

**RESPONSE BY THE COALITION FOR JUSTICE IN HAWAIIAN GARDENS AND
JERUSALEM TO REBUTTAL STATEMENTS BY REPRESENTATIVES OF IRVING
MOSKOWITZ DELIVERED ON JANUARY 9, 2004 TO THE CALIFORNIA GAMBLING
CONTROL COMMISSION IN THE MATTER OF MOSKOWITZ'S APPLICATION FOR
A LICENSE FOR HIS HAWAIIAN GARDENS CASINO**

February 3, 2004

To the Commissioners of the
California Gambling Control Commission

We have transcribed the statements of Attorney Robert Sullivan, Dr. David Moskowitz, and Attorney Beryl Weiner from audio tapes supplied by the Commission; in several instances where we have not been able to understand a word or two, we've indicated that. We have used *italics* to set off the three men's statements. Our responses are in straight-up ("normal") typeface.

ROBERT SULLIVAN, attorney for Moskowitz:

At this time I will respond on behalf of the applicant, Dr. Moskowitz. The opponents make two points, neither of which is relevant to Dr. Moskowitz (inaudible) suitability of a license. First, they say that Dr. Moskowitz supports the wrong causes in Israel. The second point is that Dr. Moskowitz exploited the poor people of Hawaiian Gardens by lawfully convincing them to license the casino.

Take the first point, Dr. Moskowitz's support for political causes in Israel. Why are they relevant? The causes that Dr. Moskowitz supports are entirely lawful under Israeli law. And he is within his rights as an American citizen to support these causes.

While we have repeatedly acknowledged that Moskowitz's activities are constitutionally protected, we have also repeatedly pointed out that his support for groups that foment tension between Israelis and Palestinians and causes that predictably produce violence is one of the many indications that Moskowitz does not have the good character required by the state to operate a California casino. Our Coalition speakers (as distinguished from other opponents of licensing Moskowitz) said very little about the Palestinian-Israeli conflict in our testimony; there is very little about the Middle East in our November 2003 submission.

As for the second point, his so-called exploitation of the city of Hawaiian Gardens, the opponents are simply wrong. They do not live or work in Hawaiian Gardens. Most of them have never been to Hawaiian Gardens.

This is simply not true. Many opponents of licensing Moskowitz have lived and/or worked there, or have extensively studied Moskowitz's decade-plus of abuse of the city. Coalition members have probably been to more City Council meetings than Moskowitz has. Moreover, it is important to note that, in addition to the opponents of the license who attended the Commission's December 18th and January 9th hearings, there are several former officials who wanted to testify against the license but were afraid that they

or their families would be harmed in retaliation. It is also important to note that some opponents of Moskowitz have felt it necessary to move out of Hawaiian Gardens.

Members of the Coalition do not live in Hawaiian Gardens, but that does not mean we have no concern for its residents. We believe the community of Hawaiian Gardens deserves better political representation, more control over its own civic destiny, and repayment of all the public funds Moskowitz used. Beyond this hope for Hawaiian Gardens, as residents of California, we have to be concerned when the political autonomy of one of the state's local municipalities has been co-opted.

Do they know anything about the operations of the casino? The answer is no. they have simply seized upon this issue to further their own political objectives in Israel, where they oppose causes that Dr. Moskowitz supports.

Yes, of course we want to stop Moskowitz's war against Middle East peace. But , when we understood the harm he had caused Hawaiian Gardens, stopping him there became as important to us as stopping him in the Middle East. As a Jewish-led organization, we have committed ourselves to showing the people of Hawaiian Gardens that all Jews are not like Moskowitz. This statement turns reality on its face.

The opponents have no evidence of any disqualifying conduct by Dr. Moskowitz in the operation of the casino while under temporary license, or in obtaining the city license for operating the casino, or in obtaining the building permit to build it, or in any other area of his life. The simple fact has been proven over and over again by the investigation of Dr. Moskowitz by two attorneys general utilizing auditors and investigators here and in Israel.

We have given the Commission copious documentation of disqualifying conduct by Moskowitz in securing his city license, his building permit and, more broadly, his corruptive control of the city of Hawaiian Gardens during the decade that he took control of Hawaiian Gardens' only commercially viable property for his casino, expropriated millions of dollars in public funds, and saddled residents with millions in public debt, some from needless lawsuits that enriched his attorney. We cannot understand how two attorneys general could find no disqualifying behavior in such Moskowitz deeds as the hiring of dozens of street gang thugs to intimidate voters in the 1995 election to authorize the casino.

Let me now address Mr. Louie Lu. He is a former employee of Hawaiian Gardens casino and was fired. The gravity of his complaint has to do with the tip pool. This and other complaints were thoroughly investigated by the (inaudible word). Their report recommends an issuance of the license. There is simply nothing more to say about Mr. Lu.

We note that the National Labor Relations Board found Lu's allegations of sufficient substance to issue a complaint against the casino.

The next point of interest is the allegation that the opponents made that there was some sort of option granted by Dr. Moskowitz to others in purchasing interest in the casino. Let me assure you, no such option was ever granted. At no time did anybody had any right to acquire interest in the casino. There is simply no executed document that reflects an interest in anyone else in this casino. The ownership of the casino rests entirely in the hands of Hawaiian Gardens casino, to Dr. and Ms. Moskowitz owning all of the outstanding shares.

We never alleged that such an option was granted. We disclosed that Moskowitz, through attorney Weiner, had secretly offered two competing casinos options agreements for shares in the casino – and, at the same time, had sworn under oath, in an application to the California Department of Justice, that he contemplated no additional owners, partners, etc. in the casino. Given this patent falsehood, plus persistent rumors about secret shareholders in the Hawaiian Gardens Casino, we urged the Commission to use its powers to investigate. We also stated our belief that Moskowitz's material falsehood about the casino's ownership should disqualify him from obtaining a casino license. It is telling that Attorney Sullivan claims there was no "executed document that reflects an interest in anyone else in this casino;" we understand that to be a tacit admission that Moskowitz did negotiate with the other card clubs.

We now come to Scott Wildman's statement, in which he talked of an alleged official report of the Joint Legislative Audit Committee. What he failed to tell you was that the so-called report was never authorized by the California legislature nor adopted by it. In fact, the full committee expressly rejected it and declined to issue it. What he also failed to tell you is that he is a paid lobbyist for the opponents. And another thing he failed to tell you is that he knows virtually nothing about Hawaiian Gardens because it was not within his legislative district.

Scott Wildman is NOT and has NEVER BEEN a paid lobbyist for our Coalition. We briefly hired him to advise us on our campaign against the license. It is shocking that Moskowitz's representatives should toss around such accusations when lobbyist-client relationships must be disclosed and can be found on the Internet. We believe this outrageous accusation demonstrates the Moskowitz operation's overall disdain for the truth. Moskowitz used lobbyists to halt the committee's hearing on the JLAC report but it remains a solid legislative investigation.

Now let me state what we know that is true about Dr. Moskowitz and the Hawaiian Gardens casino. First, the location of the casino being close to a school does not violate the law. SB8 was passed after the casino was authorized and open for business. It was grandfathered under SB8. Second, no environmental impact report was required for the licensing or building of the casino. The casino was created by an initiative which makes it exempt from that requirement.

We don't believe that legal argument was ever offered before to justify Moskowitz's brazen disregard of the ABC School District's request for an environmental study. Indeed, as we pointed out in our submission, the Moskowitz claim, offered in 1996 through the City government under its control, was that a negative CEQA declaration was justified because there could not be an environmental study of a license. We have

a number of documents showing the Moskowitz operations' continuing concern over the requirement for an environmental study. We never made an issue regarding the Isenberg amendment, we don't believe that the wealthy Dr. Moskowitz should have taken all of Hawaiian Gardens' redevelopment money.

The judgment by the Superior Court of Los Angeles County affirmed that point as well as the legality of the issuance of the building permit for the casino.

We believe that Mr. Sullivan is here referring to the settlement among parties of a lawsuit against the casino, Moskowitz, and the City, Los Angeles Superior Court case #BC136790. The Moskowitz operation has repeatedly referred to this settlement as legally justifying all of Moskowitz's indefensible acts. We note that the City was under Moskowitz's control before, during and after that settlement, vitiating any purported effect of the settlement of the case. It is also worth noting that the Moskowitz operation repeatedly sought the City Council's written affirmation of the "legality" of various aspects of the casino development; on one occasion the Moskowitz operation presented the city with a "certificate of estoppel" containing those avowals.

Third, the financing of the casino project by the city was not illegal or in violation of the Isenberg bill. The city left the contract to Dr. Moskowitz before the Isenberg bill was passed and signed into law. The Isenberg bill contained an explicit grandfather clause.

If Moskowitz's depletion of the Redevelopment Agency's funds was not illegal, it was shameful in the extreme. He was a wealthy man and he methodically beggared the city for years, to use its resources and bend it to his will. Moskowitz should be required to replace the \$15 to \$20 million in public funds he got from obedient city officials, whether or not it was "grandfathered" by the Isenberg bill. Certainly he should not be granted the privilege of a license to operate the casino built with strong-armed public funds.

Fourth, the former chief of police Walter McKinney was not run out of town by Dr. Moskowitz or anyone else. He was convicted of a felony for filing a false police report in a criminal case while he was the chief of police in Hawaiian Gardens.

This is a vile calumny and without a doubt Dr. Moskowitz knows it to be untrue. At the time Walter McKinney pleaded guilty to what he thought would be a misdemeanor, he was working as the Chief of Police of Desert Hot Springs.

Dr. Moskowitz most certainly did run him out of town. After McKinney started investigating Moskowitz's operations in Hawaiian Gardens, Moskowitz's attorney Beryl Weiner ordered several members of the City Council to "fire" him and Moskowitz ceased supporting the city, as he was obliged to do, with funds from the bingo which the city had granted him as a monopoly.

The entirely predictable result was that the city was forced to disband the popular police force – the force that Moskowitz had said could only be "saved" by passing the initiative for his casino. The force was disbanded in October 1997.

As to Walter McKinney's conviction, in December 1998, we note the following: the misdeed was his statement that he, not a homeowner, had retrieved a weapon discarded by a Mexican Mafia leader. He did it to protect the homeowner from retaliation by the gang leader. McKinney's prosecution was one of a few, if not the only, case brought against a police officer by then District Attorney Gil Garcetti, who had been under fire for years for failing to prosecute officers from departments with strong unions and, as the Rampart scandal would later show, far more egregious crimes. McKinney's conviction was reduced to a misdemeanor and subsequently expunged.

Fifth, Ray Rosas and his program did not lose their funding for refusing to support Measure A. His funding continued for 11 months after the passage of Measure A. He lost the funding when he improperly enforced(?) the Los Angeles County Department of Education. He vacated the building that he occupied in Hawaiian Gardens.

According to Ray Rosas, Robert Sullivan's remark that the Coalition for Youth and Family Services did not lose its funding until 11 months after Measure A passed is not accurate. Mr. Rosas maintains that the Irving I. Moskowitz Foundation did cut off funding to the program in retaliation for his refusal to support the casino and that it did so in advance of the referendum. Mr. Rosas says the agency was able to continue its operations for some time afterwards because it had set aside about a quarter of its funding from the previous year in anticipation of the possibility that it would lose financial support from the Foundation.

Mr. Rosas says Sullivan is also incorrect in stating the circumstances around the agency's decision to vacate the building where it was housed in Hawaiian Gardens. Rosas says that building had been rented to the non-profit on an annual basis by the Moskowitz Foundation for a token, one dollar yearly rental payment. Rosas says a few months after the casino referendum, the agency came under pressure to vacate the building but never received a formal, written request from the foundation asking it to leave. Mr. Rosas says the agency voluntarily relocated in advance of the expiration of the lease. Former board members of the Coalition for Youth Develop confirmed Mr. Rosas' version.

We also would like to note that Mr. Sullivan did not dispute Mr. Rosas' statement that he came under pressure from gang members on the payroll of the pro-Measure A campaign in retaliation for his refusal to support the casino referendum.

These are truths that are incontrovertible.

These statements, as the Commission can see, are hardly "truths" but are selective twistings of a few of the points raised by the Coalition, padded out with some maliciously misleading ad hominem attacks. Ignored are some of the very grave issues raised by the Coalition in our presentation:

- Moskowitz's choice of Ron Sarabi and Eric Chen to manage his casino. His failure to explain why he chose the most notorious managers in California adds credence to the Coalition's suggestion that he must have *wanted* the men, said

- by the Commerce Club's own auditors to have laundered political money, embezzled, tolerated sexual harassment of employees. We are surprised that Moskowitz's attorneys would not have taken the opportunity on the 9th to explain why he would have hired them.
- The Moskowitz-controlled Hawaiian Gardens City Council's \$219,000 settlement of the wrongful termination case of Moskowitz-loyalist Leonard Chaidez, soon after his election to the City Council.
 - Moskowitz's pocketing of millions of dollars from the "non-profit" bingo he runs in Hawaiian Gardens – and the \$323,464 in bingo funds that went missing between the Moskowitz-controlled Public Safety and Police Foundation and the City of Hawaiian Gardens.
 - The "stealth language" Moskowitz's attorney inserted in the Disposition and Development Agreement (DDA) that he can invoke at any time to "justify" ceasing to pay casino revenue taxes to the City of Hawaiian Gardens. ([For more details, please click here.](#))
 - The bond indebtedness Moskowitz forced the City to take on to pay for his casino and his lawyer and for unnecessary litigation he prompted with businesses ejected from the casino site.

Listening to the opponents reminded me of some of this country's darkest days, which I happened to live through as did many here in this room. I refer to the tactics of Sen. Joseph McCarthy when he accused loyal Americans of being traitors, communists, spies, sexual deviants. He had no evidence against these people so he used innuendo, rumor, gossip, and by simply waving so-called documents that contained evidence of criminal activity by people.

We find this is a bizarre assertion by the representative of the (absent) applicant who has for years persecuted, maligned, punished and suppressed all political opposition to his corruptively influenced use of Hawaiian Gardens as a municipal structure for his gambling activities. As the Commission is aware, we have submitted copious documentary evidence supporting our claims that Moskowitz falls short of numerous sections of the gambling code and should be denied a gambling license. We do not allege that these egregious acts are crimes (although some may have been). We do, however, note in our November submission, that the Commission is the first government agency with the express powers to exert control over Moskowitz's actions as the threats to the public welfare that they are.

I call on this commission to repudiate the opponents of Dr. Moskowitz for using these same tactics.

We urge the Commission to embrace the legislative intent of the gambling code and deny Moskowitz's license application.

I conclude my response now and introduce David Moskowitz...

DR. DAVID MOSKOWITZ, son of Irving and Cherna Moskowitz

Good afternoon Chairman Smith and commissioners. I am Dr. David Moskowitz. Dr. Irving Moskowitz, the focus of these proceedings is my father. When this hearing commenced I was not planning to speak. The events and contents of the hearing on December 18 however, compelled me to address the commission. You the commission have been charged with determining the suitability of my father for a permanent gaming license. As you are well aware, the division of gaming has recommended approval of this license.

The process by Mr. Lockyer's staff was methodical and comprehensive, taking over four and a half years. Much of this delay was due to the vociferous and voluminous opposition from his political foes. Every one of their allegations was examined and cleared by the division of gaming with complete cooperation and an abundance of patience from my parents.

Because we are not privy to the Attorney General's findings, we cannot comment specifically. We are, however, bemused at the thought that the Justice Department investigators could "clear" Moskowitz of his failures to disclose material facts, such as his failure to disclose his negotiations with other card clubs.

Now this opposition wants to reexamine these very same allegations here in these public hearings.

I have found their presentation exceptionally distasteful. Facts have been manufactured, statements have been slanderous, these people whose political agenda lies in another country have attempted to enlighten the gaming commission with what is best for a city where they have never lived and most have never visited.

If Dr. Moskowitz had really looked at our website he would have noted the obvious: our political agenda is equally concerned with Moskowitz's abuse of Hawaiian Gardens and his efforts to thwart Israeli-Palestinian peace. The Jewish members of our Coalition are mortified at the way Moskowitz has taken advantage of an unsophisticated city and we are determined to show Hawaiian Gardens' predominantly Latino residents we do not condone his behavior.

Repeating here what we replied to the identical assertion of Moskowitz attorney Sullivan, many opponents of licensing Moskowitz have lived and/or worked in Hawaiian Gardens, or have extensively studied Moskowitz's decade-plus of abuse of the city. Moreover, it is important to note that, in addition to the opponents of the license who attended the Commission's December 18th and January 9th hearings, there are several former officials who wanted to testify against the license but were afraid that they or their families would be harmed in retaliation. It is also important to note that some opponents of Moskowitz have felt it necessary to move out of Hawaiian Gardens.

As to slander, we have no need to engage in it. We have facts and that is what we have brought to the Commission. By contrast, as we note throughout this response, the Moskowitz representatives have freely slandered us and our associates – as if they believe that if they depict us harshly enough, the Commission will forget about the facts that disqualify Moskowitz as a licensee.

As an example of misstated facts, it is Beliak's assertion both to you and all over the coalition's website that estimated revenues for Hawaiian Gardens casino since opening are above \$150 million per year. In fact, the average total gaming revenues since opening are just above \$30 million per year and just over \$60 (I think he said 60, not 50) million last year, which was the best year ever. Please note that these are gross gaming revenues; as with any business payroll taxes and a multitude of other expenses must be deducted before profit is realized. These numbers, these total gaming revenues, are a matter of public record and very easy to obtain.

Since it was not particularly germane to our core arguments against the license (largely ignored by the rebutters) we simply took the \$150 million number from a news story. The *New York Times* has used it (Charlie LeDuff ("California Bingo Plays on World Stage," November 25, 2002). We would like to point out that if the casino's total gaming revenue numbers are, as David Moskowitz suggests, "very easy to obtain," the *New York Times* with all its resources would be in a better position to acquire them than would a small non-profit.

It is telling that the young Dr. Moskowitz focuses on this irrelevant number rather than our rigorous analysis of Moskowitz's use of the non-profit bingo funds under his sole control, millions of dollars of which have found their way into his pocket. And we also note with irony that when an interim City Manager told the Hawaiian Gardens City Council, that, contrary to the claims of casino management, it was entitled to a percentage of tournament money amounting to \$3 million, he was literally, fired on the spot by Councilman Chaidez and his colleagues.

The coalition's use of the assassination game that many of them have referred to, that did appear on my mother's website, is particularly abhorrent. I remember vividly the day my mother called to tell me that this deplorable game was placed on her website. She was more upset than I can ever recall. And I did some things that would probably challenge them. Someone had used her credit card and personal information to infiltrate her site and insert this game. She had it removed the moment she found out about it, within hours. Peter Siggins (sp?), the chief deputy to the attorney general, Bill Lockyer, and the FBI were informed by the Moskowitz attorneys and requested to investigate who was responsible for hacking into her website. The coalition, however, has continued to use this sham to further their character assassination of my parents.

We answer fully below in our response to the rebuttal of Beryl Weiner.

The coalition has attempted to link the foundation of Yitzhak Rabin's assassin, Yigal Amir, merely because my parents contribute to the Bar Ilan University. This makes about as much sense as blaming any Harvard University benefactor for the subsequent actions of Ted Kaczynski, otherwise known as the Unabomber.

Time after time, the Moskowitzes have donated to causes and projects that predictably result in political violence. Most notable in this respect is the tunnel he financed beside the Western Wall in Jerusalem; its opening sparked predictable rioting that took 73 lives. (Unabomber Ted Kaczynski killed three people and maimed 23.) We have made plain in our public statements, as well as in our submission that we do not challenge the Moskowitzes' constitutional right to political speech and association. We just point out that their repeated embrace of violent political means disqualifies them for a casino license.

Yet another example of the misinformation propagated by the coalition came from Jane Hunter and Ed Asner here today. They stated, 'We heard from an investigative reporter that Irving Moskowitz runs another bingo club in Long Island and he did not disclose this on the application for his gaming license.' It would have been quite easy for them to research this and find out that my father did indeed own property in Long Island until 1993. He leased a unit that operated a bingo club there. This organization has no relationship whatsoever to the foundation or family. The relationship was strictly as landlord and tenant. At no time did he apply for or conduct bingo games in New York or any other state other than the bingo club that he runs in Hawaiian Gardens. And this fact is easily checked by anyone who is interested in the truth.

We are very interested in the truth because we understand that the Commission will make its decision based on the truth.

But this fact was not "easily checked." We tried very hard to find the undisclosed bingo. The Coalition is a small non-profit based in California. It does not have the resources to research all of Irving Moskowitz's business enterprises and particularly ones outside the state. We raised what we considered to be a serious issue. Failure to report the operation of a past gambling enterprise on a California casino license application would be a serious omission. We feel it would have been better if Moskowitz had acted in the spirit of full disclosure and discussed his landlord tenant relationship in his application. The Coalition remains curious about the exact nature of his relationship with this gambling operation and urges the Commission to press Mr. Moskowitz to explain in detail his connection with the Long Island bingo parlor – including but not limited to – naming the tenant which ran the establishment on his property and by providing a copy of the rental agreement he entered into with the bingo operators.

Ms. Hunter also intimated there are secret shareholders in the Hawaiian Gardens casino. This would certainly be a surprise to our family. Irving and Cherna Moskowitz own 100% of Hawaiian Gardens casino.

We did not "intimate" secret shareholders. We produced documents showing options agreements -- Moskowitz's offers to other card clubs to buy shares in his Hawaiian Gardens casino. We also produced a contemporaneous casino registration form on which Moskowitz swore under oath that he did not contemplate having other owners. We believe that statement, an apparent lie about a material fact, should, of itself, be cause for the rejection of Moskowitz's application. Because we have heard persistent

rumors over the years of secret shareholders in the casino, we asked the Commission to investigate.

I'd like to go back in time for the moment to 1988, when the city of Hawaiian Gardens lost of the support of an existing bingo club because of improprieties. The city was near bankruptcy and desperately looking for a reliable foundation to take over. Dr. Moskowitz was approached because of his excelled relations with the city. The Irving Moskowitz Foundation had been in existence for 20 years at that time and was solely funded by the Moskowitz family. They had been responsible for many grants, including once to Bar Ilan University for \$250,000.

It is unclear why Dr. David Moskowitz returned for a second time to Bar Ilan University. But it is notable that he doesn't mention the Moskowitz Foundation donations of \$750,000 to the Kiryat Arba settlers who repeatedly attack the Palestinians in neighboring Hebron. He also doesn't mention foundation donations of over \$5 million to Ateret Cohanim, also with a record of attacks on Palestinians.

At that time Dr. Moskowitz, my father, made it clear to the city of Hawaiian Gardens council that the foundation's priorities were with Jewish causes. The foundation has supported many worthwhile projects, many of which you have heard here and I will not repeat. And he has been a partner in strengthening and enriching many programs that have made Hawaiian Gardens flourish.

This is not what City leaders at the time told us. And, indeed, why would the City Council go against the Sheriff's recommendation not to license Moskowitz, if it did not expect him to devote the bingo to the city's support.

The use of that word "flourish" shows the young Dr. Moskowitz to be immensely cynical. It would be hard to find a sadder, more blighted city in Southern California. Irving Moskowitz did much to make it that way, as he brought it under his corruptive influence and installed a loyalist government that shows no interest in improving things for residents, much less making the city "flourish."

My father asked me to get involved with the casino in 1999. Initially I served as a member of the credit committee, but the past year and a half I have served as his assistant in all aspects of casino management. This primary directed to me (?) was to make sure that we were compliant with all gaming regulations, but above all else protect the reputation and good will that we have established with the city and state governments over the years. I am very proud of our relationship with the Division of Gaming Control. I believe ownership has earned their trust. We have and will continue to take every reasonable step to assure compliance with regulations and maintain a clean environment in the casino.

We call the Commission's attention to the nature of Dr. Irving Moskowitz's relationship with Hawaiian Gardens – a long reign of political repression secured through corruptive influence (which we documented in our November submission). And we note that the slanderous allegations in the Moskowitz rebuttals indicate a lack of respect for the state that could hardly be expected to protect a cherished relationship. Moreover, airy phrases about compliance and a clean environment hardly begin to account for the

serious allegations raised at the hearings about the past and current behavior of managers Ron Sarabi and Eric Chen.

Wallace Albertson was here December 18, an honorary chairperson for the coalition, challenged Tri-City Hospital's integrity. My father leases the hospital to a nonprofit corporation. This is a 501c3 corporation and is controlled by a board of directors that answer directly to the attorney general of the state of California. My father is neither an officer nor director of this corporation.

The board of directors for the 501(c)(3) corporation that runs Tri-City Regional Medical Center is comprised of 2 people, Maynard Sarvas and Tri-City's president Arthur Gerrick, both of whom are long-time associates of Irving Moskowitz.¹ In 1988, Moskowitz named Sarvas on a license application as the manager of his bingo.

Cerritos Gardens General Hospital Company, a private company run by Moskowitz, still retains ownership of the property and the hospital building and charges Tri-City more than a million dollars in annual rent.² Under the terms of the original lease agreement, Moskowitz's private firm has the right to resume control of the property at any time, regardless of whether the lease remains in effect or not.³ Immediately after Tri-City Regional Medical Center was converted into a non-profit, the Irving I. Moskowitz Foundation⁴ donated \$4.9 million in tax-free proceeds from its Hawaiian Gardens bingo to the hospital.⁵

California state financing (UCC) records show that in 2000 the foundation made an additional loan to Tri-City. The state financing statement does not record the amount of the loan but it does indicate that the hospital pledged its accounts receivable as collateral.⁶ Two additional state financing records, dated February 2, 1999 and January 25, 2001, show the hospital is indebted as well to its landlord - Cerritos Gardens General Hospital Company. Whether he sits on the hospital's board or not, Irving Moskowitz is very much involved with Tri-City Regional Medical Center.

Contrary to Ms. Albertson's assertion that the hospital has provided no charity care, the hospital gave over \$3.2 million in charity care in 2002. The 990 tax returns for 2002 are available to the public, but apparently Ms. Albertson was unable to locate this information.

Ms Albertson's remarks on Tri-City's charity care (or lack thereof) were based on the most up-to-date health care statistics provided by the California Office of Statewide Health Planning and Development (OSHPD). According to OSHPD's 2002 financial reports (January 1 - December 31, 2002), last year Tri-City provided zero dollars in charity care (we are submitting a copy of Tri-City Regional's 2002 OSHPD financial report for your reference).

Traditionally, charity care is defined as services provided to patients who are unable to pay and for which the hospital does not bill. The federal government defines charity care as the cost of rendering free or discounted care to patients when the hospital does not

expect payment. The state of California, however, provides accountants no legal definition for what determines charity care. As a result, some health care providers use an expanded definition of charity that includes "bad debt" or unpaid bills or what the provider considers to be the unreimbursed cost of caring for patients that are enrolled in Medi-Cal and other indigent care programs. Although not reflected in the charity care numbers Tri-City reported to the state, this expansive definition of charity care may account for the charity care figure David Moskowitz's cited on January 9, 2003. If so, it doesn't include any patients whose bills are compassionately zeroed out before they're discharged.⁷

We also would like to point out that all hospitals in the state receiving federal funds are required to provide health care to Medi-Cal patients. California provides additional funds (referred to as Disproportionate Share or DSH) to help alleviate some of the financial burden for health providers treating a large number of Medi-Cal patients. As of 2002, Tri-City was not qualified to receive DSH payments⁸.

We think it worth noting as well that in 2002 Tri-City's administrative costs were over \$9 million and accounted for more than 30% of the hospital's total operating costs⁹. It is also more than the combined salaries and wages it paid to nurses and other non-management staff which only came to \$8.5 million¹⁰.

On average, administrative costs account for roughly 17.5% of total operating costs for non-profit hospitals of Tri-City's size (100-149 beds) in Los Angeles County¹¹. Take for instance, Foothill Presbyterian Hospital. Like Tri-City, it is a stand-alone, non-profit hospital with just a little over 100 licensed beds. It had twice the occupancy rate of Tri-City, four times as many emergency room visits and 50% more gross revenue than Tri-City but its administrative costs were only \$4.5 million dollars which is less than 10% of its total operating expenses and roughly half the amount Tri-City paid for the same type of services¹².

She also made quite an issue about the absence of an obstetrics department in the hospital. This decision was made by obstetricians in the community and not my father. She and Ms. Greenberg who you heard here today criticized bariatric procedures that are done there. These procedures comprise less than 10% of the annual revenue of the hospital. By the way, gastric bypass procedures are performed at UCLA and USC medical centers and are life-saving for those who require it.

These remarks were based on state health care data. Last year, 439 of Tri-City's patients underwent the bariatric procedure and, on average, they racked up \$50,000 in hospital charges each. Gross charges for those patients came to \$21,936,400 – representing close to a third of the hospital's gross charges for the year.¹³

Health providers' gross charges work much like the sticker prices posted at car lots, most insurance companies and government health care programs receive discounts. We have no ability to determine the size of the discounts Tri-City provides for particular procedures and therefore we can not verify the statement David Moskowitz made that bariatric procedures accounted for less than ten percent of Tri-City's total revenue in

2002. But since roughly one out of every four patients who received surgical treatment at the hospital had his or her stomach stapled, we would be surprised if they did in fact only represent 10% of total revenue.

What's more, in 2002 over 200 of the hospital's other patient discharges involved some sort of abdominal procedure such as an abdominal CAT-Scan, a procedure which is often associated with stomach stapling.¹⁴ The for-profit Center for the Surgical Treatment of Obesity is located within the Tri-City Hospital campus and generates many of the hospital's surgical referrals, including 15 "tummy tucks" performed last year. The hospital's 2002 discharge data strongly suggests that perhaps as much as half of Tri-City's surgical practice is tied to the for-profit Obesity Center.

While the Obesity Center, run by Dr. Mathias Fobi, charges patients it refers to the hospital for surgeries its doctors perform there, the hospital also would typically bill patients for the use of its operating and recovery rooms and other medical services it provides. Tri-City's IRS form 990 from 2001 indicates that year it paid the Fobi's private firm, FOCA Management Company, \$2,293,044 - more than its next four highest paid contractors combined.¹⁵ We found this information in the hospital's 2001 990 form, the most recent readily accessible available online through the Guidestar website (www.guidestar.com).

David Moskowitz is correct in saying that stomach stapling can be life-saving for those who need it, however, we would like to note that procedure is used by many whose lives are not in danger and catering to those who wish to have their stomachs' stapled out of a desire to lose weight has become a multi-billion dollar industry. Tri-City is a community hospital, and we do question whether the community is better served by providing bariatric procedures as opposed to obstetric services. Dr. Fobi has made numerous national television and radio appearances touting his surgical techniques and his patients come from as far away as Alaska,¹⁶ but the obesity center appears to be of little value to the community where it is based: last year, not one Hawaiian Gardens resident made the short trek across this mile-wide city to receive the procedure.¹⁷

The relationship of Dr. Moskowitz and the city of Hawaiian Gardens has been mischaracterized as a parasitic one. Nothing could be further from the truth. It has been truly symbiotic, with both sides benefiting from the association.

Parasitic is not a strong enough characterization. Predatory more nearly describes Moskowitz's relationship with the city, which is paying millions of dollars for a rich man's casino because he has total power over the government.

The city council and the entire population of Hawaiian Gardens made a calculated gamble, if you will. They gambled on a man whom they perceived as honest, reliable, and successful in that and past ventures in the city. He was and is a man of his word. Mr. Chaidez put it best: "The person who was going to run our casino was our friend." They backed Dr. Moskowitz and that support is now paying off handsomely. Beliak and his followers are disputing the process and rationale of the council members as if they know what is best for the city of Hawaiian Gardens.

It is inaccurate, as Dr. Moskowitz knows, to depict Hawaiian Gardens as an autonomous government acting of its own volition. His father has controlled the city for over a decade. Mr. Chaidez, as shown in both the 2000 report of the Joint Legislative Audit Committee and our November submission, is more of a family retainer than a public servant.

The coalition has spent years and hundreds of thousands of dollars throwing garbage in the form of lies, innuendo and libel at my parents because they disagree with their politics.

The Coalition has spent years researching and reporting as accurately as it could Moskowitz's control and abuse of Hawaiian Gardens and his support for violence-prone political causes outside the city. We have not engaged in innuendo and libel, because we know that, if we are to have a chance of persuading the Commission to reject Moskowitz's license application, we must present documented evidence of his failure to meet specific criteria of the Gambling Code.

They have not given one cent to help the people of Hawaiian Gardens.

With their witnesses on December 18th and January 9th, and now with their rebuttal, the Moskowitz representatives have sought to fuse the City's financial well being with Moskowitz's operation of the casino, creating a false dichotomy. Forgive us for stating the obvious when we say that denial of Moskowitz's application would not end Hawaiian Gardens' access to the casino revenues on which Moskowitz has made it dependent. It is evidence of the City's abject vassal relationship with Moskowitz that both witnesses and Moskowitz representatives unswervingly connect bankruptcy with denial of the license. It hardly bears saying that, if the Commission denied the license application today, hopeful buyers would be clamoring to give the City a much more secure financial future than it has under Moskowitz – and respect and political autonomy too.

We have not given a cent to the people of Hawaiian Gardens? Are we expected to compete with Moskowitz's corruptive influence in order to have standing to oppose his license? We believe that the success of our campaign to deny Moskowitz the privilege of a state gambling license will benefit the people of Hawaiian Gardens far more than competing with Moskowitz's tactical handouts or free trips (such as the one Moskowitz recently financed for residents of the local trailer park, as described to a Coalition supporter by a resident at the January 9th hearing). We want the people of Hawaiian Gardens to have back their political autonomy and the public funds that Moskowitz has taken from them. Freed from his corruptive influence, they can certainly find a buyer for the casino that will give them an honest financial deal and release them from Moskowitz's political control.

Besides not helping the people, they insult them by suggesting that they, not the citizens of Hawaiian Gardens, know what is best for the city. It is clear that the city is in a much better place due to the efforts of my father and those in the city council who have the foresight to build for the future.

We do not insult the people, who have not been able to freely select their political leaders for many years and for the last two years have not even ventured to address the Moskowitz-controlled City Council during its public comment periods. We believe it is unseemly for David Moskowitz to portray the city government his father controls as autonomous or committed to the city's future. We note that no one came forward to run for City Council this year and the election was canceled.

Perhaps Mr. Plotkin, attorney for the coalition, said it best: "This is not about politics. This is about the character of the man." He stated that my father's application doesn't quite pass the smell test. In truth, the stench is emanating from the tactics used by the coalition in these hearings and on their website.

The Moskowitz application, with all its failures to disclose material details and with all its burdens of Moskowitz's acts of corruptive influence and electoral distortion in Hawaiian Gardens, sinks of its own weight, not because of any smell associated with the stopmoskowitz.org website or the earnest and truthful oral testimony of those opposed to granting Moskowitz a gambling license.

I thank you, commission members and Mr. Melnicoe for your efforts to maintain these proceedings with some resemblance of decorum. I am confident that you will pass the political and personal attacks that my father and family have endured in these meetings, and grant the permanent license he deserves.

There were no breaches of decorum at the hearings. Dr. Moskowitz seems to be saying that all the evidence presented showing Moskowitz's unsuitability for a license was a personal or political attack to be endured as though some inherent privilege entitles Moskowitz to have a license no matter what he does.

I now present Mr. Beryl Weiner, family attorney to the Moskowitz family for about 21 years.

BERYL WEINER, Moskowitz attorney

Mr. Chairman, members of the commission and staff. I am Beryl Weiner, I represent the Moskowitz family. I would like to tell you a little bit about what (inaudible). This casino project in Hawaiian Gardens started in June of 1995 and it started when the city fathers contacted Dr. Moskowitz and asked him to support the construction of a casino on his property in Hawaiian Gardens. Why? First, because the city had a deficit of over a million dollars. The city had been funding that deficit with redevelopment funds for the preceding three or four years. The redevelopment agency had run out of funds and under SB100 there was a deadline of December 31, 1995 to legalize casinos in the state, and if they hadn't been legalized by that time there would be no opportunity for the city to have a casino.

Attorney Weiner presents a revisionist and selective history. The Hawaiian Gardens Community Redevelopment Agency (CRA) was broke because it had tied up its funds in Moskowitz's development, in part because, in 1993, the Moskowitz operation substituted

its own DDA (Disposition and Development Agreement) for the one drafted by City Staff. . The Joint Legislative Audit Committee report chronicles how Moskowitz – through Weiner -- repeatedly delayed paying his obligations to the CRA, prior to 1995, and how the two, through that DDA and corruptive influence, used agency money rather than Moskowitz's private funds in every phase of the casino development, including millions of dollars in unnecessary litigation. In 1996, when Moskowitz controlled and micromanaged a majority of the Hawaiian Gardens City Council, the city did loot over \$4 million from the CRA. The City became, and has been to this day, totally dependent on Moskowitz's dole.

There are conflicting accounts as to whether members of the Council requested the casino. More relevant is the evident Moskowitz assessment that it would be a very hard sell to the voters; hence he paid dozens of gang members and city officials to "campaign" for the authorizing initiative. As we detailed and documented in our submission, in addition to gang intimidation of voters, the Moskowitz-installed City Clerk, repeatedly tampered with the electoral process to skew the outcome to Moskowitz. As Ray Rosas testified on December 18th, Attorney Weiner made continued funding of his program, Coalition for Youth and Family Services dependent on his support for the casino. (Moskowitz has never restored the gang-diversion programs offered by the Coalition for Youth and Family Services.)

Why did the city want a casino in Hawaiian Gardens? Very simple. The retail business including the Plowboys market that was alluded to, on this property, generated a total of about \$100,000 annually to the city. And the city felt that \$100,000 a year would not be enough to make up an over-\$1 million annual deficit. And it was felt that a casino on this property would be able to generate somewhere between \$2 and \$3 million annually for the city, which would not only erase the city's deficit but give the city funds in order to provide other services that the city wanted to provide and couldn't.

Again, historical revisionism. Plowboys was only one of several thriving, regionally popular businesses on the site. There might have been more such businesses to draw shoppers to Carson Street, but for years, Moskowitz "banked" all the best commercial land, promising a big-box retail development. Moskowitz had estimated the big-box (Smith's) supermarket, alone would generate \$250,000 in yearly sales tax for the city.

The city's redevelopment agency ran out of funds because in 1993 city officials allotted \$5.5 million in redevelopment funds to buy several acres of prime commercial land and sold it at half price to a corporation controlled by Moskowitz. The land was intended to be used for the development of the "big-box" development that included the Smith's supermarket. By August of 1995, Moskowitz still had not built the retail complex he had promised.

The city was facing a deficit of over \$1 million in part because the Smith's supermarket and other new retail stores had not materialized. At the same time, some of its existing tax-base was destroyed when businesses that had been located on land the city condemned and sold to Moskowitz relocated outside of the city limits.

By the time Moskowitz let it be known the Smith's supermarket would not be forthcoming he was sitting on the Hawaiian Garden's most important commercial properties, approximately 20 acres close to the Carson Street exit of the 605 Freeway. Had he carried through on his commitment to build the food and drug retail complex, the city might never have needed to consider licensing a casino to cover its budget gap.

Moskowitz's casino site would easily have supported numerous retail businesses that would have raised the quality of the entire neighborhood, which is still a sea of deprivation surrounding his casino.

I'm pleased to tell you that as of today, those projections have been exceeded by a factor of over three – that is, at this time, the city is receiving from the casino over \$7 million a year.

According to an oral budget report given by Hawaiian Gardens' finance director Michael Blazenski at a City Council meeting on July 22, 2003, the City would actually have experienced more than a million dollar *deficit* had it not received \$3 million from the casino's jackpot poker revenue that had accrued but had gone unpaid for several years. Interim City Administrator Raul Romero discovered the missing money. In his remarks before the City Council on July 22nd, Romero noted that no one in Hawaiian Gardens government had noticed the missing revenue because they had failed to review the casino accounts during the last five years. His thanks for putting the city on firmer fiscal ground? At that same meeting the city council chose to terminate his services by a 3-2 vote.

What does that mean to a city that before this casino was opened was taking in \$2 million a year? What it means is that instead of having \$2 million a year to spend, the city has \$9 million to spend and you've heard people in the city who have appeared today before the commission talk about the significant benefits that this casino has provided to them and to the city. And I might add that Hawaiian Gardens is probably one of the few cities in the state of California today that has a surplus annually and that will not be adversely affected by the budget cuts that exist in the state that are reducing state funds that are going to every city in the state.

As we stated above, we would expect that the casino should be giving the City \$8 million or \$9 million annually– under any owner. But that has nothing to do with Moskowitz's suitability for a license to operate it.

Now, when this project started, and the project started in an election on November 21, 1995, there was significant opposition. Ironically, at the time, the opposition came from other competing card clubs that didn't want to see a casino open in Hawaiian Gardens because they felt that it would take away from the business that they were able to generate.. And it's a result of that opposition (by the way it was funded with over \$1 million), the first blow was struck and that was a lawsuit that was filed against the city of Hawaiian Gardens, the Hawaiian Gardens redevelopment agency and Dr. Moskowitz and his related entities, challenging every aspect of this project, from the election to the initiative to the casino ordinance in Hawaiian Gardens to the California environmental quality act to the Disposition and Development Agreement, challenges based on the

grounds of open meetings act, health and safety code, California elections code, redevelopment law. There was no stone left unturned in connection with this challenge.

We believe an investigation would show that the “million dollars” was the other clubs’ entire budget for campaigns in a number of cities against pro-casino initiatives. We would be surprised to learn that the campaign spending by other card clubs was anywhere near the half-million dollars that Moskowitz poured into the election.

We know that part of whatever funds the card clubs spent paid for protection for campaigners against the casino, who were being physically attacked by thugs on the Moskowitz-financed “United Citizens to Save Hawaiian Gardens – Yes on A,” and that they used intimidation tactics to win votes. It is enormously salient that Weiner offers this misleading fact rather than addressing Moskowitz’s half-million dollars that financed the gang intimidation and funneled money to over a dozen city employees or commission members, including \$1,767.92 to the wife of City Council member Robert Canada.

We note that the card clubs joined local opponents in the litigation after the Moskowitz-controlled Hawaiian Gardens government refused to let them participate in the casino license application process, essentially considering only Moskowitz’s application.

All of the actions, not just of Dr. Moskowitz and the casino, but also of the city and the redevelopment agency, were resolved and they were resolved by a final judgment in favor of the city to the redevelopment agency and Dr. Moskowitz by a judgment by a Los Angeles Superior Court that was entered in June 1997.

These actions were not resolved. There was a settlement of the court case with the Hawaiian Gardens parties acting under Moskowitz’s control.

That was disclosed to the attorney general’s office in connection with its investigation.

Indeed, it was disclosed –unlike much other Moskowitz litigation, which Moskowitz failed to include on the list of cases submitted with his application.

More importantly, the attorney general’s investigation is undoubtedly the most thorough, the most comprehensive, the most detailed, and the longest of any investigation the attorney general’s office has conducted in connection with any gambling license application. It encompassed over six and a half years – 2 years under the former attorney general Don Presley(?) [tape ends] what was alluded to at the last hearing was well, Bill Lockyer is the one who will prove this. That’s really not fair, and that’s not an accurate statement. Because while it’s true that Bill Lockyer approved this and while it’s true that the former attorney general, Don Presley(?), approved this, this is after an investigation by 20 professionals who are employees of the attorney general’s office – auditors, detectives, investigators, accountants, attorneys, analysts, at every possible level. My office, and I’m sure the attorney general’s office, contains boxes and boxes and boxes of material, all of which was provided, not simply in connection with the application itself, but in connection with every single issue that was raised by the Coalition. Because what you’re hearing today does not include anything that has not

already been thoroughly investigated by the attorney general's office and by its investigators.

We are impressed that Weiner feels compelled to instruct the Commission on the actions of the Attorney General, as though the Commission was not privy to those actions. We are, of course, not privy to the Attorney General's actions, but we certainly do know what we gave his Division of Gambling Control. We are confused and dismayed that some of the evidence we gave the Division did not convince it to recommend against the license. From our reading of the regulations we believed that Moskowitz's failure to disclose the lawsuit the ABC School District filed to obtain an environmental study of the casino which would abut one of its schools, would disqualify his application. And we thought that the documentation we gave the Division showing how over \$300,000 vanished from one of the bingo-funded foundations when it was in the custody of Moskowitz loyalists in Hawaiian Gardens would be sufficient grounds to recommend denial. Well, we were wrong about that.

But Weiner is wrong in asserting that the Attorney General's office has reviewed *all* of our evidence. Several items we called to the Commission's attention were not in our possession when we were interacting with the Division. The options agreement drafts in which Moskowitz secretly offered other card clubs shares in his casino was one of the items we didn't have at that time.

And as you are aware, the attorney general's office has recommended approval of this licensing application, it has concluded that Dr. Moskowitz is fit to hold a gambling license, and there is no competent evidence to suggest otherwise. And this is an investigation that took place not just in the United States, but also investigators went to the state of Israel in order to conduct its investigation there to determine if Dr. Moskowitz was complying with Israeli law, which of course it concluded that he is. So what you're hearing today is the Coalition asking now for a third bite of the apple. They didn't like the result of the litigation that involved this whole (inaudible word). They don't like the attorney general's six and a half year investigation. And now they are asking you to revisit all these issues once again. I submit to you that nobody could conduct or has conducted a more thorough and complete investigation than the attorney general's office did.

When we listened to Attorney Weiner's impassioned promotion of the Attorney General's investigation, here and at the end of his presentation, we were impressed that he devoted so much of his statement to this argument, rather than bringing forward facts that might put some of the Coalition's evidence in a more favorable light for his client. Instead, as will be seen below, he used the protected forum provided by the Commission to lie about those who testified of their first-hand experiences with Moskowitz, as if smearing them would cleanse Moskowitz's record. We also want to reiterate that we have presented facts to the Commission that we did not have at the time of the Attorney General's investigation.

Everything that was required to be disclosed to the attorney general's office was disclosed. You heard Mr. Asner talk about the MALDEF lawsuit, the lawsuit by the Mexican American Legal Education and Defense Fund against the Moskowitz Foundation – that was disclosed. I might also point out to you that that lawsuit on

January 5 of this year was dismissed by District Judge Carney. So there is no more litigation in that involvement. But more importantly, the dismissal of that lawsuit was preceded by specific court orders that concluded that the Moskowitz Foundation had fully complied with law in connection with the operation of the bingo club.

Ed Asner read a long list of cases that Moskowitz failed to disclose. Many of them reflect materially reflect on his qualifications for a gambling license. Asner also mentioned Globe Mart of Long Island, which was not on the list of businesses Moskowitz disclosed on his license application.

As to the MALDEF suit, MALDEF is refileing it . And the order was extremely narrow, limited to a section of the Penal Code requiring that workers be volunteers, which the judge interpreted to prohibit them from suing for back wages. In effect the order said that Moskowitz could not be sued for the reprehensible act of using the law to make immigrants work for tips alone. That is a far cry from orders “that concluded that the Moskowitz Foundation had fully complied with law in connection with the operation of the bingo club.”

There was mention of compensation that was paid by the foundation to Dr. Moskowitz. I will point out to you, and again this is an issue that was fully disclosed to the attorney general's office in connection with this investigation. What Dr. Moskowitz received in compensation number one did not come from bingo funds and number two is the equivalent of about 50 cents per hour for all of his time during the nearly 35 years that the foundation has been in existence. I don't believe that anybody could possibly challenge that rate of compensation. More importantly, it's been fully investigated and it's (inaudible) and you've also heard reference because what is the Coalition's beef really about?

The \$507,383.00 most certainly did come from bingo funds. Here the issue is not disclosure or investigation, but seemliness, good character. We ponder the need for remuneration when the “work” involves writing less than 100 checks per year, distributing millions of dollars earned by exploited immigrants to extremist organizations presumably selected for the largesse by political affinity. We believe the excessive salary should be viewed in conjunction with the millions in rental fees Moskowitz has taken from the bingo and the bingo-funded hospital. And we would note that Moskowitz has also given at least \$2.7 million from the bingo and bingo-funded foundations to attorney Weiner's law firm. That sum seems enormous.

The beef is found on its website. It talks about how it's important to support the Stop Moskowitz campaign because it's the way to support the Israeli-Palestinian peace. Those political issues have nothing whatsoever to do with this gambling application license. More importantly that's been investigated by the attorney general's office and all of Dr. Moskowitz's activities in involvement with his Israeli activities have been determined to be lawful. You've also heard their plea that somehow Dr. Moskowitz has bankrupted the city of Hawaiian Gardens. Clearly, if anything, would be worse if the case.

And of course you have heard about the Moskowitz assassination game. Ironically, the assassination game was on the Internet maybe for about 4 hours, yet continues to

remain on the stopmoskowitz website to this day. Again, this is an issue that was fully discussed, it was fully disclosed, and it was fully investigated by the attorney general's office. I also might point out to you that the attorney general knows that on January 24, 2002 there was a judgment entered in the Los Angeles Superior Court. In a lawsuit brought by Cherna Moskowitz, Dr. Moskowitz's wife, against the perpetrator of this hoax. And the judgment, which is final, fully exonerates Ms. Moskowitz, Dr. Moskowitz and any one related to the Moskowitz organization from any culpability and responsibility relating to this website. I don't understand why the coalition continues to belabor this issue except that they wish to continue their smear campaign against Dr. and Ms. Moskowitz, and this is the way to do it.

Having heard this statement, with some consternation we rushed to find and examine Los Angeles Superior Court Case # BC231927 filed by Cherna Moskowitz against webmaster Jay Sidman. We were prepared to apologize, but the case did not convince us that an apology is in order. It is a default case, with \$70 (seventy dollars) awarded as damages to Moskowitz. Since it is a default case there is no way to test the facts alleged by Cherna Moskowitz in the normal adversarial process. And after studying it, we concluded that the purpose of the lawsuit appears to have been to position the Moskowitzes to have plausible deniability of the claim that they created the website with foreknowledge that it would not be contested. The court file does not give us a ready answer or easy avenue to attack the bona fides of the claim made that Moskowitz was the victim of an internet hoax .

We believe that your review of the Sidman file would also raise the following questions concerning that case and Weiner's assertion that the assassination game issue was resolved by the court in favor of Mrs. Moskowitz:

- It is unclear that the California courts would have jurisdiction over Mr. Sidman since he was a resident of New York and was served in New York. In order to obtain jurisdiction over a non-resident there has to be evidence showing a connection with California such as conducting activities in the state. The case file does not show that such a nexus exists. For example, cases have held that where one engages in conduct outside the state with the intent that it affect people or property within the state, that that is enough to establish a basis for jurisdiction. But it is not possible to whether the internet entities were operating in California or whether any reasonable person could conclude that the person establishing the website tried to affect persons or property in California. Certainly it could be argued that since Cherna Moskowitz is a resident of Florida no such intent can be inferred.
- If Moskowitz had a meritorious claim against Sidman why didn't they attempt to depose him in New York before proceeding with a default against him? They made this a major issue in their public statements and in the lawsuit but they did not seem interested in really proving what they said. Again, they may have tried to do so but they would have probably sought a California court order to take the deposition and no evidence that they did was in the case file.

- Moskowitz's declaration in support of the request for default judgment was fatally defective since it does not say where it was signed. But since this was not an adversarial proceeding, no one pointed this out to the court and the court appears not to have been concerned with the omission.
- Moskowitz's declaration makes a quantum leap in identifying Sidman as the culprit. She does not say he did it (i.e., created the website) but in the default papers (Page 8, Lines 17-21) she draws conclusions that are not supported by her personal knowledge. It is left to Attorney Weiner in his declaration to make the case that Sidman did it. But he bases his conclusion on an assertion, without evidence, that Sidman acted without Moskowitz's knowledge or consent. Obviously, the only person who really knows that is Sidman.
- Probably the most startling thing about the default process is to read the statement of decision (and remember this is a document that Weiner's office prepared and the Judge rubber stamped since it was a default) which establishes Sidman's purportedly intentional and outrageous conduct, expecting that the court would impose major damages against him, only to find no damages were assessed against him except for the \$70 fee paid to set up the assassination site and apparently charged to Cherna's credit card. This may be explained by a technical problem that would require the Plaintiff to give notice of the amount of damages sought against the defendant before default damages could in fact be entered. But why would Weiner's office not give the notice which could easily have been served on Sidman?

You've heard Ronald Silverman speak not just today but also on December 18, about what he feels was shoddy treatment he received at the bingo club. I point out to you that his lease agreement was a month to month agreement that was terminated as the Moskowitz Foundation had a right to do. It was terminated because in the view of the Moskowitz Foundation he did not meet appropriate health standards. If he has a dispute about the money that was paid he has a remedy(?) let him file a lawsuit. I can assure you that the Moskowitz Foundation was fully within its rights to do what it did.

This is a heartless calumny. According to the Silvermans, their concession never had anything less than an A from the health authorities. We also find it inappropriate for a deep-pocketed potential defendant to mock those he has aggrieved. It is especially inappropriate in this context, where the Moskowitz representatives are challenged with reestablishing their claim to qualification for a license.

I'd like to conclude by urging you to do what you have done in connection with the gambling license applications that previously have come before you. Six and a half years for an investigation is a long time. You have heard the coalition say 'please don't act on this and further investigate.' How much more investigation should a license application require in order for the application finally to be acted upon? This commission has approved every permanent license application where there has been a recommendation by the attorney general's office. While I have not seen it, it's my understanding that the recommendation of the attorney general is a comprehensive, long document that discusses all of these issues. I implore you to bring this circus to a conclusion and grant

approval of this license so that [[?]] Dr. Moskowitz's good name and reputation and all of the work that he has done in this community can finally stop(?).

We cannot speak knowledgeably about the Attorney General's recommendation, but we are concerned about its scope, because Weiner so adamantly prefers it to a possible investigation by the Commission. It strikes us that an applicant with nothing to fear would invite and welcome the Commission's scrutiny.

Thank you very much. I would add that if the commission has any questions, as with the attorney general, we would be happy to respond to them. Thank you.

COMMISSIONER ARLO SMITH:

The commission has in many occasions sent back to the attorney general requests for further investigation...They have also changed their recommendation on a number of occasions where they have recommended issuance of license and we have (inaudible)... so I just want to correct that.

¹ Gardens Regional Hospital - DBA Tri-City Regional Medical - 2001 federal tax return.

² According to Los Angeles County property records Cerritos Gardens Hospital Company currently owns the property at the hospital's address. Irving Moskowitz is identified as the company's managing general partner in his casino application submitted to the city of Hawaiian Gardens. Hawaiian Gardens Card Club, Inc., Information in Support of Application for Card Club License, January 25, 1995.

³ Gardens Regional Hospital and Medical Center, Inc. 1997 1023 IRS application for Recognition of Exemption Under Section 501c3 of the Internal Revenue Code - Exhibit E, "Lease by and Between Cerritos Gardens General Hospital Company, a CA limited partnership and Gardens Regional Hospital and Medical Center," November 25, 1997. The lease agreement notes that the hospital's dba (doing business as) name is Tri-City Regional Medical Center. p. 36, Para 25.1. J.E. Gitterman and M. Friedlander, "Health Care Provider Reference Guide," Internal Revenue Service, 2003, p.17 - Retained Rights - A review of the underlying docs is necessary to determine if there is retained authority by the seller and on p. 11 it states, "Financial control may include the right to approve annual operating and capital budgets, strategic planning initiatives, and significant sales, leases, mortgages, or other transfers of encumbrances of real estate or personal property." It is worth noting that the lease between and Between Cerritos Gardens General Hospital Company and Tri-City includes a demand for an annual review of the non-profits financial statements.

⁴ Moskowitz and his wife Cherna have presided over the Foundation as President and Secretary Treasurer since at least as far back as 1988. Irving I. Moskowitz Foundation 990s, 1987-2001.

⁵ The Irving I. Moskowitz Foundation 1997 990, Statement 7, p. 28 (On p. 23 the Foundation notes that, "Concerning grants and allocations to Gardens Regional Hospital and American Friends of Mercaz Harav which are listed on statement 7: the donees have agreed under specified circumstances to return a portion of the grant to the Irving Moskowitz Foundation.").

⁶ UCC Record, California Secretary of State, May 15, 2000, debtors: Gardens Regional Hospital and Medical Center, Inc. and Tri-City Regional Medical Center, Secured Parties: Irving I. Moskowitz Foundation.

⁷ If this is the case, we feel it is important to point out the basic distinction between bad debt and charity care which is the difference between uncollectible accounts arising from a patient's *unwillingness* to pay (bad debt) and those arising from a patient's *inability* to pay (charity care). Many hospitals attempt to collect bad debt from uninsured patients who are members of the working poor and therefore also unable to pay, resulting in ruined credit ratings and liens being placed on homes and the garnishment of wages. We do not know what Tri-City's collection practices are like in this situation but this is the reason why bad debts are not generally considered to be the same as charity care.

⁸ OSHPD financial data 2002.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ 2002 OSHPD Public Patient Discharge Data and OSHPD Annual Utilization Report of Hospitals and 2001 OSHPD financial data. and The International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM), National Center for Health Statistics, 2002.

¹⁴ Ibid.

¹⁵ Gardens Regional Hospital - DBA Tri-City Regional Medical - 2001 federal tax return.

¹⁶ *"Shrink Stomach, Lose Weight?" 48 Hours, July 13, 2000*

¹⁷ *2002 OSHPD Public Patient Discharge Data.*