without the stipulation. Where I offered the stipulation and  
12 said, if they will stipulate to our documents that have been  
13 produced in the case I would be happy to stipulate to theirs.  
14 And they refused to do so, and this Court admitted every one  
15 of their documents.

16 THE COURT: I did not admit every one of the  
17 documents.

18 MR. RANDALL JONES: Every one of the --

19 THE COURT: I did documents that had a foundation  
20 that had been laid.

21 MR. RANDALL JONES: What foundation had they laid,  
22 Your Honor? They had no witnesses --

23 THE COURT: I had witnesses who testified yesterday,  
24 the day before, and the day before that.

25 MR. RANDALL JONES: They had no witness -- no. I

1 would like to know who the witnesses were that laid the  
2 foundation for the admission of their documents. They didn't  
3 put any of the people that were on the emails on the witness  
4 stand to authenticate any of those documents.

5 MR. BICE: He's absolutely right on that, Your  
6 Honor. He -- we didn't have a witness to authenticate them,  
7 because they redacted all of the names from all the emails.  
8 What you did, Your Honor, is you correctly observed that we  
9 were offering those documents to demonstrate that they  
10 couldn't be -- it's impossible to authenticate them, it's  
11 impossible to admit them.

12 THE COURT: Well, and based on the testimony that I  
13 heard from the witnesses who were involved they couldn't  
14 identify.

15 MR. BICE: Exactly. So that was the basis for the  
16 admission.

17 MR. RANDALL JONES: Your Honor, if I may respond.

18 THE COURT: There were others that there was  
19 actually a foundation laid for.

20 MR. BICE: Yes.

21 MR. RANDALL JONES: Actually -- well, there's  
22 certain -- some documents they had a foundation.

23 THE COURT: Yes.

24 MR. RANDALL JONES: Which I didn't object to  
25 foundation. When they --

1 THE COURT: Mr. Jones, what you're going to have to  
2 do, and I've been waiting for you to do this this whole  
3 hearing, is have someone, and I thought it was going to be  
4 your ESI guy, testify about the matching process that occurred  
5 where the hash codes did not match but they matched a document  
6 that was in the U.S. And I don't know who's going to tell me  
7 about that so I can then link up the substituted documents and  
8 figure out exactly how many documents that were produced in a  
9 redacted form have not been matched to a document that was in  
10 the U.S.

11 MR. RANDALL JONES: First of all, Your Honor, I  
12 believe Mr. Ray did testify about the matching process. He  
13 didn't testify about a particular document, I agree with that.

14 THE COURT: That's correct.

15 MR. RANDALL JONES: And so I guess had I been made  
16 aware that Mr. Bice would not need to lay a foundation for his  
17 emails that he got in -- and I would also make a point to the  
18 Court that is not true about certain people are not -- that  
19 there's no people on those documents. Mr. Adelson is on those  
20 documents, Mr. Leven is on those documents, Mr. Goldstein and  
21 Mr. Kaye are on those documents. And he got many --

22 THE COURT: Mr. Leven testified by deposition that  
23 he couldn't tell anything about the documents that he reviewed  
24 in his deposition. And we admitted, what, three of them.

25 MR. RANDALL JONES: And yet, Your Honor -- that's a

1 perfect example. Those are examples of exhibits they got into  
2 evidence where the only foundation they purportedly laid was  
3 to play the testimony of Mr. Leven, who clearly said, I don't  
4 know what those documents are. Yet in spite of that testimony  
5 you said those documents come in. So based upon the Court's  
6 prior ruling --

7 THE COURT: Here's part of why they are coming in  
8 for purposes of this evidentiary hearing and coming in from  
9 plaintiff. They are documents that were undisputedly produced  
10 by your client as part of the discovery process in this case.  
11 They are the documents that are subject to redaction, at least  
12 many of them. They are the documents to which I have to make  
13 a determination as to whether there has been prejudice to the  
14 plaintiffs and, if I make the determination there has in fact  
15 been prejudice to the plaintiff, whether there was a wilful  
16 violation or whether you guys had plenty of excuses to do what  
17 did. I'm still waiting for the evidence that gets me there.  
18 You may be able to show me they're not prejudiced at all  
19 because every single one of those documents or 85 percent of  
20 those documents were produced by Las Vegas Sands in an  
21 unredacted form. But I don't have that information. It's  
22 evidence that I need, not argument of counsel. That's why I'm  
23 waiting for evidence. They can give me documents that you  
24 produced in the litigation because you produced it, it has  
25 your Bates number on it, and you redacted it through a process



1 that none of us had -- none of the lawyers in the room had any  
2 control over.

3 MR. RANDALL JONES: Your Honor, there's no dispute,  
4 as far as I'm aware, and there's certainly been nothing filed  
5 by the other side to indicate that the production of the  
6 unredacted documents was not part of our production. They  
7 have those documents.

8 THE COURT: It was not --

9 MR. RANDALL JONES: There's no dispute that we  
10 produced the unredacted documents that they have. So on that  
11 basis, Your Honor, we're here certainly -- and I would also  
12 make this additional point. You're right. This is a  
13 sanctions hearing against my client. There is evidence that  
14 this Court can consider to show that in fact my client has at  
15 a bare minimum mitigated or substantially ameliorated any  
16 prejudice to them by producing the unredacted documents.

17 THE COURT: Who's going to testify to that evidence?  
18 That's the person I need. I asked you who your witnesses  
19 were, and I haven't heard anybody who might be that person.

20 MR. RANDALL JONES: Your Honor, the only person that  
21 could attest to that at this point in time would be counsel  
22 who would say, these documents were produced by our -- by my  
23 client. So, yeah, I could put up Mr. McGinn and say, yes --

24 MR. PEEK: Your Honor, those are my documents  
25 produced by LVSC.

1 THE COURT: Well, see, and that's part of the  
2 concern I have, Mr. Peek, from the description that was  
3 provided to me by the ESI group who came and testified. He  
4 talked about a process. He didn't give me a single specific.  
5 And so what I'm trying to identify is whether there is in fact  
6 prejudice or not other than going through this process,  
7 whether there still exists a prejudice.

8 MR. RANDALL JONES: Your Honor --

9 THE COURT: Because if in fact there has been a  
10 matching -- and I understand the matching process that  
11 occurred, but I don't know what the exact results of the  
12 matching were. Nobody's told me. Nobody's testified to it.  
13 I'm waiting to hear that testimony, because that will affect  
14 whether they are in fact prejudiced. And as I told you, they  
15 bear the burden of showing the prejudice. And then if you  
16 want to show there's been amelioration or mitigation, I am  
17 happy to listen to that evidence. But I have to have  
18 evidence, not argument of counsel.

19 MR. RANDALL JONES: Your Honor, again, I don't  
20 understand this process whereby the plaintiff does not have to  
21 lay the foundation for the -- and over my objection those  
22 exhibits were admitted. And --

23 THE COURT: You've admitted those are documents that  
24 you produced out of your production, and they are the subject  
25 of my hearing.

1 MR. RANDALL JONES: But, Judge, what -- that is not  
2 an evidentiary basis as I understand the law for admission of  
3 those documents. If I admitted --

4 THE COURT: At a sanctions hearing related to the  
5 particular documents it absolutely is. They bear your Bates  
6 number. You've told me today there is no dispute that you  
7 produced those documents. They have a dispute as to whether  
8 the documents that you have identified on the list that's been  
9 provided to me this morning, which is different than what you  
10 told me you were going to do last night, whether, for example,  
11 Proposed Exhibit 355A is in fact a document that was produced  
12 as part of this litigation. And the problem -- one of the  
13 problems is it bears the identical Bates number to Proposed  
14 355. And I have never in my life seen that, where two  
15 different versions of a document bear the exact same Bates  
16 number.

17 MR. RANDALL JONES: Those documents have been  
18 replaced with an unredacted document, Your Honor. And Mr. Ray  
19 testified in detail about the matching process, how they got  
20 the hash codes, they took them back --

21 THE COURT: He did.

22 MR. RANDALL JONES: And then he testified about even  
23 when they couldn't find identical hash codes, he testified how  
24 they did the searches and they were able to find matches even  
25 where the hash codes did not coincide identically.

1 THE COURT: He did testify about that.

2 MR. RANDALL JONES: And we have examples of those.  
3 So at a bare --

4 THE COURT: I don't have a single, though, document  
5 that he told me here is a document we matched.

6 MR. RANDALL JONES: Well, Your Honor, because  
7 there's 267-odd thousand of them. There's no way any human  
8 being could say, I could sit here on the witness stand and  
9 tell you that this document was -- I remember seeing this  
10 document as a part of our production and I know this is a true  
11 and correct copy of one of the documents that we produced.  
12 Nobody can do that. So --

13 And, Your Honor, I'll tell you -- here's my problem.  
14 When you told Mr. Bice he could admit those documents, and you  
15 just told me that my argument is not evidence, yet when Mr.  
16 Bice says -- he gets up there apparently his position is he  
17 can say, well, they produced these documents to us and  
18 therefore they are automatically admitted, but when --

19 THE COURT: For purposes of an evidentiary hearing  
20 on sanctions related to those documents, yes.

21 MR. RANDALL JONES: And here -- Your Honor, my  
22 client is in a position where they are subject to sanctions.  
23 They're asking for \$7.67 million in sanctions against my  
24 client. With respect to sanctions, by the way, the caselaw  
25 provides that in a sanctions hearing the rules of evidence

1 need to be flexible where you're dealing with these kinds of  
2 issues because of the due process concerns the Court should  
3 have in issuing sanctions. So at a minimum --

4 THE COURT: And if I was going to strike your  
5 answer, we'd be doing something a little bit different. But I  
6 wasn't considering striking your answer.

7 MR. RANDALL JONES: Well, even --

8 THE COURT: Or, I'm sorry --

9 MR. RANDALL JONES: -- with a lesser sanction --  
10 Your Honor, \$7.6 million is not an insignificant sanction, at  
11 least in my neighborhood. But in addition --

12 THE COURT: Remember I took a pay cut to become a  
13 judge, so mine, neither.

14 MR. RANDALL JONES: I understand, Your Honor. My  
15 point is that a substantial penalty under any circumstances.  
16 And I'd be happy to make -- to demonstrate to the Court -- to  
17 show the documents to the Court as an offer of proof. Because  
18 if you're going to -- if you're going to deny the admission of  
19 those documents, I need to at least present them to the Court.

20 THE COURT: Oh. They're proposed exhibits already.  
21 They're presented to the Court. My concern, though, Mr.  
22 Jones, is two. One, I don't have anybody who links the  
23 documents for me as evidence.

24 MR. RANDALL JONES: Other than Mr. Ray.

25 THE COURT: There may be a number of different

1 people who can do that, and I'm happy to listen to any of  
2 them.

3           The other concern I have is I am very concerned  
4 about the reuse of the Bates number. I've people who on  
5 redacted have put an R on it. I've had people when they  
6 produce it unredacted they give it an A. I've never had  
7 anybody just use the same number over because of the confusion  
8 that can potentially cause.

9           MR. RANDALL JONES: Your Honor, if we can have a  
10 five-minute recess, I'd like to talk to my colleagues, and  
11 then discuss this further.

12           THE COURT: Mr. Bice, you were going to give a  
13 filing today that related to the offer you made yesterday that  
14 I didn't take you up on. And I can't remember what the  
15 subject matter was. But I wrote down "brief from plaintiff."

16           MR. BICE: isn't it true what I said, Your Honor --  
17 and if I misspoke or wasn't clear, I apologize. I think what  
18 I said was that after Raphaelson we would make a decision and  
19 tell you whether we intended to file any formal brief with you  
20 on this. Did I misunderstand what --

21           Oh. No. Mr. Smith -- Your Honor, I was just  
22 misunderstanding the issue.

23           THE COURT: Aren't you glad that you have associates  
24 who are competent?

25           MR. BICE: I'm glad I have somebody a lot smarter

1 than I am. Makes my life a lot easier.

2 This is just our offer of proof regarding Mr. Leven.  
3 These are the excerpts, Your Honor, that we would ask to file  
4 in open court and the exhibits that the Court said it would  
5 not consider because of [inaudible].

6 MR. PEEK: Do you have an extra one for me, Mr.  
7 Bice?

8 MR. BICE: Yes, I do, Mr. Peek and Mr. Morris both.

9 THE COURT: Mr. Peek --

10 MR. PEEK: Yes, Your Honor.

11 THE COURT: -- you indicated to me yesterday you  
12 wanted to review and then you might want to make a filing. So  
13 -- that's what you said yesterday. And I said, sure. So  
14 please let me know if you want to make a filing. I'm not  
15 going to read it right now because we're in the middle of  
16 doing a number of other things. I may read it while I'm  
17 sitting at the doctor's office this afternoon.

18 MR. PEEK: The only thing this is, Your Honor, this  
19 is not a briefing; this is just a Exhibit 1 when they excluded  
20 excerpts and associated exhibits for the deposition.

21 MR. BICE: Yes.

22 MR. PEEK: It's not briefing on it.

23 MR. BICE: It's not a brief, it's --

24 MR. PEEK: So I don't know how I -- other than -- I  
25 don't think I have any different objection than I had

1 yesterday, but I'll have to review this. But it's not a  
2 brief.

3 THE COURT: I know.

4 MR. BICE: I'll just represent to the Court it is --  
5 and to Mr. Peek it is the transcript with the depo exhibits  
6 from that section that I had proffered and that she excluded  
7 with Mr. Jones's objection. That's all it is. There's no  
8 caselaw, no argument. It's just, here's the evidence that was  
9 excluded.

10 THE COURT: Because I told you to move on in playing  
11 the deposition yesterday.

12 MR. BICE: That is what --

13 MR. PEEK: I thought there was also, Your Honor, an  
14 inquiry of Mr. Bice as to whether he wanted to brief the issue  
15 of whether or not there was a privilege.

16 THE COURT: Yes. He told me he would answer that  
17 question after Mr. Raphaelson's rebuttal testimony.

18 MR. BICE: That is correct, Your Honor.

19 THE COURT: So I haven't gone to that question yet.  
20 I have a list. It's just apparently not very accurate.

21 All right. So Mr. --

22 MR. PEEK: Your Honor, I'm wondering -- I don't know  
23 whether -- and I guess I should talk to my colleagues, as  
24 well, is whether we could just get Mr. Raphaelson on and off  
25 so he doesn't have to sit here during the course of this



1 argument.

2 THE COURT: Well, here was my concern with that  
3 yesterday, and this is what I said.

4 MR. PEEK: That's why I'm wondering.

5 THE COURT: One of you said you wanted to call Ms.  
6 Spinelli, and one of you said you wanted to call Mark Jones.  
7 And then we had a nice little discussion about how  
8 professional and well mannered you all were, and you went  
9 home.

10 MR. BICE: Correct.

11 THE COURT: So my question is do you really want to  
12 do that, or have you --

13 MR. PEEK: I leave that up to these folks.

14 THE COURT: Okay. Well, I'm going to take a break  
15 while --

16 MR. PEEK: -- Mr. Jones on the one side and that  
17 group on the other side.

18 THE COURT: -- because I need the remainder of the  
19 live witnesses to testify so that I can make an appropriate  
20 determination as to the scope of rebuttal.

21 MR. PEEK: Okay.

22 MR. BICE: Thank you, Your Honor.

23 MR. PEEK: And we will --

24 THE COURT: People who were U.S. attorneys probably  
25 understand rebuttal much better than any of you civil lawyers.

1 (Court recessed at 9:25 a.m., until 9:37 a.m.)

2 THE COURT: All right. You said you could use my  
3 time wisely and productively.

4 MR. RANDALL JONES: Yes, Your Honor.

5 THE COURT: You can be seated, if you want.

6 MR. RANDALL JONES: One point with respect to the  
7 documents that we're trying to get into evidence and the  
8 manner --

9 THE COURT: And these are 355A and other related  
10 documents in that sequence with the A designations.

11 MR. RANDALL JONES: That's right.

12 THE COURT: Okay.

13 MR. RANDALL JONES: And, Your Honor, just so it's  
14 clear to the Court, I was not aware that the Bates number of  
15 the replacement documents was the same until I was preparing  
16 for this hearing. So I understand your point, and I would  
17 make this offer to the Court. To the extent that these  
18 exhibits are allowed into the record, not only with respect to  
19 the documents that we're talking about moving the admission of  
20 today, we would propose that we put a U next to those  
21 documents to indicate that they have been unredacted and that  
22 we would go back, obviously at our expense, and have our IT  
23 people do another run where we address this issue and assign a  
24 different Bates number to any unredacted document and provide  
25 that to opposing -- provide that to opposing counsel at the

1 earliest possible time.

2 THE COURT: Okay.

3 MR. RANDALL JONES: And that's just an offer. I  
4 understand that the Court -- I just wanted to tell the Court  
5 that I apologize for that situation. And, candidly, had I  
6 known about that beforehand I would have suggested that was  
7 not a good idea. But I was not --

8 THE COURT: All it does is it's create confusion is  
9 my concern.

10 MR. RANDALL JONES: Your Honor, trust me, when I  
11 found out about it I thought it was confusing myself. So I  
12 hear what the Court says, and I apologize to the Court and I  
13 apologize to counsel. That was not the best way to do that.

14 THE COURT: Okay. So we're going to try and fix  
15 that. And you've got a process going on that you're going to  
16 tell me about in bit after you've got some papers and a  
17 person, and we're going to deal with it.

18 MR. RANDALL JONES: Yeah. And I would have been  
19 able to have done that quicker, but, as fate would have it,  
20 our printer broke yesterday, and they were trying to get part,  
21 so -- otherwise I could print it out here in the courtroom,  
22 and we could speed this process along. So it's been -- it's  
23 been one of those mornings, Your Honor.

24 THE COURT: I understand. And, next, you said there  
25 was something you could do to use my time productively.

1 MR. RANDALL JONES: Yes. With respect to  
2 Exhibit 350, which was the Okada discovery response, or at  
3 least as Ms. Spinelli acknowledged -- well, I don't want to  
4 put words in her mouth, but I think she said words to the  
5 effect that this was not a complete document.

6 THE COURT: That was correct.

7 MR. RANDALL JONES: That it was not the entire  
8 production. Your Honor, in the evening hours looking into  
9 this -- and Mr. Morris has actually been helpful to me,  
10 because I was somewhat preoccupied getting ready for this  
11 morning and closing, and we were talking and looking at this  
12 issue, and he reminds of the common-law rule of completeness,  
13 which provides that first of all interrogatories and requests  
14 for production responses are not -- they are not evidence per  
15 se in terms of a separate document, and that under the common-  
16 law rule of completeness they stand alone. Each answer is as  
17 if it's its own document, and each -- or excuse me, each  
18 request is its own document and each answer is its own  
19 document. So what we did --

20 THE COURT: Along with anything that is referenced  
21 as an attachment related to that and any objection related to  
22 that if the Court needs to rule on those.

23 MR. RANDALL JONES: Agreed. And so --

24 THE COURT: So I usually have a caption page, an  
25 interrogatory, an answer, and a verification page.

1 MR. RANDALL JONES: And that's precisely -- and I  
2 could make an offer of proof, but that is precisely what I --  
3 these interrogatories -- excuse me, these --

4 THE COURT: I haven't looked at them, because  
5 they're not admitted.

6 MR. RANDALL JONES: I know. I know. That's why I'm  
7 talking about an offer of proof. And I understand the issues  
8 with an offer of proof. But because they are voluminous --  
9 and I have not seen the rest of the document, but my  
10 understanding is that they are voluminous, there's several  
11 hundred RFPs, that the only RFPs that are being offered to the  
12 Court were the ones we thought were relevant to this issue  
13 that had to do specifically to an objection to the Macau -- or  
14 based upon the Macau Data Privacy Act, which is complete.  
15 There's nothing deleted, and I'm happy to have counsel confirm  
16 that. I don't need to have them do it on the witness stand.

17 THE COURT: Well, can I ask a question. Are they  
18 general objections, or are they specific objections to a  
19 particular request?

20 MR. RANDALL JONES: No. They're particular to a  
21 particular request.

22 THE COURT: Okay. Because I've seen it other ways,  
23 and then I --

24 MR. RANDALL JONES: Sure.

25 THE COURT: -- have other issues that happen.

1 MR. RANDALL JONES: And if it was that -- if it was  
2 that format, Your Honor, I very, very likely would not even  
3 have offered them to the Court. But they are specific to a  
4 particular request for particular documents, and they're --  
5 this is -- and I'll just be candid, it's one of several  
6 objections made to the interrogatory or the RFP, but it is we  
7 believe, as I already pointed out to the Court, relevant, and  
8 I think the Court has already found based upon my  
9 representation to the Court that a would be relevant. So the  
10 only thing I'm suggesting is -- let me -- I don't want to put  
11 words in the Court's mouth. They could be relevant.

12 So what we have, if I made the offer of proof, is  
13 the caption page, so the first page; we have a particular RFP  
14 and the following answer to that RFP in total, including all  
15 other related objections; and then we -- at the very end we  
16 have the electronic verification of the responses.

17 THE COURT: Okay.

18 MR. RANDALL JONES: So that would be my offer of  
19 proof. And again, I would certainly like to avoid having to  
20 put --

21 THE COURT: Well, yesterday Ms. Spinelli indicated  
22 it wasn't complete.

23 MR. RANDALL JONES: And I don't disagree with that  
24 from what I --

25 THE COURT: And I don't know whether it's complete

1 or not, because I haven't looked at it, and I haven't looked  
2 at any discovery in that case. At least I don't think I've  
3 looked at -- I haven't looked at any discovery in that case  
4 recently. So, you know, I took her at her word when she said  
5 it was incomplete. If you have a different format that you  
6 want to deal with, we can talk about it. But my concern was I  
7 need a foundation laid for it, since it's not a document  
8 that's in my court file. The only way I can find a foundation  
9 is one lawyer or the other lawyer.

10 MR. RANDALL JONES: And, Your Honor, and since Ms.  
11 Spinelli is the one that signed for them, I thought -- and  
12 again, this is a hotly contested issue, but I have no desire  
13 to put a lawyer on the witness stand, but I thought she would  
14 be the most appropriate of the lawyers, since it was her  
15 responses, and Mr. Peek could only testify that he saw the  
16 responses. And she could confirm that that is the complete  
17 response to a particular RFP. And, you know, rather than put  
18 somebody on the witness stand, I don't believe -- and I could  
19 be wrong, certainly -- that there is any dispute that if asked  
20 Ms. Spinelli would I believe confirm that that is a full  
21 request that I'm presenting to the Court of a particular  
22 request and the full response, including the objection based  
23 upon the MPDPA. And there are I think three different  
24 requests within that document that we thought were relevant to  
25 this inquiry, and those are the only three that I would want

1 to put up. And so again my offer of proof to the Court is we  
2 are offering the caption page of the responses from Pisanelli  
3 Bice, the specific RFPs that were related the Macau Data  
4 Privacy Act with the corresponding full answer, and the last  
5 page with Ms. Spinelli's electronic signature. So that would  
6 be my offer, Your Honor.

7 THE COURT: And when you say full answer, does that  
8 include the objections related to the full answer?

9 MR. RANDALL JONES: Correct. That's exactly --  
10 everything that I understand they said in that response to  
11 that RFP is contained in that document.

12 THE COURT: So what you're seeking to do is to  
13 excise those requests for production of documents to which the  
14 response doesn't deal with the MDPa issues.

15 MR. RANDALL JONES: Correct. I felt it was -- I  
16 don't even have access.

17 THE COURT: I'm just trying to make your record  
18 clear as to what it is you're trying to do so that -- I have  
19 already made a determination that I'm not going to exclude it  
20 based on relevance. The question has been other issues now  
21 and foundation issues, and I haven't seen it, so I don't know.

22 MR. RANDALL JONES: Sure.

23 THE COURT: But maybe you could show a copy of  
24 whatever it is that you're trying to admit at this point to  
25 the other side so they can see if it appears to be a true and



1 accurate portion of those portions that relate to the  
2 objection that referenced the MDPA.

3 MR. RANDALL JONES: Be happy to do so.

4 THE COURT: And you don't have to stipulate. I'm  
5 not going to ask you to stipulate, because you've already  
6 objected. All I'm going to ask is does it appear to  
7 accurately represent what he described. Otherwise I have to  
8 ask Ms. Spinelli again.

9 MR. PISANELLI: Well, Your Honor, may I be heard on  
10 this point?

11 THE COURT: Yes. But first will you look at it and  
12 see if it appears to accurately reflect what we just talked  
13 about.

14 MR. BICE: I'll let him address that while I'm  
15 looking at the document.

16 THE COURT: Okay.

17 MR. PISANELLI: So this is a troubling issue from  
18 several different perspectives. They have a Club Vista  
19 problem, we have a foundational problem, and we have a  
20 relevance problem.

21 (Pause in the proceedings)

22 MR. PISANELLI: So the problems with this exercise I  
23 think is at least threefold. I'll repeat it because of the  
24 record. We have what I believe is a Club Vista problem, we  
25 have a foundational problem, then we have a relevance problem.

1 Starting at the end, and I'm not going to dwell on that point,  
2 but Your Honor heard comment and argument from counsel  
3 yesterday about trying to get evidence in that you rejected  
4 when they said, we wanted to show you why it was appropriate  
5 for us to assert the PDPA. And Your Honor correctly  
6 interrupted and said, this isn't a hearing about whether you  
7 were entitled or should have asserted the PDPA, I already told  
8 your client they could not, this hearing is about the  
9 appropriate sanction for violating my order. I think that is  
10 the crux to the relevance issue. Since we don't have a  
11 parallel situation in the Okada matter, this cannot have any  
12 connection or relevance. All it can go to is the issue you  
13 rejected, as to whether it was appropriate for them to assert  
14 the PDPA in response to a request for production document.

15 THE COURT: I think it goes to the issue of the  
16 challenges they face in Macau and whether it is a wilful  
17 violation or whether in balancing their interests they had  
18 other things. So I think it is -- and that's one of the  
19 reasons I'm going to permit to it to be used if they can  
20 satisfy me that it is a true and accurate copy of what was  
21 used. It may not have much weight to me because of the status  
22 of this case compared to the others, but they're trying to  
23 show me that another casino recognizes that there are issues  
24 related to the MPDA [sic] and the regulatory and licensing  
25 issues related to that.

1 MR. PISANELLI: But since we are in a sanction  
2 hearing, it also appears to me that this becomes a Pandora's  
3 box. Because there is an inference they want to draw from the  
4 fact that the assertion of the PDPA occurred in another case,  
5 which -- and hoping to get you to the conclusion that their  
6 behavior was in good faith and reasonable. And the rebuttal  
7 that now is required from us is to show the distinguishing  
8 characteristics between the cases, that Wynn didn't ever lie  
9 to you, Wynn didn't ever get sanctioned, Wynn didn't ever get  
10 denied the ability to assert the PDPA as a reason why it could  
11 or should not have to produce particular documents.

12 THE COURT: That part I know, because those are  
13 proceedings that have occurred in front of me in my court. So  
14 that part I know. In fact, I raised those issues when we  
15 originally had this discussion as to why it is a  
16 distinguishing issue. And so I understand what you're saying,  
17 which is why I said the weight may not be very much with me  
18 but for purposes of whether you're going to go for review I  
19 think it is important that it be considered by me for whatever  
20 purpose is appropriate.

21 MR. PISANELLI: On this concept of rebuttal and this  
22 Pandora's box I appreciate that Your Honor recognizes that you  
23 know the distinguishing characteristics and that there is only  
24 one party in this mix -- or parties, the defendants here, that  
25 have violated your orders. So can we assume, then, when you

1 say that you are aware of those characteristics, that you will  
2 take judicial notice of the distinguishing characteristics  
3 between these two cases that Wynn at the beginning of the  
4 discovery process, who asserted the PDPA as an objection, is  
5 not in the same or even nearly similar circumstances as the  
6 group of defendants here that have openly and knowingly  
7 continually on a day-to-day basis violated your orders.

8 THE COURT: What I think I will take judicial notice  
9 of is that I have not even been asked to do a motion to compel  
10 related to those responses related to Wynn. As a result of  
11 not even being asked to do a motion to compel, there has, of  
12 course, been no sanction hearing --

13 MR. PISANELLI: Okay.

14 THE COURT: -- or any other hearing related to the  
15 assertion of the Wynn's ability to use the MDP. Not that I  
16 know what I'll do when I hear that, because I haven't heard  
17 anything related to that because they were served in December,  
18 Ms. Spinelli, and Mr. Peek has yet to file a motion to compel  
19 if he thinks a motion to compel may be appropriate. So that  
20 case is procedurally very different than this one, and I can  
21 take judicial notice of those things that have occurred in  
22 front of me, which is no one has yet filed a motion to compel  
23 related to those documents, so I haven't had to address it.

24 MR. PISANELLI: Okay. So now let me go back to the  
25 beginning of the analysis. It's who should be called upon to

1 establish the foundation or the authenticity of these  
2 documents.

3 MR. BICE: Your Honor, I want to answer your  
4 question before he does that just that you know. The  
5 assertion that these are all stand-alone responses and  
6 objections is incorrect on its face. They specifically  
7 incorporate and cite other provisions or --

8 THE COURT: If they do that, we have to include the  
9 ones they cite.

10 MR. BICE: I mean, there's dozens of them that are  
11 cited.

12 THE COURT: Okay.

13 MR. PISANELLI: And so here's the other problem.  
14 We have Mr. Peek, apparently -- and he'll correct me if I'm  
15 wrong --

16 THE COURT: I don't know. Believe me, he'll argue  
17 with you if he thinks it's fun.

18 MR. PISANELLI: Fair enough.

19 -- the presumed recipient of this document, and he's  
20 volunteered to testify to matters that will benefit his  
21 client, but apparently doesn't have the same courage to come  
22 up and take this as his responsibility, since he apparently is  
23 the one that shifted it from one case to the other.

24 The troubling aspect of this is this. We have by  
25 the recipient, this group of defendants, an apparent violation

1 of the merits incentives decision from the Supreme Court of  
2 what are the ethical obligations of a party that receives  
3 discovery from a source outside of the case and outside of the  
4 discovery process. That case dealt with both the allegation  
5 of stolen documents, not at issue here, and the allegation --  
6 or the circumstances of documents coming in voluntarily from a  
7 source outside the discovery process. Our Supreme Court set  
8 forth ethical obligations of what lawyers are supposed to do.  
9 That has now been triggered by what's occurred here. From the  
10 delivering parties' perspective we have a State Bar of Nevada  
11 Standing Committee on Ethics and Professional Responsibility  
12 that touches upon the confidential nature of the documents  
13 that were taken out of the Okada case and whether they could  
14 or should, whether there was consent required or not. And we  
15 don't know the extent of those ethical violations. Those will  
16 have to be addressed inside the Okada case.

17 And so now with what we have as at a minimum  
18 troubling circumstances from what we can see, we have the  
19 defendants saying, let me put --

20 THE COURT: Are the -- hold on a second.

21 MR. PISANELLI: Yes.

22 THE COURT: Are you saying that the responses to  
23 requests for production, not the documents produced, but the  
24 responses to the requests for production were designated as  
25 confidential?

1 MR. PISANELLI: They are not designated in that case  
2 as confidential.

3 THE COURT: I understand. But, remember, we had a  
4 special confidentiality order in that case --

5 MR. PISANELLI: Oh, yes. We've studied it.

6 THE COURT: -- that is different than the  
7 confidentiality order you have in this case.

8 MR. PISANELLI: That's exactly correct. And I --

9 THE COURT: So I'm trying to determine, because  
10 there's a lot of different things that are moving around --

11 MR. PISANELLI: Sure.

12 THE COURT: -- at the moment.

13 MR. PISANELLI: Sure. That is a fair question, and  
14 it is something that I looked at last night. And I will not  
15 represent to you as I sit here today that the response itself  
16 was designated as confidential, but I will tell you in drawing  
17 upon Formal Opinion Number 41 from the Standing Committee of  
18 Ethics and Professional Responsibility clearly it is a non-  
19 public confidential document as the State Bar in this opinion  
20 defines such. As I said, that's an issue for another day.

21 But we get to the troubling part is when we have  
22 these issues that I've just described and a party now wants to  
23 call someone else's lawyer, the lawyer of record in both  
24 cases, to help consummate what appears to be an inappropriate  
25 sharing of discovery from one case to the other. And, quite

1 frankly, Your Honor, and I mean this with all due respect, I  
2 think allowing them to put Ms. Spinelli on the stand puts her  
3 in an untenable and unfair position to have to --

4 THE COURT: That was why I was the one who asked the  
5 questions, because I only wanted to know if it was a true and  
6 correct copy, and I didn't want anybody to go into any  
7 substance at all.

8 MR. PISANELLI: I understand that. Since we have  
9 Mr. Peek, the person who can presumably say, yes, this is what  
10 I received from the Wynn, and we have Mr. Peek who is in the  
11 heart of this troubling behavior, and we have Mr. Peek who has  
12 agreed to take the stand for his client's own benefit, clearly  
13 if Your Honor is going to allow any form of foundation to be  
14 established -- and I would point out there's a difference  
15 between authenticating the document and establishing a  
16 foundation for it. But if he's so willing to take the stand  
17 for other documents that will benefit his client, he surely  
18 should be obligated to take the stand to try and establish the  
19 foundation for these one and not allow these defendants in  
20 what we believe would be a violation of Club Vista to call  
21 upon trial counsel in this case to help them get records  
22 inside. That is a position that is unfair and untenable.

23 THE COURT: All right. Mr. Bice has correctly noted  
24 that there is a missing cross-reference of --

25 MR. RANDALL JONES: I disagree with that, Your



1 Honor. And maybe I can make this simpler.

2 THE COURT: Okay.

3 MR. RANDALL JONES: We have filed a bench brief with  
4 the Court. It was filed on Tuesday. So this information is  
5 before the Court. I have a copy, electronic copy filed with  
6 the Court. The Court can see for itself. I went and looked  
7 -- after Mr. Bice said that, I went and read and read again.  
8 And so maybe he and I just have a different understanding  
9 about other information, it makes reference to other  
10 objections that are not related to the Macau Data Privacy Act,  
11 it makes reference to other laws that -- including other laws  
12 from China or Macau --

13 THE COURT: Is it okay with you guys if I look at  
14 simply for the purpose of determining whether it appears to me  
15 to be complete?

16 MR. RANDALL JONES: I certainly have no objection,  
17 Your Honor. I think it's appropriate for you to do so. And  
18 you have it. By the way, it's a part of the Court's record  
19 that you have as our bench memorandum to the Court with  
20 respect to this very issue. So we've asked the Court to look  
21 at the document.

22 THE COURT: Is this the nine-page brief you filed on  
23 February 11th?

24 MR. RANDALL JONES: It is a --

25 MR. BICE: Just so we're clear --

1 THE COURT: Hold on a second.  
2 MR. BICE: I apologize, Your Honor.  
3 THE COURT: Let me get an answer to my question.  
4 MR. RANDALL JONES: It is a six-page brief that was  
5 filed on the 9th of February. And I have a copy, if the Court  
6 would like.  
7 THE COURT: Hold on a second.  
8 MR. BICE: So Mr. -- just so that the record --  
9 THE COURT: Hold on a second, please.  
10 MR. BICE: Oh. I apologize.  
11 MR. RANDALL JONES: Your Honor, I could tell you the  
12 name.  
13 THE COURT: Wait.  
14 MR. RANDALL JONES: It was filed at 8:17 a.m. on the  
15 9th.  
16 THE COURT: I don't have a nine-page brief. I have  
17 about a twelve-page brief and I have a six-page brief.  
18 MR. RANDALL JONES: Six pages. It's six pages, Your  
19 Honor.  
20 THE COURT: Okay.  
21 MR. RANDALL JONES: It's -- Memorandum of Sands  
22 China Limited Regarding Exhibit 350 is the title of the  
23 document.  
24 THE COURT: Nope.  
25 MR. RANDALL JONES: I have -- I have the --

1 MR. PISANELLI: So, Your Honor, even if it were  
2 there --

3 Excuse me, Counsel.

4 Even if it were there, if I'm reading between the  
5 lines, what the argument that was just made to you is this.  
6 we took a non-public document from another case that we have  
7 and appropriately disclosed how we got it, we made it public,  
8 so what's the difference, let us continue on this  
9 inappropriate path since we put it in the record anyway,  
10 whether it be a violation of counsel's duties from the Okada  
11 case or violation of counsel's duties in this case, I already  
12 made a non-public document public anyway so let's just make it  
13 easy and leave it in the record. That's what I just heard.

14 MR. RANDALL JONES: I disagree that that's in any  
15 shape -- way, shape, or form what I said, Your Honor. I do  
16 have the electronically file-stamped copy, if the Court would  
17 like to see it.

18 MR. BICE: I also need to Court to [inaudible]  
19 because I just didn't realize this, either, is there are  
20 actually other objections that are provided in the front of  
21 the interrogatories at the commencement, and none of those are  
22 included in these, either.

23 MR. PISANELLI: They're more generalized?

24 MR. BICE: Yeah. None of it's included.

25 THE COURT: Well, that was why I asked the question

1 about the general objections.

2 MR. RANDALL JONES: And, Your Honor, again, the  
3 relevant objection is to the Macau Data Privacy Act, and the  
4 objection to the specific request to produce --

5 THE COURT: But, Mr. Jones, I have to have a  
6 complete item that stands on its own. And if it's cross-  
7 referencing others, it would be better -- and I understand  
8 that you're not comfortable with that, but if I'm going to  
9 take it, I want one that includes the cross-references.

10 MR. RANDALL JONES: Your Honor, again, the only  
11 thing I could tell you is that I don't see -- maybe I'm  
12 misunderstanding how Mr. Bice is referring to cross-  
13 references, but I don't see any cross-references.

14 THE COURT: At what time do you think it was filed  
15 on February 9th?

16 MR. RANDALL JONES: According to this document, it  
17 was filed at 8:17:51 in the morning.

18 THE COURT: Does that include documents from Federal  
19 Court?

20 MR. PEEK: I think it does.

21 THE COURT: Because I was just going through the one  
22 that was filed at 8:17, and it had --

23 MR. RANDALL JONES: Yes, it does include documents  
24 from Federal Court.

25 THE COURT: -- it has articles, it has documents

1 from Federal Court --

2 MR. RANDALL JONES: Yes, it does include articles an  
3 documents from Federal Court, yes, as part of the exhibits.

4 THE COURT: Okay.

5 MR. RANDALL JONES: That is the document, Your  
6 Honor. And, Your Honor, I -- well, if you're reading I don't  
7 want to interrupt you.

8 THE COURT: And you're referring specifically to  
9 Request for Production Number 89?

10 MR. RANDALL JONES: That is one of the requests that  
11 we're --

12 THE COURT: Okay. Hold on.

13 MR. RANDALL JONES: Yes.

14 MR. PISANELLI: Your Honor, when you get a moment, I  
15 have another challenge that we face here.

16 (Pause in the proceedings)

17 THE COURT: Okay. So in reading this it skips in  
18 Exhibit A to the brief you've referred to from page 1, which  
19 is the caption page, to the page bearing the number 14.

20 MR. RANDALL JONES: That's correct, Your Honor.

21 THE COURT: That particular request appears -- the  
22 response appears to stand on its own, from my reading of it.

23 Then you have number 224, which is page 150.

24 MR. RANDALL JONES: That is correct, Your Honor.

25 THE COURT: So you skipped from page 15 to 150.

1 That request also appears to stand on its own.  
2 MR. BICE: Your Honor, the -- I don't want to  
3 interrupt the Court.  
4 THE COURT: Hold on. Let me keep reading.  
5 (Pause in the proceedings)  
6 THE COURT: Then we're on page 161.  
7 MR. RANDALL JONES: That is correct.  
8 MR. BICE: Your Honor, the request --  
9 THE COURT: Okay. It was dated December 8th, 2014.  
10 MR. BICE: The request doesn't stand on its own.  
11 The last objection to each one of these is -- talks about the  
12 fact that it is "duplicative of other requests to which have  
13 already been propounded and to which Wynn Resorts has already  
14 responded in this action." And we give the -- see which ones.  
15 Number 1s and Number 51. Then it goes on to say, "It is  
16 duplicative and/or overlaps with multiple other requests,"  
17 lists them, which, of course, there are objections to and  
18 responses to those.  
19 THE COURT: Okay. What page and line are you on?  
20 MR. BICE: I'm on page 15, lines --  
21 THE COURT: Hold on. Let me go back to page 15.  
22 MR. BICE: Line 13, 14, and 15.  
23 THE COURT: Okay. No. It stands on its own, Mr.  
24 Bice.  
25 MR. BICE: And the general objections --

1           THE COURT: The general objections need to be  
2 included. MR. PISANELLI: So, Your Honor, the other point I  
3 wanted to make that I think it's important to the Court to  
4 know in addition to Formal Opinion Number 41 that I referenced  
5 is another reason why Mr. Peek should be called upon to lay  
6 the foundation himself here is I think he should be obligated  
7 to be forthright with this Court about the communications that  
8 occurred in the Okada case about limiting the distribution of  
9 non-public documents in an email communication that he agreed  
10 to and even thanked Ms. Spinelli for catching the point.  
11 Distribution lists were limited, and law firms were taken off  
12 the distribution lists because all parties agreed that non-  
13 public documents should not be openly distributed amongst  
14 these other parties. Yet here we are with a person to that  
15 agreement coming in and doing the exact opposite. And that's  
16 why he should be the one on the stand to somehow establish how  
17 and under what circumstances he thought this was appropriate  
18 and not an ethical violation in that case.

19           THE COURT: And if you think something needs to  
20 happen with that, it needs to happen in the Wynn-Okada case  
21 where that agreement exists.

22           MR. PISANELLI: Well, I bring these up not for any  
23 sanctions here, but for --

24           THE COURT: I understand.

25           MR. PISANELLI: -- further reason why he should

1 authenticate his own document that he has pilfered from one  
2 case to put inside of this one.

3 THE COURT: Okay. So this document, which is  
4 Proposed 350, remains incomplete.

5 MR. RANDALL JONES: Your Honor, just to be clear,  
6 it's my understanding it remains incomplete because it does  
7 not contain the general objections that appear I guess at the  
8 beginning of this response that apply to all responses.

9 THE COURT: That appears to be correct.

10 MR. RANDALL JONES: I just want to make sure I --

11 THE COURT: And I don't know how long those are, but  
12 they would start on 2 and end somewhere before 14, I would  
13 guess.

14 MR. RANDALL JONES: I understand.

15 THE COURT: So you can try again after you get that  
16 part. And I guess Mr. Peek will have to do that.

17 MR. RANDALL JONES: Your Honor, again -- and at the  
18 moment I do not have any additional documentation to offer the  
19 Court, so I don't have any further -- anyplace to go with that  
20 at this point in time, but I understand your ruling.

21 And with respect to the introduction or the attempt  
22 to introduce the remaining exhibits from the defendant Sands  
23 China, were waiting for those documents to arrive from Mr.  
24 Morris and Ms. Solis-Rainey's office, which I understand are  
25 on the way.



1 And with respect to --  
2 THE COURT: From across the street.  
3 MR. RANDALL JONES: From across the street, yes.  
4 MS. SOLIS-RAINEY: They're walking over.  
5 THE COURT: They're walking over. Thank you, Rosa.  
6 MR. RANDALL JONES: And other than that, I'm not  
7 sure that we have on our side any other housekeeping matters  
8 to be addressed, unless Mark Jones maybe does.  
9 THE COURT: I'm still listening. What else?  
10 MR. MARK JONES: Your Honor, during the second day  
11 of David Fleming's testimony there was a discussion as to  
12 paragraph 9 of his August 21, 2012, affidavit. And in that --  
13 and I'm looking at page 222 and 223 of the transcript of our  
14 proceedings, and that was where he had discussed a subordinate  
15 lawyer in his office that had also had some involvement with  
16 the OPDP. He was reluctant to give that name. He asked that  
17 -- or he said he would try to get a consent. And I just  
18 wanted to pass on -- you had given us 10 days to provide that  
19 consent for your consideration, but I just wanted to say we  
20 have not received that consent yet. But he -- I understand  
21 that -- or that the consent has been given, and wanted to tell  
22 the Court that that name is Graca Serava [phonetic] and that  
23 is spelled G-R-A-C-A.  
24 THE COURT: He'd already given me that name.  
25 MR. MARK JONES: He gave that name to you

1 previously.

2 THE COURT: Somebody gave me that name, because I  
3 have "Graca" written down. I couldn't spell the last name.

4 MR. PEEK: Mr. Raphaelson testified to Graca, Your  
5 Honor.

6 MR. RANDALL JONES: Right. I think it was  
7 [inaudible].

8 THE COURT: Yes. Before Exhibit 98 Graca and  
9 Fleming met with the OPDP regarding this case.

10 MR. MARK JONES: I just wanted to let the Court  
11 know --

12 THE COURT: So that's the individual Mr. Fleming was  
13 talking about.

14 MR. MARK JONES: That is -- that is correct on those  
15 pages of the transcript.

16 THE COURT: Thank you.

17 MR. MARK JONES: Thank you.

18 MR. RANDALL JONES: Your Honor, I don't know if you  
19 got the spelling of the last name, but we will get the written  
20 consent to the Court as soon as we get it.

21 THE COURT: Okay.

22 MR. PEEK: Your Honor, you inquired of me yesterday,  
23 too, about a production from the Jacobs -- I'll call it the  
24 Kostrinsky collection of the Jacobs documents.

25 THE COURT: Let's call it the transferred data,

1 because that's how I defined in what's now Exhibit 98. And if  
2 we use the same definition, we'd probably all be better off.

3 MR. PEEK: You asked me that question, because --

4 THE COURT: I did.

5 MR. PEEK: -- I remember the testimony of Mr. Ray.  
6 And so what I have been able to determine is that in fact in  
7 the fall of 2012, using search terms that we have identified  
8 previously, and I think that became an exhibit of Mr. Bice's  
9 through the email exchange between Ms. Spinelli and the Munger  
10 Tolles & Olson, that in fact those search terms were run  
11 against the transferred data of Jacobs, and documents from  
12 that were produced.

13 THE COURT: Mr. Ray specifically told me that was  
14 sequestered and they didn't do it. So I need a witness. I'm  
15 happy to take you at your word, but given --

16 MR. PEEK: You asked me the question, Your Honor,  
17 and so I --

18 THE COURT: I understand. But I've got Mr. Ray  
19 telling me that they didn't, and so in order for me to pull  
20 these things together so I have the evidence together I need a  
21 witness. Sorry.

22 MR. PEEK: That's fine, Your Honor.

23 THE COURT: Thank you for following up. Now you --

24 MR. PEEK: You asked me the question --

25 THE COURT: I did.

1 MR. PEEK: -- and so I'm answering the question.

2 And obviously the reason --

3 THE COURT: I'm not going to make you rest until you  
4 figure out how you're going to address that issue.

5 MR. PEEK: Obviously the reason why Mr. Ray wasn't  
6 -- didn't do it is because it had already been done.

7 THE COURT: I don't know. He told me he didn't do  
8 it.

9 MR. PEEK: I understand that, that he said that.

10 MR. PISANELLI: As a matter of fact, he said was  
11 told not to do it.

12 THE COURT: It was sequestered data is what he said.

13 MR. PISANELLI: That's right. Not that it had been  
14 completed already.

15 THE COURT: So if you want to -- I'm not asking you  
16 to rest yet. You've noticed I've not asked the defendants if  
17 they rest.

18 MR. PEEK: I understand you have not asked us to  
19 rest yet, Your Honor. So I'm just trying to think of whether  
20 I call somebody from Munger Tolles & Olson who performed that  
21 or somebody else. But we'll figure that out.

22 THE COURT: Okay. So I -- you're waiting for some  
23 documents that are on their way over. It takes them longer to  
24 get up the elevator than it does to walk up the street -- or  
25 walk across the street. So as soon as those get here and

1 you're able to distribute what you have and identify whether  
2 it is something that needs to be marked as a separate exhibit  
3 or something that is going to require testimony related to it,  
4 let me know, and I'll come back in. In the meantime it  
5 doesn't sound like there's anything we can do productively.

6 And it's 10:15, and I've been trying all morning to be --

7 MR. PEEK: So we still -- we still can't put Mr.  
8 Raphaelson on for that limited purpose of --

9 THE COURT: Well, the problem is I've been told he's  
10 a rebuttal witness. And the rebuttal information that I was  
11 told that he was going to testify to or be inquired about  
12 dealt with the O'Myer & Melveny [sic], something else that Mr.  
13 Fleming said, and I'm still not entirely sure I understand  
14 what that was, but Mr. Bice remembers what he --

15 MR. PEEK: I think you told Mr. Bice that he's  
16 already responded to that in his direct.

17 THE COURT: Well, one of them he did, but Mr. Bice  
18 said he didn't think so and said he was going to try and  
19 convince me. And there may have been another area. My  
20 concern is I don't want to put anybody in the position where  
21 they have to come back a third time or a fourth time.

22 MR. PEEK: Well, the third one was the documents  
23 related to whether they -- certain documents were shown to  
24 witnesses in Macau by O'Melveny I think was the third one.

25 THE COURT: Well, but that was all part of the first

1 one.

2 MR. PEEK: Maybe I'm wrong. I don't want to speak  
3 for Mr. Bice, but I'd like to have the proffer so that I can  
4 understand it.

5 MR. BICE: Whether those documents also came to the  
6 United States and were shown to other people.

7 THE COURT: Well, okay. So --

8 MR. RANDALL JONES: Your Honor, maybe -- I don't  
9 know if this helps at all, and maybe it's something that  
10 counsel can't agree to, but if -- unless there's -- the only  
11 other thing we're trying to do in the record before we  
12 formally rest is put in these exhibits. And then we're done.  
13 And they know what these exhibits are. I understand they can  
14 test the admissibility of them. But if these exhibits don't  
15 have anything to do with their questions for Mr. Raphaelson,  
16 presumably they would know that by now.

17 THE COURT: Well, here's the reason I'm concerned.  
18 Last night as I'm getting ready to leave somebody says they're  
19 going to call Mark Jones to talk about his meetings with the  
20 OPDP. Those are the kinds of things I usually as a lawyer  
21 would want to happen before I had rebuttal. So if what you're  
22 telling me is that's not happening, okay.

23 MR. RANDALL JONES: Well, I don't know if they --

24 MR. PEEK: I thought Mr. Jones was rebuttal, as  
25 well, but maybe --

1 THE COURT: I don't know. Somebody told me earlier  
2 today Mr. Jones is going to testify about this list that was  
3 coming over. So I don't know what's happening. I'm just the  
4 Judge.

5 MR. RANDALL JONES: I understand your point, Your  
6 Honor. Again, I was just -- we've taken lots of witnesses out  
7 of order to some extent. But I understand your concern about  
8 rebuttal, and I'm fine with that.

9 MR. PEEK: And I am, too, Your Honor. I have a hard  
10 stop at 11:00 to go down to see Judge Allf to place on the  
11 record --

12 THE COURT: You're going to put your settlement on  
13 the record?

14 MR. PEEK: Put my settlement on the record. We've  
15 delayed it, Your Honor, because of this proceeding. But I've  
16 been delayed too much, so I --

17 THE COURT: You need to go put that settlement on  
18 the record so it doesn't go sideways.

19 MR. PEEK: It's just at 11:00 o'clock, Your Honor,  
20 just that hard stop.

21 THE COURT: Is the list here?

22 MR. RANDALL JONES: I think Rosa went out to try to  
23 find where it is. We've got the letter, and we're working --  
24 we're waiting for the spreadsheet, Your Honor.

25 MR. PISANELLI: Your Honor, we're a little confused

1 here. What is that we're waiting for? What is the  
2 spreadsheet supposed to be?

3 THE COURT: Somebody is going to testify about the  
4 comparison in work that was done to generate the unredacted  
5 copies of the redacted versions that were here in Las Vegas  
6 and then produced.

7 MR. PISANELLI: May I ask -- I'm asking you and not  
8 counsel --

9 THE COURT: Yes. I know. You're being very nice and  
10 not arguing with them. Thank you.

11 MR. PISANELLI: Thank you.

12 What we'd like to know is if they're intending to  
13 show you the totality of redacted documents, which we have our  
14 number, and the amount of documents that were replaced, and we  
15 have our number. We think the sum total is around just under  
16 10,000 documents that remained unredacted with no replacement.  
17 Is that what we're getting from them, those numbers?

18 THE COURT: I don't know. I'm looking for some  
19 foundation for the documents that have A-s next to them. I  
20 know that you have a number that's 9,460 or so, and they've  
21 got another number, and the numbers aren't the same. And  
22 somebody's going to someday do math and try and explain to me  
23 in argument why you think those numbers are different. But I  
24 don't have an evidentiary basis related to these documents  
25 that people want me to admit in unredacted form. And I don't



1 know how many were replaced. I had the process described to  
2 me by the ESI guru, but I do not know the specific  
3 identification of any documents that were in fact replaced.  
4 And I don't know which remain as redacted documents. I  
5 probably should, because I think he gave me a redaction log at  
6 one point in time. But I don't --

7 MR. RANDALL JONES: Your Honor, for the record --

8 THE COURT: -- remember, because it was like long.

9 MR. RANDALL JONES: I didn't want to -- I'm sorry to  
10 interrupt, Your Honor. The redaction logs, both the original  
11 one, the supplement, and the second supplement, all actually  
12 came into the record through stipulation by being introduced  
13 by Mr. Pisanelli, if you may recall.

14 THE COURT: Was that the really long document?

15 MR. RANDALL JONES: That's actually -- you made  
16 reference to the fact that the second supplement is even  
17 bigger than the original one because it is -- as Mr. Ray  
18 testified, he believed his best recollection it was the  
19 original documents and then the supplemental production.

20 THE COURT: It didn't appear to have the originals  
21 on, because I compared it.

22 MR. PISANELLI: Exactly.

23 MR. RANDALL JONES: Actually, you may be right, Your  
24 Honor.

25 THE COURT: There may be some in there, but they

1 weren't in an understandable way that I could just sort by  
2 number.

3 MR. RANDALL JONES: But that -- the purpose of a  
4 redaction log was to provide that information.

5 MR. PISANELLI: I can have before you as part of our  
6 rebuttal case, if it's helpful to you, a CD that has the  
7 totality as we understand it of every redacted document that  
8 pushes 10,000 and put them into the record if you want every  
9 single --

10 THE COURT: That's probably something you want to  
11 do.

12 MR. BICE: Let's do it.

13 THE COURT: Because there seems to be a dispute as  
14 to how many there are.

15 MR. PISANELLI: We'll give it to you. It'll take an  
16 hour or so. It's being processed right now.

17 MR. BICE: We'll get it.

18 MR. PEEK: And is that going to be by evidence of  
19 each and every document that was produced to them?

20 THE COURT: Well, but didn't you guys give them a  
21 CD? How did you produce the documents to them, Mr. Peek?

22 MR. PEEK: I guess I'm trying to understand what the  
23 Court is asking me. We gave them -- Sands China Limited gave  
24 them the documents that they produced to them over the course  
25 of 2013 and some even more recently. Las Vegas Sands --

1 THE COURT: Some on January 5th of this year,  
2 apparently.  
3 MR. PEEK: Pardon?  
4 THE COURT: Some on January 5th or so of this year.  
5 MR. PEEK: That is correct. Las Vegas Sands, Your  
6 Honor, then looked at its collection and produced those  
7 replacement documents in an unredacted form. I don't know if  
8 that's what you're talking about.  
9 THE COURT: No. My question is much more basic.  
10 No. You know how the secretary or the paralegal prepares the  
11 stuff and gives the discovery responses or supplements to the  
12 other side.  
13 MR. PEEK: Yes, Your Honor. They give them in a --  
14 today they do thumb drives.  
15 THE COURT: But what format did they use? A thumb  
16 drive. Okay.  
17 MR. BICE: CD. They gave us CDs. We'll actually  
18 bring the CD, Your Honor.  
19 THE COURT: Does it say "Holland & Hart" on it?  
20 MR. PEEK: The letters, Your Honor, came from me --  
21 MR. BICE: Correct.  
22 MR. PEEK: -- for the replacement documents.  
23 MR. MARK JONES: And one from me.  
24 MR. PEEK: And one from Mark Jones. And that's what  
25 we're trying to establish so that we can at least lay the

1 foundation that the Court has asked us to lay.

2 THE COURT: I am happy, if you all agree those are  
3 actually what was transmitted and what was included in the  
4 transmission, to take them as evidence.

5 MR. PEEK: But Mr. Bice --

6 THE COURT: The problem has been you haven't agreed.

7 MR. PEEK: Right. Mr. Bice has not been willing to  
8 agree. So I'm just asking --

9 THE COURT: No. That's not true. He agreed on  
10 some. He didn't agree where he thought there was a difference  
11 of opinion as to whether it was actually what you sent him.  
12 That's where the disconnect keeps happening. And I keep  
13 trying to get you guys to drill down to where the difference  
14 of opinion is as to what was produced.

15 MR. PEEK: So let me see if I understand correctly,  
16 Your Honor, so we can make sure that we have clarity to this.  
17 Mr. Jones represented that Exhibit I think it was 355 is a  
18 replacement document for their Exhibit 9 to their brief. And  
19 Mr. Bice said it is not.

20 THE COURT: No. Mr. Jones represented that 355 was  
21 Exhibit 9 to plaintiff's renewed motion. Mr. Bice said it's  
22 not. Proposed Exhibit 355A, which bears the same Bates  
23 number, is ostensibly an unredacted version of 355.

24 MR. BICE: Correct.

25 MR. PEEK: Correct. And he's saying it's not.

1 MR. BICE: That's not --

2 THE COURT: Well, first, it wasn't a copy of  
3 Exhibit 9 to the plaintiff's renewed motion was the first  
4 step.

5 MR. BICE: We have -- I just want the record to be  
6 clear on this. We are the only party that has stipulated to  
7 hardly any exhibits. When we started this we stipulated to I  
8 think 25 or more of theirs, and we got no stipulation.

9 THE COURT: Yeah. I drew a line. I did a --

10 MR. BICE: Then what happened is -- remember, Mr.  
11 Toh -- this -- we were demonstrating that none of these  
12 documents can be used because they're inadmissible because, as  
13 they are right to point out, no one can ever lay a foundation  
14 for them. What they were trying to get us to do is, well, you  
15 stipulate to documents that don't relate to your point, a  
16 condition of you getting these documents in is you have to  
17 allow us to introduce whatever we want. That's the error in  
18 what they were doing.

19 THE COURT: Okay. Here's what I am trying to tell  
20 you. To the extent that someone wants to give me an entire  
21 production in this case --

22 MR. BICE: We're going to do it.

23 THE COURT: -- as it was made to the other side, I  
24 will take that.

25 MR. BICE: We are getting the CDs.

1 THE COURT: I am not going to take individual  
2 documents from those productions without a separate agreement  
3 related to that. And I'm certainly not going to take separate  
4 documents that have Bates numbers and nobody's sure where they  
5 came from. But if I have a CD that was transmitted from  
6 Jacobs to the defendants and everyone agrees that is --

7 MR. PEEK: The other way -- the other way around.

8 THE COURT: No. I'm using that as an example,  
9 because nobody should argue with me.

10 If I have a CD that was given by Jacobs to you, it  
11 wouldn't be an issue in this case. But if I had one and you  
12 said, yes, that is the CD they sent us and now we're going to  
13 fight about the documents that are part of that production,  
14 then for purposes of this discovery sanction hearing and  
15 sanction hearing related to my order dated September 14th,  
16 2012, I would take that as part of my record. But you're not  
17 doing that. In a typical Rule 37 hearing I would actually  
18 have the answers to interrogatories that were verified and  
19 signed; my order saying, do better; the second supplement  
20 where you didn't do better again; the next order where I said,  
21 really I meant it when I said do better; and then I would have  
22 another supplement that would still be insufficient, and then  
23 I would have a hearing. And so I would have all of those  
24 steps in evidence. I seem to skip that here, and I think it's  
25 because of the volume of information and the fact that you're

1 dealing with ESI. And because you're dealing with ESI, I'm  
2 not willing to parse them out unless I have an agreement that  
3 the documents are actually part of the production. If you  
4 want to give me the entire production to be part of the  
5 record, I'm happy to do it.

6 MR. PEEK: And I think that's what we may --

7 THE COURT: Do you understand what I'm trying to  
8 say, though?

9 MR. PEEK: I do, Your Honor. And, frankly, I do  
10 understand it, and that may well be what we'll do. And I  
11 think that Mr. Jones did say to you yesterday that the exhibit  
12 -- I don't remember what the number was -- that was in  
13 electronic form with 200,000 --

14 THE COURT: The 200,000 pages.

15 MR. PEEK: -- with 200,000 pages, and then there was  
16 an objection to that, and so you said to us -- or Mr. Jones --

17 THE COURT: No, there wasn't an objection to that.  
18 There was 200-and-some thousand --

19 MR. PEEK: I don't want to say I --

20 THE COURT: No. I want the record to be clear.  
21 There were 200-and-some thousand pages, and I was told we have  
22 10 or 15 out of that we want to admit. Under my electronic  
23 exhibit protocol if you want to change an electronic exhibit,  
24 I need a new submission, because I can't admit only portions  
25 of the electronic exhibit.

1 MR. PEEK: I get that, Your Honor.

2 THE COURT: That's how we got to where we are.

3 MR. PEEK: I understand, Your Honor. And I --

4 THE COURT: If somebody wants to offer the entire  
5 thing and it's in fact the production that occurred, I'm happy  
6 to take it.

7 MR. PEEK: And I misspoke, Your Honor.

8 THE COURT: But I don't have that and I can't get  
9 it.

10 MR. RANDALL JONES: Your Honor, I'm sorry. If I may  
11 address the Court. We have Exhibit 325, which is all of Sands  
12 China's production, and I've got the -- I believe I have the  
13 documentation to lay a foundation. It's Exhibit 325, and it  
14 contains 213,678 documents. We have provided that to the  
15 Court in electronic format.

16 In addition --

17 THE COURT: Apparently we don't have it.

18 MR. RANDALL JONES: Oh. I thought -- I thought we  
19 gave the Court a hard drive of that.

20 THE COURT: Is that in the envelope I keep trying to  
21 give back to Mr. Mark Jones?

22 MR. RANDALL JONES: It may be, Your Honor. They  
23 also had Exhibit 330 -- they also had Exhibit 330, which was  
24 Las Vegas Sands document production, which was 268,060  
25 documents.