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NEVADA GAMING COMMISSION
CARSON CITY, NEVADA

1 Case No. 02-12-RTR

4 STATE OF NEVADA
5 BEFORE THE NEVADA GAMING COMMISSION

6 In the Matter of:
7 RIO PROPERTIES, INC., dba Rio Suite Hotel &
8 Casino.
9 Claim for Refund for the period of
10 January 1, 2002 through November 30, 2002

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER

11 The above-captioned Claim for Refund came on for hearing before the Nevada Gaming
12 Commission (Commission) on April 17, 2003, in Carson City, Nevada, pursuant to NRS
13 463.387 and Regulation 6.180. Petitioner, Rio Properties, Inc., doing business as Rio Suite
14 Hotel & Casino (Rio), being duly noticed of the hearing, appeared by and through its counsel,
15 David Arrajj, Esq., of the law firm Schreck Brignone. The State Gaming Control Board (Board)
16 was represented by its counsel, Jennifer Carvalho, Deputy Attorney General.

17 The Commission, having received and reviewed the evidence offered by the parties,
18 having heard the arguments of counsel, and having voted 4 to 1 to deny the Rio's Claim for
19 Refund, issues the following findings of fact, conclusions of law, and order.

20 FINDINGS OF FACT

- 21 1. The Petition has been brought pursuant to NRS 463.387 and Regulation 6.180.
22 2. The Rio initiated this matter on October 22, 2002, through the filing of a Petition for
23 Declaratory Ruling pursuant to Regulation 2A, that was later amended to a Claim for Refund
24 pursuant to NRS 463.387 and Regulation 6.180.
25 3. The Rio hosts a show entitled "Tony 'n' Tina's Wedding", where professional actors
26 and actresses play the roles of participants in a wedding party, e.g., the bride, groom, priest,
27 mothers of the bride and groom, and other family members. There is a wedding cake, band,
28 shared buffet, champagne toasts and dancing. The wedding party actors and actresses

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1 intermingle with members of the audience, who have paid the ticket price to attend the
2 performance and are treated as if they were wedding guests who were invited to attend a
3 wedding where they know the bride and/or groom.

4 4. Tony 'n' Tina's Wedding is a theatrical performance, combined with a comedy show
5 and dancing, with live performers who intermingle with the members of the audience.

6 5. Tony 'n' Tina's Wedding is a theatrical dinner show.

7 **CONCLUSIONS OF LAW**

8 1. Nevada Revised Statutes (NRS) 463.401 governs the levy and collection of the
9 Casino Entertainment Tax (CET).

10 2. The CET applies to Tony 'n' Tina's Wedding.

11 3. In 1995, the Nevada Legislature adopted Senate Bill (S.B.) 497, which included
12 "interactive entertainment" as one of the kinds of entertainment not subject to the CET under
13 NRS 463.4015. The phrase "interactive entertainment" is not defined within the Nevada
14 Gaming Control Act or Regulations of the Commission.

15 4. In ordinary meaning, "interactive" is defined as "1. reciprocally active. 2. (of a
16 computer or other electronic device) allowing a two-way flow of information between it and a
17 user." The Oxford Desk Dictionary 295 (American Ed. 1995).

18 5. Given the fact that there are two definitions for "interactive," the term can be logically
19 interpreted in different ways. "Where a statute is capable of being understood in two or more
20 senses by reasonably informed persons, the statute is ambiguous." *Del Papa v. Board of*
21 *Regents*, 114 Nev. 388, 393, 956 P. 2d 770 (1998).

22 6. The phrase "interactive entertainment" is ambiguous. Therefore, review of the
23 legislative history is appropriate.

24 7. The legislative history of S.B. 497 reveals that *Star Trek: The Experience* was
25 considered to be an example of the legislative meaning of "interactive entertainment." No
26 other meaning or examples were provided to or by the Legislature.

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1 8. *Star Trek: The Experience* was described in part to the Legislature as

2 . . . uniquely designed with a totally interactive entertainment
3 approach in which each visitor assumes the identity of a Starfleet
4 alien crew member and participates as this character in the
5 extraordinary and imaginative world of *Star Trek*. With this identity,
6 the visitor will see, feel, touch and live the adventure of *Star Trek*
like never before, becoming completely immersed in the futuristic
environment. While maneuvering through the multi-million dollar
venue, the visitor will encounter an unmatched variety of
entertainment elements including:

- 7 • the ultimate simulated ride surpassing anything of its time
8 with the use of special viewer perspective image projection
9 that will expand the field of vision and seemingly surround
10 the viewer
- 11 • challenging interactive video and virtual reality stations that
12 will represent the latest in state-of-the-art computer game
technology
- 13 • venue-unique souvenir collectables and officially licensed
Star Trek merchandise
- 14 • an upscale, casual 24th century themed dining experience
15 featuring a Cardassian restaurant and Starfleet lounge

16 This project represents Paramount Parks' unique ability to
17 tap into the extensive intellectual property library of parent
18 company Viacom Inc. and bring popular themes to life as out-of-
19 home entertainment experiences. *Star Trek: The Experience* is
20 the Park group's first development of such an attraction outside its
21 successful theme park operations. . .

22 Minutes of the Assembly Committee on Judiciary, Sixty-eighth Session, June 27, 1995, Press
23 Release entitled: *Hilton Hotels And Paramount Parks Join Forces To Boldly Go Where No
24 Las Vegas Attraction Has Gone Before*

25 9. The description of *Star Trek: The Experience* provided to the legislature
26 emphasizes a "simulated ride" and more closely resembles the second, narrower dictionary
27 definition set forth above, with a technological or computerized medium with which attendees
28 interact.

29 10. Tony 'n' Tina's Wedding does not meet this narrower definition of "interactive"
30 entertainment, which definition is more consistent with the legislative intent as reflected in the
31 legislative history. Tony 'n' Tina's Wedding more closely resembles a traditional showroom
32 performance, to which the CET clearly applies, where paid performers entertain a paying
33 audience. The Commission concludes that the legislature did not intend for the "interactive

1 entertainment" exception to be decided by a quantitative evaluation of the extent to which an
2 audience "interacts" with the actors and actresses. Instead, the Commission concludes that
3 the "interactive entertainment" exception requires some form of technological or computerized
4 medium as a major focus of the experience and with which each attendee observes and
5 interacts at some point during the event.

6 13. If any of the foregoing Conclusions of Law shall be deemed Findings of Fact, they
7 shall be so construed.

8 Good cause appearing, and the Commission having voted 4 to 1 (Commissioner
9 Gurrola voting against the motion):

10 **ORDER**

11 IT IS HEREBY ORDERED THAT the Rio Claim for Refund for the period of January 1,
12 2002 through November 30, 2002, be and hereby is denied.

13 DATED this 1 day of May 2003.

14 NEVADA GAMING COMMISSION

15 
16 PETER C. BERNHARD, Chairman

17 Submitted by:

18 BRIAN SANDOVAL
19 Attorney General

20 By: 
21 MICHAEL E. WILSON
22 Assistant Chief Deputy Attorney General

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