



1 Case No. 16-15-RTR

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5 STATE OF NEVADA

6 BEFORE THE NEVADA GAMING COMMISSION

7 In the Matter of:

8 MANDALAY BAY CORP., dba
9 MANDALAY BAY RESORT & CASINO

STIPULATION FOR SETTLEMENT
AND ORDER

10 Claim for Refund of Live Entertainment
11 Tax for the period of September 2013
through June 2016.

12 The Claimant, MANDALAY CORP., dba MANDALAY BAY RESORT & CASINO
13 (hereinafter "MANDALAY BAY"), and the NEVADA GAMING CONTROL BOARD (here-
14 inafter "BOARD") hereby stipulate and agree that the Claim for Refund filed in Nevada
15 Gaming Commission (hereinafter "NGC" or "Commission") Case No. 16-15-RTR shall be
16 settled on the following terms and conditions:

17 1. On or about October 12, 2016, MANDALAY BAY filed with the Commission a
18 claim for a tax refund (hereinafter "Claim for Refund") of Live Entertainment Tax (here-
19 inafter "LET") for the periods of September 2013 through June 2016, pursuant to Nevada
20 Revised Statute (hereinafter "NRS") 368A.260 and 463.387, Nevada Administrative Code
21 (hereinafter "NAC") 368A.520, and NGC Regulation 6.180.

22 2. The Claim for Refund complies with all of the statutory and regulatory re-
23 quirements set forth in the Gaming Control Act, the regulations adopted thereunder, and
24 the Nevada Administrative Code, including, but not limited to, Section 7 of LCB File No.
25 R104-15.

26 3. The BOARD, through its Audit Division, performed an investigation of the
27 Claim for Refund filed by MANDALAY BAY and verified an overstatement of live enter-
28 tainment taxable revenue as follows:

1 a. House of Blues: For the period of September 2013 through September
2 2015, LET revenue was over-reported by MANDALAY BAY in the amount of FORTY-
3 NINE THOUSAND, FOUR HUNDRED FIFTY-FIVE and 45/100 DOLLARS (\$49,455.45),
4 resulting in an over-payment of LET in the amount of FOUR THOUSAND, NINE HUN-
5 DRED FORTY-FIVE and 55/100 DOLLARS (\$4,945.55). This over-reporting/over-
6 payment was the result of the inclusion of exempt charitable contributions in reported
7 LET revenue in contravention of NRS 368A.200(2)(a). These charitable contributions
8 were included in the price of admission paid by customers to attend performances of Car-
9 los Santana at the House of Blues, which is located on the premises of MANDALAY BAY.
10 The LET relating to the charitable contributions was imputed in the cost of the admission
11 and therefore is considered to have been paid by MANDALAY BAY. Because of this, the
12 refund of LET is payable to MANDALAY BAY rather than to the patrons who purchased
13 the admissions.

14 b. House of Blues Foundation Room: For the period of October 2015 through
15 June 2016, LET revenue was over-reported by ONE HUNDRED FORTY-FIVE THOU-
16 SAND, THREE HUNDRED SIXTY-FIVE and 55/100 DOLLARS (\$145,365.55), resulting
17 in an over-payment of LET in the amount of THIRTEEN THOUSAND, EIGHTY-TWO
18 and 90/100 DOLLARS (\$13,082.90). This over-reporting/over-payment was the result of
19 the inclusion of exempt charitable contributions in reported LET revenue in contraven-
20 tion of NRS 368A.200(2)(a). These charitable contributions were in addition to the price
21 paid by patrons as membership fees to the House of Blues Foundation Room, which is lo-
22 cated on the premises of MANDALAY BAY. These charitable contributions were add-ons
23 to the base membership fee paid by patrons. As such, the LET that was erroneously paid
24 on these charitable contributions was paid by the patrons, not MANDALAY BAY. As a
25 result, pursuant to NRS 368A.320 and Section 7 of LCB File No. R104-15, the refund of
26 the overpaid LET, and related interest, must be made to the patrons who paid the LET;
27 MANDALAY BAY is not entitled to the refund or the related interest.

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