

EXHIBIT “2”

Alan W. Zajic, CPP, CSP, ICPS – Security Consultant – Nevada License No. 978

February 1, 2021

Paul A. Acker, Esq.
Elizabeth C. Spaur, Esq.
Resnick & Louis, P.C.
8925 W. Russell Road, Suite 220
Las Vegas, Nevada 89148

Re: Jeffrey Toll vs. Nevada Property 1, LLC d/b/a The Cosmopolitan of Las Vegas
U.S. District Court, District of Nevada, Case No. 2:20-cv-00929-KJD-DJA
Initial Expert Disclosure Report on Behalf of Defendant

Dear Mr. Acker,

Please accept this as my Initial Expert Disclosure Report pursuant to the current scheduling order and F.R.C.P. Rule 26(2)(b) Items required in this report are identified and attached as exhibits.

This report is presented based on documents produced through the normal course of Discovery along with my investigation into the allegations contained in Plaintiff's complaint. Any subsequent documents, testimony or other discovery may subject the opinions contained to modification or amplification. As of the date of this report, discovery is still open.

For the purposes of this report, Nevada Property 1, LLC d/b/a/ The Cosmopolitan of Las Vegas, will be referred to as "Cosmopolitan" or "Defendant". Plaintiff, Jeffrey Toll will be referred to as "Plaintiff". All others will be referred to by last name or by entity.

Experience and Qualifications:

I have over 40 years of practical, hands on experience in the areas of security, hospitality and public contact primarily in the gaming environments. I am a past Council Vice President for ASIS International with oversight over the Gaming and Wagering Protection Council, Banking and financial institutions Council, Hospitality, Entertainment and Tourism Council, and the Retail and Loss Prevention Council for ASIS International. My experience includes both proprietary and contract security disciplines.

I am currently the Vice Chairman and a past chairman of the Gaming and wagering Protection Council/Community and a past chairman of the Hospitality, Entertainment and Tourism Council for ASIS International. I am an active member of the ASIS International Security organization nationally, and in Nevada, to include my 20-year long-standing member status in the Gaming and Wagering Protection Council.

I hold the designation of Certified Protection Professional (CPP) with ASIS International. I am also a member and am a Board Director of the International Association of Certified Surveillance Professionals and hold the designation of Certified Surveillance Professional (CSP). In addition, I am a member of the International Association of Professional Security Consultants, the International Society of Crime Prevention Practitioners (ISCPP), International Association of Crime Analysts, and other professional

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organizations. I hold the Designation of International Crime Prevention Specialist (ICPS) with the ISCPP. I am currently certified in Techniques of Alcohol Management (TAM) By TAM of Nevada.

My experience includes consulting for gaming facilities, in various jurisdictions where I actively conduct projects and training of casino security and surveillance personnel, conduct security and surveillance reviews and audits, including within the state of Nevada. I am an instructor at the University of Nevada at Reno in the Gaming Management Program and at UNLV for the International Gaming Institute and a past instructor at the Center for Professional & Leadership Studies, (PLuS Center) William F. Harrah College of Hotel Administration, where I conducted classes in security and surveillance applications.

I have also lectured and presented security and surveillance sessions as an invited guest speaker at national and regional seminars on security and surveillance applications to include ASIS International, International Security Conferences (GSX), the Global Gaming Exposition (G2E), World Game Protection Conference (WGPC), National Indian Gaming Association Conference, Southern California Surveillance Symposium, Minnesota Casino Intelligence Unit, Nightclub and Bar Show, Table Games Conference, Tribal Games Protection Network Conference and others.

I am a licensed Security Consultant in the State of Nevada ¹ and hold professional licenses (No. 978) for private investigations and security operations (Private Patrolman). Any security consulting performed within the state of Nevada requires at least one of these licenses. I also advertise nationally including within the state of Nevada and engage in the business of security consulting which also requires a license. ² I am currently and have previously been licensed through various gaming commissions to conduct consulting throughout North America.

I have extensive training and experience in both the proprietary and contract security disciplines and have extensive experience in forensic security consulting in gaming environments. All of this experience and training allow me to opine in this matter. A complete copy of my most recent CV is attached for your reference.

(See Exhibit A)

I have previously testified at trial in Nevada, Texas, Florida, Louisiana, Washington, Illinois, California, Wisconsin, and other jurisdictions, and have been accepted as an expert witness in various security and surveillance areas, gaming, casino security, multi-unit housing, retail, bar and nightclub security, Dram Shop, Use of Force and in crisis intervention. A listing of the cases where I have testified during the four years preceding this report is attached.

(See Exhibit B)

¹ **NRS 648.0155 “Security consultant” defined.** “Security consultant” means a person licensed as a private patrol officer or private investigator who engages in the business of furnishing advice on the proper methods and equipment for providing security and protection for persons and property.

² **NRS 648.060 License required to engage in or advertise business;** registration required for employee of licensee. (1) Except as otherwise provided in NRS 253.220, no person may: (a) Engage in the business of private investigator, private patrol officer, process server, reposessor, dog handler, **security consultant**, or polygraphic examiner or intern; or (b) Advertise his or her business as such, irrespective of the name or title actually used, unless the person is licensed pursuant to this chapter.

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As a security professional, I have had articles published or have been interviewed by the media in various professional publications or consumer news publications. A listing of the known media events I have participated in during at least the Last 10 years is attached.

(See Exhibit C)

Scope and retention:

I was first contacted in this matter by the offices of Resnick and Lewis on 10/19/2020. I subsequently discussed this matter with William B. Palmer, Esq. on 10/21/2020. After clearing this matter for any known conflicts, I was given a basic known fact pattern of the incident as alleged in Plaintiff's Complaint. I agreed to perform the services of a Forensic Security Consultant on this matter up to and including testimony at deposition or trial as requested.

I have conducted an investigation into the circumstances surrounding this matter to include review of the documents produced and a comprehensive forensic video analysis of the Cosmopolitan Surveillance video produced. Based on the current Covid restrictions and safety protocols in place at Cosmopolitan, I have not yet conducted a site inspection.

I am generally familiar with the Cosmopolitan and the locations of the holding room and hotel floors. I did requests photos be taken of the outside of room 5914 in the corridor and inside the hotel room. [COSMO 000094-000105] The surveillance videos produced also sufficiently document locations of interactions with security personnel. A complete listing of the materials I have reviewed and am relying on is attached.

(See Exhibit D)

Fee Schedule:

I am charging for my services in this matter. My fee schedule identifies my current rates which is also attached.

(See Exhibit E)

Methodology:

The methodology utilized in my analysis of this case is based on the review of documents available to me as of the date of this report *[See Exhibit D]* and is consistent with the IAPSC Forensic Methodology³ which has been widely utilized and peer reviewed. The Methodology was specifically developed for retrospectively assessing premises security issues for matters in litigation.

The IAPSC methodology has been accepted as reliable, peer reviewed, and commonly utilized by security experts in security related litigation.⁴ The methodology has been held reliable as required by

³ International Association of Professional Security Consultants, Forensic Methodology Updated 12/02/2020, www.iapsc.org³

⁴ Childress v Kentucky Oaks Mall, 2007 WL 2772299 (W.D. KY) 2007 and Reinaldo Robles Del Valle, et al v Vornado

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FRE 702, based on the U. S. Supreme Court rubric in *Daubert, Joiner and Kumho Tire*, in assessing the foreseeability of criminal activity and the effectiveness of security measures as in the present case.

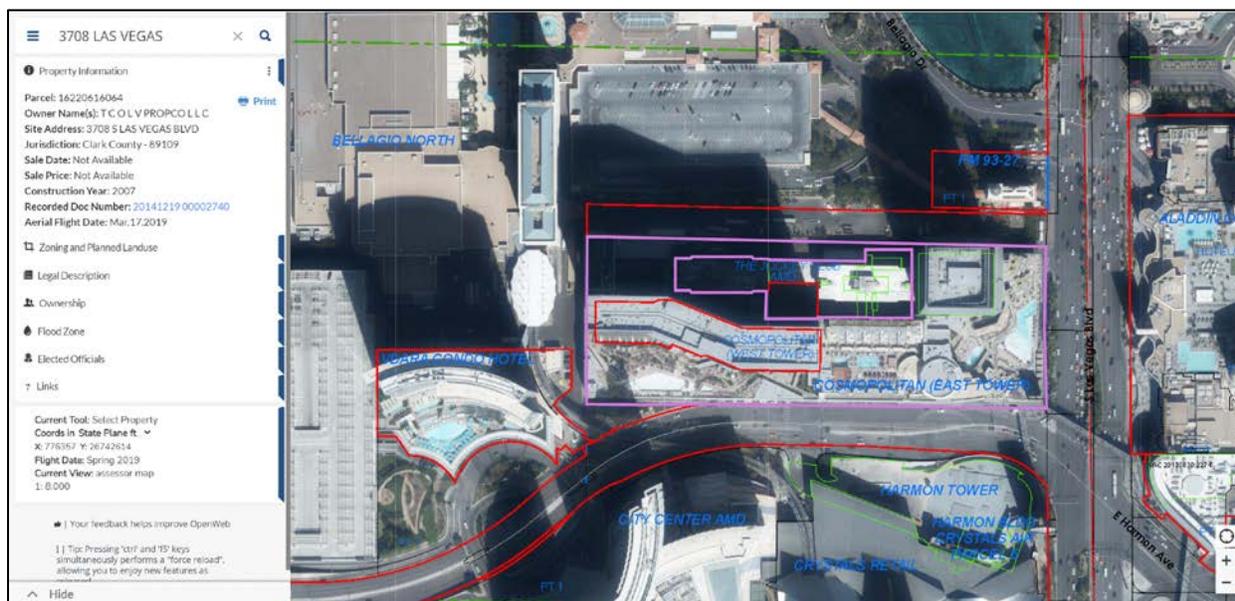
My analysis is consistent with good and accepted practices within the security industry, my experience as a security practitioner, my experience as a Nevada licensed security consultant, and professional instructor, all of which has been applied to the materials presented for my review. The IAPSC Methodology is attached.

(See Exhibit F)

Business Environment and Location:

The incident that is involved in this matter is a Casino Hotel Resort ⁵ Located in Las Vegas, Nevada. The address of Cosmopolitan was 3708 Las Vegas Blvd. South 89109, which was located in the area known as *The Strip* where numerous other gaming establishments line both sides of Las Vegas Blvd. South. Cosmopolitan is located in the middle of the Block between the Major Streets of Flaming Avenue and Tropicana Avenue. Harmon Avenue runs between Cosmopolitan and Aria.

The following aerial photograph from 2019, Clark County GIS Services, Assessor depicts the size and scoping of Cosmopolitan:



The nearest cross streets would be South Las Vegas Boulevard and Harmon Avenue. Cosmopolitan was one of 391 gaming facilities within the state of Nevada which included 154 located within the Las Vegas area. There were additional gaming facilities in adjacent communities to include Henderson, Nevada (31) and North Las Vegas, Nevada (13).

Realty Trust, 06-1818 US Dist. Court., Puerto Rico, 2009, Jane Doe v. Outfitters Retail Co., 2015 WDQ-14-508, U.S District Court, Maryland

⁵ Clark County Code, 8.04.010.145 Resort Hotel Defined

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According to public information, the casino's 65,212 square foot gaming space features 1,390 gaming machines and 119 table games. The property has seventeen restaurants, three bars and a hotel with 3,033 rooms. The casino was located on the first level, food and beverage outlets and some meeting room space was located on the second level and convention and meeting rooms were primarily located on the third and fourth levels.

Based on the gaming square footage, Cosmopolitan would be considered a medium sized Casino Resort with the 43rd largest registered gaming space within the state of Nevada or, there are 42 properties with gaming space larger than Cosmopolitan. Nationwide, Cosmopolitan gaming space would also be considered medium sized.

From a hotel rooms perspective, Cosmopolitan would be considered a large hotel which was attached to the casino with 3,033 rooms. Cosmopolitan was the 13th largest hotel property within the Las Vegas area or, there were 12 casino resorts with more hotel rooms than the Cosmopolitan.⁶

Hotel room 5914 where Plaintiff was registered was a suite. The following pictures depict the basic layout of that room.



The local law enforcement agency was the Las Vegas Metropolitan Police Department (LVMPD). The LVMPD was responsible to respond to Calls for Service (CFS) and to investigate any potential or actual criminal events involving state and county laws or ordinances. LVMPD and Clark County Fire Department (CCFD) both responded to the incident.

Cosmopolitan was also subject to Nevada laws, and local laws as it relates to the operation of gaming, liquor service, and the general business operations. The Nevada Gaming Control Board, (NGCB) Division of Gaming Enforcement, was charged with oversight to maintain the integrity of gaming through established laws and regulations. Business licensing and regulations were within the jurisdiction of Clark

⁶ Las Vegas Convention and Visitors Authority, Clark County Room Inventory, 2016

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County, Nevada. Based on the business environment with an attached hotel, Cosmopolitan was also subject to laws involving Nevada Innkeepers.⁷

The appropriate standard of care for analysis in this matter would be for guard force security operations in a medium sized casino, large sized hotel within Clark County, Nevada.

Incident Summary:

The incident involved in this matter involved detection of suspicious and potential felony fraud occurring on the premises of Cosmopolitan, the subsequent contact for the purposes of evicting Plaintiff for potential anti-money laundering activity. In addition, the subsequent detention of Plaintiff for the purposes of notifying law enforcement, the response of law enforcement and the issuing of a trespass warning and escort off the premises.

According to written reporting by Cosmopolitan⁸, on Monday, 06/03/2019 at approx. 16:16 hours, Security shift manager Day was contacted by the Compliance Manager and instructed that Plaintiff was to be evicted from the premises and issued a trespass warning for Anti Money Laundering Concerns.

Day started his investigation to attempt to locate Plaintiff to include notification to surveillance and hotel management. Plaintiff was not currently showing as gambling on property. A check with the hotel revealed Plaintiff had a total of three rooms, under his name in the hotel. (5914, 3820 and 2320) Due to the lack of information available, and that Plaintiff had not yet been located all three rooms were to be *hard pinned*⁹ (Lockout) to force Plaintiff to contact management for access. In order to lock out a guest, security is required to confirm no one is in the room. Attempts at knocking on the hotel doors as well as simultaneous calling of the rooms was attempted.

Subsequently, Day responded to room 5914 to attempt to complete the lockout and confirm Plaintiff was not inside. Day then entered room 5914 and discovered numerous player cards in plain view with varying names as well as a credit card under the name of Stephanie Kirshbaum within the hotel room. The other rooms were checked with negative results in locating Plaintiff.

There was, in plain sight, indications that Plaintiff was involved in widespread fraud by misrepresenting his identity in multiple casino player incentive programs where things of value, including cash, were obtained and in the possession of Plaintiff, or that Plaintiff had in his possession potentially stolen cards.

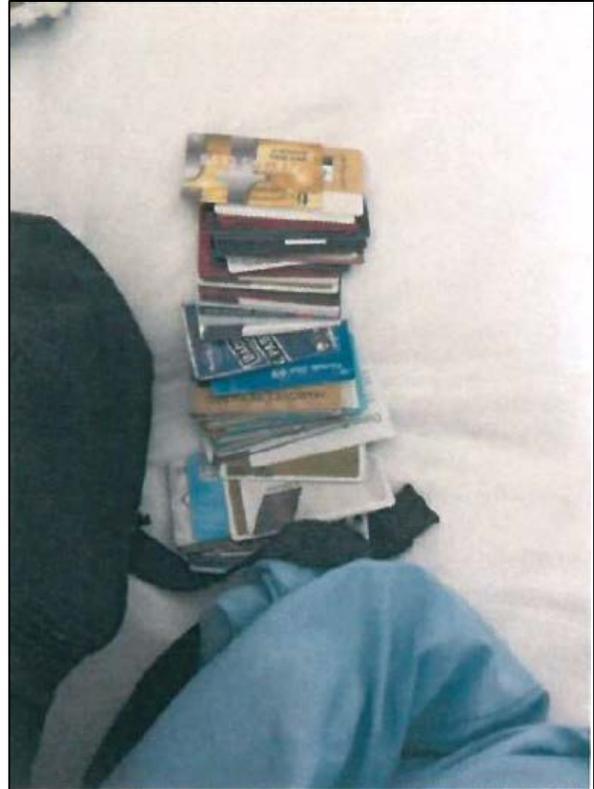
The following photographs were taken by Cosmopolitan security of the suspicious number of cards with other names and aliases:

⁷ NRS Chapter 651, Public Accommodations

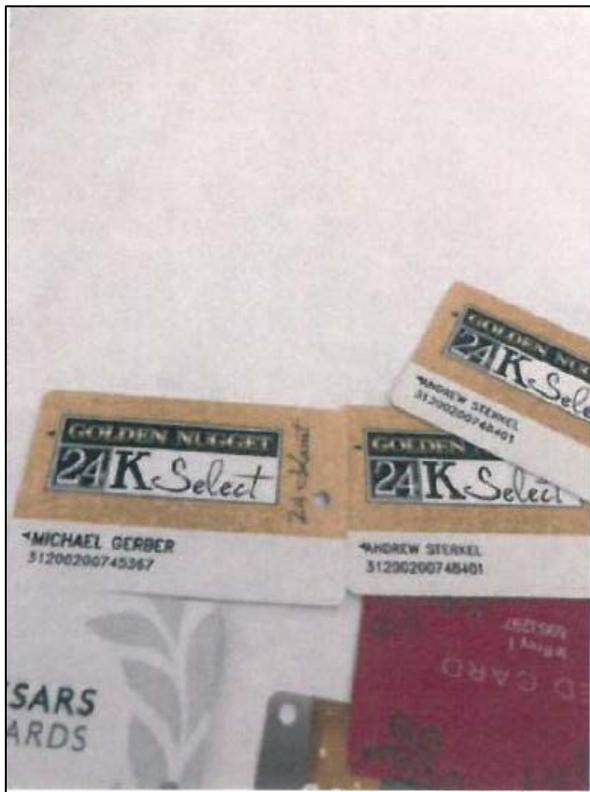
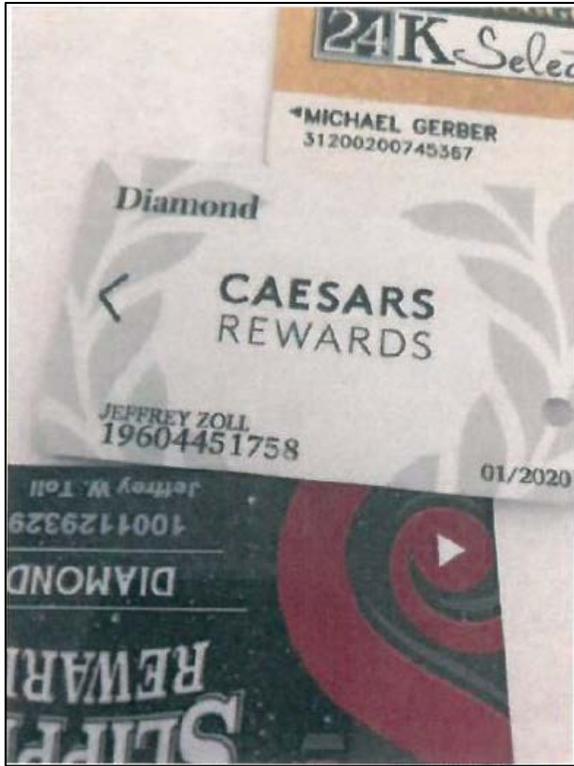
⁸ Proprietary Security Incident Report, #IN20190005666,

⁹ Hard Pinning (Lockout) is a term of art and is the mechanical application for mortice locks in a hotel to prevent an occupant from entering the room by rendering the lock inoperable temporarily

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Day was notified by Surveillance that Plaintiff was located gambling in the casino floor. Day with other security personnel approached Plaintiff and requested him to accompany them to the security office which Plaintiff initially complied with.

Plaintiff stopped in route and told Day that he collected player cards from friends. Day asked Plaintiff about the Visa Card found in room 5914 and Plaintiff told Day that it belonged to Kirschbaum and that they were currently getting a divorce and that the account was currently empty and the account had been closed. Plaintiff stated he would go to his room, pack his belongings and leave the premises. Plaintiff was escorted to room 5914 by security.

Upon Day granting access to his room, Plaintiff entered and immediately began packing the player cards first, then the rest of his belongings. Day contacted the LVMPD to report the suspicious circumstances regarding Plaintiff having possession of a credit card, not in his name, and the other circumstances. Plaintiff was subsequently allowed to pack up all of his belongings and was willingly escorted to the security holding area unrestrained to await the arrival of LVMPD.

Upon arrival to the security offices at 18:00 hours, Plaintiff was advised that the room was being recorded and the reason he was being detained for LVMPD. Plaintiff was searched for weapons and waited for LVMPD arrival. At 18:04 hours Plaintiff was formally advised of trespass¹⁰ and that if he returned, he would be subject to arrest.

LVMPD officers Tran and Engrstrom arrived at 19:57 hours (1 hour, 57 minutes later) and conducted their field investigation. After conducting their field investigation, LVMPD took possession of the suspect

¹⁰ NRS 207.200 Unlawful trespass upon land; warning against trespassing.

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Visa Debit card, along with some player cards not in his name and advised they would take no further action.

Plaintiff was escorted off the property by Cosmopolitan security personnel after checking out of the hotel. The other occupants of the other hotel rooms associated with Plaintiff made contact and were also evicted from the property as a result of Plaintiff's actions. The other hotel guests complied with the request for eviction without incident.

Initial Opinions:

As previously stated, this report is presented based on documents produced through the normal course of Discovery along with my investigation into the allegations contained in Plaintiff's complaint. Any subsequent documents, testimony or other discovery may subject the opinions contained to modification or amplification. As of the date of this report, there have been no discovery depositions presented for my review and discovery is still ongoing.

1. The suspicious activity of Plaintiff to include comments to Casino hostess Witthauer required Cosmopolitan to take action to lawfully evict and trespass Plaintiff.

Cosmopolitan had the lawful authority as a business to initially contact and evict Plaintiff from the premises based on his unusual and suspicious activity. The suspicious activity included the high probability that Plaintiff was engaging in fraud to include identity theft for the purposes of receiving things of value (including cash) from various gaming properties, including Cosmopolitan, in the form of player incentive programs along with a Visa Debit Card in his possession and not in his name. Player incentive programs do have a monetary value for return cash and for goods and services.

Day memorialized in his written report that he had hard pinned the hotel rooms (3) involving Plaintiff to force him to contact them for the eviction process. The room occupied by Plaintiff (5914) was entered to confirm no one was inside: [iTrack Incident Report] (Emphasis added)

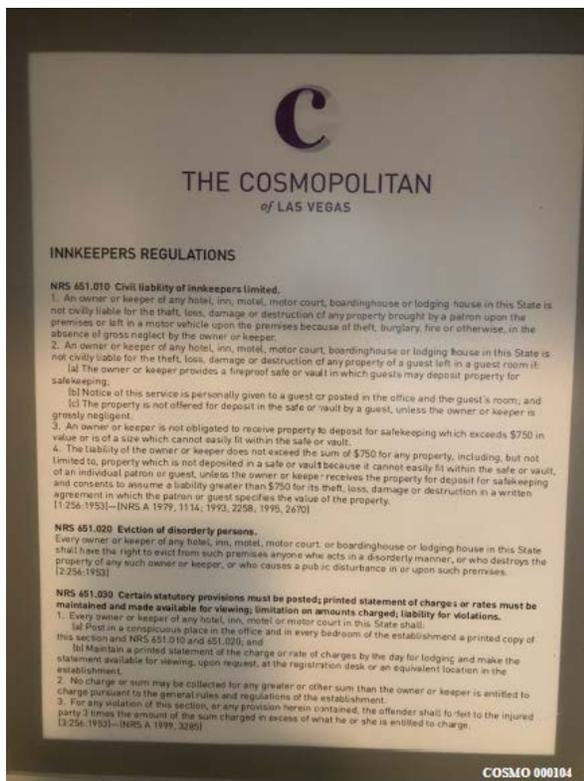
At approximately 1656 hours, VICENTI and I made entry into room 5914 to verify the room was empty to place the hard pin on the room. The room was empty, however there were personal belongings on the bench and bed along with several dozen "Player Cards" from various casinos in stack. VICENTI stated there was a white Visa Debit card with the name of STEPHANIE KIRSCHBAUM in a brown paper bag on the floor within the room. In the stack of cards on the bed, there were several variations of TOLL's name (some were misspelled) as well as other names not associated to TOLL. VICENTI and I departed the room and I placed the hard pin on the door.

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Once inside of the hotel room, there was evidence, in plain view of potential fraud. The sheer number of cards not in his name observed by Day created the suspicion of fraud or money laundering¹¹ which required Cosmopolitan to investigate and prevent fraud based on gaming regulations and common practices. Plaintiff was actively participating in a Cosmopolitan marketing promotion.

Cosmopolitan could be fined by the U.S. Government for allowing persons with falsified or fraudulent documents through the Title 31 laws designed to detect and prevent *money laundering* to include casinos. Cosmopolitan had in place a department with the responsibility to monitor and report suspicious behavior and compliance to U.S. Law.

As the representative of the owner and manager of the Cosmopolitan, Day had the lawful authority to advise Plaintiff and his party that their presence was no longer wanted and to formally ask them to leave. Based on the obvious player club abuse, as well as the information provided by casino host Witthauer, Plaintiff presented an intent to vex and annoy Cosmopolitan as well the probability of potential fraud. Contact was required to formally advise Plaintiff of trespass. Nevada law also provides the authority of a hotel to evict a person.¹²



Posted inside of room 5914 was the Law Card which listed NRS 651.020

¹¹ 31 U.S. Code § 5318 - Compliance, exemptions, and summons authority

¹² NRS 651.020 Eviction of Disorderly persons

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The following Nevada trespass law permitted Cosmopolitan to evict and trespass Plaintiff: (In Part, Emphases added)

NRS 207.200 Unlawful trespass upon land; warning against trespassing.

1. Unless a greater penalty is provided pursuant to NRS 200.603, any person who, under circumstances not amounting to a burglary:

(a) Goes upon the land or into any building of another with intent to vex or annoy the owner or occupant thereof, or to commit any unlawful act; or

(b) Willfully goes or remains upon any land or in any building after having been warned by the owner or occupant thereof not to trespass, is guilty of a misdemeanor. The meaning of this subsection is not limited by subsections 2 and 4.

5. As used in this section:

(c) "Guest" means any person entertained or to whom hospitality is extended, including, but not limited to, any person who stays overnight. The term does not include a tenant as defined in NRS 118A.170.

[1911 C&P § 500; RL § 6765; NCL § 10447] — (NRS A [1969.96](#); [1975.1169](#); [1987.2086](#); [1989.997](#); [2005.930](#); [2007.981](#); [2009.141](#); [2019.2476](#))

The formal trespass warning was issued to Plaintiff, while inside the security holding area, under both video and audio recording. The standard *Trespass Warning* language, commonly used in Nevada Casinos was read to Plaintiff by Day. [Surveillance Video at 18:04:26]



Day memorialized in his written report that he performed the trespass warning. The following excerpt is taken from the report. [COSMO 000003]

At approximately 1804 hours, I read TOLL the Trespass Warning from my company issued Trespass Card as defined by Nevada Revised Statute 207.200, permanently trespassing him from The Cosmopolitan of Las Vegas.

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Based on the increasing suspicious information being presented to Day, it was reasonable, appropriate and lawful to *hard pin* the hotel rooms to facilitate the eviction and trespass of Plaintiff. Coupled with Witthauer's due diligence investigation including her simple google search results, it was reasonable and prudent to evict and trespass Plaintiff.

- 2. During the lawful eviction of Plaintiff, Security Shift Manager Day contacted LVMPD based on the possession of a Visa Debit Card, not in his name, along with other evidence (not in his name) and the likelihood of possible felony criminal activity.**

Day memorialized in his written report and statement regarding the decision to call LVMPD and that they were responding. [COSMO 000002-003, 000021] Day, immediately after removing the hard pin on Plaintiff's hotel room, notified law enforcement. The following excerpt from the incident report memorialized the time and reason for notifying law enforcement: [COSMO 000003, 000021]

At approximately 1740 hours, I contacted the Las Vegas Metropolitan Police Department (LVMPD) regarding TOLL having KIRSCHBAUM's debit card, they advised they would respond to property under LVMPD Event #12704.

The decision to notify LVMPD was made while Plaintiff was packing up his belongings from room #5914. Based on the preliminary due diligence investigation by the casino hostess in response to Plaintiff's requests, there existed a reasonable suspicion and therefore reasonable cause that Plaintiff was, and had previously committed fraud by posing as others, and concealing his identity to obtain benefits, including cash, through false pretenses.

Casino Hostess Witthauer, conducted a simple due diligence search of Plaintiff to include a *Google* search and located a website dedicated to warning people and businesses of Plaintiff's past history of fraud. [<https://jeffreywarrentoll.com/>] Although the website was privately owned, the information provided at minimum indicated the possibility that Plaintiff had been convicted of fraud and that he was well known fraudulent acts including for casino player club abuse.

The following header appears on the website:

JEFFREY TOLL

SCAMMING IN CASINOS: PENNSYLVANIA -- LAS VEGAS -- FLORIDA - CONVICTED FELON, FRAUDSTER, SCAMMER

Jeffrey Warren Toll is a convicted felon, fraudster, con artist and scammer with a gambling problem. He has conned dozens of people out of their money by earning their trust and pretending to be knowledgeable and wealthy. He is known to scam in casinos and the car industry. He has taken hundreds of thousands of dollars from individuals just so he can satisfy his gambling fix. He is mentally unstable and dangerous. Do not trust him.

The following written statement was collected from the Executive Casino Host assigned to Plaintiff as part of the investigation by Cosmopolitan;

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C	COSMOPOLITAN OF LAS VEGAS		PAGE: 1 of 1				
	VOLUNTARY STATEMENT			Incident File #: IN20190005686			
THIS PORTION TO BE COMPLETED BY SECURITY							
Incident Type <i>General - Other</i>		Date Occurred <i>6/03/19</i>		Time Occurred <i>6:00 HRS</i>			
Location of Occurrence <i>Casino Room</i>		Sub Location		Room Number			
<input checked="" type="checkbox"/> CoStar / CoStar ID#: 23190		<input type="checkbox"/> Guest		<input type="checkbox"/> ID Verified Type _____ State _____ No. _____			
PORTION BELOW TO BE COMPLETED BY PARTICIPANT							
Your Name: (Last / First / Middle) Withauer / Tonya			Nickname (Alias)				
			Date of Birth				
			Age				
Race	Gender	Hair Color	Eye Color	Height	Weight	What were you wearing at the time of the incident?	
Residence Address: (Number & Street)			Bldg/Apt #	City	State	Zip Code	
Home Phone		Cell Phone (702) 290-3652	Other Phone (702) 698-6093		E-Mail Address tonya.withauer@cosmopolitanlasvegas.com		
<p>In the course of business development over the past 30 days, the guest (Jeff Toll #1438491) made admissions to me that he was visiting other casinos (disguised wearing a hat) that he has been previously trespassed from and playing under other peoples cards or fictitious names. He also mentioned that he owed the Hard Rock Casino in Florida for unpaid markers, yet was interested in a credit line (as little as \$500) from TCOLV. His fluctuation in gaming activity and other statements such as requiring an alias when he checked in to the hotel with a companion so she wouldn't know his real name, set off a red flag and my gut led me to "google" the guest. I found the website https://jeffreywarrentoll.com. In an effort to protect company assets, I felt it was my duty to bring it to the attention of my Vice President, Kevin Sweet.</p>							
<p>I have read this statement in its entirety and by signing below, I affirm its truth and accuracy. I further affirm no threats or promises have been made to me, to induce me to make this statement and I have consented to cooperate with this investigation of my own free will.</p> <p>This statement was completed on the _____ 5th _____ day of _____ June _____ 2019 _____ at _____ 12:25 PM _____</p> <p>_____ <i>Blake Day 1/8/84</i> Printed Name of Person Witnessing/Accepting Statement</p> <p>_____ <i>Blake Day 1/8/84</i> _____ <i>[Signature]</i> Signature of Person Witnessing/Accepting Statement Signature of Person Giving Statement</p> <p>S-0001 REV. 03/11/2012</p>							
COSMO 000023							

Plaintiff told Witthauer that he had entered other casinos, in disguise, and had been trespassed from other casinos for playing under other people’s cards or fictitious names. Plaintiff’s further activity involving him requesting a fictitious name when registering in the hotel amplified the suspicions of Witthauer.

The suspicious circumstances as told by Plaintiff to include that the Visa Debit card in his possession, not in his name, was his estranged wife’s, required further investigation. Further comments that there were no funds in the account, the card had been cancelled, and that he kept the card anyway, added to the suspicion of felony criminal activity and presented reasonable cause for Day to contact LVMPD and lawfully detain him.

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3. **During the course of the lawful eviction and trespassing of Plaintiff, Day discovered additional evidence of potential fraud or other criminal activity and lawfully detained Plaintiff and took him into lawful custody for the purposes of notifying a police officer.**

Notwithstanding the initial decision to evict and trespass Plaintiff and based on the written reporting by Day, it was clear that the possession of an excessive number of player account cards, which had value including cash, in other people's names, created the reasonable cause that Plaintiff was, more likely than not, committing fraud and/or was concealing his identity for the purposes of *laundering money*. The credit/debit card, not in his name and required Cosmopolitan to take further action to include lawful detention and notification of police.

There were numerous statutory laws that involved felony crimes that may have been committed by Plaintiff and laws that provided lawful authority to detain Plaintiff for the purpose of notifying LVMPD to conduct further investigation. It is the common practice in Clark County, Nevada for security personnel to be trained in the laws governing detention to include felony crimes. It is appropriate for analysis of the appropriate application of statutory provisions related to Plaintiff's allegations as a security professional.

Based on the public information posted by a victim of Plaintiff's fraud, there existed the probability that Plaintiff had been convicted of fraud previously which also allowed for his detention for felony burglary pursuant to Nevada law. [NRS 205.060(5)]

Day would, more likely than not, also be aware that Nevada law also identifies that Plaintiff, also more likely than not, had the intent of entering Cosmopolitan for the purposes of committing crimes including fraud and obtaining money or property by false pretenses, when entering and patronizing Cosmopolitan and therefore was also potentially committing a burglary (A Category B Felony Crime) based on initial information presented to him including what was displayed on the website www.jeffreywarrentoll.com.

Burglary:

NRS 205.060 Burglary: Definition; penalties; venue; exception. [Effective through June 30, 2020.]

1. Except as otherwise provided in subsection 5, a person who, by day or night, enters any house, vehicle, vehicle trailer, semitrailer or house trailer, airplane, glider, boat or railroad car, with the intent to commit grand or petit larceny, assault or battery on any person or any felony, or to obtain money or property by false pretenses, is guilty of burglary.

2. Except as otherwise provided in this section, a person convicted of burglary is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000. A person who is convicted of burglary and who has previously been convicted of burglary or another crime involving the forcible entry or invasion of a dwelling must not be released on probation or granted a suspension of sentence.

3. Whenever a burglary is committed on a vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car, in motion or in rest, in this State, and it cannot with reasonable certainty be ascertained in what county the crime was committed, the offender may be arrested and tried in any county through which the vessel, vehicle, vehicle trailer, semitrailer, house trailer, airplane, glider, boat or railroad car traveled during the time the burglary was committed.

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4. A person convicted of burglary who has in his or her possession or gains possession of any firearm or deadly weapon at any time during the commission of the crime, at any time before leaving the structure or upon leaving the structure, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than \$10,000.

5. The crime of burglary does not include the act of entering a commercial establishment during business hours with the intent to commit petit larceny unless the person has previously been convicted:

(a) Two or more times for committing petit larceny within the immediately preceding 7 years; or

(b) Of a felony.

[1911 C&P § 369; A 1953, 31] — (NRS A 1967, 494; 1968, 45; 1971, 1161; 1979, 1440; 1981, 551; 1983, 717; 1989, 1207; 1995, 1215; 2005, 416; 2013, 2987)

There also existed reasonable cause that a felony for the obvious fraud, with unknown dollar value may have occurred that required investigation by LVMPD. The sheer number of different cards with other people's names with varying values for goods, services and cash, would lead a reasonable security professional to believe that a felony may have occurred.

More specifically, the unknown value of the Visa Debit Card, not in Plaintiff's name, combined with the other evidence presented to security shift manager Day, was sufficient to determine that reasonable cause existed that Plaintiff may have committed a felony and should be detained for law enforcement.

Fraud and Grand Larceny:

NRS 205.330 Fraudulent conveyances. Every person who shall be a party to any fraudulent conveyance of any lands, tenements or hereditaments, goods or chattels, or any right or interest issuing out of the same, or to any bond, suit, judgment or execution, contract or conveyance, had, made or contrived with intent to deceive and defraud others, or to defeat, hinder or delay creditors or others of their just debts, damages or demands; or who, being a party as aforesaid, at any time shall wittingly and willingly put in use, avow, maintain, justify or defend the same, or any of them, as true and done, had, or made in good faith, or upon good consideration, or shall alien, assign or sell any of the lands, tenements, hereditaments, goods, chattels or other things before mentioned, conveyed to him or her as aforesaid, or any part thereof, is guilty of a gross misdemeanor.

[1911 C&P § 430; RL § 6695; NCL § 10382] — (NRS A 1967, 502)

NRS 205.380 Obtaining money, property, rent or labor by false pretenses. [Effective through June 30, 2020.]

1. A person who knowingly and designedly by any false pretense obtains from any other person any chose in action, money, goods, wares, chattels, effects or other valuable thing, including rent or the labor of another person not his or her employee, with the intent to cheat or defraud the other person, is a cheat, and, unless otherwise prescribed by law, shall be punished:

(a) If the value of the thing or labor fraudulently obtained was \$650 or more, for a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$10,000, or by both fine and imprisonment. In addition to any other penalty, the court shall order the person to pay restitution.

(b) If the value of the thing or labor fraudulently obtained was less than \$650, for a misdemeanor, and must be sentenced to restore the property fraudulently obtained, if it can be done, or tender payment for rent or labor.

2. For the purposes of this section, it is prima facie evidence of an intent to defraud if the drawer of a check or other instrument given in payment for:

(a) Property which can be returned in the same condition in which it was originally received;

(b) Rent; or

(c) Labor performed in a workmanlike manner whenever a written estimate was furnished before the labor was performed and the actual cost of the labor does not exceed the estimate,

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↳ stops payment on that instrument and fails to return or offer to return the property in that condition, or to specify in what way the labor was deficient within 5 days after receiving notice from the payee that the instrument has not been paid by the drawee.

3. The notice must be sent to the drawer by certified mail, return receipt requested, at the address shown on the instrument. The notice must include a statement of the penalties set forth in this section. Return of the notice because of nondelivery to the drawer raises a rebuttable presumption of the intent to defraud.

4. A notice in boldface type clearly legible and in substantially the following form must be posted in a conspicuous place in every principal and branch office of every bank and in every place of business in which retail selling is conducted or labor is performed for the public and must be furnished in written form by a landlord to a tenant:

The stopping of payment on a check or other instrument given in payment for property which can be returned in the same condition in which it was originally received, rent or labor which was completed in a workmanlike manner, and the failure to return or offer to return the property in that condition or to specify in what way the labor was deficient within 5 days after receiving notice of nonpayment is punishable:

1. If the value of the property, rent or labor fraudulently obtained was \$650 or more, as a category B felony by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years, or by a fine of not more than \$10,000, or by both fine and imprisonment.

2. If the value of the property, rent or labor so fraudulently obtained was less than \$650, as a misdemeanor by imprisonment in the county jail for not more than 6 months, or by a fine of not more than \$1,000, or by both fine and imprisonment.

[1911 C&P § 439; A [1951, 29](#)] — (NRS A [1967, 504](#); [1977, 1416](#); [1979, 1072, 1446, 1713](#); [1981, 2017](#); [1985, 251, 456](#); [1989, 1436](#); [1993, 1518](#); [1995, 1224](#); [1997, 9](#); [1999, 397](#); [2005, 1082](#); [2011, 168](#))

NRS 205.275 Offense involving stolen property: Definition; penalty; restitution; prima facie evidence; determination of value of property. [Effective July 1, 2020.]

1. Except as otherwise provided in [NRS 501.3765](#), a person commits an offense involving stolen property if the person, for his or her own gain or to prevent the owner from again possessing the owner's property, buys, receives, possesses or withholds property:

(a) Knowing that it is stolen property; or

(b) Under such circumstances as should have caused a reasonable person to know that it is stolen property.

2. A person who commits an offense involving stolen property in violation of subsection 1:

(a) If the value of the property is less than \$1,200, is guilty of a misdemeanor;

(b) If the value of the property is \$1,200 or more but less than \$5,000, is guilty of a category D felony and shall be punished as provided in [NRS 193.130](#);

(c) If the value of the property is \$5,000 or more but less than \$25,000, is guilty of a category C felony and shall be punished as provided in [NRS 193.130](#);

(d) If the value of the property is \$25,000 or more but less than \$100,000 or if the property is a firearm, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000; or

(e) If the value of the property is \$100,000 or more, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years, and by a fine of not more than \$15,000.

4. A person may be prosecuted and convicted pursuant to this section whether or not the principal is or has been prosecuted or convicted.

5. Possession by any person of three or more items of the same or a similar class or type of personal property on which a permanently affixed manufacturer's serial number or manufacturer's identification number has been removed, altered or defaced, is prima facie evidence that the person has violated this section.

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6. For the purposes of this section, the value of the property involved shall be deemed to be the highest value attributable to the property by any reasonable standard.

7. As used in this section, “stolen property” means property that has been taken from its owner by larceny, robbery, burglary, embezzlement, theft or any other offense that is a crime against property, whether or not the person who committed the taking is or has been prosecuted or convicted for the offense.

[1911 C&P § 383; A [1951, 29](#)] — (NRS A [1967, 502](#); [1971, 925](#); [1979, 561, 1445](#); [1989, 1434](#); [1995, 13, 1223, 1323](#); [1997, 344](#); [1999, 402](#); [2011, 166](#); [2013, 1003](#); [2019, 4433](#), effective July 1, 2020)

There also existed a reasonable suspicion and therefor a reasonable cause to believe that Plaintiff may have committed also committed Grand Larceny (A Gross Misdemeanor) based on the possession of the Visa Debit Card not in his name;

NRS 205.220 Grand larceny: Definition. [Effective through June 30, 2020.] Except as otherwise provided in [NRS 205.226](#) and [205.228](#), a person commits grand larceny if the person:

1. Intentionally steals, takes and carries away, leads away or drives away:

(a) Personal goods or property, with a value of \$650 or more, owned by another person;

(b) Bedding, furniture or other property, with a value of \$650 or more, which the person, as a lodger, is to use in or with his or her lodging and which is owned by another person; or

(c) Real property, with a value of \$650 or more, that the person has converted into personal property by severing it from real property owned by another person.

2. Uses a card or other device for automatically withdrawing or transferring money in a financial institution to obtain intentionally money to which the person knows he or she is not entitled.

3. Intentionally steals, takes and carries away, leads away, drives away or entices away:

(a) One or more head of livestock owned by another person; or

(b) One or more domesticated animals or domesticated birds, with an aggregate value of \$650 or more, owned by another person.

4. With the intent to defraud, steal, appropriate or prevent identification:

(a) Marks or brands, causes to be marked or branded, alters or defaces a mark or brand, or causes to be altered or defaced a mark or brand upon one or more head of livestock owned by another person;

(b) Sells or purchases the hide or carcass of one or more head of livestock owned by another person that has had a mark or brand cut out or obliterated;

(c) Kills one or more head of livestock owned by another person but running at large, whether or not the livestock is marked or branded; or

(d) Kills one or more domesticated animals or domesticated birds, with an aggregate value of \$650 or more, owned by another person but running at large, whether or not the animals or birds are marked or branded.

[1911 C&P § 373; A [1915, 119](#); [1947, 85](#); [1949, 127](#); 1943 NCL § 10323] — (NRS A [1965, 1007](#); [1967, 499](#); [1969, 531](#); [1979, 155, 1444](#); [1983, 546](#); [1989, 71, 1433](#); [1995, 13, 1221, 1323](#); [1997, 341](#); [2011, 163](#))

The decision to detain Plaintiff, in conjunction with notifying law enforcement (LVMPD) was appropriate and lawful under the circumstances. Nevada statutory law provides the ability for casinos to detain a person if there exists reasonable or probable cause that the person has committed a felony, has committed a violation of Nevada Gaming law or incidental to an arrest.

Day made contact with LVMPD at 17:40 hours and prior to Plaintiff’s formal detention and according to the written reporting advised LVMPD of the potential felony crime. LVMPD dispatched patrol officers to Cosmopolitan and they arrived at 19:36 hours or 1 hour and 56 minutes later. Cosmopolitan was obligated to detain Plaintiff until LVMPD arrived, in a reasonable manner, and in a reasonable amount of time.

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The following excerpt from the comprehensive incident report documents the time that LVMPD officers arrived and began their investigation. [COSMO 000003,000021] Upon LVMPD's arrival, custody was transferred to LVMPD from Cosmopolitan.

At approximately 1936 hours, LVMPD Officers TRAN P#15221 and ENGRSTROM P#16440, arrived on property and conducted their investigation.

Cosmopolitan could not control the response time by LVMPD and therefore the amount of time Plaintiff was detained. The entire time that Plaintiff was detained inside the holding room was recorded by video and audio, was produced, and was reviewed for my analysis.

The following Nevada law gave Cosmopolitan the legal authority to detain Plaintiff for the purposes of allowing LVMPD to conduct an investigation based the highly unusual and suspicious circumstances and evidence of potential felony fraud.

Detention: (Emphases Added)

NRS 171.1235 Gaming licensee may detain person suspected of having committed felony in gaming establishment.

1. As used in this section:

(a) "Establishment" means any premises whereon any gaming is done or any premises owned or controlled by a licensee for the purpose of parking motor vehicles owned or operated by patrons of such licensee.

(b) "Licensee" has the meaning ascribed to it in [NRS 463.0171](#).

2. Any licensee or the licensee's officers, employees or agents may take into custody and detain any person when such licensee or the licensee's officers, employees or agents have reasonable cause to believe the person detained has committed a felony, whether or not in the presence of such licensee or the licensee's officers, employees or agents.

3. Detention pursuant to this section shall be in the establishment, in a reasonable manner, for a reasonable length of time and solely for the purpose of notifying a peace officer. Such taking into custody and detention shall not render the licensee or the licensee's officers, employees or agents criminally or civilly liable for false arrest, false imprisonment, slander or unlawful detention unless such taking into custody and detention are unreasonable under all the circumstances.

4. No licensee or the licensee's officers, employees or agents are entitled to the immunity from liability provided for in this section unless there is displayed in a conspicuous place in the establishment a notice in boldface type clearly legible and in substantially this form:

Any gaming licensee or the licensee's officers, employees or agents who have reasonable cause to believe that any person has committed a felony may detain such person in the establishment for the purpose of notifying a peace officer.

(Added to NRS by [1973, 1700](#); A [2003, 20th Special Session, 15](#))

The following statutory provision also permitted Cosmopolitan to detain Plaintiff: (Emphasis added)

NRS 465.101 Detention and questioning of person suspected of violating chapter; limitations on liability; posting of notice.

1. Any licensee, or the officers, employees or agents of the licensee may question any person in the licensee's establishment suspected of violating any of the provisions of this chapter. No licensee or any of the officers, employees or agents of the licensee is criminally or civilly liable:

(a) On account of any such questioning; or

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(b) For reporting to the Nevada Gaming Control Board or law enforcement authorities the person suspected of the violation.

2. Any licensee or any of the officers, employees or agents of the licensee who has probable cause for believing that there has been a violation of this chapter in the licensee's establishment by any person may take that person into custody and detain that person in the establishment in a reasonable manner and for a reasonable length of time. Such a taking into custody and detention does not render the licensee or the officers, employees or agents of the licensee criminally or civilly liable unless it is established by clear and convincing evidence that the taking into custody and detention are unreasonable under all the circumstances.

3. No licensee or the officers, employees or agents of the licensee are entitled to the immunity from liability provided for in subsection 2 unless there is displayed in a conspicuous place in the licensee's establishment a notice in boldface type clearly legible and in substantially this form:

Any gaming licensee, or any of the officers, employees or agents of the gaming licensee who has probable cause for believing that any person has violated any provision of chapter 465 of NRS prohibiting cheating in gaming may detain that person in the establishment.

(Added to NRS by 1971, 580; A 1973, 446; 1981, 1295; 1983, 564)

Additionally, Cosmopolitan had the obligation to comply with all laws and regulations governing gaming to include; [Nevada Gaming Control Board, Regulation 5] which includes, in part;

Failure to exercise discretion and sound judgment to prevent incidents which might reflect on the repute of the state of Nevada and act as a detriment to the development of the industry.
[Reg 5.011(1) Grounds for Disciplinary action]

Catering to, assisting, employing or associating with, either socially or in business affairs, persons of notorious or unsavory reputations, or who have extensive police records...
[Reg 5.011(5) Grounds for Disciplinary action] (In part)

Failure to comply with or make provision for compliance with all federal state and local laws and regulations and with all commission approved conditions and limitations pertaining to the operation of a licensed establishment...
[Reg 5.011(8) Grounds for Disciplinary action] (In part)

Failure to conduct gaming operations in accordance with proper standards of custom, decorum and decency, or permit any type of conduct in the gaming establishment which reflects or tends to reflect on the repute of the State of Nevada and act as a detriment to the gaming industry.
[Reg 5.011(10) Grounds for Disciplinary action] (In part)

5.030 Violation of law or regulations. Violation of any provision of the Nevada Gaming Control Act or of these regulations by a licensee, his agent or employee shall be deemed contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and grounds for suspension or revocation of a license. Acceptance of a state gaming license or renewal thereof by a licensee constitutes an agreement on the part of the licensee to be bound by all of the regulations of the commission as the same now are or may hereafter be amended or promulgated. It is the responsibility of the licensee to keep himself informed of the content of all such regulations, and ignorance thereof will not excuse violations.

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Plaintiff was detained and requested to the security offices and placed inside the holding room to await LVMPD's arrival.

Day memorialized in his comprehensive report that Plaintiff accompanied them willingly and unrestrained. The following excerpt is taken from Day's report: [COSMO 000003]

At approximately 1751 hours, TOLL removed all of his belongings from room 5914, at which time VICENTI and I escorted him to the Security Interview Room (primary) willingly and unrestrained.

Once inside the holding room, Plaintiff was advised by Day at 18:00:29 hours that he was in an audio and video recorded room and demonstrated the location of the sign stating same.:



Day also advised Plaintiff of his name, that he was with security, and of the reason he was being detained which was recorded while inside the security holding room. Day explained to Plaintiff at 18:00:53 that Cosmopolitan was having LVMPD respond because of the cards not in his name and the credit/debit card also not in his name.

During the custody and detention of Plaintiff, Day further explained to Plaintiff again that the reason LVMPD was called was because of the Visa Debit card, not in his name. [Surveillance Video at 19:04:00]

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Plaintiff was searched for weapons by Day. [Surveillance video at 18:01:00]



Battery and False Imprisonment allegation:

Plaintiff alleges in his complaint that a battery had occurred as a result of the searching for weapons and that the “frisking was contrary to Plaintiff’s wishes”. The video and audio recording evidences the search of Plaintiff for weapons was permissive and allowed by Plaintiff and was not objected to verbally or by

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his own actions. The evidence further demonstrates that the touching of Plaintiff, for the purpose of conducting a lawful search was neither forceful or offensive in nature.

The searching for weapons as part of the lawful custody and detention was appropriate and reasonable. Based on the reasonable cause that a felony may have been committed, and that Plaintiff was in Cosmopolitan’s custody lawfully, the search for weapons, incidental to the custody was also lawful.

NRS 171.146 Weapon may be taken from person arrested. Any person making an arrest may take from the person arrested all dangerous and offensive weapons which the person arrested may have about his or her person.

(Added to NRS by [1967, 1402](#))

NRS 171.126 Arrest by private person. A private person may arrest another:

1. For a public offense committed or attempted in the person’s presence.
2. When the person arrested has committed a felony, although not in the person’s presence.
3. When a felony has been in fact committed, and the private person has reasonable cause for believing the person arrested to have committed it.

(Added to NRS by [1967, 1402](#))

Nevada law allows for the taking into custody and the detention for reasonable cause by a casino representative (Security) that a felony had been committed, or a provision of the gaming law for probable cause (for the purposes of notifying police) therefore custody laws including arrest are also applicable. It is the common practice to search persons being detained and inside of a holding room in Clark County, Nevada.

Based on the holding room surveillance video, the lawful detention of Plaintiff was reasonable, appropriate and professional and no unnecessary physical force was used by Cosmopolitan security. Plaintiff was not placed in restraints, (Handcuffs) during his detention and custody by Cosmopolitan. In fact, Plaintiff requested and was taken to use the restroom at 18:04:55 after requesting same and returned to the holding room at 18:08:11 under escort.



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Cosmopolitan allowed Plaintiff, while under detention, to leave (with escort) and use the restroom facilities and escorted him back to the holding room while waiting for LVMPD to arrive. This practice is commonly used, humane, and was accomplished in a professional manner.

Based on the above, Plaintiff's allegations of false imprisonment are not valid nor are they grounded in reality based on the materials reviewed either. The Nevada criminal law on false imprisonment is clear:

False Imprisonment:

NRS 200.460 Definition; penalties.

1. False imprisonment is an unlawful violation of the personal liberty of another, and consists in confinement or detention without sufficient legal authority

2. A person convicted of false imprisonment shall pay all damages sustained by the person so imprisoned, and, except as otherwise provided in this section, is guilty of a gross misdemeanor.

3. Unless a greater penalty is provided pursuant to subsection 4, if the false imprisonment is committed:(a) By a prisoner in a penal institution without a deadly weapon; or (b) By any other person with the use of a deadly weapon, the person convicted of such a false imprisonment is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years.

4. Unless a greater penalty is provided pursuant to subsection 5, if the false imprisonment is committed by using the person so imprisoned as a shield or to avoid arrest, the person convicted of such a false imprisonment is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 15 years.

5. If the false imprisonment is committed by a prisoner who is in lawful custody or confinement with the use of a deadly weapon, the person convicted of such a false imprisonment is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 20 years.

[1911 C&P § 175; RL § 6440; NCL § 10122] — (NRS A 1967, 472; 1981, 614; 1995, 1190; 2003, 387)

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As opined above, the detention, for the purposes of notifying law enforcement was lawful and Plaintiff's allegations of False Imprisonment are without merit. Plaintiff was detained in a reasonable and lawful manner.

4. LVMPD conducted a field investigation based on the circumstances and evidence presented to them, impounded the available subject credit card and cards not in Plaintiff's name, and took no further action against Plaintiff.

LVMPD arrived inside the holding room at 19:38:44. Custody of Plaintiff was given from Cosmopolitan to LVMPD upon their arrival. LVMPD also had the lawful authority to temporarily detain Plaintiff. Any peace officer may detain any person whom the officer encounters under circumstances which reasonably indicate that the person has committed, is committing or is about to commit a crime.¹³



As part of their field investigation, Plaintiff was interviewed by LVMPD inside the holding room where it was recorded in both video and audio media as part of their field investigation. [Holding Room Surveillance Video] The recording of activities inside the security holding room was also lawful¹⁴

LVMPD conducted their investigation outside of the holding room and Plaintiff remained in the custody of LVMPD until they concluded their investigation and advised Plaintiff at 19:57 that the reason Plaintiff was in the holding room was because of the credit card. [Holding Room Surveillance Video]

¹³ NRS 171.123 Temporary detention by peace officer of person suspected of criminal behavior or of violating conditions of parole or probation: Limitations.

¹⁴ NGCB Regulation 5, Surveillance Standards for Nonrestricted Licensees, Standard 8 Required Surveillance Coverage: Security Offices

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LVMPD concluded their investigation, told Plaintiff they were impounding the credit card, not in his name, along with some player cards (also not in his name), and released him to Cosmopolitan to be escorted off the property at 19:59:09. The LVMPD Impound report confirms impound of the credit card.

LAS VEGAS METROPOLITAN POLICE DEPARTMENT PROPERTY REPORT				Date of LVMPD Possession	Time of LVMPD Possession	Page(s)		
Incident: FOUND PROPERTY				6/3/19	2000	1 OF 1		
Event # 179020001#2704								
<input type="checkbox"/> EVIDENCE <input type="checkbox"/> Felony <input type="checkbox"/> Gross Misd <input type="checkbox"/> Misdemeanor List Other Related Event #'s (if any):		<input type="checkbox"/> NO EVIDENTIARY Value: <input type="checkbox"/> No Owner Identified <input type="checkbox"/> Destroy <input type="checkbox"/> Return To DMV		<input checked="" type="checkbox"/> SAFEKEEPING Must provide Owner Info in Persons Section AND Identify Owner # for each Item Listed		<input type="checkbox"/> FIREARM IMPOUNDED DUE TO: <input type="checkbox"/> Temporary Protective Order (TPO) <input type="checkbox"/> Extended Order of Protection		
Impounding Officer (Print Name): M. TRAN		Unit: 3MBTV	P# / Initials: MISZLIT	Task Force Officers from Other Jurisdictions: PRINT LVMPD SGT Name & P#				
Supervisor Approval (Signature): <i>[Signature]</i>		Unit: 3M	P# / Initials: DR46TK					
PERSONS - (S)USPECT / (V)ICTIM / (O)WNER / (F)INDER								
SD <input type="checkbox"/> VO <input type="checkbox"/> FD <input type="checkbox"/>	Last Name	First Name, MI	DOB	Phone #	Charge(s)			
#	KIRSCHBAUN	STEPHANIE		[Redacted]	This is a full, true and correct copy of the ORIGINAL DOCUMENT I have provided a true and correct copy of the ORIGINAL DOCUMENT to the Las Vegas Metropolitan Police Department			
Street Address: UNK		City	State	Zip Code	Arrest Date	ID#		
SD <input type="checkbox"/> VO <input type="checkbox"/> FD <input type="checkbox"/>	Last Name	First Name, MI	DOB	Phone #	Charge(s)			
#				Senior Dan	1.25.21			
Street Address		City	State	Zip Code	Arrest Date	ID#		
SD <input type="checkbox"/> VO <input type="checkbox"/> FD <input type="checkbox"/>	Last Name	First Name, MI	DOB	Phone #	Charge(s)			
#								
Street Address		City	State	Zip Code	Arrest Date	ID#		
FIELD RELEASE ONLY	Released Item(s)	By Officer P# & Initials	Date Released	Released to Owner (Above Person)	Owner's Signature			
REMARKS	(Relating to Impound) ITEM #1 WAS LOCATED IN POSSESSION OF HUSBAND WAS IMPOUNDED FOR SAFEKEEPING DUE TO OWNER NOT PRESENT TO VERIFY							
PKG #	ITEM #	OWNER #	Make or Brand	MODEL	COLOR	Serial # / OAN State & Gov. Issued ID #'s	Qty.	PROPERTY DESCRIPTION
	1	1				[Redacted] 9645		VISA (STEPHANIE KIRSCHBAUN)
No Use and Dissemination of this Record is Regulated by Law. Secondary Dissemination of any kind is Prohibited and could subject the offender to Criminal and Civil Liability. This Property is: Paul Hoken By: S12291 Date: 7/27/19 Las Vegas Metro Police Dept.								
LVMPD Form #1121 (Rev. 1/12) ↑ Corresponds to # Listed in PERSONS section (Suspect / Victim / Owner / Finder)				Distribution: White: Records/Onbase Yellow: Evidence Vault Pink: Citizen			COSMO 000091	

LVMPD felt the need to investigate and keep Plaintiff in custody until they determined what their final action would be. (21 minutes, 25 seconds) Ultimately LVMPD decided not to arrest or cite Plaintiff after their field investigation and allowed Cosmopolitan to escort Plaintiff off the premises. Neither LVMPD police officers Tran and Engstrom have been deposed as of the date of this report.

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Summary:

1. Plaintiff exhibited suspicious and unusual behavior which prompted a casino host to investigate which was appropriate and reasonable. The notification of Cosmopolitan's Money Laundering Division by the casino host was also reasonable and appropriate.
2. The decision to contact, evict and trespass Plaintiff was lawful and appropriate based on all the known circumstances presented to Day. The *hard pinning* of Plaintiff's hotel room was well within industry common practices to accomplish the formal eviction process.
3. The decision by Day to notify LVMPD and detain Plaintiff was lawful and appropriate based on the circumstances presented to Day.
4. The lawful detention of Plaintiff was accomplished willingly and without physical force for LVMPD, was inside the recorded holding room was reasonable appropriate, humane and well within industry common practices.
5. The searching of Plaintiff for weapons was lawful and appropriate and well within industry common practices. LVMPD did not arrest or cite Cosmopolitan security personnel for Plaintiff's allegation of Battery is without merit.
6. Plaintiff's allegation of False Imprisonment is without merit. LVMPD did not arrest or cite Cosmopolitan security personnel for false imprisonment.
7. LVMPD records verify the impounding of the credit card not in his name and in the possession of Plaintiff.
8. Cosmopolitan's overall actions as it relates to Plaintiff were reasonable, appropriate and well within the common practices and the standard of care for similar casinos in Clark County, Nevada. Cosmopolitan's security personnel acted within the laws evidencing appropriate training in detention based on their reporting and surveillance video review.

As previously stated, this initial report is based on the materials reviewed as of this date. Any subsequent evidence, deposition testimony, documents or additional investigation may subject this report to alteration, modification or amplification. I anticipate additional materials for review and the opinions expressed are not final as of the date of this report. As of the date of this report, no depositions have been provided for my review.

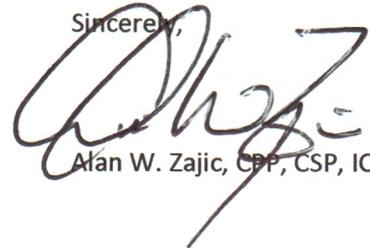
I will supplement this report in a timely manner as required or requested. I anticipate additional discovery to include expert reports and testimony presented to me before trial. I intend on using the graphics contained in this report and attached exhibits as demonstrative exhibits. I also intend on using documents available to me at the time of trial, including any work product, as demonstrative exhibits at trial as allowed.

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My opinions and conclusions in this report are presented and made based on my professional experience, training and education in the security profession, are presented to a reasonable degree of professional probability, and are based on my investigation and analysis of materials presented for my review.

I look forward to continued review and testifying in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Alan W. Zajic', with a long, sweeping underline that extends to the right.

Alan W. Zajic, CPP, CSP, ICPS

Exhibit A

Jeffrey Toll

vs.

Nevada Property 1, LLC d/b/a The
Cosmopolitan of Las Vegas

U.S. District Court, District of Nevada,

Case No. 2:20-cv-00929-KJD-DJA

(See Attached Curriculum Vitae)

Revised March 1, 2020

Curriculum Vitae

Alan W. Zajic, CPP, CSP, ICPS
P.O. Box 1460
Zephyr Cove, Nevada 89448
(775) 588-0880

Work Experience:

December 1998 to Present:	Security Consultant Forensic Security Consultant (Expert Witness) Part Time Instructor: University of Nevada, Reno Part Time Instructor International Gaming Institute at UNLV
December 1992 – December 1998:	Wimar Tahoe Corporation Horizon Casino Resort Executive Director of Hotel Operations
October 1990 – December 1992:	Wimar Tahoe Corporation/ Columbia Sussex Corporation Horizon Casino Resort Director of Security / Loss Control
January 1990 – October 1990:	Del Webb Hotels High Sierra Casino / Hotel Director of Security / Administration
April 1985 – January 1990:	Del Webb Hotels High Sierra Casino / Hotel Director of Security / Loss Control
March 1987 – October 1990:	Consolidated Casinos Corporation Nevada Casinos Hotels Inc. Nevada Corporate Security Manager
September 1983 – April 1985:	Del Webb Hotels High Sierra Casino / Hotel Sahara Tahoe Security Manager
July 1982 – September 1983:	Del E. Webb Corporation Sahara Tahoe Assistant Chief of Security
June 1980 – July 1982:	Del E. Webb Corporation Sahara Tahoe Security Shift Supervisor

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August 1979 – June 1980:	Del E. Webb Corporation Sahara Tahoe Entertainment Security Supervisor
January 1978 – August 1979:	Del E. Webb Corporation Sahara Tahoe Lead Security Officer / Security Officer
June 1976 – July 1992:	Tahoe Bureau of Investigations TBI Security Manager, Investigator, Patrol Officer, Process Server Full time employment 06-76 to 01-78 Part time employment from 01-78 to 07-92
May 1975 – June 1976:	U.S. Managers Realty Corporation Construction Superintendent Food and Beverage Manager
June 1971 – December 1977:	Various Other Employments
Harrah's Tahoe Vagabond Motor Hotel Lake Tahoe Village Resorts Inc. Forest Inn Lake Village Condominiums	Security officer/employee housing, waiter, cook, busboy Assistant manager, night auditor Assistant manager, front office manager, auditor Night manager Construction security
December 1978 to Present:	Security Consulting/Expert Witness

I have performed security consulting for large lakefront estates ranging from 5 to 255 acres. Security consulting in casinos, hotels, motels, convenience stores, retail store operations, apartments, Home Owners Associations, concert venues, special events, dignitary protection, movie production security, construction security and alarm systems. Additionally, I have consulted for contract and proprietary security in the hospitality and healthcare areas.

Conducted training of proprietary and contract security personnel at all levels from entry level positions to executive management.

I have been retained over 500 times as a Forensic Security Consultant (Security Expert) for litigation involving security primarily in the State of Nevada. In addition, I have consulted in excess of 300 cases of claims or in anticipation of litigation. I have testified in deposition, binding arbitration and trial in Nevada, California, Iowa, Illinois, Wisconsin, Washington, Louisiana and Florida.

Awarded Council Chairman of the Year for ASIS International for 2010 for work and accomplishments for the Gaming and Wagering Protection Council.

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Education:

South Tahoe High School - Graduated 1973

Specialized certifications or training in search and seizure, arrest, emergency operations, loss control, risk management, gaming and wagering security, inadequate security, security law, missing and kidnapped children, homicide investigation, workplace violence, celebrity and dignitary protection, investigation of sexual exploitation of children, substances of abuse, CPR, First aid, alcohol management, terrorism, bomb search, fire extinguishers, investigations, tourist safety, excessive force, computer crimes, covert investigations, interviewing and interrogation, crisis management, games protection, Bars and nightclubs, Dram Shop Liability, Protection of Assets, Physical Security and others.

Other Security Expert Qualifications:

Arrests

I have effected over 200 career citizens arrests as a security professional to include court testimony in local, county, state, and federal court. I have also supervised approximately 400 additional arrests by subordinate employees. Arrests include felonies, gross misdemeanors and misdemeanors.

Investigations

Conducted and supervised in excess of 1,000 career investigations of incidents to include, accidents, arrests, fraud cases, embezzlement, assaults, thefts, and internal security incidents.

Training

Have conducted training and set up professional instructor training for all levels of security personnel. I was responsible to train 4 security directors for Del E. Webb Corporation in security management and loss control management techniques and applications. I was invited to participate, as a Subject Matter Expert, in the Gaming Security Officer "GSO" Training Curriculum, Justice Institute of British Columbia.

I have participated in over 420 classes in security related training as a student. This training includes seminars, community-based classes, law enforcement sponsored classes, PESI classes, corporate sponsored training, ASIS sponsored training, insurance company risk training, and classes conducted by the States of Nevada and California.

Incident Intervention

Observed and intervened in over 1,500 incidents of fights, domestic violence, assaults and conflicts. I have also conducted in excess of 3,000 field interviews of potential suspects.

Security/Surveillance/ Dram Shop Surveys

As a security professional I have conducted over 100 site and security surveys for casino properties and over 200 site surveys of non-casino properties throughout North America.

Casino Escrow Closings

I was placed as the head of the transition teams to oversee the transfer of ownership of 3 gaming properties for Del Webb Hotels. Duties included asset protection, State of Nevada regulatory agency coordination, and the transfer of ownership.

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American Gaming Association

I have been listed by invitation as an industry gaming consultant and expert in security and surveillance to the American Gaming Association. I was appointed to the AGA G2E Advisory Panel as Security and Surveillance Track Leader in 2004 through 2017 with responsibility for designing training programs and sessions at the Global Gaming Expositions (G2E) through 2018.

Associations / Licenses

American Society for Industrial Security	1991 through Present
Certified Protection Professional	2010
Vice Chairman Northern Nevada Chapter	2000
Chairman Northern Nevada Chapter	2001 through 2002
Member of the Las Vegas Chapter	2000 to Present
International Council on Gaming and Wagering	
Member	2000 to 2020
Chairman	2003 – 2004, 2016 -2018
Vice Chair- Domestic	2001 through 2007
Vice Chair	2015, 2019
Lodging and Hospitality Council	
Appointed Vice-Chairman	2008
Hospitality, Entertainment and Tourism Council	
Appointed Chair	2008 through 2010
Appointed Vice Chair	2011
Appointed Council Vice President	2012 through 2014
American Gaming Association - Industry 3 rd Party Expert	2003
Lake Tahoe Chiefs Association	
Member	1982 to 1992
Chairman	1984 to 1987
Reno Chiefs Association	1988 to 1991
International Foundation for Protection Officers	2000 through 2014
Casino Management Association	2002 through 2006
International Assoc. of Certified Surveillance Professionals	2002 through Present
Certified Surveillance Professional by the IACSP	2005
International Association of Professional Security Consultants	
Member	2009 through Present
Elected to Board of Directors	2010-2013
Best Practices committee, Forensic Methodology	2010 to 2020
Ad-Hoc Chair, Use of Force Policy Development Best Practice	2011 to 2020
International Society of Crime Prevention Practitioners	
Member	2009 to present
International Crime Prevention Specialist Designation	2012
Security Consulting, Private Patrolman,	
Private Investigators Licenses - State of Nevada	Current License No. 978/978A
Techniques in Alcohol Management (TAM)	2006 (Current)
Crisis Prevention Institute	
Non-Violent Crisis Intervention Certification	2006

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Publications, Articles and Interviews

Hotel Management International - Interview -Volume No.10 1999-2000

“Learning from Experience, Current security issues in the US hotel industry”

Casino Player Magazine - Interview - October 2000 Issue

“Casino Safety: What every Gambler Should Know”

Security Technology and Design - Article written - January 2001 Issue

“Are your policies and procedures rendering your technology ineffective?”

Hotel Security Report - Security Directors Edition - Rusting Publications - September 2001 “Steps Hoteliers Can Take to More Effectively Avoid Liability”

HERO Terrorism Conference - Interview - Television News - Newschannel-13 - Las Vegas
Casinos and Terrorism - Panel

Baseline Magazine - April 2004

Interviewed as a security consultant on casino security issues and practices since 9/11

CIO Magazine - April 2004

Corporate Information Officer Magazine. Interview on security trends and technical/operational applications in gaming.

Gaming Law Review - June 2004

"Managing Liability in Gaming Operations: Surveillance"

Indian Gaming Magazine - September 2004

"Proactive Security: Casino Patrol"

Casino Enterprise Management – March 2005

“Does the Eye Really Blink” Co-author of an article on surveillance ethics.

British Columbia, Canada Gaming Security Officer Curriculum. Consulted and assisted in development of a casino security officer training program for the British Columbia Lottery Commission for use in all casinos within the province. Performed subsequent annual reviews and updates.

Casino Connection Magazine – March 2006

“The Eye in the Sky” Interviewed with other industry professionals on how casino surveillance works hard to keep employees and customers safe and secure.

Security Technology & Design – March 2006

Interviewed on technology in gaming operations, wireless technology, video compression and RFID technology.

Casino Enterprise Management Magazine, September 2006

Interviewed on crime and casinos.

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East Valley/Scottsdale Tribune – October 16, 2006

Interviewed for an article on casino robberies.

Casino Connection Magazine – January 2007

Authored an article entitled: Casino Resort Security; Is it my job?

Reno Gazette Journal – “Career Builder” – Special Feature Article – 07-19-06

Interviewed for an article on employment opportunities in the gaming surveillance field

Buildings Magazine - July 2007

Interviewed on building applications of technology in Gaming environments.

A & S International Magazine - September 2007

Ensuring Security at Casinos – Interviewed on security and surveillance applications in gaming environments.

Security Management Magazine – October 2007

Featured as one of several presentations at the ASIS International Annual Event

Casino Lawyer – Summer 2008

Co-author of an article “The Forensic Security Consultant: Preparation for Litigation Support in the Courtroom.

Security Director News – December 2008

Article on nightclubs

Las Vegas Review Journal -July 2009

Interviewed with co-presenter on UNLV Bar and Nightclub classes and current nightclub events in the Las Vegas, NV area

Las Vegas Review Journal-July 2009

Interviewed on Nightclub Operations: Security lessons for Club Staffers

Las Vegas TV Station Channel 3-July 2009

Participated in Media event regarding Nightclub Training

Las Vegas TV Station Channel 8-July 2009

Participated in Media event regarding Nightclub Training

Global Gaming Business – “Club Crisis” Nightclub Article- November 2009

Article on Gaming management of Nightclubs

Global Gaming Business Magazine-February 2010

Author of article on gaming security and surveillance cooperation

“*Casino Security and Gaming Surveillance*” October 2010

CRC Press

Co-Author of Book

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Global Gaming Business Magazine – November 2010

Authored “Hold Up” article on casino robbery prevention

Press of Atlantic City, Interview regarding security in parking environments as it related to a recent carjacking, September 20, 2011

Casino Journal Magazine, Interview regarding current economic effect on casino security in gaming operations, October 2011

Hotel Business Review, *HotelExecutive.com*, Co-Author, “CCTV in Hotels: how much is enough?” Article on the use of video systems in hotels, December, 2011

International Business Times, New York, Interviewed on New Year’s Eve activities and Nightclub Security for New York Nightlife, December 30, 2011

Global Gaming Business Magazine, “Security vs. The Economy” Article on staffing and deployment during economic downturns. February 2012

Hotel Business Review, *HotelExecutive.com*, Co-Author, “Who are we trusting with Guest Valuables”. Article on hospitality employees and guest property. March 2012

Pittsburg Tribune Review, Interviewed regarding emergencies in casinos after a major power outage at the Meadows Casino, August 2012

Global Gaming Business, Article on “Eject, Evict, Trespass & 86” Dealing with undesirables in gaming environments, October 2012

Global Gaming Magazine, “Surveillance Special Report: Guns and Gaming” Article on Active Shooter events in casinos, February, 2013

Washington Post, Interviewed on security and surveillance, December 2013

Pittsburg Tribune Review Interview: Casino Data Hacking, March 2014

Interviewed on casino customer data breaches as a result of the recent data hacking at Las Vegas Sands, Corp.

Security Management, October 2014

Article Contributor: “Wagering on Preparation”, Gaming security and surveillance article.

Global Gaming Business Magazine, March 2015

“The Litigation Conundrum”. Authored an article on litigation trends involving security and surveillance in gaming environments.

Global Gaming Business Magazine, February 2016

Alcohol and Casinos: Dram shop and liability claims. Authored an article on Dram Shop Liability in Native American and land-based casino properties.

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Global Gaming Business Magazine, February 2017

Safe at any Speed, A security check for parking and casinos. Authored article on casino parking security.

Global Gaming Business Magazine, February 2018

Written article: Security and Surveillance: Protecting the Cage

Security Management Magazine, December 2018

Author of article: Gaming Security. Prepared as Chairman of the Gaming and Wagering Protection Council for ASIS International, and involving current trends and technology use in gaming environments.

Global Gaming Business Magazine, March 2019

Guns and Gaming; Surveillance Special Report, Armed or Unarmed? Does it make sense to arm your security guards? Article on considerations for arming casino security personnel.

Security Management Magazine, April 2019

Contributor to Gaming and Wagering Council Article; Four Emerging Trends in Casino & Gaming Security

"Casino and Gaming Resort Investigations" Co-Author of Book on conducting investigations in gaming environments, Routledge, Taylor & Francis Group Publishing, July 2019.

New York Post, interviewed regarding damage to slot machines by patrons and frequency. December 2019

"Alcohol and Casinos" Author of article on service of alcohol in land based, riverboat and tribal casinos and developing a cohesive operational plan. February, 2020

Professional Presentations

El Dorado Casino Hotel, Reno, Nevada 1989

Presentation to all supervisors, managers, directors and vice-presidents on "Guest Protection and Security is Everyone's Job" and Risk Management. Presentation was requested by the Resort Hotel Insurance Group.

Circus Circus Corporation, Reno, Nevada 1991

Completed a presentation to all directors, managers and corporate security staff on security documentation and security trends.

World Gaming Conference, Las Vegas and Reno, Nevada 1994

Guest speaker for IGT Corporation on security liability in Nevada to 60 gaming industry professionals from Australia.

American Society for Industrial Security, Lake Tahoe, Nevada 1997

Conducted a seminar with guest speakers on "Inadequate Security" to security directors, managers, and supervisors in the Northern Nevada area.

American Society for Industrial Security, Las Vegas, Nevada 2000

International Standing Committee on Gaming and Wagering Protection

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Presented and instructed a seminar on guest protection in the Casino/Hotel environments to security professionals. Seminar included international participants.

American Society for Industrial Security, Reno, Nevada 2001

International Council on Gaming and Wagering Protection Program

Presented and instructed on "Dealing with the Unwanted Guest" to Security and Surveillance Directors.

World Gaming Expo (G2E Conference) Las Vegas, Nevada 2001

Presented seminar instruction to a group of domestic and international professionals titled:

"Eject, Evict, Trespass & 86: Dealing with the Undesirable Guest"

Specialized Spring Conference - American Society for Industrial Security, Reno, Nevada 2002

Presented seminar on patrol techniques in hospitality environments titled: "Target Area Security" and a presentation for Council on Privacy and Personnel Information titled: "Casino Security"

University of Nevada Reno - Advanced Surveillance Operations - Instructor – 2002-2003-2004

Presented class titled: "Surveillance Liabilities" for University Certification Program.

Global Gaming Expo - Las Vegas Nevada - 2002

Presented a seminar for management attendees on guest protection.

Northern Nevada Surveillance Network -2002

Guest Speaker on video evidence, documentation surveillance operations to surveillance managers, directors and consultants.

International Association of Certified Surveillance Professionals - 2002, 2003

Presentations and instruction for certification program on Surveillance Liability and Evidence.

Homeland Educational Resources Organization - "HERO Conference" - 2003

Panel member on Gaming and Terrorism, Las Vegas, Nevada

Global Gaming Exposition - Las Vegas, Nevada - 2003

Presentation on surveillance liability and video evidence to industry professionals

ASIS International Seminar for Non-Profit Organizations- Las Vegas, Nevada -2004

Guest instructor on the topic of "Courts and Torts" Civil Liability for Non-Profit organizations.

International Security Conference - West - Las Vegas, Nevada - 2004

"Technology in Use". Panel guest speaker. Seminar session on policies, procedures and practices as applied to security installed technology.

Las Vegas International Hotel and Restaurant Show - Las Vegas, Nevada - 2004

American Hotel and Lodging association guest speaker.

"Lodging Security: What's Reasonable Today?"

ASIS International - Annual Seminar -Dallas, Texas - 2004

"Hardening the Gaming Target: Three Years Later"

Invited guest panel speaker - Gaming security progress post 911

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Global Gaming Exposition 2004

"Casino Patrol: Techniques and Procedures". Seminar presentation on the methods of casino patrols by physical security and surveillance personnel.

Jackson Rancheria – UNR Sponsored Instructional class on Fraud in Gaming March 2003

Co-instructor for California Native American gaming executives on detection, investigation and prosecution of fraud in gaming and non-gaming environments.

International Security Conference - West - Las Vegas, Nevada – April 2005

Invited guest speaker for a panel on digital video recorders and the selection process.

University of Nevada Reno – Surveillance Operations and Management – Instructor June 2005

Instructor on investigations development, report writing, human resource management, non-gaming surveillance applications, internal controls and regulatory issues to security and surveillance managers and directors in Gaming Certification Program.

Global Gaming Exposition 2005 – “Guest Protection: Hotel Rooms and Corridors” Seminar presentation on physical security applications in hotel areas in the gaming environment.

Global Gaming Exposition 2005 – “Advantage Play: Litigation Avoidance” Panel moderator and speaker on dealing with professional gamblers and advantage players as it relates to surveillance, security and operational personnel.

ASIS International – Las Vegas Chapter – Invited guest speaker for non-profit security seminar.

Presentation on methods of guest protection for non-profit organizations.

University of Nevada Reno – Report Writing Boot Camp – November 2005

Instructor for a specialized one-day training program on report writing, evidence collection, interviewing and documentation for security and surveillance professionals.

University of Nevada Reno – Security Communications and Public Relations – November 2005

Instructor for a specialized one-day training program in communication skills, de-escalating negative situations, kinesics, proxemics and non-verbal communication

University of Nevada Reno – Instructor in Gaming Management Series – December 2005

Instructed in Surveillance Operations and Management Course (5 day)

University of Nevada Reno – Security and Risk Management Course – February 2006

Instructor on security operations, leadership skills, ethics and moral responsibilities to security managers and directors.

American Board of Trial Advocates – Reno Chapter – December 2005

Participated as a security expert in a mock trial for the education of trial lawyers obtaining CLE credits.

Northern Nevada Surveillance Network July 2006

Invited Guest Speaker: Advantage players: how to deal with them from a security & surveillance perspective.

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University of Nevada Continuing Education – August 2006
Instructor on Advanced Surveillance Applications and Management

ASIS Las Vegas Chapter – September 2006
Presentation on video evidence in criminal and civil litigation

Global Gaming Exposition – November 2006
Panel speaker on current liability trends in gaming environments.

Global Gaming Exposition – November 2006
Panel speaker on cage and slots investigations, techniques and methods.

University of Nevada Reno – Instructor in Gaming Management Series – December 2006
Instructor in Surveillance Operations and Management Course (5 day)

British Columbia Lottery Commission – Vancouver, B.C. - UNR Program – June 2007
Instructor in Public Relations and Communications for Gaming managers

Canadian Gaming Center of Excellence – Winnipeg, Manitoba - UNR Program – June 2007
Instructor on surveillance applications and management

Strafford Publications – August 2007 – Webinar
Undetected Surveillance: from anonymous agents to Hidden Cameras
Presented an interactive webinar with two other industry professionals on the use of shoppers and covert cameras in workplace investigations.

ASIS International – Annual Seminar – September 2007
Security in bars and nightclubs
Presented a seminar session on security applications in bars and nightclubs

Global Gaming Exposition (G2E) – November 2007
Gaming Environments: Security in bars and nightclubs
Presented a seminar session on the management of security in bars and nightclubs in gaming environments.

Global Gaming Exposition (G2E) – November 2007
Guns and Gaming: Dealing with shootouts in the casino
Moderated a panel on dealing with shooting incidents in gaming operations

Global Gaming Exposition (G2E) – November 2007
Moderated a pane of industry professionals titled “Conducting Corporate Investigations” to gaming executives and supervisors

Nevada Self Insured Association – March 2008
Invited Guest Speaker: Workers Compensation Investigations and Claims Administration.

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Global gaming Exposition (G2E) 2008

Fun & Games: Nightclub Security in Gaming Environments

Invited Guest CO-speaker on nightclub security operations, management and litigation Avoidance in nightclubs associated with casinos.

Global Gaming Exposition (G2E) 2008

Security Operations: Detention and Holding Rooms

Speaker/Moderator of a panel of professionals on the process and procedures utilized during arrests and detentions by casino security officers.

University of Nevada at Las Vegas – International Gaming Institute – March 2009

Presented seminar with other instructors on Gaming operations to a group of Singapore police and regulators.

ASIS International – Northern Nevada Chapter – April 2009

Seminar presentation on the Laws of Arrest for security personnel and managers.

International Association of Professional Security Consultants-April 2009

Presentation, Panel Member, Forensic Security Consulting in a down Economy

University of Nevada Las Vegas – International Gaming Institute – May 2009

Full Day Seminar with co-Speakers on Arrest and Detention in Gaming Environments

University of Nevada Las Vegas – International Gaming Institute – July 2009

Full day Seminar on Bars and Nightclub Security Operations

University of Nevada Las Vegas – International Gaming Institute – May 2009

Full Day Seminar with co-Speakers on Arrest and Detention in Gaming Environments

ASIS International 2009 Annual Seminar and Exhibits – Anaheim, CA – September 2009

Co-Presenter on “Security Operations in Hospitality Environments in a Down Economy”

Las Vegas Security Chiefs Association – Las Vegas, Nevada – October 2009

Presentation on Nightclubs and Security Educational sessions

Global Gaming Exposition – Las Vegas, Nevada – November 2009

Moderator and presenter of a panel on “Managing Control and Restraint: Arrests on the Casino Floor”

Canadian Gaming Center of Excellence – Winnipeg, Manitoba - UNR Program – May 2010

Instructor for a 3-day program on casino security operations and investigations

University of Nevada Las Vegas – International Gaming Institute – September 2010

Presented a series of classes on internal theft in Gaming Operations

Global Gaming Exposition – Las Vegas, Nevada – November 2010

Moderator and Presenter of a panel on Litigation in Gaming Environments, Plaintiff vs. Defense

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International Association of Professional Security Consultants, San Diego, CA. - April 2011
Presentation to professional security consultants on Active Shooter events and methods for consultants to advise and prepare clients for dealing with an active shooter event.

ASIS International, Professional Development Course, International Webinar Presentation, *Security Surveillance: Protecting Pool Day Clubs and Night Clubs*, Sponsored by the Gaming and Wagering Council, August 2011

ASIS International, Annual Conference, Orlando, Florida, Co-presenter, Developing policies and procedures, September, 2011

ASIS International Annual Conference: Presentation on Liability in Hospitality environments, co-presenter, September 2011

Global Gaming Conference, Las Vegas, Nevada, Co-Presenter, Managing Claims in Gaming Environments, October 2011

Global Gaming Conference, Las Vegas, Nevada, Co-presenter of session on Managing Security in Large Special Events, October 2011

World Game Protection Conference, Las Vegas, NV, presented a session on preventing casino robberies to surveillance professionals. February 2012

University of Nevada Las Vegas – International Gaming Institute, March 2012
Puerto Rico, USA Presented instruction on Security in Gaming Applications for managers and supervisors.

ASIS International Annual Conference, Philadelphia, PA, Co-presenter of session on developing policy, procedure and post orders for security, September 2012

Global Gaming Exposition (G2E), Presented and moderated a panel on robbery prevention and response in gaming environments, October 2012

Global Gaming Exposition (G2E), Invited panel speaker on terrorism in gaming and hospitality environment, October 2012

Global Gaming Exposition (G2E) “Director on Trial” Moderator: Mock trial presentation for security and surveillance directors on spoliation of evidence, examples of direct and cross examination, October 2012

Nightclub and Bar Convention and Trade Show, Presented and moderated a session “Developing a Security Plan to Protect your Business”, March 2013

International Association of Professional Security Consultants, Annual Conference, invited speaker, Active Shooter Panel presentation, April 2013

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Las Vegas ASIS International Seminar, Limiting Liability Exposure in Contract and Proprietary Security, June 2013

ASIS International, Northern Nevada Chapter, Community Active Shooter Workshop, Speaker

Southern California Surveillance Symposium, October 2013

Keynote Speaker on Surveillance responses to Critical Incidents in Gaming environments

Nightclub and Bar Show, March 2014

Primary Speaker in a session on Managing Social Behavior during closing periods presented to nightclub and bar owners and managers.

National Indian Gaming Association Conference, May 2014

Invited Guest Speaker on Critical Response in Gaming Environments for Active Shooter and Robbery incidents.

Global Gaming Exposition, September 2014

Casino Crime: Is it time to arm security personnel in Casinos? Moderated a panel discussion on arming and disarming of security personnel in casinos.

Global Gaming Exposition, September 2014

Casino Patrol: Increasing the Security Footprint. Presentation on interior and exterior patrol.

Raving's Cutting-Edge Table Games Conference, November 2014

Invited Co-Presenter on sessions: "Inside and Outside Threats to Table Games"

Global Gaming Exposition, September 2015

Legal Update: Litigation over Surveillance video and Spoliation of evidence. Moderator and speaker on video in litigation.

Global Gaming Exposition, September 2015

Alcohol and Casinos: Risks and Exposures, Dram Shop and Litigation. Presented a session on interior and exterior smart practices involving service of alcohol, guest protection and alcohol liability in gaming operations.

ASIS International, Las Vegas Chapter – Guest Speaker on Risk and Liability for security personnel for Security Management Seminar – May 2016

Minnesota Casino Intelligence Unit – Keynote Speaker on Active Shooter, Robbery response and prevention, Critical Incident Management and patrol tactics for gaming operations. – August 2016

Global Gaming Exposition, September 2016

Speaker on improving the security footprint in gaming operations

Global Gaming Exposition, Active Shooter Workshop, September 2016

Developed, promoted and coordinated a workshop on Active Shooter for gaming professionals

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ASIS International, Annual Seminar, September 2016

Co-Speaker on a session on developing policies and Procedures in security environments

ASIS International, Northern Nevada Chapter – Guest Speaker on Risk and Liability for security professionals as part of the Security Management Seminar 2016

International Association of Professional Security Consultants – Co-Presenter on application and use of the Forensic Methodology in civil security litigations, Austin, Texas, May 2017

ASIS International – Co-Presenter Webinar on Policy and Procedure Development. Over 500 sites registered for the ASIS Webinar Series. August 2017

International Association of Professional Security Consultants, Successful Security Consulting program, ASIS International Annual Event, Dallas, Texas. Instructor on Forensic Security Consulting, September 2017

ASIS International Annual Seminar and Exhibits. Co-Presenter, Fireside Chat, Policy and Procedure Development, September, 2017

Global Gaming Exposition, Las Vegas, Nevada, Co-Speaker on Spoliation of evidence in Security Litigations. October 2017

Global Gaming Exposition, Las Vegas, Nevada, Moderator and Speaker on Nightclubs in Gaming Environments, trends in security operations, litigations and regulatory environments. October 2017

International Association of Professional Security Consultants Co-Speaker on presentation for Standard of Care for Guard Force Management and Contract Security, May 2018

ASIS International, Global Security Exchange (GSX) Co-Presenter of full day workshop on Policy and Procedure Development. September 2018

International Association of Professional Security Consultants, Miami FL, Invited guest panel speaker on professional networking techniques. May 2019

ASIS International, Global Security Exchange, Panel contributor on Demystifying Casino Surveillance operations. Chicago, September 2019

Tribal Games Protection Network and ASIS Gaming and Wagering Council Seminar, Surveillance and Security Professionals Forum, Tulsa, OK. Presented on Nightclub Operations in Gaming Environments.

Tribal Games Protection Network and ASIS Gaming and Wagering Council Seminar, Surveillance and Security Professionals Forum, Tulsa, OK. Panel co-speaker on interpreting body language.

Tribal Games Protection Network and ASIS Gaming and Wagering Council Seminar, Surveillance and Security Professionals Forum, Tulsa, OK. Co-presenter on Best practice for video review and retention in gaming environments

Exhibit B

Jeffrey Toll

vs.

Nevada Property 1, LLC d/b/a The
Cosmopolitan of Las Vegas

U.S. District Court, District of Nevada,

Case No. 2:20-cv-00929-KJD-DJA

Alan W. Zajic, CPP, CSP, ICPS – Security Consultant – Nevada License No. 978

Testimony at deposition or trial given in the four years preceding 02/01/2021

Jimenez vs. Living S&G, Inc. Deposition	Superior Court, San Bernardino, CA Case No. CIVDS-1504154
Aaracelli Turner, et al vs. Prime Nellis, LLC, et al Deposition	Clark County, NV Case No. A-12-671121-C
Melissa Graves vs. Joshua Welshans, et al Deposition	Superior Court of Washington, King Co. Case No. 15-2-21558-2 SEA
Karen Litwin, et al vs. The Charter Oak Insurance Co. Deposition and Trial	Circuit Court of Milwaukee County, WI Case No. 14-CV-7581
David Larsen, et al vs. Peppermill Casinos, Inc. Deposition	Washoe Co., NV Case No. CV16-00796
Vulnavia Thomas vs. Wrepp II Meadows, LLC, et al Deposition	Clark County, NV Case No. A-15-719322-C
Borge vs. Louisiana I-Gaming, et al Deposition and Trial	Jefferson Parish, LA Case No. 734-743
Arroyos, et al vs. Muckleshoot Deposition	Muckleshoot Tribal Court Case No. MUC-CIV-07/14-069
George Troute vs. Isleta Resort and Casino Deposition	New Mexico Arbitration
Bruce Wilson & Ivon Sparks vs. Pala Band of Mission Indians Arbitration Testimony	California Arbitration JAMS Ref. No. 1240023010
Schwimer and Nicholson vs. Nevada Property 1, LLC Trial	Clark County, NV Case No. A-17-751890-C
Ansara vs. Sportsman’s Royal Manor Deposition and Trial	Clark County, NV Case No. A-15-728471-C
Giordano vs. New York New York Deposition	Clark County, NV Case No. A-17-764677-C
Era Bennett vs. Mashantucket Pequot Gaming Enterprise Deposition	Mashantucket Pequot Tribal Court Case No. MPTC-CV-PI-2016-119
Tim Lepine vs. Linq Hotel and Casino Deposition	Clark County, NV Case No. A-19-789386-C

Exhibit C

Jeffrey Toll

vs.

Nevada Property 1, LLC d/b/a The
Cosmopolitan of Las Vegas

U.S. District Court, District of Nevada,

Case No. 2:20-cv-00929-KJD-DJA

Alan W. Zajic, CPP, CSP, ICPS – Security Consultant – Nevada License No. 978

Publications, Interviews and Media Events:

Hotel Management International - Interview -Volume No.10 1999-2000

“Learning from Experience, Current security issues in the US hotel industry”

Casino Player Magazine - Interview - October 2000 Issue

“Casino Safety: What every Gambler Should Know”

Security Technology and Design - Article written - January 2001 Issue

“Are your policies and procedures rendering your technology ineffective?”

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HERO Terrorism Conference - Interview - Television News - Newschannel-13 - Las Vegas
Casinos and Terrorism – Panel

Baseline Magazine - April 2004

Interviewed as a security consultant on casino security issues and practices since 9/11

CIO Magazine - April 2004

Corporate Information Officer Magazine. Interview on security trends and technical/operational applications in gaming.

Gaming Law Review - June 2004

"Managing Liability in Gaming Operations: Surveillance"

Indian Gaming Magazine - September 2004

"Proactive Security: Casino Patrol"

Casino Enterprise Management – March 2005

“Does the Eye Really Blink” Co-author of an article on surveillance ethics.

Casino Connection Magazine – March 2006

“The Eye in the Sky” Interviewed with other industry professionals on how casino surveillance works hard to keep employees and customers safe and secure.

Security Technology & Design – March 2006

Interviewed on technology in gaming operations, wireless technology, video compression and RFID technology.

Casino Enterprise Management Magazine, September 2006

Interviewed on crime and casinos.

East Valley/Scottsdale Tribune – October 16, 2006

Interviewed for an article on casino robberies.

Alan W. Zajic, CPP, CSP, ICPS – Security Consultant – Nevada License No. 978

Casino Connection Magazine – January 2007

Authored an article entitled: Casino Resort Security; Is it my job?

Reno Gazette Journal – “Career Builder” – Special Feature Article – 07-19-06

Interviewed for an article on employment opportunities in the gaming surveillance field

Buildings Magazine - July 2007

Interviewed on building applications of technology in Gaming environments.

A & S International Magazine - September 2007

Ensuring Security at Casinos – Interviewed on security and surveillance applications in gaming environments.

Security Management Magazine – October 2007

Featured as one of several presentations at the ASIS International Annual Event

Casino Lawyer – Summer 2008

Co-author of an article “The Forensic Security Consultant: Preparation for Litigation Support in the Courtroom.

Security Director News – December 2008

Article on nightclubs

Las Vegas Review Journal -July 2009

Interviewed with co-presenter on UNLV Bar and Nightclub classes and current nightclub events in the Las Vegas, NV area

Las Vegas Review Journal-July 2009

Interviewed on Nightclub Operations: Security lessons for Club Staffers

Las Vegas TV Station Channel 3-July 2009

Participated in Media event regarding Nightclub Training

Las Vegas TV Station Channel 8-July 2009

Participated in Media event regarding Nightclub Training

Global Gaming Business – “Club Crisis” Nightclub Article- November 2009

Article on Gaming management of Nightclubs

Global Gaming Business Magazine-February 2010

Author of article on gaming security and surveillance cooperation

“Casino Security and Gaming Surveillance” October 2010

CRC Press Co-Author of Book

Global Gaming Business Magazine – November 2010

Authored “Hold Up” article on casino robbery prevention

Alan W. Zajic, CPP, CSP, ICPS – Security Consultant – Nevada License No. 978

Press of Atlantic City, Interview regarding security in parking environments as it related to a recent carjacking, September 20, 2011

Casino Journal Magazine, Interview regarding current economic effect on casino security in gaming operations, October 2011

Hotel Business Review, HotelExecutive.com, Co-Author, "CCTV in Hotels: how much is enough?" Article on the use of video systems in hotels, December, 2011

International Business Times, New York, Interviewed on New Year's Eve activities and Nightclub Security for New York Nightlife, December 30, 2011

Global Gaming Business Magazine, "Security vs. The Economy" Article on staffing and deployment during economic downturns. February 2012

Hotel Business Review, HotelExecutive.com, Co-Author, "Who are we trusting with Guest Valuables". Article on hospitality employees and guest property. March 2012

Pittsburg Tribune Review, Interviewed regarding emergencies in casinos after a major power outage at the Meadows Casino, August 2012

Global Gaming Business, Article on "Eject, Evict, Trespass & 86" Dealing with undesirables in gaming environments, October 2012

Global Gaming Magazine, "Surveillance Special Report: Guns and Gaming" Article on Active Shooter events in casinos, February, 2013

Washington Post, Interviewed on security and surveillance, December 2013

Pittsburg Tribune Review Interview: Casino Data Hacking, March 2014
Interviewed on casino customer data breaches as a result of the recent data hacking at Las Vegas Sands, Corp.

Security Management, October 2014
Article Contributor: "Wagering on Preparation", Gaming security and surveillance article.

Global Gaming Business Magazine, March 2015
"The Litigation Conundrum". Authored an article on litigation trends involving security and surveillance in gaming environments.

Global Gaming Business Magazine, February 2016
Alcohol and Casinos: Dram shop and liability claims. Authored an article on Dram Shop Liability in Native American and land-based casino properties.

Global Gaming Business Magazine, February 2017
Safe at any speed, A security check for parking and casinos. Authored article on casino parking security.

Alan W. Zajic, CPP, CSP, ICPS – Security Consultant – Nevada License No. 978

Security Management Magazine, February 2018

How to Learn from Las Vegas. Contributor to article on industry measures after 10/01/2017 Las Vegas Shooting Incident.

Global Gaming Business Magazine, February 2018

Security and Surveillance: Protecting the Cage. Article on Robberies in casino environments

Security Management Magazine, December 2018

Author of article: Gaming Security. Prepared as Chairman of the Gaming and Wagering Protection Council for ASIS International, and involving current trends and technology use in gaming environments.

Global Gaming Business Magazine, March 2019

Guns and Gaming; Surveillance Special Report, Armed or Unarmed? Does it make sense to arm your security guards? Article on considerations for arming casino security personnel.

Security Management Magazine, April 2019

Contributor to Gaming and Wagering Council Article; Four Emerging Trends in Casino & Gaming Security

“Casino and Gaming Resort Investigations” Co-Author of Book on conducting investigations in gaming environments, Routledge, Taylor & Francis Group Publishing, July 2019.

New York Post, interviewed regarding damage to slot machines by patrons and frequency. December, 2019

“Alcohol and Casinos” Author of article on service of alcohol in land based, riverboat and tribal casinos and developing a cohesive operational plan. February, 2020

Security Management Magazine

Interviewed as one of four security and legal professionals. Cover story for the current edition titled, *Courtroom Scrutiny, Security on the Witness stand.* July, 2020

Global Gaming Business Magazine

“Cool It” Author of an article on recent violent shootings along the Las Vegas Strip, December 2020

Exhibit D

Jeffrey Toll

vs.

Nevada Property 1, LLC d/b/a The
Cosmopolitan of Las Vegas

U.S. District Court, District of Nevada,

Case No. 2:20-cv-00929-KJD-DJA

Documents Reviewed:

1. Complaint
2. Defendant's Answer to Complaint
3. Scheduling Orders
 - A. Filed 07/08/2020
 - B. Filed 12/02/2020
4. Case Video
 - A. Cosmopolitan Surveillance Video
 - 1 General Other Part 1 (5.27 to 5.39 confrontation on casino floor and escort to hotel room)
 - B. 2 General Other Part 6 (5.58 to 6.08 Elevator escort to holding room)
 - C. 3 General Other (Holding Room 5.59 to 7.39 pm)
 - D. 4 General Other Part 7 (8.00 to 8.12 escort from holding room to valet)
 - E. General Other – (2) (Toll in Holding room 7.40 pm)
 - F. General Other – (3) (Toll in Holding room 7.14 to 8.00 pm)
5. Incident Reporting (From Discovery)
 - A. Cosmopolitan iTrack Incident report #IN20190005666 (COSMO 001-0023)
 - B. LVMPD Documents
6. Defendant Nevada Property 1, LLC d/b/a The Cosmopolitan of Las Vegas Documents, Pleadings and Discovery
 - A. Initial FRCP 26(f) List of Witnesses and Production of Documents
 1. Cosmopolitan iTrack Incident report #IN20190005666 (COSMO 0001-0020)
 - A. Voluntary Statement of Blake Day (LVMPD Form) (COSMO 0021)
 - B. Voluntary Statement of Kendall Vicente (LVMPD form) (COSMO 0022)
 - C. Voluntary Statement of Tonya Witthauer (COSMO 0023)
 - D. Cosmopolitan Security video footage (COSMO 0024-0026)
 2. Insurance Documents

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- A. Net Claim Information
- B. Notice of Claim
- B. First Supplement to Initial FRCP 26(f) List of Witnesses and Documents
 - 1. Cosmopolitan additional security video footage (COSMO 0027)
 - 2. Cosmopolitan Million Point Club II invitation dated June 1, 2018 – June 2, 2018 (COSMO 00028-029)
 - 3. Cosmopolitan’s Transaction Detail Report for Jeffrey Toll from November 7, 2013 – June 1, 2019 (COSMO 0030-036)
 - 4. Cosmopolitan’s Win Loss Statement Reversed Detail for Jeffrey Toll from 2013 – 2019 (COSMO 0037-043)
 - 5. Electronic Correspondence between Tonya Witthauer and Plaintiff From April 5, 2018 (COSMO 0044-070)
 - 6. Electronic Correspondence between Cosmo and Plaintiff From March 9, 2019 – June 4, 2019 (COSMO 0071-082)
- C. Answers to Plaintiff’s Interrogatories (1-7)
- D. Responses to Plaintiff’s Request for Production of Documents
 - 1. (COSMO 000027-08200)
- E. LVMPD Response to Subpoena Duces Tecum 11/24/2020, Police Calls for Service, 06/01-04/2019 (COSMO 0083-086)
- 7. Plaintiff’s Documents, Pleadings and Discovery
 - A. Rule 26 Disclosures
 - 1. Promotional Materials for Million Point Club III Promotion (TOLL 001-004)
 - 2. Text Message exchange with Casino Host (TOLL 005)
 - 3. Confirmation of Mr. Toll’s Room Reservation (TOLL 006)
- 8. LVMPD Documents Produced by Subpoena from Defendant
 - A. LLV190600012704 - Property Report -Impound of Credit Card (COSMO 000091)
 - B. LVMPD Voluntary Statement of Blake Day (COSMO 000092)
 - C. LVMPD Voluntary Statement of Kendall Vicenti (COSMO 000093)

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9. Photographs requested of hotel room 5914 and corridor (COSMO 000094-0105)

Exhibit E

Jeffrey Toll

vs.

Nevada Property 1, LLC d/b/a The
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U.S. District Court, District of Nevada,

Case No. 2:20-cv-00929-KJD-DJA

(See Attached Fee Schedule)

Alan W. Zajic, CPP, CSP, ICPS - Security Consultant

Forensic Security Consulting Fee Schedule

(As of 09/27/2017)

All file work: Review of discovery materials, video analysis, depositions, pleadings and investigation time is billed at the rate of \$400.00 per hour

Daily Rate: A minimum rate of 8 hours and maximum rate of 10 hours will be billed for each travel day for site inspections and requested travel for case meetings at a calculated rate of \$400.00 per hour

Depositions: Deposition time will be paid by opposing attorney rounded up to the next hour. If travel is required for deposition full day rates will apply plus travel costs to include Business Class airfare to be paid in advance. Hourly rate will be calculated at \$400.00 per hour.

Fees are demanded to be paid before or at the time of deposition unless previous arrangements have been made.

Trial Testimony: A minimum rate of 8 hours and maximum rate of 10 hours will be billed for each travel day for trial and including stand-by time and for trial testimony at \$400.00 per hour.

Exhibit F

Jeffrey Toll

vs.

Nevada Property 1, LLC d/b/a The
Cosmopolitan of Las Vegas

U.S. District Court, District of Nevada,

Case No. 2:20-cv-00929-KJD-DJA



Best Practices

FORENSIC METHODOLOGY

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The International Association of Professional Security Consultants has issued this consensus-based and peer-reviewed Best Practice for the guidance of and voluntary use by businesses and individuals who deal or may deal with the issues addressed in the context of third-party premises security litigation, and other security-related cases where the methodology would be helpful.

POSITION STATEMENT

The International Association of Professional Security Consultants does hereby recognize that its members will be called upon to perform as “Forensic Consultants” and serve as Expert Witnesses in a court of law or other legal proceeding. The purpose of these guidelines is to meet the need for a standardized methodology used in the evaluation of premises security cases.

It is recognized that the task of the Forensic Consultant is one of education. Forensic Consultants will provide their opinion(s) to the client, to opposing counsel during deposition, in response to written interrogatories, in reports, and to the judge and jury at trial or any other lawfully convened hearing. This is done with the goal of making others aware of the security issues and contributing to a just and proper conclusion on the litigation.

The responsibility of the Forensic Consultant lies within our system of justice and the ethics of the security profession. The opinions so offered are made as an objective expert witness/consultant, without any financial or other interest in the outcome of the litigation.

Forensic Consultants will, at all times, be forthright, honest and precise in evolving the ultimate conclusion(s) and opinion(s). The opinion(s) will be the result of a review of all available, applicable documentation and discovery material presented by all parties to the litigation. Site inspections and analytical procedures generally followed by the “Forensic Consultant” are described in these guidelines.

The following methodology is to be used in atypical premises security case, including crimes committed by employees; workplace violence; negligent hiring, supervision and retention; negligent training; use of force; invasion of privacy; wrongful arrest and/or imprisonment; wrongful prosecution; and other security-related cases.

The Forensic Consultant is expected to exercise diligence in requesting and/or obtaining information that the Consultant reasonably believes is relevant to the facts and circumstances of the case.

It is reasonable to expect variations of the steps, with some steps deleted and others added as the facts and circumstances of the case being analyzed warrant.

EVIDENCE REVIEW— THE PROCESS

In the context of this Guideline, the Forensic Consultant will review and analyze various information, whether produced during the discovery process of the litigation or otherwise obtained through research, common knowledge, investigation, and/or the consultant/expert's experience which allows the Consultant to identify factors leading to an understanding of the crime risks present at the time of the criminal event.

Types of evidence generally available to the Forensic Consultant may include, if relevant, to the following:

1. Complaint/Petition and Pleadings
2. Police Report of the subject incident
3. Site and Immediate Vicinity Crime History, including police and security incident reports
4. Interrogatories and Responses
5. Requests for Production of Documents and Responses, discovery motions
6. Requests for Admissions and Responses
7. Affidavits, Witness Statements, and Interviews
8. Depositions with exhibits
9. Expert Witness Reports and depositions
10. Applicable Medical Records Relating to the Facts of the Incident
11. Photographs, Video and Audio Recordings, etc.
12. Other Related Evidence (e.g., prosecutors file, if available, criminal trial transcript, employee HR files, etc.)
13. Site Plans

14. Applicable standards, codes, and regulations
15. Publications related to the standard of care
16. Lighting plans/diagrams
17. Relevant policies and procedures
18. Security staffing, plans, manuals, post orders and schedules
19. Security services contracts in effect on date of loss
20. Agreements with other security service providers (e.g., off-duty police officers)
21. Background search results of employees/workers

RISK ASSESSMENT

A risk assessment is the general process of identifying relevant risks, given the facts of the case. It is a qualitative, quantitative, or hybrid assessment that seeks to determine the likelihood that criminals could successfully exploit a vulnerability or compromise a security countermeasure.

There are two main components to a risk assessment: a threat assessment and a vulnerability assessment. The threat assessment is an evaluation of the various sources for crime threats. The vulnerability assessment includes an evaluation of the physical aspects of the facility and an analysis of the overall security program as it relates to the specific facts of the case.

The security survey, along with documented evidence, is the means by which security measures utilized and/or available at the facility at the time of the incident that is the subject of the litigation are identified and analyzed.

A risk assessment provides the foundation for effectively determining the adequacy of countermeasures employed.

THREAT ASSESSMENT

A threat assessment is an evaluation of events that can adversely affect operations and/or specific assets. Historical information is a primary source for threat assessments, including past criminal and terrorist events. A threat assessment considers actual and inherent threats.

1. Actual Threats - The crime history at the subject property based on data reflecting actual crime data.¹ Actual threats are a quantitative element of a threat assessment. When assessing actual threats, the following may be considered *as deemed relevant by the security expert*:
 - a. Relevant crimes on the subject property for a three to five-year period prior to the date of the incident.
 - b. Relevant crimes in the immediate vicinity of the subject property for a three to five-year period prior to the date of the incident. [Note: There is no single definition of what constitutes an “immediate vicinity” or “neighborhood” around a given property. Often what is available for evaluation from a law enforcement agency depends upon that agency’s software programming and/or staff capabilities (e.g., the agency can only provide data for a set size of an area, such as a quarter mile radius).]²
 - c. The expert may consider the relationship between offenders and victims (e.g. interpersonal, domestic, targeted, etc.).

2. Inherent Threats –The crime risk at the subject property as determined by the expert based on the property’s characteristics, the expert’s research and/ or experience in similar environments, information gathered through the discovery process, and/or a site inspection (if conducted).

VULNERABILITY ASSESSMENT/ SECURITY SURVEY

The vulnerability assessment is an analysis of security weaknesses and opportunities for criminal activity. A security survey is a method for collecting information used in the vulnerability assessment.

A security survey may include a physical survey of the scene of the incident and areas/functions that are applicable to the incident to achieve an understanding of information that has potential application to the matter in litigation.

The following areas of review are not meant to be all inclusive, nor all exclusive. The decision to review the material is at the judgment/discretion of the expert.

1. Incident Review
 - a. Police incident and investigation report(s)
 - b. Security incident report(s)
 - c. Medical records (emergency room and/or autopsy as it relates to information about the occurrence of the incident)
 - d. Other sources of information about how the incident occurred (e.g., witness statements testimony, etc.)

¹ Depending on the police jurisdiction that serves the subject property, different types of crime records may be available. The most common type of crime record used in a crime risk analysis is Calls for Service or dispatch logs. It is important to note that Calls for Service or dispatch log accuracy varies by jurisdiction. Further, changes to incident management and dispatch systems may also impact accuracy even within the same jurisdiction. When assessing relevant crimes, Calls for Service and dispatch logs should not be used alone. Offense/Incident Reports are necessary to validate the Calls for Service or dispatch logs, specifically the crime type, crime location, and whether a crime actually occurred. Calls for service or dispatch logs alone, in many jurisdictions, are insufficient for these three elements.

² The IAPSC recognizes that criminology studies and related research have generally found that crime in the area may or may not be relevant to the subject property.

2. Site Inspection - Inspect site where the incident occurred and the surrounding area, if relevant. *(Note: Not all cases will require site inspections, nor is it always possible to conduct site views—e.g., if the site has been altered substantially or no longer exists.) Further, the facts of some cases and potential liability issues are not related to the site/property layout, design, or other physical attributes. As such, a site inspection may be unnecessary.*
 - a. Determine layout of the premises
 - b. Evaluate relevant factors (lighting, lines of sight, places of concealment, remoteness, accessibility, security measures, conditions, etc.)
 - c. Review relevant documentation (lease, contract, diagram, map, etc.)
 - d. Assess the characteristics of the surrounding area and what impact, if any, those characteristics may have had on the subject property
3. Security Personnel
 - a. Review security officer(s) (including off-duty law enforcement officers) actions, staffing levels, post orders, duty hours, equipment provided, tours, evaluations, training, hiring procedures and supervision
 - b. Review law enforcement presence and actions (e.g., on-duty, police details, etc.)
 - c. Review roles and actions of non- security related persons who may have participated in the security program and/or incident
 - d. Assess the qualifications and performance of owner/management personnel overseeing the security program
4. Security Management Program
 - a. Review management and security related policies, procedures, and practices
 - b. Review any risk assessments performed prior to the date of the incident
 - c. Review daily activity reports, job descriptions, incident reports and internal correspondence
 - d. Review security services contract
 - e. Review training manuals and materials
 - f. Review depositions regarding employees' understanding of their duties, and all customs and undocumented practices
 - g. Evaluate the qualifications, training, and experience of security management and supervisory personnel
5. Security Equipment
 - a. Review building design and site plans
 - b. Inspect all security devices related to the incident
 - c. Inspect structural security features related to the incident
 - d. Determine the position, function and maintenance status of the relevant security equipment and features in place at the time of the incident
 - e. Determine levels of illumination, if relevant

ANALYSIS AND OPINIONS

The security expert will determine the level of adequacy of security at the location of the incident on the date and at the time the incident occurred. This will be based on the information obtained in the previous steps, and the application of a qualitative analysis based on the experience, education, and training of the expert.

Based upon the analysis, the expert will reach conclusions on the issues of risk analysis, preventability, and the adequacy of the security program at the subject property. At this point the expert has formed opinions and is prepared to provide a written report, be deposed, and/or testify at trial. Those opinions will state the detailed basis for the findings, including evidence, standards, best practices, and guidelines, where applicable.

BIBLIOGRAPHY/REFERENCES

The process of evaluating the risk of crime at a specific location or geographical area is widely recognized and has been adopted nationwide by private industry, public law enforcement, municipalities, and other governmental agencies. The following published sources reference the process used to perform a crime risk analysis. *This is not all-inclusive, but a representative sampling of available references.*

This bibliography is not to be construed in any way as an endorsement by the International Association of Professional Security Consultants of the publications or the respective authors.

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Weisburd, David, etal. (2016), *Place Matters: Criminology for the Twenty-First Century*. Cambridge: Cambridge University Press.

FORENSIC SECURITY COMMITTEE MEMBERS

Norman D. Bates, Esq.,
Committee Chairman
President, Liability Consultants, Inc.

Chad Callaghan, CPP, CSC, CLSD
Premises Liability Experts, LLC

James H. Clark, CPP
Managing Partner, Clark Security
Group, LLC

Michael S. D'Angelo, CPP, CSC, CHPA
Secure Direction Consulting, LLC

Lance Foster, CPP, CSC
Security Associates, Inc

Steve Kaufer, CPP
Inter/Action Associates

Ken Wheatley, MA, CPP
Threat Analysis Group, LLC

Karim Vellani, CPP, CSC
Threat Analysis Group, LLC

Alan W. Zajic, CPP, CSP
AWZ Consulting

CASES CITING METHODOLOGY

Childress v Kentucky Oaks Mall, 2007 WL 2772299 (W.D. KY) 2007

Reinaldo Robles DelValle, et al v Vornado Realty Trust, 06-1818USDist.Crt., Puerto Rico, 2009

Jane Doe v. AE Outfitters Retail Co., United States District Court for the District of Maryland, Northern Division, 2015

DOCUMENT REVISION HISTORY

Initial Release: June 2000 approved by the IAPSC membership in attendance at the annual meeting.

Revised: May 2, 2005 with approval by the IAPSC membership in attendance at the annual meeting.

Revised: November 2008 with approval of the Board of Directors

Revised: November 2011 by Forensic Security Committee – minor formatting changes and addition of “Premises Security Experts...” article to bibliography.

Revised: April 28, 2014 with approval of IAPSC Forensic Security Committee – addition of language to Actual Crime section: “Relevant crimes in the immediate vicinity of the facility (three to five years prior to the date of the incident) *as defined by and deemed relevant by the security expert.*”

Revised: January 19, 2018 with approval by the Board of Directors

Revised: December 2, 2020 by Forensic Security Committee – clarification of “security-related” cases covered by the Methodology and types of evidence available to the Forensic Consultant. Updated list of committee members.

Founded in 1984, the International Association of Professional Security Consultants (IAPSC) is a widely recognized and respected association committed to establishing and maintaining the highest standards for security consultants in the industry. IAPSC members are independent, non-product affiliated consultants who are required to meet strict educational, experience, and practice requirements, ensuring that they uphold the IAPSC code for professionalism and ethical conduct. For more information, to find an IAPSC security consultant, or to become a member of the association, visit www.iapsc.org.