



Honorable Mike K. Nakagawa  
United States Bankruptcy Judge



Entered on Docket  
September 21, 2021

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

\* \* \* \* \*

In re: ) Case No.: 19-14796-MKN  
 ) Chapter 11  
 GYPSUM RESOURCES MATERIALS, LLC, )  
 ) Jointly Administered with  
 Affects Gypsum Resources Materials, LLC ) Case No.: 19-14799-MKN  
 Affects Gypsum Resources, LLC )  
 Affects All Debtors )  
 )  
 Debtor. )

\_\_\_\_\_  
 GYPSUM RESOURCES, LLC, a Nevada ) Adv. Proc. No. 19-01105-MKN  
 limited liability company, )  
 )  
 Plaintiff, ) Date: September 15, 2021  
 ) Time: 9:30 a.m.

vs. )  
 )  
 CLARK COUNTY, a political subdivision of )  
 the State of Nevada; and CLARK COUNTY )  
 BOARD OF COMMISSIONERS, )  
 )  
 Defendants. )

\_\_\_\_\_  
 CLARK COUNTY, a political subdivision of )  
 the State of Nevada; and CLARK COUNTY )  
 BOARD OF COMMISSIONERS, )  
 )  
 Counter-Claimants, )

vs. )  
 )  
 GYPSUM RESOURCES, LLC, a Nevada )  
 limited liability company, )  
 )  
 Counter-Defendant. )

1 **ORDER ON GYPSUM RESOURCES, LLC’S AMENDED MOTION TO COMPEL (1) A**  
2 **FULL AND COMPLETE RESPONSE TO THE SUBPOENAS DUCES TECUM TO**  
3 **JUSTIN JONES AND JONES LOVELOCK, AND (2) A FORENSIC IMAGE OF JUSTIN**  
4 **JONES’ CELL PHONE AND ICLOUD ACCOUNT**<sup>1</sup>

5 On September 15, 2021, the court heard Gypsum Resources, LLC’s Amended Motion to  
6 Compel (1) a Full and Complete Response to the Subpoenas Duces Tecum to Justin Jones and  
7 Jones Lovelock, and (2) a Forensic Image of Justin Jones’ Cell Phone and iCloud Account  
8 (“Amended Motion”). The appearances of counsel were noted on the record. After arguments  
9 were presented, the matter was taken under submission.

10 **BACKGROUND**<sup>2</sup>

11 On May 17, 2019, Gypsum Resources, LLC (“Debtor”) filed a civil complaint against  
12 Clark County (“County”) and the Clark County Board of Commissioners (“Board”), collectively  
13 referred to as the “Defendants.” The face of the civil complaint as well as the prayer included a  
14 jury demand. The Complaint was filed in the United States District Court for the District of  
15 Nevada (“USDC”) and denominated Case No. 2:19-cv-00850-GMN-EJY (“USDC Case”).<sup>3</sup>  
16 (Dkt. 1; AECF No. 1).<sup>4</sup>

---

17 <sup>1</sup> In this Order, all references to “AECF” are to the numbers assigned to the documents  
18 filed in the above-captioned adversary proceeding. All references to “ECF No.” are to the  
19 number assigned to the documents filed in the above-captioned bankruptcy case as they appear  
20 on the docket maintained by the clerk of court. All references to “Bankruptcy Rule” are to the  
21 Federal Rules of Bankruptcy Procedure. All references to “Civil Rule” are to the Federal Rules  
22 of Civil Procedure. All references to “Local Rule” are to the Local Rules of Bankruptcy Practice  
23 for the District of Nevada. All references to “FRE” are to the Federal Rules of Evidence.

24 <sup>2</sup> Pursuant to FRE 201(b), the court takes judicial notice of all materials appearing on the  
25 dockets in the above-captioned adversary proceeding and Case No. 2:19-cv-00850-GMN-EJY  
26 filed in the United States District Court for the District of Nevada. See U.S. v. Wilson, 631 F.2d  
27 118, 119 (9th Cir. 1980); Lawson v. Klondex Mines Ltd., 2020 WL 1557468, at \*5 (D. Nev.  
28 March 31, 2020); Bank of Am., N.A. v. CD-04, Inc. (In re Owner Mgmt. Serv., LLC Trustee  
Corps.), 530 B.R. 711, 717 (Bankr. C.D. Cal. 2015).

<sup>3</sup> All references to “Dkt.” are to the documents filed in the USDC Case.

<sup>4</sup> Neither the pleadings filed in connection with this action, nor the representations of any parties or their counsel, have suggested that the Debtor seeks damages or other relief against any individuals.

1 On July 26, 2019, Debtor filed a voluntary Chapter 11 petition in this bankruptcy court.  
2 (ECF No. 1).<sup>5</sup>

3 On September 4, 2019, Debtor filed a motion in the USDC asking that the USDC Case be  
4 referred to this bankruptcy court (“Referral Motion”). (Dkt. 17; AECF No. 1).

5 On November 7, 2019, the USDC entered an order granting in part and denying in part  
6 the Referral Motion (“USDC Referral Order”). (Dkt. 28; AECF Nos. 1 and 11). The USDC  
7 determined that the claims alleged in the USDC Case were at least “related to” this Chapter 11  
8 proceeding and therefore referred it to this bankruptcy court. The USDC also dismissed as moot  
9 the pending motions filed by the County and the Board. The USDC also concluded that it is for  
10 the bankruptcy court to decide whether the claims are core or non-core matters within the  
11 meaning of 28 U.S.C. § 157(a), citing Exec. Benefits Ins. Agency v. Arkison, 573 U.S. 25, 33  
12 (2014). See USDC Referral Order at 1:17-19.<sup>6</sup>

13 On February 10, 2020, Defendants filed in the bankruptcy court a motion seeking a  
14 judgment on the pleadings under Civil Rule 12(c) (“12(c) Motion”). (AECF No. 20).

15 On June 19, 2020, an order was entered by the bankruptcy court denying the 12(c)  
16 Motion (“12(c) Order”). (AECF No. 48).

17 On July 6, 2020, Debtor filed a Second Amended Complaint for Damages; Petition for  
18 Writ of Mandamus, and Damages (“SAC”), including a jury demand. (AECF No. 61).<sup>7</sup> A copy

---

19 <sup>5</sup> A related Chapter 11 proceeding was commenced by Gypsum Resources Materials,  
20 LLC, denominated Case No. 19-14796-MKN. The two proceedings are jointly administered  
21 with the latter proceeding designated as the lead case.

22 <sup>6</sup> According to a civil minute entry on November 16, 2019, the USDC Case has been  
23 stayed subject to periodic status reports. (Dkt. 29).

24 <sup>7</sup> The SAC asserts claims based on the eight legal theories alleged in the preceding  
25 complaint, but addresses the deficiencies raised in the 12(c) Order with respect to the equal  
26 protection and injunctive relief theories. The eight claims asserted by the Debtor now consist of:  
27 (1) Petition for Writ of Mandamus, (2) Equal Protection Violation, (3) Violation of 42 U.S.C.  
28 §1983, (4) Injunctive Relief, (5) Breach of Contract, (6) Breach of the Implied Covenant of Good  
Faith and Fair Dealing, (7) Inverse Condemnation, and (8) Pre-Condemnation Damages. The  
claims for breach of contract and breach of good faith and fair dealing are based on an alleged  
breach of a prior Stipulation and Settlement Agreement Pursuant to Court Ordered Settlement  
Conference (“Settlement Agreement”). The Settlement Agreement itself arose from a prior

1 of the prior Settlement Agreement is attached to the SAC. As discussed in note 7, supra, Debtor  
2 seeks mandamus, declaratory and injunctive relief, as well as various forms of damages, interest,  
3 attorneys' fees, and costs, arising from the Settlement Agreement.

4 On July 20, 2020, Defendants filed an answer to the SAC, which included a jury demand  
5 following the prayer. (AECF No. 64).

6 On August 10, 2020, Defendants filed a motion for leave to file a counterclaim. (AECF  
7 No. 66).

8 On September 18, 2020, an order was entered approving a second revised stipulated  
9 discovery plan and scheduling order. (AECF No. 88). The revised discovery plan stated, *inter*  
10 *alia*, that a demand for jury trial had been made and that the Debtor does not consent to a jury  
11 trial before the bankruptcy judge under 28 U.S.C. §157(e). It further stated that all parties do not  
12 consent to the bankruptcy court entering a final judgment. Additionally, it stated that the case  
13 should be ready for trial by approximately September 2021 and the trial should take  
14 approximately ten days.

15 On October 5, 2020, a Stipulated Confidentiality and Protective Order was entered.  
16 (AECF No. 89).

17 On November 23, 2020, an order was entered granting on an unopposed basis the  
18 Defendant's motion for leave to file a counterclaim.<sup>8</sup> (AECF No. 90).

19 On November 30, 2020, Defendants filed a Counter-Claim Against Plaintiff Gypsum  
20 Resources, LLC ("Counterclaim"). (AECF No. 93).<sup>9</sup>

21 \_\_\_\_\_  
22 lawsuit commenced in the USDC on May 10, 2005, entitled Gypsum Resources, LLC v. Masto,  
23 et al., denominated Case No. CV-S-05-0583-RCJ-LRL. A copy of the Settlement Agreement is  
24 attached as Exhibit "1" to the SAC. An order approving the Settlement Agreement was entered  
by the USDC on May 18, 2010.

25 <sup>8</sup> Because the filing of a counterclaim was specifically requested and granted by the  
26 bankruptcy court, relief from the automatic stay was not required.

27 <sup>9</sup> The prayer of the Counterclaim seeks an award of compensatory and special damages,  
28 pre-judgment and post-judgment interest, other legal expenses, attorneys' fees, and costs of suit.  
Defendants' general factual allegations are set forth in paragraphs 5 through 120 of their  
Counterclaim. Paragraphs 12 through 67 sets forth the Defendants' description of the Settlement

1 On December 23, 2020, Debtor filed an answer to the Counterclaim. (AECF No. 105).

2 On April 15, 2021, an order was entered approving a stipulation to extend discovery  
3 deadlines, setting a bar date of August 19, 2021, for discovery to be completed, a bar date of  
4 September 20, 2021 for dispositive motions to be filed, and October 20, 2021 for a proposed  
5 pretrial order to be submitted. (AECF No. 109).

6 On April 23, 2021, Debtor filed a Motion to Compel Production of Documents  
7 Improperly Withheld for Privilege (“Compel Motion”) (AECF No. 114).

8 On May 7, 2021, Defendants filed an opposition that included a countermotion seeking a  
9 protective order from the discovery sought by the Debtor (“Protective Motion”). (AECF No.  
10 120).

11 On June 18, 2021, a response to the Compel Motion was filed by counsel on behalf of  
12 Clark County Commissioner Justin Jones (“Commissioner Jones”) who is a material witness to  
13 all of the claims but not a named party to any claims alleged in the USDC Case. (AECF No.  
14 166).

15 On June 23, 2021, Debtor filed a response to the document filed by Commissioner Jones.  
16 (AECF No. 173).

17 On June 24, 2021, a hearing was conducted on both the Compel Motion and the  
18 Protective Motion.

19 On June 30, 2021, a memorandum decision was entered addressing both the Compel  
20 Motion and the Protective Motion (“Combined Decision”).<sup>10</sup> (AECF No. 190).

21  
22  
23 Agreement between the parties. Based on the various additional allegations, Defendants assert  
24 two claims against the Debtor: breach of contract and breach of implied covenant of good faith  
25 and fair dealing with respect to the same Settlement Agreement. In other words, Defendants’  
26 claims based on their interpretation of the facts underlying Debtor’s claims, and assert the same  
27 legal theories.

28 <sup>10</sup> The Combined Decision includes a more detailed discussion of the procedural history  
of the USDC Case as it has progressed through this adversary proceeding. Equally or perhaps  
more important, the Combined Decision and resulting orders address the bankruptcy court’s  
ruling with respect to discovery and testimony for which Defendants have asserted a limitation  
under the legislative immunity doctrine. Separate orders based on the Combined Decision were

1 On July 15, 2021, Defendants filed a Motion (1) for Determination That The Claims at  
2 Issue Are Not Core Matters For Which The Bankruptcy Court May Issue Final Relief; (2) for  
3 Determination of Right to Jury Trial on Defendants' Counterclaim; and (3) to Return The Case  
4 to District Court For Final Adjudication ("Core and Jury Motion"). (AECF No. 202).

5 Defendants seek, in part, to have the USDC Case return to the USDC for completion of the  
6 remainder of the litigation.

7 On August 4, 2021, Debtor filed an opposition to the Core and Jury Motion. (AECF No.  
8 208).

9 On August 11, 2021, Defendants filed a reply and a declaration in support of their Core  
10 and Jury Motion. (AECF Nos. 210 and 211).

11 On August 12, 2021, Debtor filed the instant Amended Motion along with the  
12 Declaration of Emily A. Buchwald, Esq. ("First Buchwald Declaration").<sup>11</sup> (AECF Nos. 218 and

13 \_\_\_\_\_  
14 entered contemporaneously. (AECF Nos. 191 and 192). The Combined Decision is  
15 incorporated by reference in the instant Order.

16 <sup>11</sup> Attached to the First Buchwald Declaration are thirty exhibits ("Debtor's Exhibits").  
17 No objections have been raised to the authenticity or the court's consideration of these exhibits  
18 in connection with the instant Amended Motion. Exhibit 1 is a copy of the Jones Subpoena.  
19 Exhibit 2 is a copy of the Law Firm Subpoena. Exhibit 3 is a printout of an email exchange  
20 between counsel from July 12, 2021 through July 26, 2021. Exhibit 4 is a copy of the Jones  
21 Subpoena indicating service by hand delivery. Exhibit 5 is a copy of the Law Firm Subpoena  
22 indicating service by hand delivery. Exhibit 6 a copy of a response to the Jones Subpoena  
23 transmitted by letter dated May 14, 2021. Exhibit 7 is a copy of a response to the Law Firm  
24 Subpoena transmitted by letter dated May 14, 2021. Exhibit 8 is a copy of a letter from the Law  
25 Firm dated June 8, 2021, apparently transmitting a thumb drive of various documents produced  
26 in response to the Jones Subpoena. Exhibit 9 is a copy of a letter from the Law Firm dated June  
27 8, 2021, apparently transmitting a thumb drive of various documents produced in response to the  
28 Law Firm Subpoena. Exhibit 10 is a copy of printouts of email exchanges between counsel from  
May 12, 2021 through June 24, 2021. Exhibit 11 is a copy of printouts of email exchanges  
between counsel from June 25, 2021, June 28, 2021, and June 29, 2021, that included various  
attached documents. Exhibit 12 is a copy of a letter dated June 29, 2021, from counsel for  
Commissioner Jones that also included copies of documents that were not previously produced.  
Exhibit 13 is a copy of a letter dated July 2, 2021, from counsel for Commissioner Jones that  
references a privilege log with respect to documents encompassed by the Jones Subpoena.  
Exhibit 14 is a copy of the transmittal letter dated July 12, 2021, from the Law Firm regarding  
additional documents in response to the Law Firm Subpoena that references an updated privilege  
log. Exhibit 15 is a copy of the transmittal letter dated July 14, 2021, from the Law Firm  
regarding additional documents and an updated privilege log. Exhibit 16 is a copy of a printout



1 219).<sup>12</sup> Debtor seeks an order compelling two non-parties, attorney and Clark County  
2 Commissioner Jones, as well as his law firm, Jones Lovelock, PLLC (“Law Firm”), to provide  
3 further responses to separate subpoenas issued pursuant to Civil Rule 45. For purposes of this  
4 Order, the separate subpoenas are referred to as the Jones Subpoena and Law Firm Subpoena.  
5 Although Commissioner Jones and the Law Firm are not parties named in the USDC Case,  
6 Commissioner Jones is a material witness with respect to all of the claims asserted.<sup>13</sup>

7 On August 18, 2021, the Core and Jury Motion was heard and taken under submission.

8  
9 of email messages between counsel from June 21, 2021 and June 22, 2021. Exhibit 17 is a copy  
10 of a letter dated June 22, 2021, from the Law Firm transmitting copies of various additional  
11 email messages. Exhibit 18 is a copy of printouts of various email exchanges between  
12 November 26, 2018, and November 29, 2018, between various non-parties. Exhibit 19 is a copy  
13 of printouts of various email exchanges between October 16, 2018, and October 17, 2018,  
14 between various non-parties. Exhibit 20 is a copy of a printout of emails dated October 17,  
15 2018. Exhibit 21 is a copy of a printout of another email dated October 18, 2018. Exhibit 22 is a  
16 copy of a printout of an email dated October 22, 2018, between various non-parties. Exhibit 23  
17 is a copy of excerpts of the deposition of Susan Brager taken on June 30, 2021. Exhibit 24 is a  
18 copy of excerpts of the deposition of Marilyn Kirkpatrick taken on July 16, 2021. Exhibit 25 is a  
19 copy of excerpts of the deposition of Michael Naft taken on July 26, 2021. Exhibit 26 is a copy  
20 of printouts of various instant messages from April 23, 2019 to August 22, 2019, between  
21 various non-parties. Exhibit 27 is a copy of excerpts of the deposition of Justin Jones taken on  
22 April 23, 2021. Exhibit 28 is a copy of printouts of various instant messages on October 25,  
23 2018 between various non-parties. Exhibit 29 is a copy of printouts of various text messages  
24 commencing sometime in 2018 between various non-parties. Exhibit 30 is a copy of printouts of  
25 text messages or screen shots of text exchanges that occurred sometime in 2018.

26  
27 <sup>12</sup> On the same day it filed the Amended Motion, Debtor also requested an order  
28 shortening time so that the Amended Motion could be heard prior to an August 19, 2021  
discovery deadline. (AECF No. 220). On August 13, 2021, the court denied the request for  
order shortening time without prejudice. (AECF No. 222). Thereafter, the parties stipulated to  
extensions of time to complete certain discovery. (AECF Nos. 225 and 234).

29  
30 <sup>13</sup> The court is mindful of the many roles occupied by the respondents. There is no  
dispute that Commissioner Jones is a significant witness in connection with all of the claims  
asserted in the USDC Case but is not a named party. There is no dispute that Commissioner  
Jones also is a successful political candidate who was elected as a member of one of the  
Defendants named in the case. There is no dispute that Commissioner Jones was an attorney  
when he ran for office and remains an attorney. There is no dispute that Commissioner Jones  
also is a founder and principal of the Law Firm. There is no dispute that the Law Firm and  
Commissioner Jones also have other clients to which they have professional responsibilities  
including the duty of confidentiality. There is no dispute that the Law Firm represented both  
Commissioner Jones as well as the Law Firm itself in responding to the subpoenas.

1 On September 1, 2021, Commissioner Jones filed an opposition to the Amended Motion  
2 (“Jones Opposition”)<sup>14</sup> that included a Declaration of Justin Jones (“Jones Declaration”) and a  
3 Declaration of Nichole E. Lovelock, Esq. (“First Lovelock Declaration”).<sup>15</sup> (AECF No. 230).<sup>16</sup>

4 On September 1, 2021, an opposition to the Amended Motion also was filed by the Law  
5 Firm (“Law Firm Opposition”) along with a separate Declaration of Nicole E. Lovelock, Esq.  
6 (“Second Lovelock Declaration”).<sup>17</sup> (AECF Nos. 232 and 233).<sup>18</sup>

7 <sup>14</sup> The Jones Opposition was filed by the Marquis Aurbach Coffing law firm as co-  
8 counsel for Commissioner Jones. Presumably the other co-counsel is the Jones Lovelock law  
9 firm.

10 <sup>15</sup> Although the Law Firm apparently represented Commissioner Jones in responding to  
11 the Jones Subpoena, the First Lovelock Declaration addresses only Commissioner Jones’  
12 response to the instant Amended Motion.

13 <sup>16</sup> Attached to the First Lovelock Declaration are Exhibits B-1 through B-11 (“Jones  
14 Exhibits”). Exhibit B-1 is a copy of the Law Firm Subpoena. Exhibit B-2 is a copy of the Jones  
15 Subpoena. Exhibit B-3 a copy of a response to the Jones Subpoena transmitted by letter dated  
16 May 14, 2021. Exhibit B-4 is a copy of a letter from the Law Firm dated June 8, 2021,  
17 apparently transmitting a thumb drive of various documents produced in response to the Jones  
18 Subpoena. Exhibit B-5 is a copy of a printout of an email exchange between counsel dated June  
19 25, 2021. Exhibit B-6 is a copy of a letter dated June 29, 2021, from counsel for Commissioner  
20 Jones that also included copies of documents that were not previously produced. Exhibit B-7 is a  
21 copy of a letter dated July 2, 2021, from counsel for Commissioner Jones that includes a 185-  
22 page privilege log with respect to documents encompassed by the Jones Subpoena. Exhibit B-8  
23 is a copy of a letter dated July 14, 2021, from counsel for Commissioner Jones transmitting an  
24 updated, 45-page privilege log that was reduced after consultation with counsel for a party  
25 identified as Save Red Rock. Exhibit B-9 is a printout of an email exchange between counsel  
26 from July 12, 2021, through July 22, 2021, which includes copies of various text messages  
27 obtained from other non-party witnesses. Exhibit B-10 is a printout of an email exchange  
28 between counsel from July 12, 2021, through July 26, 2021. Exhibit B-11 is a printout of an  
email exchange between counsel from July 12, 2021, through July 26, 2021. No objections have  
been raised to the authenticity or the court’s consideration of these exhibits in connection with  
the instant Amended Motion.

24 <sup>17</sup> Although the Law Firm apparently represented Commissioner Jones in responding to  
25 the Jones Subpoena, the Second Lovelock Declaration addresses only the Law Firm’s response  
26 to the instant Amended Motion.

27 <sup>18</sup> Attached to the Second Lovelock Declaration are Exhibits 1 through 15 (“Law Firm  
28 Exhibits”). Exhibit 1 is a copy of the Law Firm Subpoena and Exhibit 2 is a copy of the Jones  
Subpoena. Exhibit 3 is a copy of a response to the Law Firm Subpoena transmitted by letter  
dated May 14, 2021. Exhibit 4 is a printout of various email exchanges among counsel between



1 On September 8, 2021, Debtor filed a reply in support of its Amended Motion (“Reply”)  
2 that included an additional Declaration of Emily A. Buchwald (“Second Buchwald  
3 Declaration”).<sup>19</sup> (AECF No. 236).<sup>20</sup>

#### 4 DISCUSSION

5 Civil Rule 45 applies in this adversary proceeding pursuant to Bankruptcy Rule 9016.  
6 For subpoenas commanding the production of documents, electronically stored information, or  
7 tangible things, Civil Rule 45(1)(D) “requires the responding person to permit inspection,  
8 copying, testing, or sampling of the materials.” Counsel issuing and serving a subpoena “must  
9 take reasonable steps to avoid imposing undue burden or expense” on the responding party. See  
10 Fed.R.Civ. P. 45(d)(1). The responding party may timely object to a document subpoena. Id. at  
11

---

12 May 12, 2021 and June 7, 2021. Exhibit 5 is a copy of a letter from the Law Firm dated June 8,  
13 2021, apparently transmitting a thumb drive of various documents produced in response to the  
14 Law Firm Subpoena. Exhibit 6 is a copy of an initial, 180-page privilege log provided by the  
15 Law Firm with respect to documents encompassed by the Law Firm Subpoena. Exhibit 7 is a  
16 copy of a printout of an email exchange between counsel for the Debtors and Commissioner  
17 Jones dated June 21, 2021. Exhibit 8 is a copy of a letter dated June 22, 2021, from the Law  
18 Firm transmitting copies of various additional email messages. Exhibit 9 is a copy of a printout  
19 of an email exchange dated June 25, 2021, between counsel. Exhibit 10 is a printout of an email  
20 exchange between counsel from June 29, 2021 to July 2, 2021. Exhibit 11 is a copy of the  
21 transmittal letter dated July 12, 2021, from the Law Firm regarding additional documents and an  
22 updated, 156-page privilege log. Exhibit 12 is a printout of an email exchange between counsel  
23 from July 12, 2021 to July 13, 2021. Exhibit 13 is a printout of an email exchange between  
24 counsel from July 12, 2021 to July 22, 2021. Exhibit 14 is a printout of an email exchange  
25 between counsel from July 12, 2021 to July 26, 2021. Exhibit 15 is a printout of an email  
26 exchange between counsel from August 10, 2021 to August 11, 2021. No objections have been  
27 raised to the authenticity or the court’s consideration of these exhibits in connection with the  
28 instant Amended Motion.

<sup>19</sup> Attached to the Second Buchwald Declaration are Exhibits 31, 32, 33, 34, and 35,  
consisting of copies of printouts of various email exchanges. Attached as Exhibit 36 is a copy of  
portions of a deposition transcript of Commissioner Jones taken on April 23, 2021. Attached as  
Exhibit 37 is a copy of a letter from Commissioner Jones to Clark County. Attached as Exhibit  
38 is a copy of a declaration dated August 31, 2021, from John H. Evans (“Evans Declaration”).  
No objections have been raised to the authenticity or the court’s consideration of these exhibits  
in connection with the instant Amended Motion.

<sup>20</sup> Defendants named in the USDC Case have not filed or presented any opposition or  
objection to the Amended Motion.

1 45(d)(2)(B). If there is a timely objection to a document subpoena, issuing counsel may move  
2 for an order compelling production. Id. at 45(d)(2)(B). The motion for an order compelling  
3 production may be brought “[a]t any time, on notice to the commanded person.” Id. at  
4 45(d)(2)(B)(i). An order compelling production “must protect a person who is neither a party  
5 nor a party’s officer from significant expense resulting from compliance.” Id. at 45(d)(2)(B)(ii).

6 A responding person who timely objects to a subpoena also may timely move to quash or  
7 modify the subpoena. Id. at 45(d)(3)(A). An order quashing or modifying a subpoena is  
8 required in various circumstances, id. at 45(d)(3)(A)(i through iv),<sup>21</sup> and permitted in various  
9 other circumstances. Id. at 45(d)(3)(B).<sup>22</sup> In the latter event, the court alternatively may  
10 condition compliance rather than quash or modify the subpoena, under certain circumstances. Id.  
11 at 45(d)(3)(C).<sup>23</sup> See, e.g., In re Rhodes Companies, LLC, 475 B.R. 733 (D. Nev. 2012)  
12 (denying motion to quash subpoena for lack of standing).

13 Absent relief from a properly served subpoena, the responding party has specific  
14 obligations with respect to documents, see Fed.R.Civ.P 45(e)(1)A), as well as specific  
15 obligations with respect to electronically stored information. Id. at 45(e)(1)(B and C). Civil  
16 Rule 45(e)(1)(A) provides that the responding party “must produce” the requested documents “as  
17 they are kept in the ordinary course of business or must organize and label them to correspond to  
18 the categories in the demand.” Civil Rule 45(e)(1)(B) provides that the responding party “must  
19 produce” electronically stored information “in a form or forms in which it is ordinarily  
20 maintained or in a reasonably usable form.” Civil Rule 45(g) provides that a person who fails to  
21

22 <sup>21</sup> Quashing or modifying a subpoena is required where it does not allow a reasonable  
23 time to comply, requires compliance beyond the geographic limits permitted by Civil Rule 45(c),  
24 requires disclosure of privileged or protected matter, or subjects the responding party to undue  
burden.

25 <sup>22</sup> Quashing or modifying a subpoena is permitted where compliance with the subpoena  
26 requires disclosure of trade secrets or other confidential information, or, requires disclosure of  
unretained expert opinion or information.

27 <sup>23</sup> Imposing specific conditions on a production subpoena is permitted if the serving party  
28 shows both a substantial need for material that otherwise cannot be met without undue hardship,  
and, that the responding party will be reasonably compensated.

1 obey a subpoena without adequate excuse may be held in contempt. If the responding party  
2 asserts that electronically stored information is not reasonably accessible, the responding party  
3 “must show that the information is not reasonably accessible because of undue burden or cost.”  
4 Id. at 45(e)(1)(D).

5 In this instance, Commissioner Jones did not file a motion to quash or modify the Jones  
6 Subpoena as permitted by Civil Rule 45(d)(3)(A). Likewise, the Law Firm did not file a motion  
7 under that Civil Rule to quash or modify the Law Firm Subpoena. Absent relief from the  
8 command of the subject subpoenas, both Commissioner Jones and the Law Firm were required  
9 by Civil Rule 45(e)(1)(A) to produce the subpoenaed documents as they are kept in the ordinary  
10 course of business or to organize and label them in the categories demanded. Likewise, both  
11 Commissioner Jones and the Law Firm were required by Civil Rule 45(e)(1)(B) to produce  
12 electronically stored information in the form in which it is ordinarily maintained or in a  
13 reasonably usable form.

14 In this instance, Commissioner Jones did serve an objection to the Jones Subpoena as  
15 permitted by Civil Rule 45(d)(2)(B).<sup>24</sup> Likewise, the Law Firm served an objection under that  
16 Civil Rule to the Law Firm. In response to those objections, Debtor has filed at “any time” the  
17 instant Amended Motion for an order compelling production of the requested materials as  
18 permitted by Civil Rule 45(d)(2)(B)(i). Any order compelling production must protect  
19 Commissioner Jones and the Law Firm from significant expense pursuant to Civil Rule  
20 45(d)(2)(B)(ii) inasmuch as neither is a party or an officer of a party in the above-captioned  
21 adversary proceeding.

---

25 <sup>24</sup> The instant Amended Motion focuses primarily on electronically stored information  
26 that may be accessible through the cellular devices of various individuals who are not named as  
27 parties in the USDC Case. In response to the instant Amended Motion, Commissioner Jones  
28 attests, *inter alia*, that he does not have a landline at his home and apparently uses his cell phone  
as his preferred means of telephonic communications with his clients, and the same cell phone  
also contains email and text messages with his clients. See Jones Declaration at ¶4.

1 Discovery motions filed in adversary proceedings under Civil Rule 37 and Civil Rule 26  
2 are governed by Local Rule 7037.<sup>25</sup> Parties to discovery motions are required to meet and confer  
3 before seeking court intervention.<sup>26</sup> The record reflects numerous exchanges between counsel,  
4 by email messages and ordinary correspondence, prior to the filing of the Amended Motion. The  
5 adequacy of the responses to both subpoenas was challenged as early as May 27, 2021, see  
6 Debtor's Exhibit 10 and Jones Exhibit 4, and remains disputed. Debtor's request to conduct a  
7 forensic audit of electronically stored information was raised as early as June 25, 2021, see  
8 Debtor's Exhibit 12 and Law Firm Exhibit B-5,<sup>27</sup> and remains contested. That counsel for the  
9

10 <sup>25</sup> Bankruptcy Rule 7026 incorporates the general discovery requirements of Civil Rule  
11 26. Civil Rule 26(c)(1) imposes a meet and confer requirement before a motion for protective  
12 order is filed. Local Rule 7026 does not extend a meet and confer requirement for other  
13 discovery disputes, including motions to compel discovery. Bankruptcy Rule 7037 incorporates  
14 the discovery sanctions provisions of Civil Rule 37 that applies to parties. Civil Rule  
15 37(d)(1)(B) includes a meet and confer requirement when a party fails to attend its own  
16 deposition, answer interrogatories, or provide inspection of documents. There do not appear to  
17 be any other meet and confer requirements in Civil Rule 37 for other discovery failures by a  
18 party. Local Rule 7037(a) does include a meet and confer requirement in adversary proceeding  
19 before any discovery dispute is brought before the bankruptcy court.

20 Bankruptcy Rule 9016 incorporates the subpoena provision of Civil Rule 45. For both  
21 motions to compel compliance, and motions to quash or modify a subpoena, Civil Rule 45(d)(2)  
22 and 45(d)(3) do not include a meet and confer requirement before either motion is brought.  
23 Local Rule 9016 addresses service of subpoenas and preserves a respondent's right to object  
24 under Civil Rule 45(d)(2) or seek to quash under Civil Rule 45(d)(3), but does not include a meet  
25 and confer requirement before a motion to compel compliance or to quash a subpoena is filed.

26 While the scope of information sought through a subpoena under Civil Rule 45 is the  
27 same as the scope of discovery sought under Civil Rule 26(b)(1), see, e.g., Freedom Mortgage  
28 Corp. v. Kent as Trustee of 6221 Red Pine Trust, 2021 WL 601605, at \*3 (D. Nev. Feb. 16,  
2021), the method for enforcing a subpoena is not dictated by the discovery rules. Under these  
circumstances, it does not appear that a meet and confer requirement even exists under Civil  
Rule 45 because the subpoena itself is an enforceable command rather than a request.

<sup>26</sup> When seeking court intervention in a discovery dispute between parties to litigation,  
they are required to follow the assigned judge's procedure for resolving discovery disputes.  
None of the bankruptcy judges in this district have adopted particular procedures for presenting  
discovery disputes.

<sup>27</sup> Commissioner Jones attests that he conducted a detailed search of his emails, text  
messages, iCloud account, and social media posting from January 1, 2021, to September 1, 2021.  
See Jones Declaration at ¶7. He also attests that he "produced hundreds of documents from  
multiple email accounts, multiple social media accounts and collected from multiple devices

1 parties to this Amended Motion continue to disagree is not surprising, but applicable meet and  
2 confer requirements, if any, were met in these circumstances.<sup>28</sup>

3 There is no dispute that both Commissioner Jones and the Law Firm timely objected to  
4 both subpoenas. There is no dispute that neither Commissioner Jones nor the Law Firm filed a  
5 motion to quash or modify either of the subpoenas. There also is no dispute that both  
6 Commissioner Jones and the Law Firm provided information in response to both subpoenas.  
7 There is no dispute that both Commissioner Jones and the Law Firm have provided privilege  
8 logs and revised privilege logs when providing responsive information. The instant Amended  
9 Motion does not seek resolution of the privilege claims.

10 Debtor does dispute the adequacy of the information disclosed in light of the information  
11 received from other non-parties that appears to have been shared with Commissioner Jones.

12 There is no dispute that such information was provided by other non-parties. See First Buchwald  
13 Declaration at ¶¶ 9 through 21; Debtor’s Exhibits 18, 19, 20, 21, 22, 26, 28, 29, 30; and Debtor’s

14  
15 over a span of more than a decade, from 2010 to present.” Id. at ¶ 2010. See also First Lovelock  
16 Declaration at ¶¶ 9 and 11. Jones Exhibit B-6 to the First Lovelock Declaration is a copy of a  
17 June 29, 2021 letter by the Law Firm in response to the Jones Subpoena. Footnote 1 to that  
18 correspondence provides as follows: “iMessages are not accessible nor searchable via the  
19 icloud.com portal. See Apple Support, “Use Messages in iCloud,” [https://support.apple.com/en-](https://support.apple.com/en-us/HT208532)  
20 [us/HT208532](https://support.apple.com/en-us/HT208532) (“You can use Messages in iCloud on your iPhone, iPad, iPod touch, Apple  
21 Watch, and Mac. For your privacy, Messages in iCloud is end-to-end encrypted, which means  
22 you can’t view or access Messages online via browser.” The information in the footnote  
23 apparently was provided by Commissioner Jones. See Jones Declaration at 3:21-26; Jones  
24 Opposition at 5:10-14. Commissioner Jones also attests that he “purchased his current iPhone  
25 12...in or about October 2019” and that he “traded in my prior iPhone at that time and did not  
26 retain it.” See Jones Declaration at 2:13-15. Debtor argues, however, that the iPhone 12 model  
27 was not released until a year later, which raises a question concerning the adequacy of the search  
28 conducted by Commissioner Jones. See Reply at 8:1-9 & n.3.

24 <sup>28</sup> In connection with the Law Firm Subpoena, the Law Firm maintains that the Debtor  
25 failed to sufficiently meet and confer under Civil Rule 37(a)(1) and Rule 26-7(c) [sic] of the  
26 USDC local rules before filing the Amended Motion. See Law Firm Opposition at 12:5 to 13:17.  
27 As previously discussed at note 25, supra, the Amended Motion is brought under Civil Rule 45  
28 rather than Civil Rule 37. Moreover, because the Law Firm appears to allow Commissioner  
Jones to use the same cell phone for personal as well as firm-related communications, see note  
24, supra, the Amended Motion is required to be brought against the Law Firm as well as  
Commissioner Jones.

1 Exhibits 23, 24, and 25. See also Second Buchwald Declaration at ¶¶ 3 through 10; Debtor’s  
2 Exhibits 31, 32, 33, 34, 35, 36, and 37; and Debtor’s Exhibit 38. There also appears to be no  
3 dispute that Commissioner Jones as well as the Law Firm expended significant time in searching  
4 for responsive information. See Jones Declaration at ¶9; Second Lovelock Declaration at ¶ 35.  
5 It is unnecessary to delve into the rancor between the Debtor on one hand, and Commissioner  
6 Jones and the Law Firm on the other. It also is unnecessary to even consider the professional  
7 rancor that may be developing between counsel.<sup>29</sup> The record before the court adequately  
8 establishes, however, that additional relevant information may be available that has yet to be  
9 accessed and produced by both Commissioner Jones and the Law Firm.

10 Because it is undisputed that such information exists, Debtor requests entry of “an order  
11 requiring that Jones’ iPhone be forensically imaged and any iCloud backups restored to ensure  
12 that Jones has produced all texts and iMessage responsive to Gypsum’s subpoenas duces tecum.”  
13 Amended Motion at 14:24 to 15:2.<sup>30</sup> No evidence has been offered as to the efficacy of a  
14 forensic audit to reveal the existence of additional and relevant information,<sup>31</sup> but neither  
15

---

16 <sup>29</sup> For example, accusations of intentional concealment and comments regarding the  
17 professional fees paid to counsel are unnecessary. See Debtor’s Exhibit 3; Law Firm Exhibit 14.

18 <sup>30</sup> Neither the Debtor nor Commissioner Jones dispute that a forensic audit may be  
19 ordered in unusual circumstances, but they do dispute whether such an audit is appropriate on the  
20 current record. See Amended Motion at 13:18 to 14:4; Jones Opposition at 13:7-23. The  
21 Debtor, Commissioner Jones and the Law Firm discuss a recent decision of the USDC in V5  
22 Technologies v. Switch, Ltd., 332 F.R.D. 356 (D. Nev. 2019), where the court granted the  
23 plaintiff’s motion to compel a nonparty to produce electronically stored information. The court  
24 required the objecting nonparty to search personal and business email accounts and text  
25 messages using specific search terms for communications covering an eight year period. A  
26 sworn declaration detailing each of the searches also was required, in addition to the production  
27 of all nonprivileged responsive documents. Id. at 367. The court did not order the search to be  
28 conducted by a “third-party e-discovery vendor” because the request was made by the Plaintiff  
only in its reply brief. Id. at 367 n.12, citing, e.g., Bazuaye v. I.N.S., 79 F.3d 118, 120 (9th Cir.  
1996). In the present case, Debtor’s request for a forensic audit was made as early as June 25,  
2021, and was included at the inception of the instant Amended Motion.

<sup>31</sup> Debtor has submitted the Evans Declaration, however, who is a digital forensics  
consultant at a law firm who described the extraction of data from an iPhone used by another  
non-party witness in connection with the USDC Case. It appears that email messages dated after  
December 31, 2009 could be collected from the subject phone. See Evans Declaration at ¶ 13. It



1 Commissioner Jones nor the Law Firm dispute that a forensic audit would be effective.<sup>32</sup> Both  
2 Commissioner Jones and the Law Firm, however, object to the expense of such an audit, see  
3 Jones Opposition at 13:7-9, and also suggest that additional production might jeopardize the  
4 confidentiality that both respondents owe to other clients and former clients of their law practice.  
5 See Law Firm Opposition at 15:9-21.

6 Debtor has offered to bear the cost of a forensic audit thereby mitigating any expense that  
7 would be borne by Commissioner Jones and the Law Firm. Debtor also suggests that the results  
8 of a forensic audit would remain confidential until both Commissioner Jones and the Law Firm  
9 can review the results in order to assert claims of privilege. That the parties to this Amended  
10 Motion already have cooperated in asserting and modifying claims of privilege is evident from  
11 the record. See Jones Exhibits B-4, B-5, B-6, B-7, and B-8; Law Firm Exhibits 5, 6, 8, and 11.  
12 On this record, the relief proposed by the Debtor is workable and prejudice to the respondents  
13 and their clients can be avoided.<sup>33</sup>

14 Both Commissioner Jones and the Law Firm apparently maintain, however, that a  
15 forensic audit of Commissioner Jones' cell phone and account is particularly intrusive for a  
16 practicing attorney and a law firm. At the hearing on the Amended Motion, they argued that an

17 \_\_\_\_\_  
18 also appears that the recovery of text message data from the iCloud account of the cell phone  
19 owner also may be available. Id. at ¶¶ 16 and 17.

20 <sup>32</sup> Commissioner Jones maintains that additional messages exchanged through his cell  
21 phone may not be accessible according to a passage quoted from the manufacturer's website.  
22 See Jones Opposition at 14:4-12. The record is inconsistent, however, as to whether the cited  
23 information from the manufacturer's website even applies to the cell phone model used by  
24 Commissioner Jones. See discussion at note 27, supra.

25 <sup>33</sup> In its written argument addressing an order compelling use of a forensic audit of  
26 electronically stored information, Debtor cites American Indus., Inc. v. Liberman, 2006 WL  
27 3825291, at \*4 (E.D. Mo. Feb. 23, 2007), *as amended on clarification*, 2007 WL 685623 (E.D.  
28 Mo. Feb. 23, 2007); Simon Prop. Group L.P. v. mySimon, Inc., 194 F.R.D. 639, 641 (S.D. Ind.  
2000); and Measured Wealth Private Client Group, LLC v. Foster, 2021 WL 1215218, at \*2  
(S.D. Fla. Mar. 31, 2021). See Amended Motion at 13-14. Commissioner Jones additionally  
cites Memry Corp. v. Kentucky Oil Tech, N.V., 2007 WL 832937 (N.D. Cal. Mar. 9, 2007) and  
Powers v. Thomas M. Cooley Law School, 2006 WL 2711512 (W.D. Mich. Sep. 21, 2006). See  
Jones Opposition at 13.

1 audit would jeopardize the confidences owed by attorneys and law practices to their clients.<sup>34</sup>  
2 The court shares this concern, but any jeopardy may be largely of the respondents' own making.  
3 See note 13, supra. The court has balanced the relevance and need for the requested information  
4 against the cost and prejudice created.<sup>35</sup> The cost is ameliorated by Debtor's payment of the full  
5 costs of a forensic audit. The potential prejudice to clients of Commissioner Jones and the Law  
6 Firm is ameliorated by requiring the forensic audit results to be kept confidential pending  
7  
8

9 <sup>34</sup> While it is no doubt common for individuals to use private email accounts to  
10 communicate regarding non-private matters, e.g., governmental, business, or other professional  
11 activities, there certainly is a risk involved. Potentially serious consequences from government  
12 officials conducting government business using their private email accounts are well known.  
13 Individuals also may use their private cellular devices to communicate regarding non-private  
14 matters. Commissioner Jones does not have a landline at his home and apparently uses his cell  
15 phone as his preferred means of telephonic communications with his clients, and the same cell  
16 phone also contains email and text messages with his clients. See Jones Declaration at ¶4. This  
17 too carries a risk and might well be common. Individuals usually have a social responsibility to  
18 keep confidential matters confidential. Professionals, however, have a legal responsibility to  
19 keep confidential matters confidential. Attorneys know this and so do their clients. Thus, when  
20 attorneys use their professional email accounts and professional cellular accounts to conduct  
21 non-professional activities, there is a known risk created. An even greater risk may exist for  
22 "dual purpose" communications by an attorney. See In re Grand Jury, 2021 WL 4143102, at \*2-  
23 5 (9th Cir. Sep. 13, 2021) (applying primary purpose test to the assertion of attorney-client  
24 privilege in connection with legal advice and business advice). While it also may be  
25 inconvenient and costly, these known risks can be minimized by using separate cell phone  
26 devices and maintaining separate communication accounts. The same applies to "cloud"  
27 services that store private and non-private information.

28 <sup>35</sup> Included in this balance is the undisputed evidence that communications in which  
29 Commissioner Jones apparently participated were produced by other nonparty witnesses, but not  
30 revealed in the search conducted personally by Commissioner Jones. In V5 Technologies, the  
31 USDC observed: "Moreover, Plaintiff has identified documents obtained elsewhere that should  
32 have been included in any production from Ms. Folino arising from a search of her business  
33 email account...The existence of such documents produced from other sources raises significant  
34 concern about the completeness of the search conducted with respect to Ms. Folino's business  
35 email account." 332 F.R.D. at 367 (emphasis added). In this instance, Commissioner Jones  
36 attests that he personally conducted an extensive search of his electronically stored information  
37 from January 1, 2021, through the date of his declaration, see note 26, supra, but that he also  
38 produced documents from 2010 to the date of his declaration. Id. The evidence offered by the  
39 Debtors and Commissioner Jones therefore suggest that there were other electronic  
40 communications after 2010 that would not have been included in the search conducted by  
41 Commissioner Jones.

1 resolution of any claims of privilege, if any, or any other reason to prevent disclosure.<sup>36</sup>

2 Moreover and as a practical matter, completion of a forensic audit may limit or entirely eliminate  
3 any further suggestion that Commissioner Jones and the Law Firm somehow have intentionally  
4 concealed relevant electronically stored information that is reasonably accessible.

5 Under these circumstances, the court will order that a forensic audit be conducted of the  
6 cell phone of Commissioner Jones. No later than October 4, 2021, a qualified independent  
7 forensic auditor must be agreed upon by respective counsel for the Debtor and Commissioner  
8 Jones, with the entire amount of the fees charged by the auditor to be paid by the Debtor. In the  
9 event that counsel cannot agree on an auditor, counsel shall submit the names of alternative  
10 proposed auditors and the court will decide. Debtor shall pay the entire amount of the fees  
11 charged by an auditor chosen by the court. Additionally, during any appreciable time in which  
12 Commissioner Jones' cell phone is in the possession of the auditor, Debtor shall provide to  
13  
14

---

15 <sup>36</sup> The cases cited by both the Debtor and Commissioner Jones, see note 33, supra, are  
16 instructive but not binding. The Ameriwood Industries decision permitted forensic examination  
17 of the computers of named party defendants pursuant to a Civil Rule 34 request for production of  
18 documents and information. A detailed protocol was established to ensure the confidentiality of  
19 the forensic expert's report. See 2006 WL 3825291, at \*5-6; 2007 WL 685623, at \*2. The court  
20 in Simon Property Group allowed access under Civil Rule 34 to the computers used by a named  
21 defendant's employees to determine if files were deleted. A protocol was established for an  
22 expert appointed as an officer of the court to access and copy the available information. 194  
23 F.R.D. at 641-44. The Measured Wealth court allowed a forensic audit of a named defendant's  
24 cell phone under Civil Rule 34 for text messages and iMessages on a "strong showing that  
25 additional relevant text messages and iMessages may be recovered from Defendant's phone..."  
26 2021 WL 1215218, at \*2. Protocols were established for the appointment of an expert as an  
27 officer of the court and to preserve the confidentiality of the audit results. Id. at \*3-4. The court  
28 in Memry Corporation denied a request under Civil Rule 34 for an independent examination of a  
named defendant's computer hard drives because the request was made after discovery had  
closed and was made shortly before commencement of trial. 2007 WL 832937, at \*4. The  
Powers decision denied a plaintiff's request under Civil Rule 34 to compel a forensic audit on the  
named defendant's computer system in light of the defendant's production of sufficient paper  
copies of the requested information. 2006 WL 2711512, at \*5. In all of the cases, a forensic  
audit was considered with respect to discovery from a party or employee of a party named in the  
civil litigation. In contrast, the Amended Motion seeks to compel a forensic audit for  
electronically stored information of a non-party individual under Civil Rule 45, but who may be  
the most significant witness regarding the claims alleged by all parties in the USDC Case.

1 Commissioner Jones a comparable substitute device for his use during that time and shall bear  
2 the entire expense of doing so.

3 In cooperation with the chosen auditor, counsel for the Debtor and Commissioner Jones  
4 must agree on the deadline for the auditor's forensic search results to be reported to counsel. The  
5 auditor's search results must be accompanied by a report or declaration attesting, at a minimum,  
6 to the search terms used, the range of dates searched, and the results obtained. In no event may  
7 the audit seek electronically stored information prior to the 2010 date of the information and  
8 records previously produced by Commissioner Jones.<sup>37</sup> Additionally, counsel must agree on a  
9 deadline for Commissioner Jones and the Law Firm to assert claims of privilege along with a  
10 privilege log, or any other basis for objection. By the latter deadline, all non-privileged  
11 information revealed by the auditor's search must be produced. In the event counsel cannot  
12 agree on the deadline for the auditor's search report to be provided and the deadline for  
13 Commissioner Jones and the Law Firm to assert claims of privilege or other objections, counsel  
14 shall submit proposed alternative deadlines to the court and the court will decide. Counsel are,  
15 of course, encouraged to cooperate.

16 **IT IS THEREFORE ORDERED** that the Gypsum Resources, LLC's Amended Motion  
17 to Compel (1) a Full and Complete Response to the Subpoenas Duces Tecum to Justin Jones and  
18 Jones Lovelock, and (2) a Forensic Image of Justin Jones' Cell Phone and iCloud Account,  
19 Adversary Docket No. 218, be, and the same hereby is, **GRANTED AS PROVIDED ABOVE.**

20  
21 Copy sent via CM/ECF ELECTRONIC FILING

22 Copies sent via BNC to:  
23 GYPSUM RESOURCES, LLC  
24 ATTN: OFFICER/MANAGING AGENT  
25 8212 SPANISH RIDGE AVENUE, #200  
26 LAS VEGAS, NV 89148

27  
28 <sup>37</sup> At the hearing, counsel who appeared for Commissioner Jones expressed a willingness  
to discuss completion of this process, perhaps even the scope of the forensic audit. Counsel, of  
course, still may stipulate to such matters.

1 TODD L. BICE  
2 PISANELLI BICE, LLC  
3 400 SOUTH 7TH STREET, SUITE 300  
4 LAS VEGAS, NV 89101

###

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28