



City of New York

OFFICE OF THE COMPTROLLER

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FINANCIAL AUDIT

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Deputy Comptroller for Audit

Audit Report on the Compliance of
Statue Cruises, LLC with Its License
Agreement

FM12-122A

July 2, 2013

<http://comptroller.nyc.gov>



THE CITY OF NEW YORK
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NEW YORK, N.Y. 10007-2341

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July 2, 2013

To the Residents of the City of New York:

My office has audited the compliance of Statue Cruises, LLC (Statue Cruises) with its license agreement with the Department of Parks and Recreation (Parks). We audit entities such as Statue Cruises to ensure that they accurately report all gross receipts, properly calculate the license fees due the City, and comply with certain non-revenue terms of the license agreement.

Under the license agreement, Statue Cruises is to operate and maintain three landing facilities (slips 3, 4, and 5) and adjacent walkways in Battery Park, Manhattan. Statue Cruises operates a ferry service between Battery Park and Liberty and Ellis Islands, a sightseeing cruise (Harbor Cruise), and other ferry operations such as day and night charters.

The audit found that Statue Cruises did not have adequate internal controls to properly account for its revenue reporting activities. As a result, we were not able to ascertain whether all revenue is being reported. For example, there were 108 instances from March through August 2012 where Statue Cruises could not account for 45,569 missing ticket numbers, resulting in estimated unreported revenue of at least \$592,397. Furthermore, there was \$217,529 in verifiable charter event and Temporary Use Authorization revenue that was not reported. Due to control issues and the reliability of the information provided, there could be additional unreported revenue. However at a minimum, Statue Cruises underreported a total of \$809,926 and owes the City \$83,369—\$64,794 in additional license fees plus \$18,575 in late fees. Additionally, Statue Cruises does not use a point-of-sale system or a functioning cash register to record and process transactions at its Harbor Cruise slip, does not segregate its books and records from its New Jersey operation and other affiliates, claims it did not have to pay certain City and State taxes in 2011, did not maintain portions of the perimeter fencing in good order, and has not established guidelines with Parks for issuing and reporting complimentary tickets to the City.

The audit made eight recommendations, including that Statue Cruises immediately remit \$83,369 in additional license fees and late charges due the City and hire a reputable outside consultant to implement the necessary internal controls that would conform to the requirements of the license agreement. The audit also recommends that Parks should coordinate efforts with the appropriate taxation authorities to address Statue Cruises' non-payment of taxes and, if found that Statue Cruises must pay the necessary tax, Parks should ensure immediate payment of any taxes, interest, and penalties that may be assessed. Additionally, in conjunction with the National Park Service, Parks should consider exercising its rights under section 3.3(a) of the license agreement if Statue Cruises does not comply with the Notice-to-Cure.

The results of the audit have been discussed with Statue Cruises and Parks officials, and their comments have been considered in preparing this report. Their complete written responses are attached to this report. If you have any questions concerning this report, please e-mail my audit bureau at audit@comptroller.nyc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "John C. Liu".

John C. Liu

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THE CITY OF NEW YORK OFFICE OF THE COMPTROLLER FINANCIAL AUDIT

Audit Report on the Compliance of Statue Cruises, LLC with Its License Agreement

FM12-122A

AUDIT REPORT IN BRIEF

On December 12, 2007, the City of New York (City), through its Department of Parks and Recreation (Parks), entered into a 10-year license agreement with Statue Cruises, LLC (Statue Cruises) for the operation and maintenance of three landing facilities (slips 3, 4, and 5) and adjacent walkways in Battery Park, Manhattan.

Statue Cruises operates ferries between Battery Park and Liberty and Ellis Islands (Ferry), a sightseeing cruise (Harbor Cruise), and other ferry operations such as day and night charters.¹ In addition, Statue Cruises, with Parks' approval, may operate charter events from slips 1 and 2 in Battery Park. Statue Cruises maintains multiple point-of-sales (POS) locations, including ticket offices at Battery Park and Liberty State Park, New Jersey, a call center, a group sales call center, and a web store (Statue Cruises' website). In addition, Harbor Cruise tickets are sold at a portable kiosk located at slip 3 of Battery Park.

For operating year 2011 (January 1, 2011, to December 31, 2011), Statue Cruises reported approximately \$39.6 million in gross receipts to Parks and paid approximately \$3.2 million in license fees.

Audit Findings and Conclusion

Our review found that Statue Cruises did not have adequate internal controls to properly account for its revenue reporting activities. As a result, we were not able to ascertain whether all revenue is being reported. For example, there were 108 instances from March through August 2012 where Statue Cruises could not account for a total of 45,569 ticket numbers in the monthly Sales Journals for its Ferry operation, resulting in estimated unreported revenue of at least \$592,397. Also, Statue Cruises does not use a POS system or a functioning cash register to record and process transactions at the Harbor Cruise slip. Furthermore, there was \$217,529 in verifiable charter event and Temporary Use Authorization (TUA) revenue that was not

¹ A charter is the hiring of a vessel for a private event for a specified date and time.

reported.² However, due to control issues and the reliability of the information provided, there could be additional unreported revenue. At a minimum, Statue Cruises underreported a total of \$809,926 and owes the City \$83,369—\$64,794 in additional license fees plus \$18,575 in late fees (see Appendix).

Additionally, Statue Cruises does not segregate its books and records from its New Jersey operation and other affiliates, and claims it did not have to pay certain City and State taxes in 2011. However, this claim conflicts with a New York State Tax Advisory Opinion (TSB-A-03(7)S), which could result in a multi-million dollar tax liability for Statue Cruises.

In addition, Statue Cruises did not maintain portions of the perimeter fencing in good order. Finally, Statue Cruises and Parks have not established guidelines for issuing and reporting complimentary tickets to the City.

Statue Cruises maintained the required security deposit, carried the required insurance, and submitted the required reports in a timely manner.

Audit Recommendations

Statue Cruises should:

1. Immediately remit \$83,369 in additional license fees and late charges due the City.
2. Hire a reputable outside consultant to implement the necessary internal controls that would conform to the requirements of the license agreement.
3. Hire a fiscal monitor, to be approved by Parks, that would ensure adherence to established internal controls and proper reporting of gross revenue and license fees.

Parks should:

4. Coordinate efforts with the appropriate taxation authorities to address Statue Cruises' non-payment of taxes. If found that Statue Cruises must pay the necessary tax, Parks should ensure immediate payment of any taxes, interest, and penalties that may be assessed.
5. Ensure that Statue Cruises hires an independent consultant to implement the necessary internal controls and that it hires a competent fiscal monitor for the duration of the agreement to ensure proper reporting of gross revenue and license fees in accordance with the license terms.
6. Issue a Notice-to-Cure requiring that Statue Cruises pay the \$83,369 in additional license fees and late charges due the City, and take action to ensure that Statue Cruises corrects the internal control deficiencies identified in this report.
7. In conjunction with the National Park Service, consider exercising its rights under section 3.3 (a) of the license agreement if Statue Cruises does not comply with the Notice-to-Cure.

² Statue Cruises must receive formal approval from Parks for the temporary use of slips 1 and 2 in Battery Park.

8. Periodically evaluate Statue Cruises' internal control procedures to ensure that Statue Cruises maintains an adequate system of internal controls, reports all revenue, and pays the appropriate license fees.

Statue Cruises' Response

In its response, Statue Cruises disagreed with most of the report's findings and did not respond to the report's recommendations. Specifically, Statue Cruises disagreed with the amount of missing ticket numbers and the related estimated unreported revenue, claiming that "The calculated estimated revenue of \$592,397 never existed." In addition, Statue Cruises disagreed with the questionable exemption for City and State taxes, stating it "fully complies with all federal, State and City tax laws" and the unreported TUA fees, stating, "**Temporary Use Authorization** (TUA) or **permit fees** were fully paid" and "[s]uch claim that Statue Cruises must pay twice is illogical...."

However, Statue Cruises did agree that it underreported charter event revenue, resulting in \$1,034 additional license fees due. Further, "Statue Cruises acknowledges that the small number of our IT staff limits the effectiveness of internal controls, particularly those relating to segregation of duties. We appreciate the Audit Report suggestion to enhance and improve our internal controls by engaging an independent IT/Ticketing system professional to assist in the implementation of such additional controls that may be determined for ticketing issuance and processing, as well as to periodically review the ongoing effectiveness of such controls."

Parks' Response

In its response, Parks agreed with all of the report's recommendations, stating, "Parks has requested payment from Statue for the full amount due of \$83,369" and "Parks has referred the recommendation to the appropriate taxation authority to pursue the determination with Statue Cruises."

INTRODUCTION

Background

On December 12, 2007, the City, through Parks, entered into a 10-year license agreement with Statue Cruises for the operation and maintenance of three landing facilities (slips 3, 4, and 5) and adjacent walkways in Battery Park, Manhattan.

Statue Cruises operates ferries between Battery Park and Liberty and Ellis Islands (Ferry), a sightseeing cruise (Harbor Cruise), and other ferry operations such as day and night charters. In addition, Statue Cruises, with Parks' approval, may operate charter events from slips 1 and 2 in Battery Park. Statue Cruises maintains multiple POS locations, including ticket offices at Battery Park and Liberty State Park, New Jersey, a call center, a group sales call center, and a web store (Statue Cruises' website). In addition, Harbor Cruise tickets are sold at a portable kiosk located at slip 3 of Battery Park.

According to the license agreement, Statue Cruises is required to pay the City the greater of a minimum annual fee of \$2 million or 8 percent of its annual gross receipts for operating years 1-5 (2008 to 2012), increasing to 8.5 percent for operating years 6-10 (2013 to 2017) on or before the first day of each month. If the percentage fee becomes applicable, the fee is due on the 20th day of each succeeding month. A monthly 2 percent late charge will be applied on any payments that are overdue for more than 10 days. Furthermore, Statue Cruises is required to submit a statement of gross receipts due on or before the 30th day of the following month, and a summary report of gross receipts for each operating year within 60 days of the end of each operating year.

For operating year 2011 (January 1, 2011, to December 31, 2011), Statue Cruises reported approximately \$39.6 million in gross receipts to Parks and paid approximately \$3.2 million in license fees.

On March 25, 2010, Parks conducted a compliance review of Statue Cruises with its license agreement for the period of January 1, 2008, to December 31, 2008. Parks found that Statue Cruises' method of reporting charter revenue did not comply with the license agreement, charter contracts were not pre-numbered, and books and records were not segregated from other business matters.

Objectives

To determine whether Statue Cruises:

- accurately reported its gross receipts, properly calculated the license fees due the City, and paid its license fees on time, and
- complied with certain major non-revenue terms of the license agreement (i.e., ensuring the licensed premises is in good order, maintaining the required security deposit, carrying the required insurance, and submitting the required reports).

Scope and Methodology Statement

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives, except for our inability to verify the total gross receipts reported to Parks and determine the full extent to which gross receipts were underreported and City fees underpaid.

Statue Cruises did not have adequate internal controls to properly account for its revenue reporting activities. Further, Statue Cruises does not segregate its books and records from its New Jersey operation and other affiliates, inhibiting the identification and review of the revenues associated with the license agreement. As a result, we were not able to ascertain whether all revenue is being reported. These issues are more fully disclosed in the “Findings and Recommendations” section of this report. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The audit scope was January 1, 2011, to August 31, 2012. Please refer to the “Detailed Scope and Methodology” section at the end of this report for the specific procedures and tests that were conducted.

Discussion of Audit Results

The matters covered in this report were discussed with Statue Cruises and Parks officials during and at the conclusion of this audit. A preliminary draft report was sent to Statue Cruises and Parks officials and discussed at an exit conference held on May 29, 2013. On June 6, 2013, we submitted a draft report to Statue Cruises and Parks officials with a request for comments. We received written responses from Statue Cruises’ and Parks’ officials on June 19, 2013, and June 20, 2013, respectively.

In its response, Parks agreed with all of the report’s recommendations, stating, “Parks has requested payment from Statue for the full amount due of \$83,369” and “Parks has referred the recommendation to the appropriate taxation authority to pursue the determination with Statue Cruises.”

Statue Cruises disagreed with most of the report’s findings and did not respond to the report’s recommendations. From its response, it is clear that Statue Cruises does not understand the reports primary finding that it did not have adequate internal controls to properly account for its revenue reporting activities. The audit found problems with nearly every aspect of Statue Cruises’ internal control system. The dollar exceptions noted in the report only represent the amount we were able to identify from the records available during the period reviewed. In some cases, such as its Harbor Cruise operation, the controls were so poor that we could not attempt to quantify the effects.

Specifically, Statue Cruises disagreed with the amount of missing ticket numbers and the related estimated unreported revenue, claiming that “The calculated estimated revenue of \$592,397 never existed.” In addition, Statue Cruises disagreed with the questionable exemption for City and State taxes, stating it “fully complies with all federal, State and City tax laws” and the unreported TUA fees, stating the “**Temporary Use Authorization (TUA) or permit fees**

were fully paid” and “[s]uch claim that Statue Cruises must pay twice is illogical...”

However, Statue Cruises did agree that it underreported charter event revenue, resulting in \$1,034 additional license fees due. Further, “Statue Cruises acknowledges that the small number of our IT staff limits the effectiveness of internal controls, particularly those relating to segregation of duties. We appreciate the Audit Report suggestion to enhance and improve our internal controls by engaging an independent IT/Ticketing system professional to assist in the implementation of such additional controls that may be determined for ticketing issuance and processing, as well as to periodically review the ongoing effectiveness of such controls.”

Statue Cruises also “contends that as a result of administrative errors we owe NYC Park and Recreation the sum of \$1,034 (this amount would represent .000323 of our actual annual fees paid). Even if Statue Cruises owed the entire disputed amount claimed in the draft report, such figure would represent a mere .0043 of actual fees paid over our first five years of operations.” Statue Cruises fails to grasp that it is not a positive result when an auditor finds that an organization’s controls are so poor in some areas that the auditors could not calculate a dollar figure to “dispute.”

The full texts of Statue Cruises’ and Parks’ responses are included as addenda to this report.

FINDINGS AND RECOMMENDATIONS

Our review found that Statue Cruises did not have adequate internal controls to properly account for its revenue reporting activities. As a result, we were not able to ascertain whether all revenue is being reported. For example, there were 108 instances from March through August 2012 where Statue Cruises could not account for a total of 45,569 ticket numbers in the monthly Sales Journals for its Ferry operation, resulting in estimated unreported revenue of at least \$592,397. Also, Statue Cruises does not use a POS system or a functioning cash register to record and process transactions at the Harbor Cruise slip. Furthermore, there was \$217,529 in verifiable charter event and TUA revenue that was not reported. However, due to control issues and the reliability of the information provided, there could be additional unreported revenue. At a minimum, Statue Cruises underreported a total of \$809,926 and owes the City \$83,369—\$64,794 in additional license fees plus \$18,575 in late fees (see Appendix).

Additionally, Statue Cruises does not segregate its books and records from its New Jersey operation and other affiliates, inhibiting the identification and review of the revenues associated with the license agreement. Moreover, Statue Cruises did not pay certain City and State taxes. Statue Cruises claims it did not have to pay certain City and State taxes in 2011 and likely has maintained the same position since it obtained the license in 2008. However, this claim conflicts with a New York State Tax Advisory Opinion (TSB-A-03(7)S), which could result in a multi-million dollar tax liability for Statue Cruises.

In addition, Statue Cruises did not maintain portions of the perimeter fencing in good order. The fencing had exposed, jagged, and pointy edges, and there were partially detached and fully missing fences that created a hazardous condition.

Finally, Statue Cruises and Parks have not established guidelines for issuing and reporting complimentary tickets to the City. We believe that guidelines need to be established indicating the categories of entities and individuals who may receive complimentary tickets for which the value does not have to be included in revenue reported to the City.

Statue Cruises maintained the required security deposit, carried the required insurance, and submitted the required reports in a timely manner.

These matters are discussed in more detail in the following sections of this report.

Material Internal Control Weaknesses

Ferry Operation—Missing Ticket Numbers

There are multiple issues concerning Statue Cruises' Ferry operation. Statue Cruises could not account for over 45,000 ticket numbers in the monthly Sales Journals between March and August 2012. Our review found that there were 108 instances of missing ticket numbers that could not be accounted for. Tickets are assigned a number when printed and must be issued sequentially. Over the same period, there were also 182 missing transaction numbers. Issuing tickets and processing transactions in sequential order is a basic control used to ensure all tickets are accounted for and revenue is accurately reported. At a minimum, there is a material weakness over the recording and reporting of revenue, and we cannot rely on the reports generated by the POS system. If these missing ticket numbers were associated with sold tickets, a substantial amount of revenue was not reported to the City. See Table I.

Table I

Missing Transaction and Ticket Numbers

Month	Missing Transaction Numbers	Missing Ticket Numbers	Estimated Unreported Revenue
March	24	86	\$1,118
April	16	58	754
May	30	15,634	203,242
June	62	162	2,106
July	21	29,522	383,786
August	29	107	1,391
Total	182	45,569	\$592,397

Multiplying the average ticket price by the total missing ticket numbers (\$13 x 45,569) results in estimated unreported revenue of at least \$592,397 and \$47,392 (8 percent) in license fees not paid to the City (see Appendix).

Statue Cruises officials attributed the larger gaps (May and July 2012) to two mechanical node (register terminal) malfunctions and stated the nodes were “adjusted to a round number” to avoid any possibility of duplicate ticket numbers. However, these adjustments (15,156 and 29,329, respectively) appear arbitrary and conflict with a statement previously provided by Statue Cruises’ IT Systems Administrator, who said it is protocol to reset the node by raising the serial number (last eight digits of a ticket number) by five.

In addition to the missing ticket and transaction numbers, there were other issues with reports generated from the POS system. For example:

- 23 transaction numbers and 11 ticket numbers appeared in both the March and May 2012 Sales Journals. However, each of the transaction and ticket numbers in the March Sales Journal had different information when compared to the May Sales Journal.
- There were differences between identical reports printed at different times. Total revenue on a Daily Composite Income report for April 10, 2012 (generated on April 11, 2012) was approximately \$90,000 less than the same report generated on April 23, 2012. According to Statue Cruises, the node was shut down prior to all data being transferred to the server, causing a delay in the transfer of the data. As a result, the missing \$90,000 in April 10, 2012, group sales was not included in a Daily Composite Income report until April 23, 2012, when the report was reprinted.
- Tickets from an affiliated entity are being incorrectly categorized as CityPass booklets in Statue Cruises’ Composite Income report.³ Because the Composite Income report is the primary document used to report gross receipts to Parks, any discrepancy in the report may result in an inaccurate calculation of gross receipts.

³ CityPass booklets provide discounted coupons for different City attractions.

- Revenue from prepaid tickets that are not printed is not reported in the month the funds were received, as required by the license agreement. Therefore, if a ticket was paid for but never printed, then the revenue from that sale will not be recognized unless Statue Cruises generates a “Batch Report,” which is printed at Statue Cruises’ discretion.

As a result of these internal control weaknesses, the number of instances that resulted in missing ticket numbers, and the discrepancies preventing us from relying on the reports generated by the POS system, we cannot be reasonably assured that Statue Cruises accurately reported all of its gross receipts to Parks and paid all license fees due to the City.

Statue Cruises Response: “The Audit Report claims 108 instances where **ticket numbers** were not documented. These observations do not represent 45,569 unaccounted tickets; rather, planned changes were made in sequential numbering to avoid duplicate issue of numbers when failed POS machines were replaced by backup equipment. Gross receipts were **not** underreported. The calculated estimated revenue of \$592,397 never existed (even at the appropriate average ticket price of \$11.46, the revised \$520,000 would not exist).

The missing tickets referenced in the Draft Audit report are merely breaks in the ticketing sequence. The breaks are as a result of rolling the ticket numbers forward to avoid duplicate tickets. The process is controlled by the Gateway System Administrator. The reason for sequence break is hardware failure which necessitated a replacement hard drive. It is typical to lose 3-4 hard drives during the course of a calendar year. The nodes at each location are typically operating seven days per week for at least 8 hours per day. The skipped ticket numbers are **not** missing ticket numbers. As demonstrated in our ticket lookup analysis, the missing ticket numbers do **not** exist in the Sales Journal. Therefore no monetary value is associated with the ‘missing’ or skipped ticket numbers.

The mechanical failure of two POS terminals accounts for over 45,000 of the numbers in question. Following Gateway protocols an advance number well ahead in the numerical sequence was assigned in the replacement machines so as to absolutely avoid customer service and accounting issues that could arise if a duplicate number were inadvertently issued. We have worked with Gateway to irrefutably demonstrate that Statue Cruises does **not** have any missing tickets. No tickets were issued using the skipped ticket numbers (Exhibits B-1 & B-2).

Another clarification to be noted is that the cited 182 ‘missing’ transaction numbers are not ‘unaccounted for’ transactions in any financial or bookkeeping sense. A ‘transaction’ in the Gateway Ticketing System is akin to an activity within the system. Examples would include a sales order inquiry or the start up of a POS terminal (Exhibits C-1 & C-2).”

Auditor Comment: Statue Cruises’ claim that it was following protocol by advancing ticket numbers well ahead in numerical sequence is misleading. This “protocol” seems to evolve to suit Statue Cruises’ needs as they occur. Initially, the audit found several relatively minor skips in tickets numbers. When asked about the issue, a Statue Cruises official stated it was “protocol” to raise the ticket numbers by five. Subsequently, further tests were conducted to determine the extent of these missing ticket numbers. This time, testing revealed approximately 15,000 and 29,000 missing ticket numbers. Now, Statue Cruises claims its protocol is to advance ticket numbers well ahead in numerical

sequence instead of five, as previously told to the auditors. Further, Statue Cruises did not provide an explanation of all the other instances of missing ticket numbers. If the causes of these issues were legitimate, we question why Statue Cruises was not forthcoming with its policy and did not alert the auditors to these issues before they were discovered.

In addition, Statue Cruises attempts to further justify its position by claiming that in its ticket lookup analysis, “the missing ticket numbers do not exist in the Sales Journal.” First, we are aware the missing ticket numbers do not exist in the sales journal because that is the document used for the analysis. Second, if the ticket lookup analysis, as presented in Statue Cruises’ Exhibits B-1 & B-2, actually provided assurance that tickets were not generated, then why would it be necessary to advance ticket numbers when a node “fails”? Statue Cruises’ explanation of advancing tickets numbers to avoid duplication offers an easy way for it to omit large sequences of ticket sales.

At a minimum, these issues, in addition to the others presented in this finding, represent serious control deficiencies. Furthermore, Statue Cruises’ conflicting explanation raises red flags. There is clearly a lack of consistency and transparency regarding Statue Cruises’ statements and actions. As a result, we reiterate that Statue Cruises remit the additional license fees and comply with the report’s recommendations.

Harbor Cruise

Statue Cruises’ Harbor Cruise operation also has significant internal control weaknesses. Statue Cruises does not use a POS system or a functioning cash register to record and process transactions at the Harbor Cruise slip. Section 9.6 of the license agreement states, “Licensee shall record all transactions involved in the operation of this License on cash registers.” Instead, Statue Cruises preprints tickets from multiple nodes, and sales are processed out of a portable kiosk via an unplugged standalone cash register that does not generate receipts. A portion of cash is kept in a plastic bag under the portable kiosk, while a batch of preprinted tickets remains on the counter. Tickets are not electronically scanned. Furthermore, each node generates its own set of ticket numbers, and tickets are sold out of sequence—rendering the control of sequentially numbered tickets ineffective.

Statue Cruises accounts for tickets sold at the Harbor Cruise slip in the following manner. To establish an inventory of tickets, Statue Cruises stated it periodically preprints 2,100 tickets and reverses the sale to prevent revenue from being recognized before the tickets are sold. Either at the end of each day or the following morning, the Ticket Office Manager counts the unsold tickets to determine the number of tickets sold and then reconciles that amount to the cash received. The Ticket Office Manager will then purportedly reprint the same number of tickets sold and replenish the inventory. Sales for that day will be recorded as the new tickets are printed.

Setting aside the issues of the non-functioning cash register, not selling tickets sequentially, the manual count, or the fact that tickets are not scanned, we have concerns with Harbor Cruises’ preprinted ticket inventory. On April 6, 2012, an auditor purchased a ticket at the Harbor Cruise slip that was printed on July 18, 2011—263 days earlier. Statue Cruises sells thousands of Harbor Cruise tickets a year, but claims it only keeps 2,100 tickets in inventory. We question how a ticket that should have been added to the inventory in July 2011 was sold nine months later.

An adequate system of internal controls is necessary for purposes of verifying the timely

collection, recording, and reporting of revenues generated from the licensed premises. However, as a result of the internal control weaknesses identified in the Harbor Cruise operation, we cannot be reasonably assured that Statue Cruises accurately reported all of its gross receipts and paid all license fees to the City.

Statue Cruises Response: “Statue Cruises did not, in fact, use its automated POS system or a fully functioning cash register at Slip # 3 where we conducted our Harbor Cruise operations. Harbor Cruise revenue is de minimis. But the absence of reliable infrastructure at that location in Battery Park is the cause of the Audit Report finding. Statue Cruises was required to provide this cruise service under the terms of our NPS contract. We resorted to an ‘old style’ manual system with heavy manager controls and supervision. Apparently, the unavailability of electric service and internet access at Slip # 3 were not accepted as mitigating circumstances. Park & Recreation understands that this cruise service is not to resume after Hurricane Sandy.”

Auditor Comment: In its response, Statue Cruises claims that the unavailability of electric service and internet access inhibits it from using an automated POS system or a fully functioning **cash register at Slip # 3**. Statue Cruises should be aware that its license agreement requires that “Licensee, at its sole cost and expense, shall install or cause to be installed, and maintain, all utility lines, meters and supplies of power necessary for the proper operation of this license.” Further, Statue Cruises should also explore other available options such as using wireless systems to transact business.

Also, Statue Cruises claims it “resorted to an ‘old style’ manual system with heavy manager controls and supervision.” However, Statue Cruises did not issue tickets sequentially as a manual system would require. Given the volume of passengers, it’s perplexing how a ticket can be purchased in April that was printed nine months earlier if it utilized an “‘old style’ manual system with heavy manager controls and supervision.”

Moreover, Statue Cruises did not provide any documentation from NPS or Parks modifying its agreements and releasing it from its contractual obligation to operate the Harbor Cruise service.

At Least \$217,529 in Underreported Charter Event and TUA Revenue, Data Integrity, and Control Weaknesses

Statue Cruises did not report a total of \$217,529 in charter event and TUA revenue, resulting in \$17,402 in additional license fees due to the City. Further, the amounts not reported could be greater than \$217,529 due to concerns regarding the integrity of documentation provided by Statue Cruises and other internal control issues.

Regarding the integrity of the documentation, Statue Cruises, at two different times, submitted what should have been the same reconciliation schedule, but each schedule contained different information. In October 2012, Statue Cruises’ Accounting Manager provided a spreadsheet supporting \$134,587 in charter event revenue reported to Parks for May 2011. The spreadsheet listed nine charter events, the date, and amount. In response to the preliminary draft report for this audit, Statue Cruises’ Controller provided a similar schedule totaling exactly \$134,587 for charter event revenue for May 2011. However, the second schedule did not contain one of the events previously reported, and the total revenue for that event, \$11,513, was then reallocated to the remaining events.

At the very least, the conflicting schedules raise reliability concerns regarding Statue Cruises' bookkeeping practices. Compounding the problem, there are internal control issues with how Statue Cruises pre-numbers its charter contracts. In addition to the control issues, the preceding section outlines events that we were able to identify as not reported. However, given the circumstances, there are concerns that there could be additional events that should have been reported, but were not.

Statue Cruises Response: "The Audit Report attempts to anecdotally imply that Statue Cruises' **bookkeeping practices** are unreliable or lack integrity. In the one instance referred to in the Report, a clerical error on an excel spread sheet (i.e., omission of one line item) caused the schedule's total to coincidentally differ by \$1 from that of an updated, later schedule that contained corrected detail charter contract amounts. This coincidence is just that. With our offices relocated Post-Sandy onto a docked ferry boat (for almost 8 months now), we admit that our staffing and audit support suffer from continuing challenges. However, the honesty and integrity of our accounting personnel should not be maligned."

Auditor Comment: Based on the findings disclosed, the City has no reliance on the management controls over the reporting of revenue and license fees paid. As mentioned earlier, at two different times, Statue Cruises submitted what should have been the same reconciliation schedule, but each schedule contained different information (see Appendix II). Coupled with the control issues over the contracts, which Statue Cruises did not address, it is not unreasonable to question the integrity of the data.

Underreporting of at Least \$12,928 in Charter Event Revenue

Statue Cruises did not report all of its charter event revenue correctly or in the month the funds were received, as required by the license agreement. Section 2.1(l)(v) of the license agreement states, "Gross Receipts shall include all funds received for services rendered by the Licensee plus any deposits made in relation to said services." Section 4.5(a) further states that gross receipts should include rates and charges "for all other ferry operations that begin and/or terminate at the Licensed Premises."

Our review of the charter contracts and "Charter Deposit Logs" for January 2011 to April 2012 indicated that Statue Cruises did not report a total of at least \$61,224 in gross receipts.⁴ Specifically, Statue Cruises did not report five charter contracts totaling \$44,360, underreported \$11,193 from another six charter contracts, and did not report \$5,671 in charter revenue recorded on its Charter Deposit Logs. Moreover, Statue Cruises incorrectly reported \$48,296 for charter contracts which listed Liberty State Park, New Jersey, as the departure location. Consequently, Statue Cruises underreported a total of \$12,928 in charter event revenue, resulting in \$1,034 in unpaid license fees (see Table II and Appendix).

⁴ A Charter Deposit Log is a record of all deposits made prior to the event and when the amount was reported as gross receipts to Parks.

Table II

Underreported Charter Revenue

Description	Amount
Underreported Contracts	\$55,553
Charter Deposit Log Discrepancy	5,671
Less: Liberty State Park Departures	(48,296)
Total	\$12,928
License Fee Due (8%)	\$1,034

The audit also found that Statue Cruises did not preprint or pre-number charter contracts, and the numbers listed on the contracts do not match the Charter Event Logs. Specifically, Statue Cruises:

- Uses a Microsoft Excel template to generate contracts, which are then hand stamped or handwritten with the date of the event and a contract number, based on the Charter Event Logs.
- Separates its charter events into two different Charter Event Logs. Each log is assigned its own contract number sequence, resulting in the duplication of contract numbers, which are differentiated only by the event date.
- Did not record four contracts and incorrectly recorded another four contract numbers on its Charter Event Logs.
- Omitted one contract number from the logs because, according to a Statue Cruises official, the contract was incorrectly categorized.

In addition, Statue Cruises did not report all charter deposits in the month received. Our review of the Charter Deposit Logs for 2011 and 2012 found that a deposit dated March 21, 2012, was reported on the April 2012 gross receipts statement instead of March 2012, when the deposit was received. In a March 25, 2010, audit report, Parks also cited Statue Cruises for not reporting charter deposits in the month received and in its response, Statue Cruises said it would comply. All charter deposits should be reported in the month they are received, as required by Section 2.1(l)(v) of the license agreement, to ensure that the appropriate license fees due (if any) are paid to the City on time.

Statue Cruises' failure to institute appropriate controls and to properly report all New York charter revenue—along with erroneously reporting New Jersey charter revenue as New York revenue—raises concerns about the entire accuracy of reported charter revenue. Consequently, the City cannot be assured that it is receiving the appropriate amount of fees.

Statue Cruises Response: “Substantially all **charter revenues** were properly included in gross receipts. All charters and events were recorded. Certain amounts were over and under reported. These clerical errors were the result of last-minute client changes to contracted services. The net balance due on account of these under reported amount is \$1,034 due to NY City Parks and Recreation.”

Auditor Comment: The dollar amount of this exception has no relevance to how charter

revenue is reported. Our analysis of charter revenue found errors totaling at least \$61,224, with a net payment due the City of only \$1,034. Although Statue Cruises has agreed to pay the \$1,034 in unpaid license fees, it did not address the internal control weaknesses and discrepancies identified in its charter operation, such as the lack of preprinted or pre-numbered charter contracts. Given the flaws in accounting for charter revenue previously discussed, the weak controls could allow for additional events and associated revenue to go unreported. Unless these weaknesses are corrected, the City cannot be assured that all charter revenue is being reported and that all fees are being paid.

Underreporting of \$204,601 in TUA Revenue

Statue Cruises did not report \$204,601 in gross receipts received from its temporary use of slips 1 and 2 in Battery Park. To temporarily use additional slips, Statue Cruises must request a TUA from Parks. According to Section 2.1(j) of the license agreement, “Parks may authorize Licensee to utilize a different landing slip...Upon approval, such landing slip shall be deemed a portion of the Licensed Premises.” Section 2.1(l)(i) states, “Gross Receipts shall include all funds received for orders placed with Licensee or made at the Licensed Premises.”

In August and September 2011, Statue Cruises booked four chartered events that required the temporary use of slips 1 and 2, but did not report any of the \$204,601 in its gross receipts statements. Consequently, Statue Cruises owes an additional \$16,368 in license fees (see Appendix). Further, Statue Cruises may have operated an unauthorized charter event and did not pay Parks the related fees for the temporary use of slips 1 and 2.⁵

Statue Cruises Response: “**Temporary Use Authorization (TUA) or permit fees** were fully paid by Statue Cruises for a limited number of special customer engagements outside our assigned premises. NYC Parks and Recreation permit wording has caused confusion by using language that apparently contradicts our License Agreement by requiring a ‘duplicate’ payment (i.e., TUA permits would require reporting of customer revenues in our gross receipts in order to calculate license fees despite the fact that we already pay TUA fees well in excess of our License Agreement fee amounts). Such claim that Statue Cruises must pay twice is illogical and contradicts our License Agreement. Any and all operators pay TUA fees (as Statue Cruises did for the limited occasions that Slip # 1 or # 2 was necessary). No other operator would be required to pay an additional fee on top of the TUA fee (Exhibit D).”

Auditor Comment: Statue Cruises signed and agreed to the terms and conditions of the TUA's, which clearly state, “Statue Cruises will be responsible for reporting a statement of gross receipts for income derived in connection with the Special Event...” Therefore, Statue Cruises is responsible for payment of associated fees derived from the underreported amount cited in this report. In addition, Statue Cruises did not address the one event for which a permit fee was not paid to Parks, a fee which is charged by Parks for the right to temporarily use slips outside of slips 3, 4, and 5.

Books and Records Not Segregated

Statue Cruises does not maintain segregated books and records for its New York operations. As per Section 4.7(a) of the license agreement, “books and records maintained pursuant to this

⁵ TUA fees are separate fees charged to Statue Cruises by Parks for the temporary use of slips 1 and 2.

License shall be conveniently segregated from other business matters of Licensee.”

Statue Cruises comingles transactions from its New Jersey operation and an affiliated entity in its POS system. Although the revenue from the New Jersey operation can be separately identified on the reports generated by the POS system, it would be difficult to accurately reconcile all of the reported gross receipts without a full separate audit of the New Jersey operation.

In addition, the gross receipts received from both its New York and New Jersey operations are recorded in the same general ledger and deposited in the same bank account. Consequently, we are unable to reconcile the revenue deposited in Statue Cruises’ bank account with the gross receipts reported to Parks to provide further assurance that all gross receipts were properly reported.

Parks also cited Statue Cruises in its audit report for not maintaining segregated books and records. In its response, Statue Cruises claimed that “Separate bank accounts would be an additional administrative burden and in fact, may be impossible given our call center, website and credit card sales.”

Statue Cruises Response: “Statue Cruises does, in fact, maintain strictly **separate books and records** for reporting of revenue, by location and by activity. Separate bank accounts would be a substantial administrative burden and are impossible given our California telephone call center, website and credit card sales. In any event, our accounting system is fully compliant. Statue Cruises has one general ledger, consisting of numerous revenue and expense accounts. The ledger is designed to record and track sales by location and by activity. Similarly, New York State Sales Tax regulations require that one, complete return be filed for the entity. We are unaware of any possibility to legally report multiple returns for one legal entity. We cannot legally file a separate income or sales tax return to exclusively report Parks and Recreation or New York - only revenues. Therefore, Statue Cruises respectfully must disagree with related audit suggestions.”

Auditor Comment: Because Statue Cruises is contractually required to segregate its books and records from other business matters, then it, in conjunction with Parks, should identify methods to remedy the issue.

Statue Cruises Did Not Pay Certain City and State Taxes— Claiming Questionable Exemption

Statue Cruises did not pay certain City and State taxes in 2011, claiming that it is exempt from such taxes.⁶ However, New York State Tax Advisory Opinion TSB-A-03(7)S contradicts this claim. Assuming Statue Cruises has maintained the same position since it obtained the license in 2008, Statue Cruises has not paid City and State taxes for five years. Considering that Statue Cruises has generated at least \$33 million a year in revenue since 2008, this could result in a substantial tax liability should the exemption not apply. In 2006, Statue Cruises’ predecessor, Circle Line-Statue of Liberty Ferry Inc. (Circle Line), filed a New York City General Corporation Tax Return and paid the City in excess of \$650,000. Circle Line’s operations were nearly identical to Statue Cruises’.

⁶ Statue Cruises did pay approximately \$478,000 in sales tax for calendar year 2011.

Statue Cruises claims it does not have to pay New York City General Corporation Tax because “The Taxpayer’s activities in New York City are limited exclusively to the use of property in interstate or foreign commerce.” Similarly, Statue Cruises maintains it does not have to pay New York State taxes because “The tax under Article 9, Sections 183 and 184 of the New York State Tax Law does not apply to any corporation principally engaged in the operation of vessels whose only activities in New York State are (i) maintaining an office and employing capital, and (ii) owning property used exclusively in foreign commerce.”

Statue Cruises has two primary sources of revenue: a Ferry service which transports passengers between Battery Park and Liberty and Ellis Islands, and a Harbor Cruise which operates a non-stop one-hour sightseeing cruise departing from Battery Park. In 2003, the New York State Department of Taxation and Finance issued a Tax Advisory Opinion (TSB-A-03(7)S) discussing in plain language why sightseeing tours, such as those offered by Statue Cruises, are not considered interstate commerce.

The opinion states, “...if the sightseeing excursions of the vessel in question were to begin and end in New York with the only stop being at a point or points in New York, the vessel would not be considered primarily engaged in interstate commerce.” It also states, “...sightseeing trips to view the Statue of Liberty and Ellis Island commencing and terminating at New York docks are not in interstate commerce, notwithstanding that the trips may pass into New Jersey waters.”

Prior to the exit conference, Statue Cruises provided an email which stated, “In 1998, the U.S. Supreme Court held that while the original portion of Ellis Island, including the ferry slip, is located in New York, the land-filled portion of the Island is located in New Jersey. The ferry slip into which vessels dock is within the New York portion of the Island. Thereafter, passengers disembark onto New Jersey soil and return to New York when they enter the Main Building, which is located partly in New York and partly in New Jersey. As a result, the transportation of the passengers is from New York to a point in New Jersey....There is no guidance on when a corporation will be engaged ‘exclusively’ in the operation of vessels in foreign commerce. However, practitioners in the area generally take the view that a de minimis amount of intrastate vessel usage (e.g., New York Harbor cruises) not exceeding 10% of income should not taint the exemption.” A separate email provided by Statue Cruises stated, “Statue Cruises tracks its fleet-wide operations to ensure that over 90% of our boat operations are, in fact, in interstate commerce.”

Statue Cruises provided several opinions regarding its tax position, such as where the passengers disembark to the concept of de minimis as it relates to income or fleet wide operations. In terms of the Ferry operation, it does appear that passengers have to walk several feet in New Jersey before reentering New York. However, Statue Cruises did not provide documentation supporting the opinion regarding “de minimis amount of intrastate vessel usage.”

The law clearly states Statue Cruises would have to be engaged exclusively in interstate commerce to be exempt. However, Statue Cruises admits that at least part of its operation is not interstate commerce. Furthermore, Statue Cruises did not mention the food, drink, and merchandise it sells or the charter boats its affiliate runs from Hudson River Park in Midtown Manhattan, which could factor into the de minimis argument should that position have any merit.

Due to the technicalities, we recommend the issue be referred to the appropriate taxation authorities. This appears to be, **at best**, an attempt to exploit a tax loophole that should be closed [emphasis added].

Statue Cruises Response: “Statue Cruises respectfully refutes the audit finding that the company claims a questionable **exception for City and State Corporate taxes** or that we exploit a tax loophole that should be closed. Statue Cruises fully complies with all federal, State and City tax laws.

Moreover, the Report relies upon a NYS Tax Advisory opinion whose subject matter is that of sales tax, not income tax (Exhibit E). We attach hereto legal memoranda (Exhibit F) to fully explain the relevant legal fact and circumstances. On a related matter, the Report refers to an ‘affiliate’ of our company that operates from Hudson River Park in Midtown Manhattan. This is a separate legal entity not governed by Statue Cruises’ License Agreement; nor does Statue Cruises own or operate that entity’s boats.”

Auditor Comment: Statue Cruises attempts to refute the finding without any authoritative documentation supporting its position. Further, in Exhibit F of its attachment, Statue Cruises’ legal counsel admits, “There is no guidance on when a corporation will be engaged ‘exclusively’ in the operation of vessels in foreign commerce.” This is why we recommend the issue be referred to the appropriate taxation authorities. At **best**, Statue Cruises’ position is an attempt to exploit a tax loophole that should be closed [emphasis added].

Portion of Licensed Premises Not Maintained in Good Order

Statue Cruises did not maintain a portion of the licensed premises in good order, as required by the license agreement. Section 12.1 states, “Licensee shall, at its sole cost and expense and to the reasonable satisfaction of Commissioner, put, keep, repair, preserve, and maintain in good order the Licensed Premises... Licensee shall provide for the regular cleaning and maintenance of the perimeter of the Licensed Premises including but not limited to the timely removal of all litter and debris, snow and garbage, perimeter sidewalk and perimeter fence maintenance and repair.”

During an unannounced inspection of the licensed premises with a Comptroller’s Office auditor with engineering expertise on June 15, 2012, we found conditions that may pose a threat to the safety of visitors. Specifically, the fencing that separates visitors from the water was rusted with jagged and pointed edges, partially detached, or completely missing and replaced with a barricade which was held together with zip-ties. Not only can a serious injury occur on the actual fence, but also the conditions could potentially allow visitors access to the edge of the pier. Children visiting the licensed premises are most vulnerable to the hazardous conditions.

On June 20, 2012, we sent a letter to Statue Cruises and Parks asking that the conditions be corrected immediately. In its response, Statue Cruises stated that “immediate steps to make the situation safe will be taken in coordination with the Conservancy.” Parks, in its response, stated “loose fence panels with jagged edges were removed and barricades (secured with 304-grade steel ties) were placed in front of removed, weak or damaged panels.” Parks further stated, “Parks staff will perform regular site inspections in order to ensure that conditions at the premises remain safe for the public.”

Section 12.3 of the license agreement states “No later than thirty (30) days before the end of each Operating Year, Licensee shall conduct a site inspection at the Licensed Premises with a representative of Parks.” However, during a meeting on June 13, 2012, a Parks official informed us that Parks has not conducted any site inspections of the licensed premises. Had Parks conducted the required site inspections, the potentially hazardous conditions could have

been avoided or corrected sooner.

On May 14, 2013, we conducted a follow-up inspection of the licensed premises and found that temporary measures were taken but permanent repairs have not been made.

Statue Cruises Response: “The portion of the **licensed premises** cited as **not in good order** by the Audit Report refers to fencing installed and maintained by the Battery Park Conservancy. The Conservancy installed this decorative fencing with its unique panels and assumed responsibility for special periodic maintenance thereof. We had no permission to paint or otherwise repair the fence. Statue Cruises is a committed supporter of the Conservancy. We have agreed to help fund the replacement of certain fencing around the perimeter of our licensed premises. The Conservancy wishes to continue to perform the related maintenance on the replacement fence (Exhibit G).”

Auditor Comment: Although Statue Cruises has agreed to help fund the replacement of certain fencing, the license agreement still requires Statue Cruises to maintain the licensed premises in good order. In addition, Statue Cruises did not provide any documentation from the Battery Park Conservancy to support its claim. The document that Statue Cruises refers to as Exhibit G is actually a letter previously sent to our office in response to our notification of the unsafe conditions that were observed at the licensed premises.

Complimentary Ticket Use

Statue Cruises issued complimentary tickets to employees, private companies, affiliated entities, and media groups, among others. While we do not question Statue Cruises’ decision to issue complimentary tickets to non-profits and charitable organizations as part of its business operations, we believe that guidelines need to be established indicating the categories of entities and individuals who may receive complimentary tickets. Excluding non-profits and charitable organizations, Statue Cruises distributed 13,844 in complimentary tickets totaling \$170,575 over 17 months (February to December 2011 and February to July 2012).⁷ Because the license agreement does not address this issue and Parks has not established any guidelines in this area, we did not include the value of complimentary tickets in our calculation of additional license fees due.

Statue Cruises Response: “Statue Cruise welcomes the opportunity to partner with NYC Parks and Recreation to develop guidelines addressing **Complimentary Ticket Use.**”

RECOMMENDATIONS

Statue Cruises should:

1. Immediately remit \$83,369 in additional license fees and late charges due the City.
2. Hire a reputable outside consultant to implement the necessary internal controls that would conform to the requirements of the license agreement.
3. Hire a fiscal monitor, to be approved by Parks, that would ensure adherence to

⁷ Statue Cruises could not provide the January 2011 and 2012 Complimentary Ticket Logs because of its inability to access the ticket office due to damage from Hurricane Sandy.

established internal controls and proper reporting of gross revenue and license fees.

Auditor Comment: Statue Cruises did not address the recommendations in its response, but stated, “NY City Parks has advised that their office will be including Agency Implementation Plans with their written response to the Draft Audit Report.”

Parks should:

4. Coordinate efforts with the appropriate taxation authorities to address Statue Cruises’ non-payment of taxes. If found that Statue Cruises must pay the necessary tax, Parks should ensure immediate payment of any taxes, interest, and penalties that may be assessed.

Parks Response: “Parks has referred the recommendation to the appropriate taxation authority to pursue the determination with Statue Cruises.”

5. Ensure that Statue Cruises hires an independent consultant to implement the necessary internal controls and that it hires a competent fiscal monitor for the duration of the agreement to ensure proper reporting of gross revenue and license fees in accordance with the license terms.

Parks Response: “The Report found that Statue did not have adequate internal controls over a portion of its ferry service operation related to gaps in the ticket number sequencing of Statue's Point of Sale (‘POS’) system, harbor cruises, temporary use authorizations and charter event revenue. Given the technical nature of the internal control weaknesses cited for Statue's ferry service, we believe it is appropriate for Statue to hire an independent consultant with expertise in information technology systems in order to identify and reduce possible risks with respect to POS system operations. Parks will work with Statue to ensure that such a consultant is identified and hired to resolve potential concerns in this regard.

Additionally, as the Comptroller was recently informed Statue will discontinue its harbor cruise service shortly, the area of its operations requiring the most attention from an internal control perspective, once it resumes ferry service to Liberty Island and Ellis Island. In this regard, we acknowledge your concern for a financial monitor and will consider a monitor in the event that harbor cruises are reestablished by Statue or upon future review by Parks.”

Auditor Comment: We appreciate that Parks finds it appropriate for Statue Cruises to hire an independent consultant to implement the necessary internal controls. As stated in the report, there were significant internal control weaknesses in reporting revenue derived from ticket sales, ferry service, and charter operations, as well as with the TUAs, all of which prevented us from determining whether additional revenues may have been underreported to the City. Moreover, neither Statue Cruises nor Parks provided any documentation from NPS modifying its agreement and releasing it from its contractual obligation to operate the Harbor Cruise service.

6. Issue a Notice-to-Cure requiring that Statue Cruises pay the \$83,369 in additional license fees and late charges due the City, and take action to ensure that Statue Cruises corrects the internal control deficiencies identified in this

report.

Parks Response: “The Report found that Statue owes the City an additional \$83,369 in license fees and late charges... Parks has requested payment from Statue for the full amount due of \$83,369. However, we continue to discuss with Statue the matter of fees related to missing ferry service ticket numbers. Statue believes that the missing ticket numbers may not reflect actual tickets sold and not reported, but rather technical problems caused by point of sale terminal crashes and the number sequencing used when a replacement terminal is installed. If Statue can verify to Parks' satisfaction that the missing tickets numbers do not reflect actual sales, Parks may issue Statue a partial credit (in the amount of the verified non-ticket sales) against future license fees.”

Auditor Comment: As previously discussed, Statue Cruises' claim that it was following protocol by advancing ticket numbers well ahead in numerical sequence is unsupported. Accepting its explanation of advancing tickets numbers to avoid duplication offers an easy way for Statue Cruises to omit large sequences of ticket sales. Therefore, Parks should not issue Statue Cruises any credits related to the estimated revenue associated with the missing ticket numbers.

7. In conjunction with the National Park Service, consider exercising its rights under section 3.3 (a) of the license agreement if Statue Cruises does not comply with the Notice-to-Cure.

Parks Response: “In the event that it becomes appropriate to consider exercising section 3.3 (a) of the license agreement, we will consult with the National Park Service.”

8. Periodically evaluate Statue Cruises' internal control procedures to ensure that Statue Cruises maintains an adequate system of internal controls, reports all revenue, and pays the appropriate license fees.

Parks Response: “Parks will periodically evaluate Statue's internal control system as described in our response to Recommendation 5.”

Auditor Comment: Parks should periodically evaluate the internal controls of Statue Cruises' entire operation to ensure the proper reporting of all revenue-generating activities.

DETAILED SCOPE AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives, except for our inability to verify the total gross receipts reported to Parks and determine the full extent to which gross receipts were underreported and City fees underpaid.

Statue Cruises did not have adequate internal controls to properly account for its revenue reporting activities. Further, Statue Cruises does not segregate its books and records from its New Jersey operation and other affiliates, inhibiting the identification and review of the revenues associated with the license agreement. As a result, we were not able to ascertain whether all revenue is being reported. These issues are more fully disclosed in the “Findings and Recommendations” section of this report. This audit was conducted in accordance with the audit responsibilities of the City Comptroller as set forth in Chapter 5, §93, of the New York City Charter.

The scope of this audit was January 1, 2011, to August 31, 2012. To achieve our audit objectives, we reviewed and abstracted the license agreement and supporting appendices between Statue Cruises and Parks and identified relevant terms and conditions. We reviewed Parks’ correspondence, revenue reports, and other relevant documents pertaining to Statue Cruises to ascertain whether it submitted the required revenue reports and paid the license fees due the City on time. We also analyzed Parks’ concessionaire ledger for the amounts reported and paid to the City, and determined whether payments were received in a timely manner.

To obtain an understanding of Statue Cruises’ operations and internal controls over its gross receipts, we:

- interviewed Statue Cruises officials, such as the Director of Sales and Marketing, Controller, IT Systems Administrator, Accounting Manager, and Ticket Office Manager;
- reviewed the Gateway manual to gain an understanding of the controls over the recording of ticket revenue for the Ferry and Harbor Cruise operations;
- conducted unannounced observations and walk-throughs of the Ferry and Harbor Cruise operations;
- observed the close-out and opening processes for the Ferry and Harbor Cruise operations; and
- documented our understanding of the operations through written narratives and flow charts.

To determine the reliability of the POS system reports, we obtained Statue Cruises’ Sales Journal and Daily and Monthly Composite Income reports for the month of April 2012, the month we conducted our unannounced observations, and traced the tickets purchased at our unannounced observations to the Sales Journal. We then attempted to reconcile the revenue reported on the Sales Journal, Daily Composite Income reports, and Monthly Composite Income report to determine the completeness and accuracy of the reports.

Additionally, we obtained the Sales Journals for the months of March 2012 and May through

August 2012, to determine whether all transaction and ticket numbers are generated sequentially by the POS system. We then reviewed the Sales Journals to determine if there were any transaction and ticket numbers missing or duplicated. To determine the loss to the City, we calculated the amounts related to the missing ticket numbers.

To determine the reliability of the Harbor Cruise ticket sales, we purchased eight Harbor Cruise tickets and compared the dates purchased and printed on the tickets to the Sales Journal. In addition, to determine if Harbor Cruise tickets are sold sequentially, we compared the ticket number of the last ticket sold on April 21, 2012, to the ticket numbers of ticket stubs that we observed Statue Cruises employees discarding in a trash can near the portable kiosk.

To determine if charter event revenue is properly reported, we attempted to trace the charter contracts for January 2011 to April 2012 to the Charter Event Logs, Charter Deposit Logs, and monthly gross receipts statements. We also attempted to trace the revenue and payments from the Charter Event Logs and Charter Deposit Logs to the general ledger to further determine if the charter event revenue is accurately reported. In addition, we contacted the concessionaire on Liberty and Ellis Islands and the National Park Service to independently verify the name and date of each event that was held on the islands, and compared the information with the Charter Event logs provided by Statue Cruises.

To determine if charter event revenue is reported in the month the funds were received, we attempted to reconcile the Charter Deposit Logs for 2011 and 2012 with the monthly gross receipts statements. We also reviewed and compared the contract numbers on the charter event contracts and Charter Event logs to determine if the contract numbers are unique and accurately recorded on the Charter Event logs.

To determine whether Statue Cruises properly deposited its gross receipts, we attempted to trace the funds received as reported on the Sales Journal and Daily Composite Income reports to the deposit records (i.e., deposit slips), credit card statements, and bank statements. We also attempted to trace the funds received to the general ledger to determine that all deposits are properly recorded.

To determine if Statue Cruises paid the required fees for the temporary use of slips 1 and 2, we traced the fees due on the TUA agreements to Parks' "Special Events" ledger. Furthermore, to determine if Statue Cruises accurately reported the gross receipts received from its TUA agreements, we attempted to trace the funds received from charter event contracts utilizing slips 1 and 2 to the monthly gross receipts statements.

Finally, we determined whether Statue Cruises complied with certain major non-revenue terms of its agreement (i.e., posted the required \$250,000 security deposit with the City, maintained the licensed premises in good order, and properly maintained insurance coverage). We contacted Parks to determine whether the amount of a required security deposit posted with the City met the requirements of the agreement. In addition, we obtained Statue Cruises' insurance policies and contacted the insurance broker to determine whether Statue Cruises maintained proper insurance coverage. Furthermore, to determine if Statue Cruises properly filed the required tax returns and paid any taxes due, we requested Statue Cruises' Federal and New York State tax returns and New York City General Corporation tax returns. We also reviewed the commercial rent tax filings to ascertain whether Statue Cruises properly paid its commercial rent tax. For additional verification, we contacted the Department of Finance and requested copies of the Commercial Rent Tax returns submitted and the copies of the payments made. To determine if the licensed premises is maintained in good order, we conducted an unannounced inspection with a Comptroller's Office auditor with engineering expertise.

Schedules of Additional Fees and Late Charges Owed

		Underreported Revenue	Additional License Fees (8% of Underreported Revenue)	Late Fees (See Calculation Below)
Estimated Revenue from Ferry Operation-Missing Ticket Numbers		\$592,397	\$47,392	
Underreported Charter Event Revenue	\$61,224			
Less: New Jersey Departures	(\$48,296)			
Adjusted Underreported Charter Event Revenue		\$12,928	\$1,034	
Underreported TUA Revenue		\$204,601	\$16,368	
Total		\$809,926	\$64,794	\$18,575

Date	Additional Amount Due	Accumulated Total	Period		Late Charge of 2%
			From	To	
09/30/11	\$15,959	\$15,959	09/30/11	10/29/11	\$319
10/30/11	\$4,896	\$21,174	10/30/11	11/29/11	\$423
11/30/11	*(\$1,737)	\$19,860	11/30/11	12/29/11	\$397
12/30/11	*(\$650)	\$19,607	12/30/11	01/29/12	\$392
01/30/12		\$19,999	01/30/12	02/28/12	\$400
02/29/12		\$20,399	02/29/12	03/29/12	\$408
03/30/12		\$20,807	03/30/12	04/29/12	\$416
04/30/12		\$21,223	04/30/12	05/29/12	\$424
05/30/12		\$21,648	05/30/12	06/29/12	\$433
06/30/12		\$22,081	06/30/12	07/29/12	\$442
07/30/12		\$22,522	07/30/12	08/29/12	\$450
08/30/12		\$22,973	08/30/12	09/29/12	\$459
09/30/12	\$46,327	\$69,759	09/30/12	10/29/12	\$1,395
10/30/12		\$71,154	10/30/12	11/29/12	\$1,423
11/30/12		\$72,577	11/30/12	12/29/12	\$1,452
12/30/12		\$74,029	12/30/12	01/29/13	\$1,481
01/30/13		\$75,509	01/30/13	02/27/13	\$1,510
02/28/13		\$77,020	02/28/13	03/29/13	\$1,540
03/30/13		\$78,560	03/30/13	04/29/13	\$1,571
04/30/13		\$80,131	04/30/13	05/29/13	\$1,603
05/30/13		\$81,734	05/30/13	06/29/13	\$1,635
Total	\$64,794	\$83,369			\$18,575

*Credit for incorrectly reported New Jersey charter revenue.

Summary of Additional Fees and Late Charges Owed	
Total Additional Fees Due	\$64,794
Total Late Charge Due	\$18,575
Total Additional Fees and Late Charge Due	\$83,369

Conflicting Charter Reconciliation Schedules Provided by Statue Cruises, LLC

Reconciliation Schedule Provided on October 2012	
Charter Event Description*	Amount
1. Coca Cola c/o	\$ 36,674.50
2. N.E.C.O. Foundation	\$ 23,287.50
3. YPO NYC-Chapter Education	\$ 16,100.00
4. Briggs for NuSkin	\$ 19,750.00
5. Verizon Communications Inc	\$ 8,000.00
6. Avocent c/o	\$ 6,812.50
7. American Stock Transfer & Trust	\$ 3,200.00
8. Briggs Inc for Chevron	\$ 9,250.00
9. Wedgewood USA c/o	\$ 11,512.50
Total	\$ 134,587.00

Reconciliation Schedule Provided on May 2013	
Charter Event Description*	Amount
1. Coca Cola c/o	\$ 38,127.00
2. N.E.C.O. Foundation	\$ 23,287.50
3. YPO NYC-Chapter Education	\$ 16,100.00
4. Briggs for NuSkin	\$ 19,750.00
5. Verizon Communications Inc	\$ 8,775.00
6. Avocent c/o	\$ 6,812.50
7. American Stock Transfer & Trust	\$ 10,241.00
8. Briggs Inc for Chevron	\$ 11,494.00
Total	\$ 134,587.00

*Company contact names were redacted

Statue Cruises, LLC
1 Audrey Zapp Drive, Suite 203
CRRNJ Terminal at Liberty State Park
Jersey City, NJ 07305
www.statuecruises.com



June 19, 2013

Ms. H. Tina Kim, Deputy Comptroller
City of New York
Office of the Comptroller
Municipal Building
1 Centre Street – Rm 1100
New York, NY 10007-2341

RE: Audit Report on the Compliance of
Statue Cruises, LLC with its License
Agreement FM12-122A

Dear Ms. Kim,

Attached please find our comments and response on the Compliance of Statue Cruises, LLC with its License Agreement. We understand that the attachment will become part of the Final Audit Report to be issued. Further, NY City Parks has advised that their office will be including Agency Implementation Plans with their written response to the Draft Audit Report.

Thank you for the cooperation of the audit team. Please advise if you should require any additional information.

Sincerely,

Michael K. Burke
Vice President & Chief Operating Officer

CC: Nikolaos Leonardos

STATUE CRUISES, LLC: COMMENTS AND RESPONSE TO NYC COMPTROLLER DRAFT AUDIT REPORT ON COMPLIANCE OF STATUE CRUISES, LLC WITH ITS LICENCE AGREEMENT (DATE OF JUNE 6, 2013)

INTRODUCTION:

Statue Cruises, LLC appreciates the opportunity to respond to and provide commentary and further explanation to the subject Draft Audit Report.

Statue Cruises commenced ferry and related service operations on January 1, 2008, under a concession contract with the National Park Service. Over the past five years, the company has paid steadily increasing license fees to NYC Parks and Recreation. In fact, despite Hurricane Sandy, Statue Cruises paid fees of \$3.3 million in 2012; for a cumulative 5-year total of nearly \$ 15.0 million in fees to New York City (Exhibit A).

Statue Cruises contends that as a result of administrative errors we owe NYC Park and Recreation the sum of \$1,034 (this amount would represent .000323 of our actual annual fees paid). Even if Statue Cruises owed the entire disputed amount claimed in the draft report, such figure would represent a mere .0043 of actual fees paid over our first five years of operations.

Despite the guest volume and sizable fees paid to the City and the State of New Jersey and the Department of the Interior, our company maintains a modest staff size. We operate in Battery Park, New York City and Liberty State Park, Jersey City. Both locations present severe infrastructure limitations and operating challenges. Any compliance failures were most certainly unintentional.

AS TO AUDIT FINDINGS:

- The Audit Report claims 108 instances where ticket numbers were not documented. These observations do not represent 45,569 unaccounted tickets; rather, planned changes were made in sequential numbering to avoid duplicate issue of numbers when failed POS machines were replaced by backup equipment. Gross receipts were not underreported. The calculated estimated revenue of \$592,397 never existed (even at the appropriate average ticket price of \$11.46, the revised \$520,000 would not exist).

The missing tickets referenced in the Draft Audit report are merely breaks in the ticketing sequence. The breaks are as a result of rolling the ticket numbers forward to avoid duplicate tickets. The process is controlled by the Gateway System Administrator.

The reason for sequence break is hardware failure which necessitated a replacement hard drive. It is typical to lose 3-4 hard drives during the course of a calendar year. The nodes at each location are typically operating seven days per week for at least 8 hours per day. The skipped ticket numbers are not missing ticket numbers. As demonstrated in our ticket look-up analysis, the missing ticket numbers do not exist in the Sales Journal. Therefore no monetary value is associated with the "missing" or skipped ticket numbers.

The mechanical failure of two POS terminals accounts for over 45, 000 of the numbers in question. Following Gateway protocols an advance number well ahead in the numerical sequence was assigned in the replacement machines so as to absolutely avoid customer service and accounting issues that could arise if a duplicate number were inadvertently issued. We have worked with Gateway to irrefutably demonstrate that Statue Cruises does not have any missing tickets. No tickets were issued using the skipped ticket numbers (Exhibits B-1 & B-2).

- Another clarification to be noted is that the cited 182 "missing" transaction numbers are not "unaccounted for" transactions in any financial or bookkeeping sense. A "transaction" in the Gateway Ticketing System is akin to an activity within the system. Examples would include a sales order inquiry or the start up of a POS terminal (Exhibits C-1 & C-2).
- Statue Cruises acknowledges that the small number of our IT staff limits the effectiveness of internal controls, particularly those relating to segregation of duties. We appreciate the Audit Report suggestion to enhance and improve our internal controls by engaging an independent IT/Ticketing system professional to assist in the implementation of such additional controls that may be determined for ticketing issuance and processing, as well as to periodically review the ongoing effectiveness of such controls.
- Statue Cruises did not, in fact, use its automated POS system or a fully functioning cash register at Slip # 3 where we conducted our Harbor Cruise operations. Harbor Cruise revenue is de minimis. But the absence of reliable infrastructure at that location in Battery Park is the cause of the Audit Report finding. Statue Cruises was required to provide this cruise service under the terms of our NPS contract. We resorted to an "old style" manual system with heavy manager controls and supervision. Apparently, the unavailability of electric service and internet access at Slip # 3 were not accepted as mitigating circumstances. Park & Recreation understands that this cruise service is not to resume after Hurricane Sandy.

- Substantially all charter revenues were properly included in gross receipts. All charters and events were recorded. Certain amounts were over and under reported. These clerical errors were the result of last-minute client changes to contracted services. The net balance due on account of these under reported amount is \$1,034 due to NY City Parks and Recreation.
- Temporary Use Authorization (TUA) or permit fees were fully paid by Statue Cruises for a limited number of special customer engagements outside our assigned premises. NYC Parks and Recreation permit wording has caused confusion by using language that apparently contradicts our License Agreement by requiring a "duplicate" payment (i.e., TUA permits would require reporting of customer revenues in our gross receipts in order to calculate license fees despite the fact that we already pay TUA fees well in excess of our License Agreement fee amounts). Such claim that Statue Cruises must pay twice is illogical and contradicts our License Agreement. Any and all operators pay TUA fees (as Statue Cruises did for the limited occasions that Slip # 1 or # 2 was necessary). No other operator would be required to pay an additional fee on top of the TUA fee (Exhibit D).
- Statue Cruises does, in fact, maintain strictly separate books and records for reporting of revenue, by location and by activity. Separate bank accounts would be a substantial administrative burden and are impossible given our California telephone call center, website and credit card sales. In any event, our accounting system is fully compliant. Statue Cruises has one general ledger, consisting of numerous revenue and expense accounts. The ledger is designed to record and track sales by location and by activity. Similarly, New York State Sales Tax regulations require that one, complete return be filed for the entity. We are unaware of any possibility to legally report multiple returns for one legal entity. We cannot legally file a separate income or sales tax return to exclusively report Parks and Recreation or New York - only revenues. Therefore, Statue Cruises respectfully must disagree with related audit suggestions.
- Statue Cruises respectfully refutes the audit finding that the company claims a questionable exception for City and State Corporate taxes or that we exploit a tax loophole that should be closed. Statue Cruises fully complies with all federal, State and City tax laws. We are reminded of the famous quote from Judge Learned Hand, " Anyone may arrange his affairs so that his taxes shall be as low as possible; he is not bound to choose that pattern which best pays the treasury. There is not even a patriotic duty to increase one's taxes. Over and over again the Courts have said that there is nothing sinister in so arranging affairs as to keep taxes as low as possible. Everyone does it, rich and poor alike and all do right, for nobody owes any public duty to pay more than the law demands."

Moreover, the Report relies upon a NYS Tax Advisory opinion whose subject matter is that of sales tax, not income tax (Exhibit E). We attach hereto legal memoranda (Exhibit F) to fully explain the relevant legal fact and circumstances. On a related matter, the Report refers to an “affiliate” of our company that operates from Hudson River Park in Midtown Manhattan. This is a separate legal entity not governed by Statue Cruises’ License Agreement; nor does Statue Cruises own or operate that entity’s boats.

- The Audit Report attempts to anecdotally imply that Statue Cruises’ **bookkeeping practices are unreliable or lack integrity**. In the one instance referred to in the Report, a clerical error on an excel spread sheet (i.e., omission of one line item) caused the schedule’s total to coincidentally differ by \$1 from that of an updated, later schedule that contained corrected detail charter contract amounts. This coincidence is just that. With our offices relocated Post-Sandy onto a docked ferry boat (for almost 8 months now), we admit that our staffing and audit support suffer from continuing challenges. However, the honesty and integrity of our accounting personnel should not be maligned.

- The portion of the licensed premises cited as **not in good order** by the Audit Report refers to fencing installed and maintained by the Battery Park Conservancy. The Conservancy installed this decorative fencing with its unique panels and assumed responsibility for special periodic maintenance thereof. We had no permission to paint or otherwise repair the fence. Statue Cruises is a committed supporter of the Conservancy. We have agreed to help fund the replacement of certain fencing around the perimeter of our licensed premises. The Conservancy wishes to continue to perform the related maintenance on the replacement fence (Exhibit G).

- Statue Cruise welcomes the opportunity to partner with NYC Parks and Recreation to develop guidelines addressing **Complimentary Ticket Use**.

EXHIBIT A

STATUE CRUISES, LLC

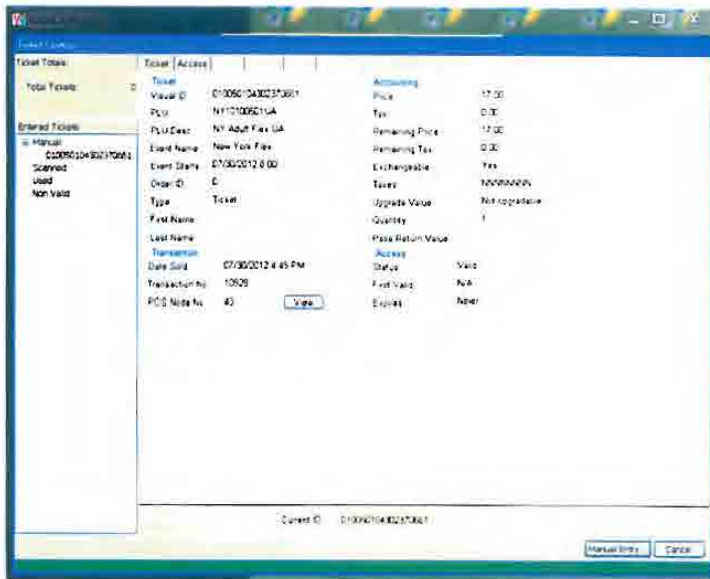
New York City Parks & Rec fees	Total by Year	Effective Rate
New York City Parks - 2008	2,672,704	8%
New York City Parks - 2009	2,856,413	8%
New York City Parks - 2010	2,929,288	8%
New York City Parks - 2011	3,165,992	8%
New York City Parks - 2012	3,245,952	8%
TOTAL	14,870,349	

EXHIBIT B-1

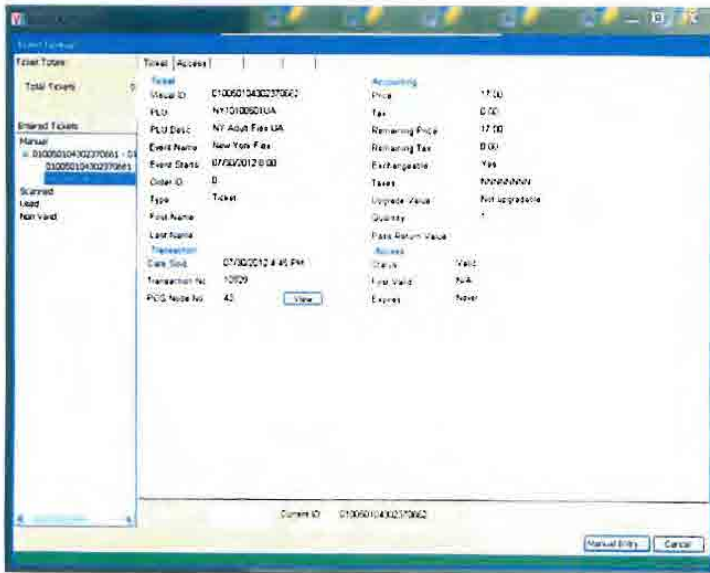
Node 43 – July 2012 Missing Ticket Numbers

Last 10 Ticket Numbers before Serial Number Reset

Ticket Number - 010050104302370661



Ticket Number – 010050104302370662



Ticket Number – 010050104302370663

Ticket Totals

Total Tickets	0
---------------	---

Selected Tickets

Manual

- 010050104302370663 - 01
- 010050104302370663
- 010050104302370663

Scanned
Used
Non-Valid

Ticket / Access

Ticket	Visual ID: 010050104302370663	Accounting	Price: 17.00
PLU	NY 12100621UA	Tax	0.00
PLU Desc	NY Adult Fax 1UA	Remaining Price	17.00
Event Name	New York Fax	Remaining Tax	0.00
Event Start	07/02/2012 8:00	Exchangeable	Yes
Order ID	0	Taxes	XXXXXXXXXX
Type	Ticket	Upgrade Value	Not applicable
First Name		Quantity	1
Last Name		Past Return Value	
Transaction		Access	
Date Sold	07/02/2012 4:46 PM	Status	Valid
Transaction No	10930	First Valid	N/A
POS Node No	42	Expires	None

Client ID: 010050104302370663

Manual Entry Cancel

Ticket Number - 010050104302370664

Ticket Totals

Total Tickets	0
---------------	---

Selected Tickets

Manual

- 010050104302370664 - 01
- 010050104302370664
- 010050104302370664

Scanned
Used
Non-Valid

Ticket / Access

Ticket	Visual ID: 010050104302370664	Accounting	Price: 17.00
PLU	NY 12100621UA	Tax	0.00
PLU Desc	NY Adult Fax 1UA	Remaining Price	17.00
Event Name	New York Fax	Remaining Tax	0.00
Event Start	07/02/2012 8:00	Exchangeable	Yes
Order ID	0	Taxes	XXXXXXXXXX
Type	Ticket	Upgrade Value	Not applicable
First Name		Quantity	1
Last Name		Past Return Value	
Transaction		Access	
Date Sold	07/02/2012 4:46 PM	Status	Valid
Transaction No	10930	First Valid	N/A
POS Node No	42	Expires	None

Client ID: 010050104302370664

Manual Entry Cancel

Ticket Number - 010050304302370665

The screenshot shows a software window titled "Ticket [Access]". On the left, there is a sidebar with "Ticket Totals" (Total Tickets: 0) and "Entered Tickets" (Manual: 010050304302370665 - 01, 010050104302370665, 010050104302370663, 010050104302370663, 010050104302370664). Below this are "Scanned", "Used", and "Non-Used" sections. The main area displays ticket details: Ticket (Access), Visual ID: 010050304302370665, PLU: NY12006011A, PLU Desc: NY Child Fax UA, Event Name: New York Fax, Event Date: 07/30/2012 9:00, Order ID: 0, Type: Ticket, First Name, Last Name, Transaction: 07/30/2012 4:42 PM, Transaction No: 10981, POS Node No: 41, and a "View" button. An "Accounting" table on the right lists Price (9.00), Tax (0.00), Remaining Price (9.00), Remaining Tax (0.00), Exchangable (Yes), Taxes (NNNNNNNN), Upgrade Value (Not applicable), Quantity (1), Price Return Value, Access, Status (Valid), First Valid (N/A), and Expires (Never). The bottom of the window shows "Current ID: 010050304302370665" and "Manual Entry" and "Cancel" buttons.

Ticket Number - 010050104302370666

The screenshot shows a software window titled "Ticket [Access]". On the left, there is a sidebar with "Ticket Totals" (Total Tickets: 0) and "Entered Tickets" (Manual: 010050104302370666 - 01, 010050104302370665, 010050104302370663, 010050104302370663, 010050104302370664). Below this are "Scanned", "Used", and "Non-Used" sections. The main area displays ticket details: Ticket (Access), Visual ID: 010050104302370666, PLU: NY12006011A, PLU Desc: NY Adult Fax UA, Event Name: New York Fax, Event Date: 07/30/2012 9:00, Order ID: 0, Type: Ticket, First Name, Last Name, Transaction: 07/30/2012 4:47 PM, Transaction No: 10981, POS Node No: 41, and a "View" button. An "Accounting" table on the right lists Price (17.00), Tax (0.00), Remaining Price (17.00), Remaining Tax (0.00), Exchangable (Yes), Taxes (NNNNNNNN), Upgrade Value (Not applicable), Quantity (1), Price Return Value, Access, Status (Valid), First Valid (N/A), and Expires (Never). The bottom of the window shows "Current ID: 010050104302370666" and "Manual Entry" and "Cancel" buttons.

Ticket Number - 010050104302370667

The screenshot shows a software window titled "Ticket Entry" with a menu bar containing "Ticket" and "Access". The window is divided into several sections:

- Ticket Totals:** Shows "Total Tickets" as 0.
- Entered Tickets:** A list of tickets with "Manual" selected. The selected ticket is 010050104302370667.
- Ticket Details:**
 - Ticket Visual ID: 010050104302370667
 - PLU: NY1005011UA
 - PLU Desc: NY Adult Flex UA
 - Event Name: New York Flex
 - Event Starts: 07/30/2012 8:00
 - Order ID: 0
 - Type: Ticket
 - First Name: [Blank]
 - Last Name: [Blank]
 - Transaction Date Sold: 07/30/2012 4:47 PM
 - Transaction No: 10931
 - PCS Node No: 43
- Accounting:**
 - Price: 17.00
 - Tax: 0.00
 - Remaining Price: 17.00
 - Remaining Tax: 0.00
 - Exchangable: Yes
 - Taxes: N/A
 - Upgrade Value: Not upgradeable
 - Quantity: 1
 - Price Return Value: [Blank]
 - Access: [Blank]
 - Status: Valid
 - First Valid: N/A
 - Expires: Never

At the bottom, the "Current ID" is 010050104302370667. There are "Manual Entry" and "Cancel" buttons.

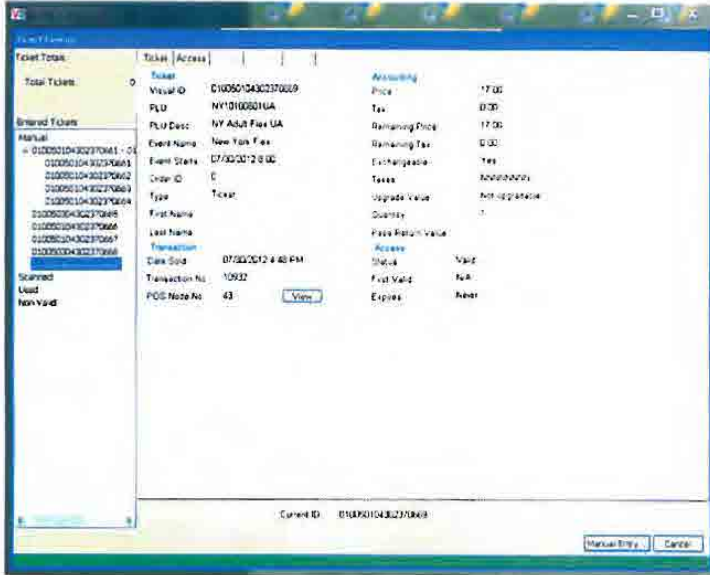
Ticket Number - 010050304302370668

The screenshot shows a software window titled "Ticket Entry" with a menu bar containing "Ticket" and "Access". The window is divided into several sections:

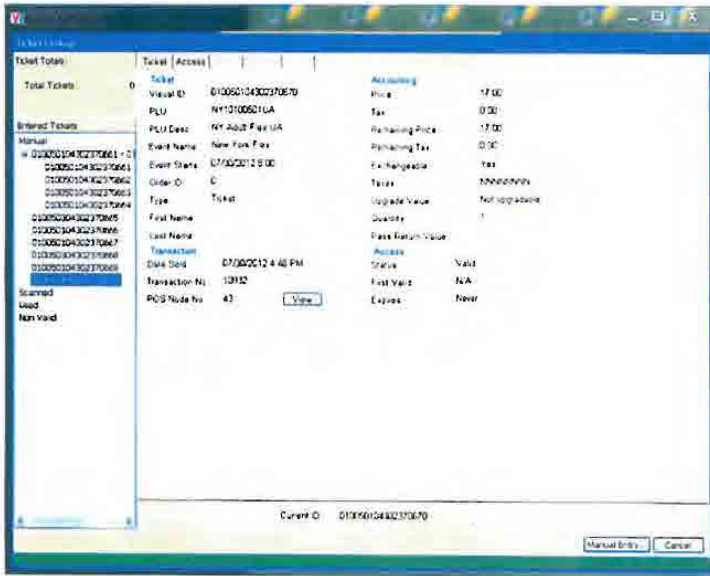
- Ticket Totals:** Shows "Total Tickets" as 0.
- Entered Tickets:** A list of tickets with "Manual" selected. The selected ticket is 010050304302370668.
- Ticket Details:**
 - Ticket Visual ID: 010050304302370667
 - PLU: NY1005011UA
 - PLU Desc: NY Adult Flex UA
 - Event Name: New York Flex
 - Event Starts: 07/30/2012 8:00
 - Order ID: 0
 - Type: Ticket
 - First Name: [Blank]
 - Last Name: [Blank]
 - Transaction Date Sold: 07/30/2012 4:47 PM
 - Transaction No: 10931
 - PCS Node No: 43
- Accounting:**
 - Price: 17.00
 - Tax: 0.00
 - Remaining Price: 17.00
 - Remaining Tax: 0.00
 - Exchangable: Yes
 - Taxes: N/A
 - Upgrade Value: Not upgradeable
 - Quantity: 1
 - Price Return Value: [Blank]
 - Access: [Blank]
 - Status: Valid
 - First Valid: N/A
 - Expires: Never

At the bottom, the "Current ID" is 010050104302370667. There are "Manual Entry" and "Cancel" buttons.

Ticket Number – 010050104302370669

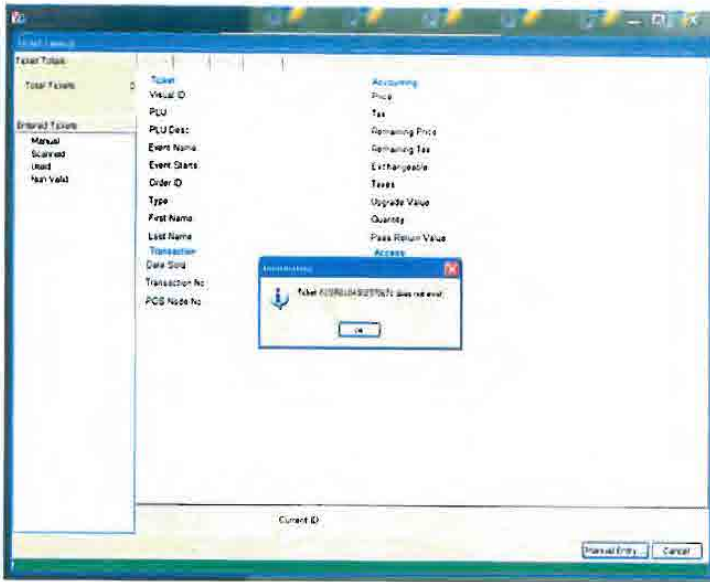


Ticket Number – 010050104302370670

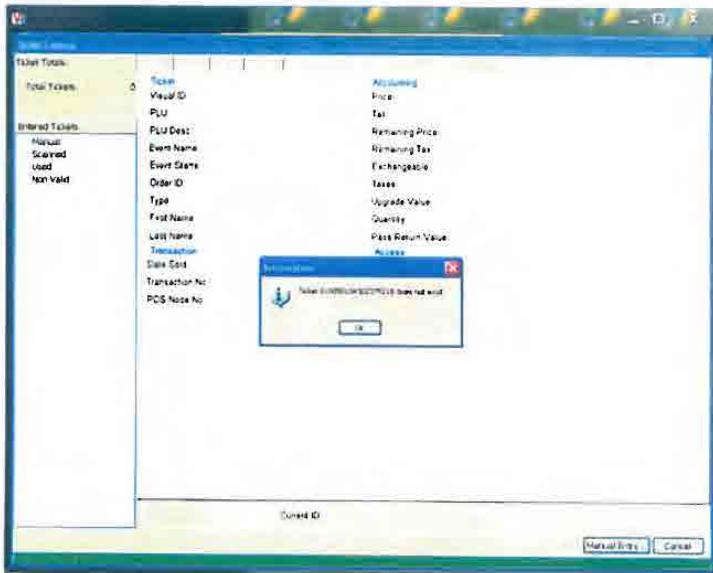


10 Random Missing Ticket Numbers Between 010050104302370670 and 010050104302400000

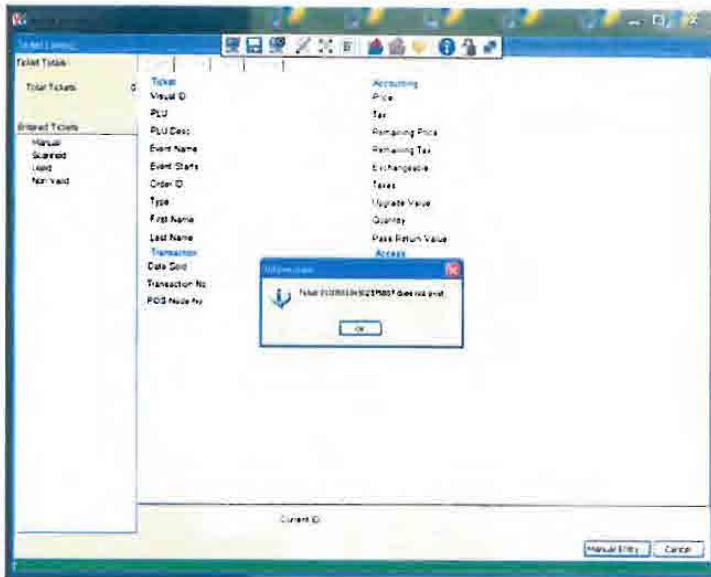
Ticket Number – 010050104302370671



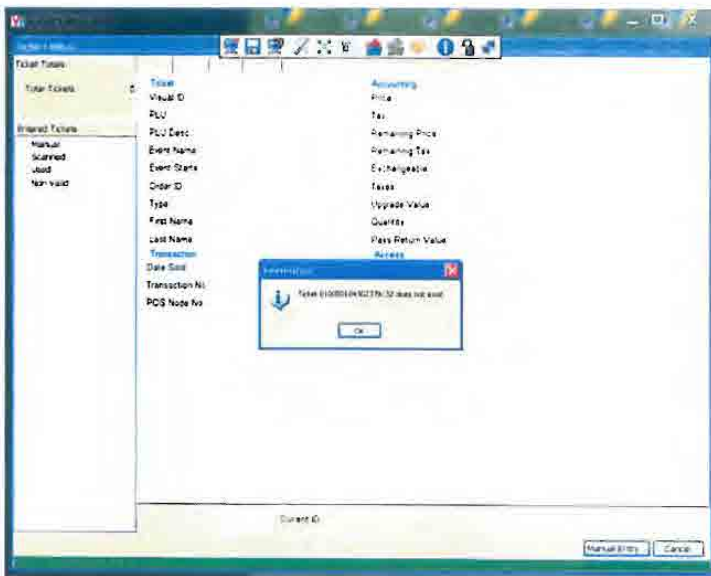
Ticket Number - 010050104302375218



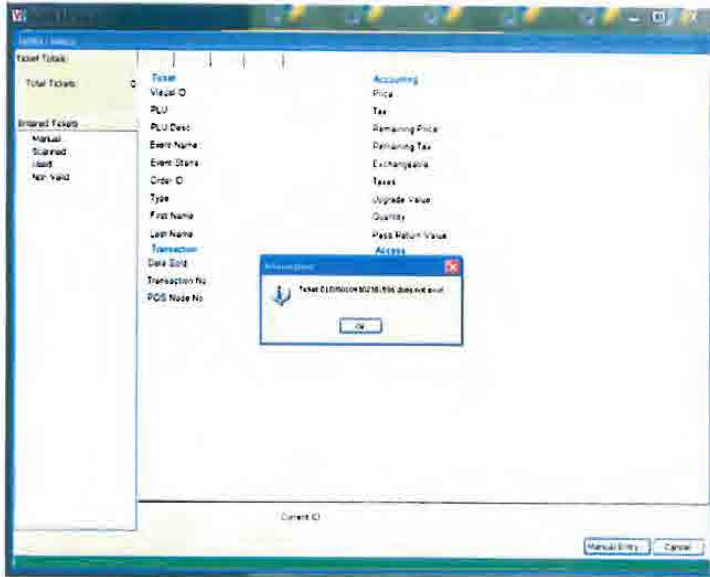
Ticket Number -010050104302375887



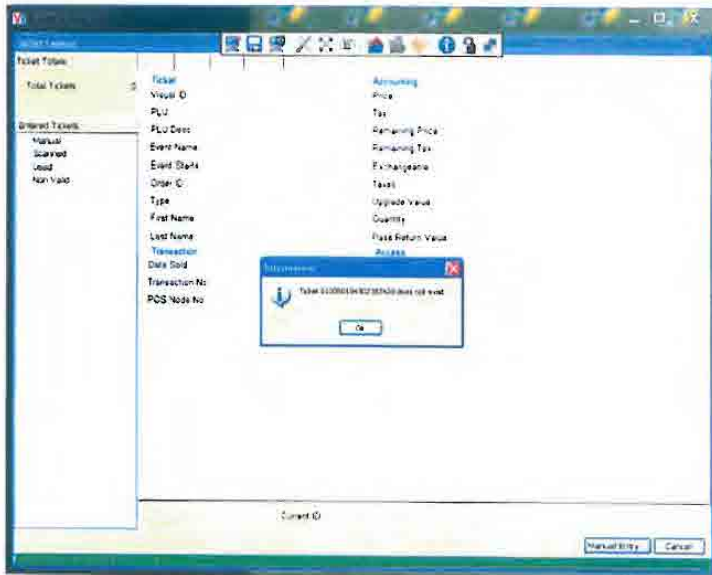
Ticket Number -010050104302376132



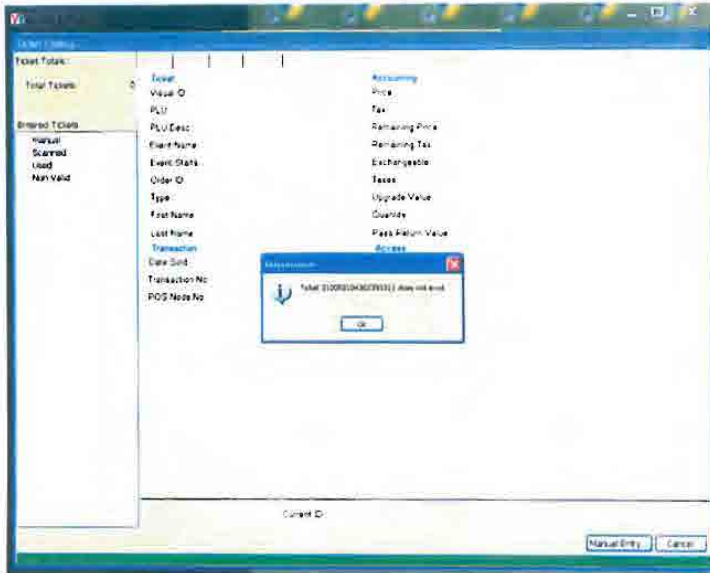
Ticket Number -010050104302381596



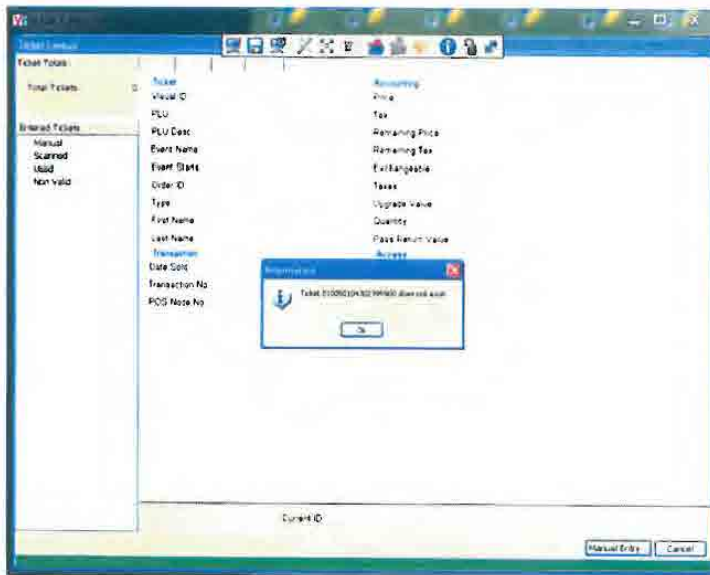
Ticket Number -010050104302387420



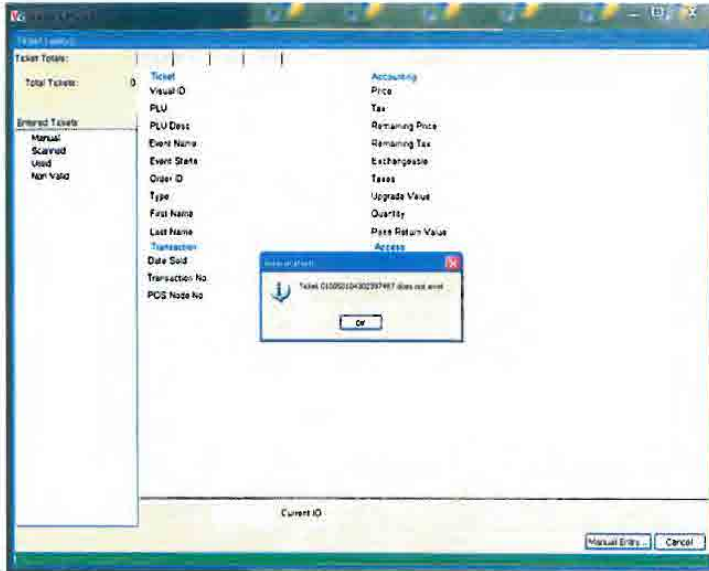
Ticket Number --010050104302393311



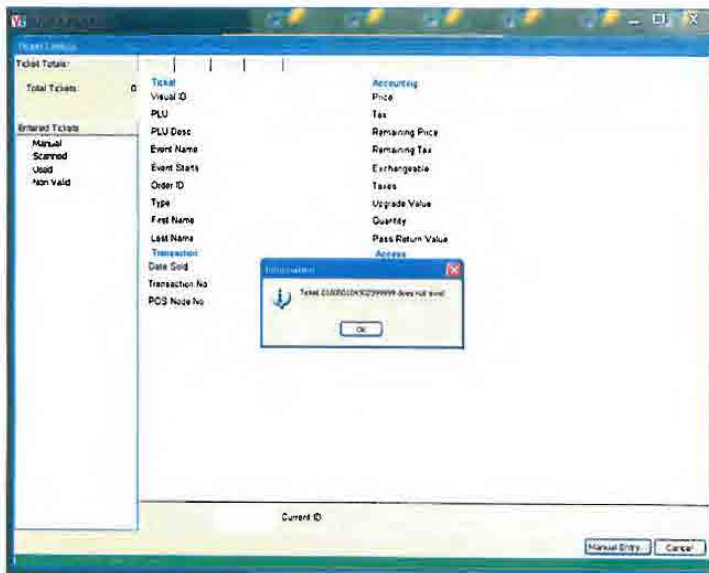
Ticket Number --010050104302395900



Ticket Number -010050104302397487



Ticket Number -010050104302399999



First 10 Tickets Sold After Serial Reset

Ticket Number – 010050104302400000

The screenshot shows a software window titled "Ticket Entry" with a blue header. On the left, there is a sidebar with "Ticket Totals" (Total Tickets: 0) and "Entered Tickets" (Manual, Scanned, Used, Non Void). The "Used" section is expanded, showing the selected ticket ID "010050104302400000". The main area displays ticket details in a table-like format:

Ticket [Access Usage]		Accounting	
Visual ID	010050104302400000	Price	17.00
PLU	NY101005011UA	Tax	0.00
PLU Desc	NY Adult Flex 10A	Remaining Price	0.00
Event Name	New York Fax	Remaining Tax	0.00
Event Starts	07/31/2012 8:00	Exchangeable	Yes
Order ID	0	Taxes	NNNNNNNN
Type	Ticket	Upgrade Value	Not upgradeable
First Name		Quantity	1
Last Name		Pass Return Value	
Transaction		Access	
Date Sold	07/31/2012 8:42 AM	Status	No uses left
Transaction No	154	First Valid	NA
PCS Node No	43	Expires	Never

At the bottom, the "Current ID" is 010050104302400000. Buttons for "Manual Entry" and "Cancel" are visible.

Ticket Number - 010050104302400001

The screenshot shows a software window titled "Ticket Entry" with a blue header. On the left, there is a sidebar with "Ticket Totals" (Total Tickets: 0) and "Entered Tickets" (Manual, Scanned, Used, Non Void). The "Used" section is expanded, showing the selected ticket ID "010050104302400001". The main area displays ticket details in a table-like format:

Ticket [Access Usage]		Accounting	
Visual ID	010050104302400001	Price	17.00
PLU	NY101005011UA	Tax	0.00
PLU Desc	NY Adult Flex 10A	Remaining Price	0.00
Event Name	New York Fax	Remaining Tax	0.00
Event Starts	07/31/2012 8:00	Exchangeable	Yes
Order ID	0	Taxes	NNNNNNNN
Type	Ticket	Upgrade Value	Not upgradeable
First Name		Quantity	1
Last Name		Pass Return Value	
Transaction		Access	
Date Sold	07/31/2012 8:42 AM	Status	No uses left
Transaction No	154	First Valid	NA
PCS Node No	43	Expires	Never

At the bottom, the "Current ID" is 010050104302400001. Buttons for "Manual Entry" and "Cancel" are visible.

Ticket Number - 010050104302400002

The screenshot shows a software window titled "Ticket Entry" with a blue border. It contains several sections:

- Ticket Totals:** Shows "Total Tickets" as 0.
- Entered Tickets:** A list of tickets with columns for Manual, Scanned, and Used. The ticket 010050104302400002 is highlighted in blue.
- Non-Valid:** An empty list.
- Ticket Details:**
 - Ticket (Access) Usage:** Ticket ID: 010050104302400002, PLU: NY1010901UA, PLU Desc: NY Adult Flex UA, Event Name: New York Flex UA, Event Start: 07/31/2012 8:00, Order ID: 0, Type: Ticket, First Name: [blank], Last Name: [blank], Transaction: [blank], Date Sold: 07/31/2012 9:42 AM, Transaction No: 154, POS Node No: 43. A "View" button is next to the POS Node No.
 - Accounting:** Price: 17.00, Tax: 0.00, Remaining Price: 0.00, Remaining Tax: 0.00, Exchangable: Yes, Taxes: NY0000000, Upgrade Value: Not upgradeable, Quantity: 1, Pass Return Value: [blank], Access: [blank], Status: No user left, First Valid: N/A, Expires: Never.
- Footer:** "Current ID: 010050104302400002" and "Manual Entry" / "Cancel" buttons.

Ticket Number - 010050104302400003

The screenshot shows a software window titled "Ticket Entry" with a blue border. It contains several sections:

- Ticket Totals:** Shows "Total Tickets" as 0.
- Entered Tickets:** A list of tickets with columns for Manual, Scanned, and Used. The ticket 010050104302400003 is highlighted in blue.
- Non-Valid:** An empty list.
- Ticket Details:**
 - Ticket (Access) Usage:** Ticket ID: 010050104302400003, PLU: NY1010901UA, PLU Desc: NY Adult Flex UA, Event Name: New York Flex UA, Event Start: 07/31/2012 8:00, Order ID: 0, Type: Ticket, First Name: [blank], Last Name: [blank], Transaction: [blank], Date Sold: 07/31/2012 9:42 AM, Transaction No: 154, POS Node No: 43. A "View" button is next to the POS Node No.
 - Accounting:** Price: 17.00, Tax: 0.00, Remaining Price: 0.00, Remaining Tax: 0.00, Exchangable: Yes, Taxes: NY0000000, Upgrade Value: Not upgradeable, Quantity: 1, Pass Return Value: [blank], Access: [blank], Status: No user left, First Valid: N/A, Expires: Never.
- Footer:** "Current ID: 010050104302400003" and "Manual Entry" / "Cancel" buttons.

Ticket Number - 010050104302400004

The screenshot shows a software window titled 'Ticket Lookup' with a tabbed interface. The 'Ticket | Access | Usage' tab is active. The window is divided into several sections:

- Total Tickets:** Shows 0 total tickets.
- Entered Tickets:** A list of tickets with the selected ticket '010050104302400004' highlighted.
- Manual Scanned Used:** A list of scanned tickets, including the selected one.
- Non void:** A list of non-voided tickets, including the selected one.
- Ticket Details:**
 - Visual ID: 010050104302400004
 - PLU: NY13100601UA
 - PLU Desc: NY Adult Fax UA
 - Event Name: New York Fax
 - Event Start: 07/31/02 8:00
 - Order ID: 0
 - Type: Ticket
 - First Name: [Blank]
 - Last Name: [Blank]
 - Transaction: [Blank]
 - Date Sold: 07/31/02 8:42 AM
 - Transaction No: 154
 - POS Node No: 43
- Accounting:**
 - Price: 17.00
 - Tax: 0.00
 - Remaining Price: 0.00
 - Remaining Tax: 0.00
 - Exchangeable: Yes
 - Taxes: None/None
 - Upgrade Value: Not applicable
 - Quantity: 1
 - Pass Return Value: [Blank]
 - Access: [Blank]
 - Status: No uses left
 - First Void: N/A
 - Expires: Never

At the bottom, the 'Current ID' is 010050104302400004. Buttons for 'Manual Entry' and 'Cancel' are visible.

Ticket Number - 010050204302400005

The screenshot shows a software window titled 'Ticket Lookup' with a tabbed interface. The 'Ticket | Access | Usage' tab is active. The window is divided into several sections:

- Total Tickets:** Shows 0 total tickets.
- Entered Tickets:** A list of tickets with the selected ticket '010050204302400005' highlighted.
- Manual Scanned Used:** A list of scanned tickets, including the selected one.
- Non void:** A list of non-voided tickets, including the selected one.
- Ticket Details:**
 - Visual ID: 010050204302400005
 - PLU: NY13100602UA
 - PLU Desc: NY Senior Fax UA
 - Event Name: New York Fax
 - Event Start: 07/31/02 8:00
 - Order ID: 0
 - Type: Ticket
 - First Name: [Blank]
 - Last Name: [Blank]
 - Transaction: [Blank]
 - Date Sold: 07/31/02 8:42 AM
 - Transaction No: 154
 - POS Node No: 43
- Accounting:**
 - Price: 14.00
 - Tax: 0.00
 - Remaining Price: 0.00
 - Remaining Tax: 0.00
 - Exchangeable: Yes
 - Taxes: None/None
 - Upgrade Value: Not applicable
 - Quantity: 1
 - Pass Return Value: [Blank]
 - Access: [Blank]
 - Status: No uses left
 - First Void: N/A
 - Expires: Never

At the bottom, the 'Current ID' is 010050204302400005. Buttons for 'Manual Entry' and 'Cancel' are visible.

Ticket Number - 010050104302400006

The screenshot shows a software window titled 'Ticket Entry' with a menu bar containing 'Ticket', 'Access', and 'Usage'. The interface is divided into several sections:

- Total Tickets:** 0
- Entered Tickets:** A list of tickets with the current one (010050104302400006) selected.
- Manual Scanned Used:** A list of used tickets.
- Non Valid:** A list of invalid tickets.
- Ticket Details:**
 - Ticket Visual ID: 010050104302400006
 - PLU: NY12100601UA
 - PLU Desc: NY Adult Flex UA
 - Event Name: New York Flex
 - Event Starts: 07/31/2012 8:00
 - Order ID: 0
 - Type: Ticket
 - First Name: [Blank]
 - Last Name: [Blank]
 - Transaction: [Blank]
 - Date Sold: 07/31/2012 @ 43 AM
 - Transaction No: 155
 - POS Node No: 43
- Accounting:**
 - Price: 17.00
 - Tax: 0.00
 - Remaining Price: 0.00
 - Remaining Tax: 0.00
 - Exchangable: Yes
 - Taxes: NNNNNNNN
 - Upgrade Value: Not upgradeable
 - Quantity: 1
 - Pass Return Value: [Blank]
 - Access: [Blank]
 - Status: No uses left
 - First Valid: N/A
 - Expires: Never

At the bottom, the 'Current ID' is 010050104302400006. Buttons for 'Manual Entry' and 'Cancel' are visible.

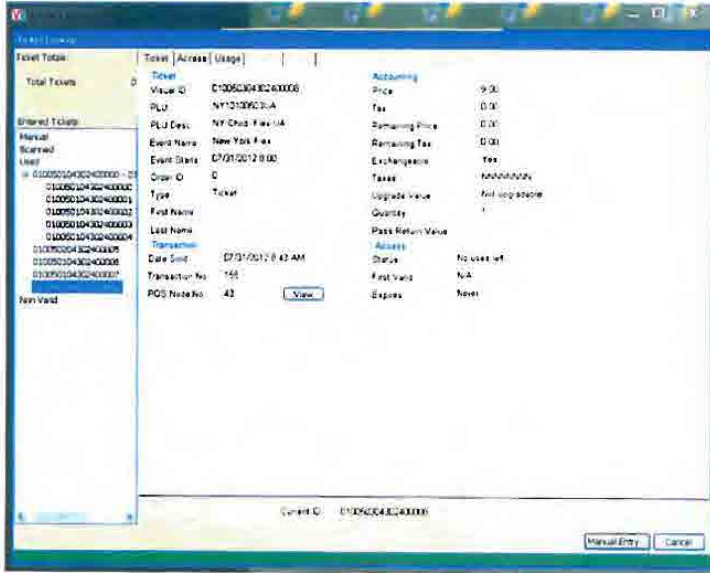
Ticket Number - 010050104302400007

The screenshot shows a software window titled 'Ticket Entry' with a menu bar containing 'Ticket', 'Access', and 'Usage'. The interface is divided into several sections:

- Total Tickets:** 0
- Entered Tickets:** A list of tickets with the current one (010050104302400007) selected.
- Manual Scanned Used:** A list of used tickets.
- Non Valid:** A list of invalid tickets.
- Ticket Details:**
 - Ticket Visual ID: 010050104302400007
 - PLU: NY12100601UA
 - PLU Desc: NY Adult Flex UA
 - Event Name: New York Flex
 - Event Starts: 07/31/2012 8:00
 - Order ID: 0
 - Type: Ticket
 - First Name: [Blank]
 - Last Name: [Blank]
 - Transaction: [Blank]
 - Date Sold: 07/31/2012 @ 43 AM
 - Transaction No: 155
 - POS Node No: 43
- Accounting:**
 - Price: 17.00
 - Tax: 0.00
 - Remaining Price: 0.00
 - Remaining Tax: 0.00
 - Exchangable: Yes
 - Taxes: NNNNNNNN
 - Upgrade Value: Not upgradeable
 - Quantity: 1
 - Pass Return Value: [Blank]
 - Access: [Blank]
 - Status: No uses left
 - First Valid: N/A
 - Expires: Never

At the bottom, the 'Current ID' is 010050104302400007. Buttons for 'Manual Entry' and 'Cancel' are visible.

Ticket Number - 010050304302400008



Ticket Number - 010050304302400009

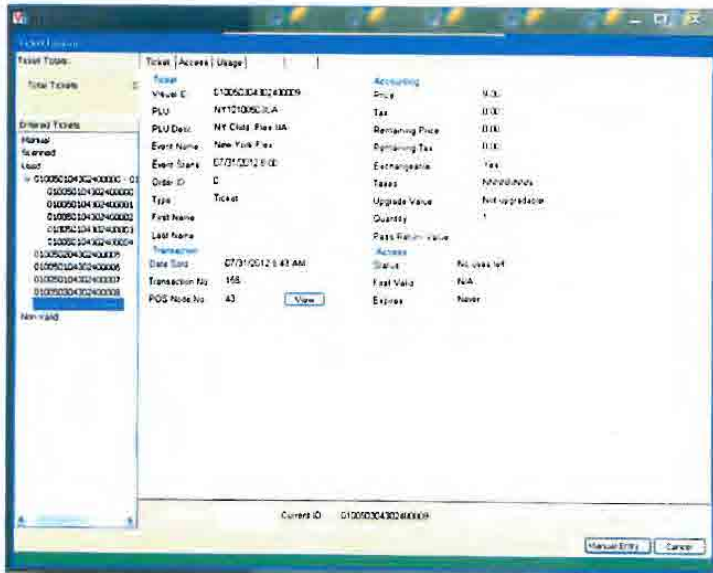
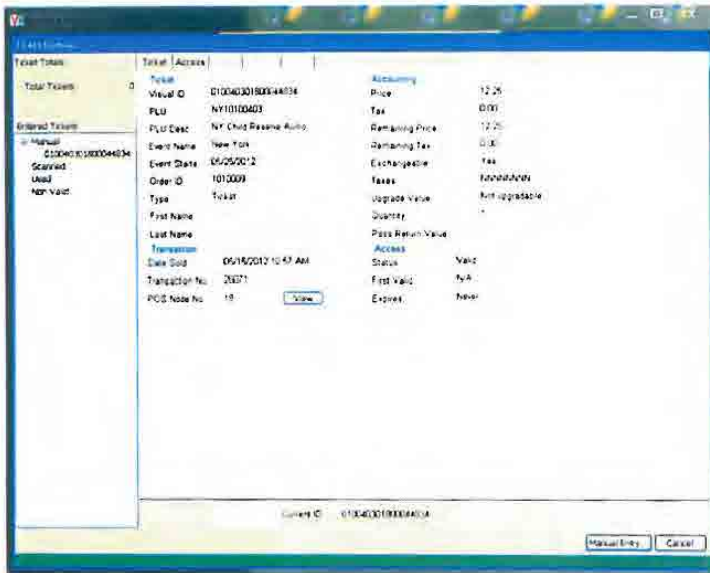


EXHIBIT B-2

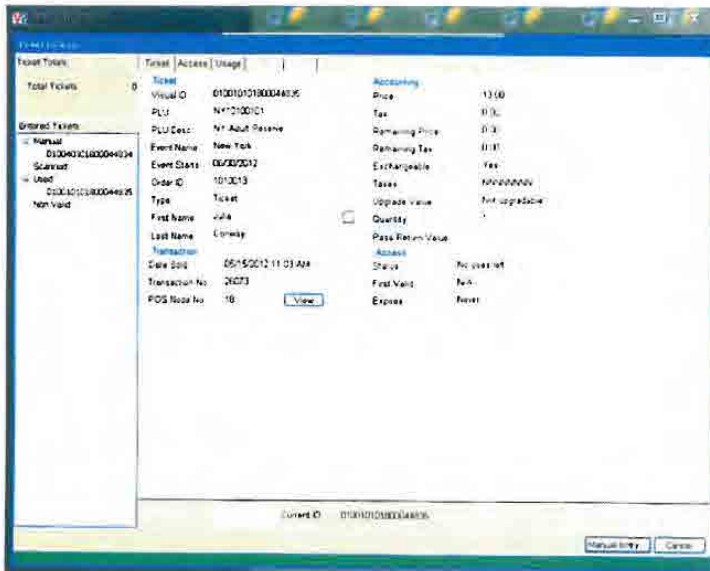
Node 18 – May 2012 Missing Ticket Numbers

Last 10 Ticket Numbers before Serial Number Reset

Ticket Number – 010040301800044834



Ticket Number - 010010101800044835



Ticket Number - 010010101800044836

The screenshot shows a 'Ticket Lookup' window with the following data:

Ticket Totals		Ticket Access Usage		Accounting	
Total Tickets	0	Ticket	010010101800044836	Price	19.00
Entered Tickets		Visual ID	NY10100103	Tax	0.00
Manual	010010101800044836	PLU Desc	NY Adult Reserve	Remaining Price	0.00
Scanned		Event Name	New York	Remaining Tax	0.00
Used		Event Date	06/25/2012	Exchangable	Yes
		Order ID	1010013	Taxes	None/None/None
		Type	Ticket	Upgrade Value	Not upgradeable
		First Name		Quantity	1
		Last Name		Pass Return Value	
		Transaction		Access	None
		Date Sold	06/15/2012 11:03 AM	Status	Not used yet
		Transaction No.	26273	First Valid	N/A
		POS Note No.	12	Expires	Never

Current ID: 010010101800044836

Buttons: Manual Entry, Cancel

Ticket Number - 010010301800044837

The screenshot shows a 'Ticket Lookup' window with the following data:

Ticket Totals		Ticket Access Usage		Accounting	
Total Tickets	0	Ticket	010010301800044837	Price	9.00
Entered Tickets		Visual ID	NY10100103	Tax	0.00
Manual	010010301800044834	PLU Desc	NY Child Reserve	Remaining Price	0.00
Scanned		Event Name	New York	Remaining Tax	0.00
Used		Event Date	06/25/2012	Exchangable	Yes
		Order ID	1010013	Taxes	None/None/None
		Type	Ticket	Upgrade Value	Not upgradeable
		First Name		Quantity	1
		Last Name		Pass Return Value	
		Transaction		Access	None
		Date Sold	06/15/2012 11:03 AM	Status	Not used yet
		Transaction No.	26273	First Valid	N/A
		POS Note No.	12	Expires	Never

Current ID: 010010301800044837

Buttons: Manual Entry, Cancel

Ticket Number - 010060101800044838

The screenshot shows a software window titled "Ticket Entry" with a "Ticket [Access | Usage]" tab. On the left, there is a "Ticket Totals" section showing "Total Tickets: 0" and an "Entered Tickets" list with several ticket numbers, including the selected one: 010060101800044838. The main area displays the following details:

Ticket [Access Usage]		Accounting	
View ID	010060101800044838	Price	21.00
PLU	NY10100001	Tax	0.00
PLU Desc	NY Adult Fax Auto	Remaining Price	0.00
Event Name	New York Fax	Remaining Tax	0.00
Event Start	06/25/12 9:00	Exchangable	Yes
Order ID	1010016	Taxes	XXXXXXXXXX
Type	Ticket	Upgrade Value	Not upgradeable
First Name	Chady	Quantity	1
Last Name	Friem	Pass Return Value	
Transaction		Access	No access left
Date Sold	06/14/2012 11:10 AM	Status	Not voided
Transaction No	20074	First void	N/A
POS Node No	10	Expires	Never

At the bottom, the "Current ID" is 010060101800044838. Buttons for "Manual Entry" and "Cancel" are visible.

Ticket Number - 010060101800044839

The screenshot shows a software window titled "Ticket Entry" with a "Ticket [Access | Usage]" tab. On the left, there is a "Ticket Totals" section showing "Total Tickets: 0" and an "Entered Tickets" list with several ticket numbers, including the selected one: 010060101800044839. The main area displays the following details:

Ticket [Access Usage]		Accounting	
View ID	010060101800044839	Price	21.00
PLU	NY10100001	Tax	0.00
PLU Desc	NY Adult Fax Auto	Remaining Price	0.00
Event Name	New York Fax	Remaining Tax	0.00
Event Start	06/25/12 9:00	Exchangable	Yes
Order ID	1010016	Taxes	XXXXXXXXXX
Type	Ticket	Upgrade Value	Not upgradeable
First Name		Quantity	1
Last Name		Pass Return Value	
Transaction		Access	No access left
Date Sold	06/14/2012 11:10 AM	Status	Not voided
Transaction No	20074	First void	N/A
POS Node No	10	Expires	Never

At the bottom, the "Current ID" is 010060101800044839. Buttons for "Manual Entry" and "Cancel" are visible.

Ticket Number - 010060101800044840

The screenshot shows a software window titled "Ticket Totals" with a sub-header "Ticket [Access] Usage". The interface is divided into several sections:

- Total Tickets:** Shows 1 total ticket.
- Entered Tickets:** A list of tickets with the selected one highlighted in blue:
 - Manual: 010060101800044834
 - Scanned: 010060101800044838
 - 010060101800044835
 - 010060101800044832
 - 010060101800044833
 - 010060101800044837
 - 010060101800044839
 - 010060101800044836
 - Non valid
- Ticket Details:**
 - Accounting:** Price: 21.00, Tax: 0.00, Remaining Price: 0.00, Remaining Tax: 0.00, Exchangeable: Yes, Taxes: N/A, Upgrade Value: Not upgradeable, Quantity: 1.
 - Pass Return Value:** Status: No value left, Fee Valid: N/A, Expires: Never.
- Transaction Information:**
 - Visual ID: 010060101800044840
 - PLU: NY10100601
 - PLU Desc: NY Adult Flex Auto
 - Event Name: New York Flex
 - Event Starts: 06/26/12 9:00
 - Order ID: 1010016
 - Type: Ticket
 - First Name: [Blank]
 - Last Name: [Blank]
 - Transaction: [Blank]
 - Date Sold: 06/15/2012 11:10 AM
 - Transaction No: 26075
 - POS Node No: 10

Buttons at the bottom include "Manual Entry" and "Cancel". The "Current ID" at the bottom is 010060101800044840.

Ticket Number - 010060101800044841

The screenshot shows a software window titled "Ticket Totals" with a sub-header "Ticket [Access] Usage". The interface is divided into several sections:

- Total Tickets:** Shows 0 total tickets.
- Entered Tickets:** A list of tickets with the selected one highlighted in blue:
 - Manual: 010060101800044834
 - Scanned: 010060101800044838
 - 010060101800044835
 - 010060101800044832
 - 010060101800044833
 - 010060101800044837
 - 010060101800044839
 - 010060101800044840
 - 010060101800044841
 - Non valid
- Ticket Details:**
 - Accounting:** Price: 21.00, Tax: 0.00, Remaining Price: 0.00, Remaining Tax: 0.00, Exchangeable: Yes, Taxes: N/A, Upgrade Value: Not upgradeable, Quantity: 1.
 - Pass Return Value:** Status: No value left, Fee Valid: N/A, Expires: Never.
- Transaction Information:**
 - Visual ID: 010060101800044841
 - PLU: NY10100601
 - PLU Desc: NY Adult Flex Auto
 - Event Name: New York Flex
 - Event Starts: 06/26/12 9:00
 - Order ID: 1010016
 - Type: Ticket
 - First Name: [Blank]
 - Last Name: [Blank]
 - Transaction: [Blank]
 - Date Sold: 06/15/2012 11:10 AM
 - Transaction No: 26075
 - POS Node No: 10

Buttons at the bottom include "Manual Entry" and "Cancel". The "Current ID" at the bottom is 010060101800044841.

Ticket Number - 010010101800044842

The screenshot shows a software window titled "Ticket Entry" with a "Ticket Totals" section on the left and a main "Ticket (Access | Usage)" section on the right. The "Ticket Totals" section shows "Total Tickets" as 0. The "Entered Tickets" list includes several ticket numbers, with "010010101800044842" selected. The main ticket details are as follows:

Field	Value
Ticket	010010101800044842
Accounting Price	19.00
PLU	NY10100101
Tax	0.00
PLU Desc	NY Adult Reserve
Remaining Price	0.00
Event Name	New York
Remaining Tax	0.00
Event Start	05/17/2012
Exchangable	Yes
Order ID	1010022
Taxes	NNNNNNNN
Type	Ticket
Upgrade Value	Not upgradeable
First Name	Henry
Quantity	1
Last Name	Schmitt
Pass Return Value	
Transaction	
Date Sold	05/15/2012 11:15 AM
Status	No uses left
Transaction No.	20077
First Valid	NA
PCS Node No.	18
Expires	Never

Buttons at the bottom include "Manual Entry" and "Cancel". The "Current ID" at the bottom center is 010010101800044842.

Ticket Number - 010010201800044843

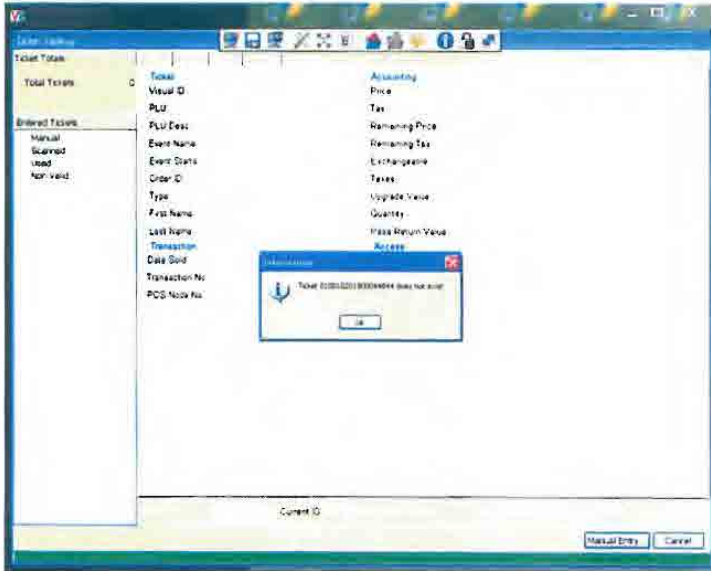
The screenshot shows a software window titled "Ticket Entry" with a "Ticket Totals" section on the left and a main "Ticket (Access | Usage)" section on the right. The "Ticket Totals" section shows "Total Tickets" as 0. The "Entered Tickets" list includes several ticket numbers, with "010010201800044843" selected. The main ticket details are as follows:

Field	Value
Ticket	010010201800044843
Accounting Price	19.00
PLU	NY10100102
Tax	0.00
PLU Desc	NY Senior Reserve
Remaining Price	0.00
Event Name	New York
Remaining Tax	0.00
Event Start	05/17/2012
Exchangable	Yes
Order ID	1010022
Taxes	NNNNNNNN
Type	Ticket
Upgrade Value	Not upgradeable
First Name	
Quantity	1
Last Name	
Pass Return Value	
Transaction	
Date Sold	05/15/2012 11:16 AM
Status	No uses left
Transaction No.	20077
First Valid	NA
PCS Node No.	18
Expires	Never

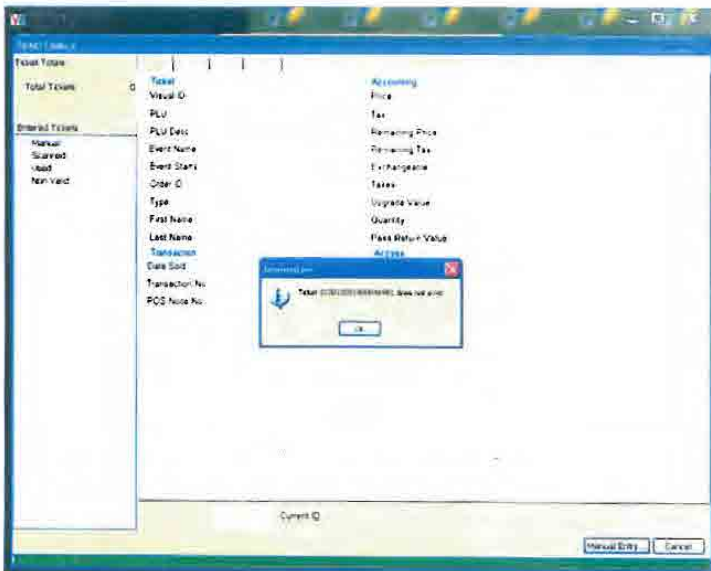
Buttons at the bottom include "Manual Entry" and "Cancel". The "Current ID" at the bottom center is 010010201800044843.

10 Random Missing Ticket Numbers Between 010010201800044843 and 010010101800060000

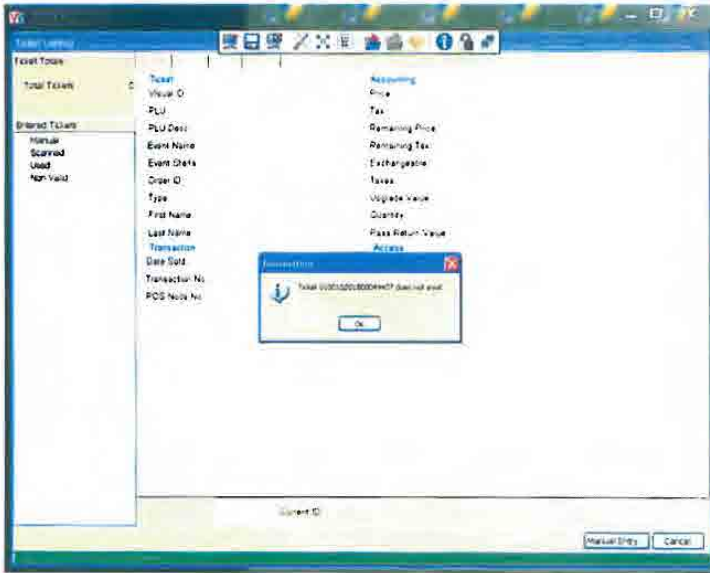
Ticket Number - 010010201800044844.



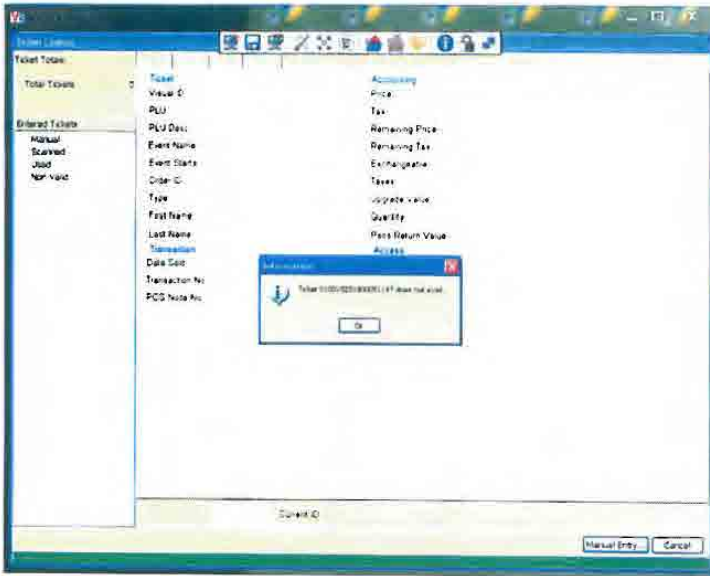
Ticket Number – 010010201800046981



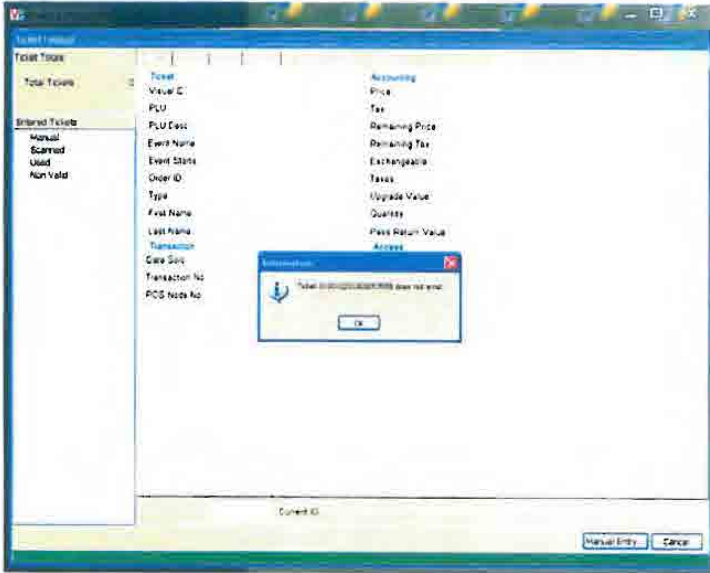
Ticket Number -010010201800049407



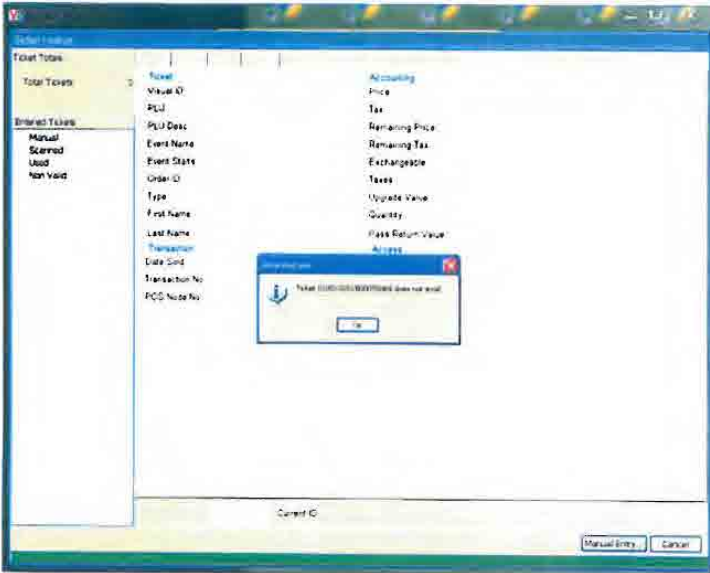
Ticket Number -010010201800051147



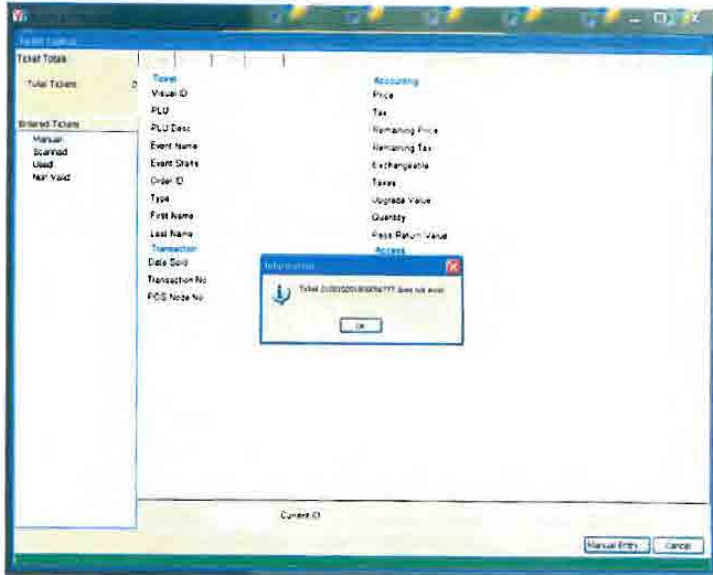
Ticket Number – 010010201800053558



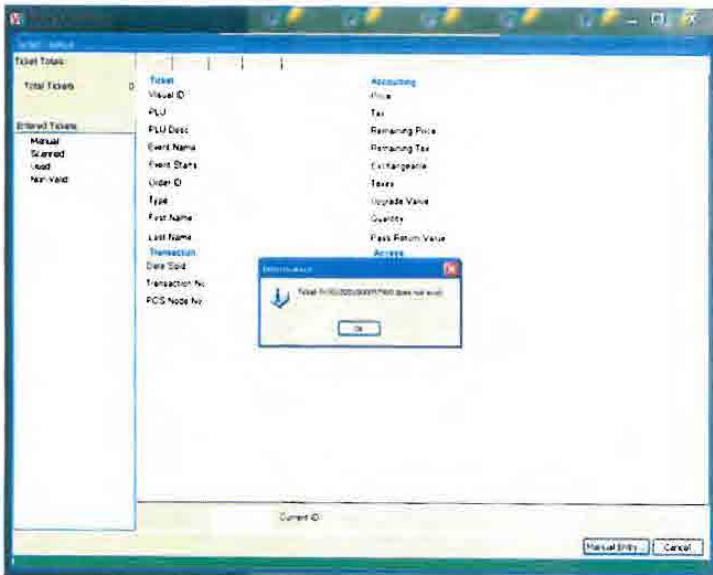
Ticket Number – 010010201800055069



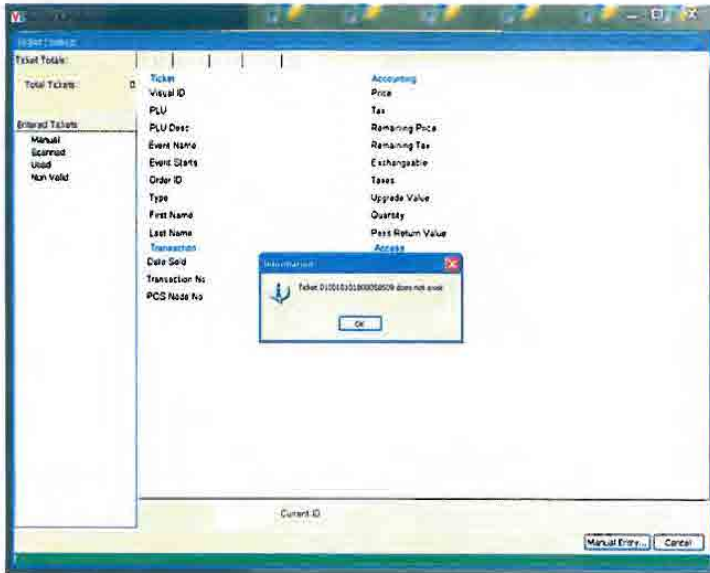
Ticket Number - 010010201800056777



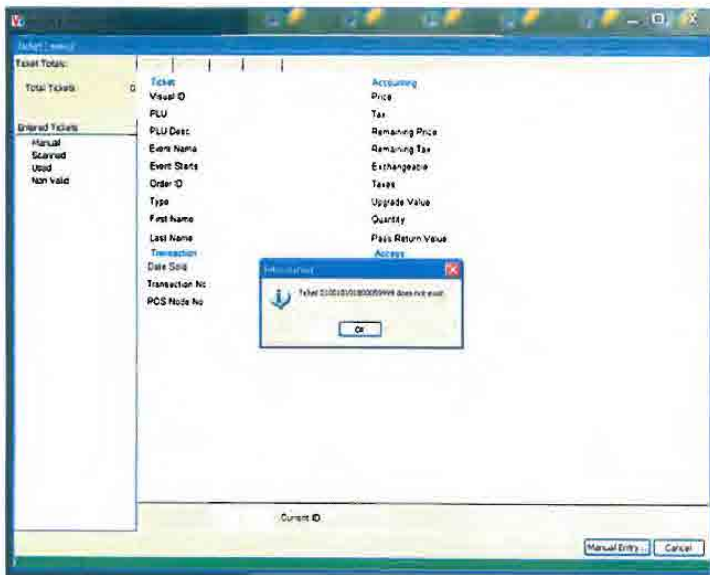
Ticket Number - 010010201800057900



Ticket Number - 010010101800058509

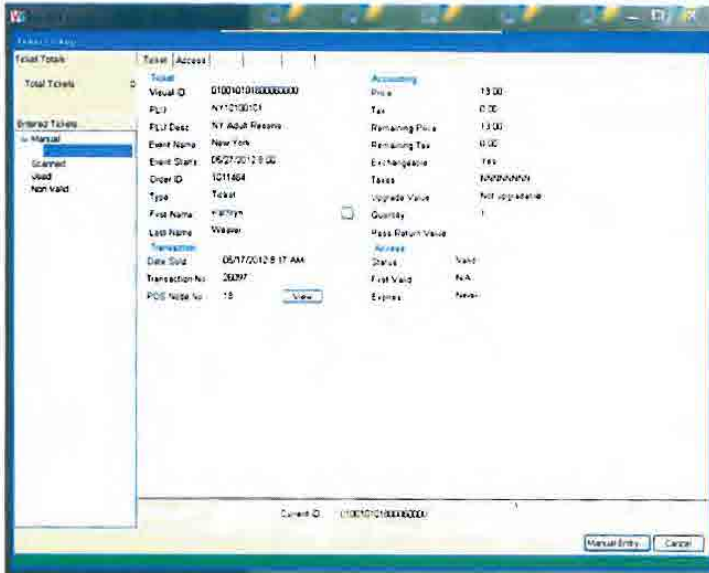


Ticket Number - 010010101800059999

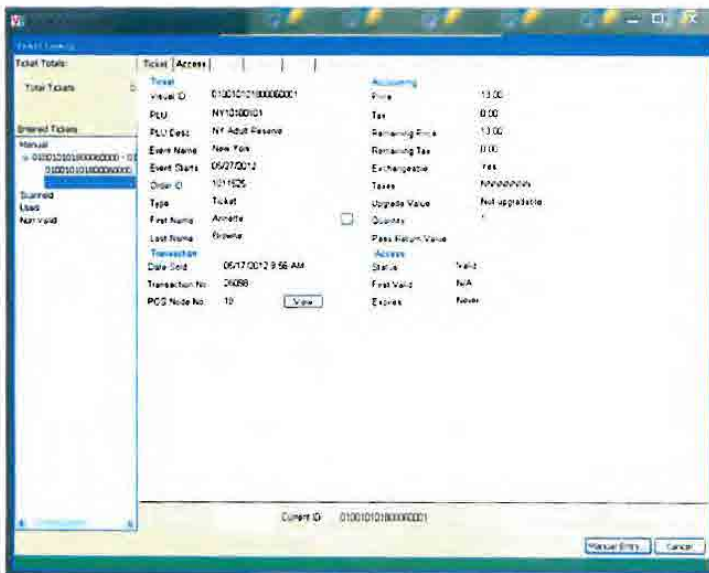


First 10 Tickets Sold After Serial Reset

Ticket Number – 010010101800060000



Ticket Number – 010010101800060001



Ticket Number – 010010101800060002

Ticket Totals		Ticket (Access)		Accounting	
Total Tickets	0	Ticket	010010101800060002	Price	13.00
Entered Tickets		Visual ID	N11010101	Tax	0.00
Manual		PLU Desc	N1 Adult Reserve	Remaining Price	13.00
Event Name		Event Name	New York	Remaining Tax	0.00
Event State		Event State	06/27/2012	Exchangeable	Yes
Order ID		Order ID	1011526	Taxes	NNNNNNNN
Type		Type	Ticket	Upgrade Value	Not upgradeable
First Name		Quantity	1	Pass Return Value	
Last Name		Date Sold	06/17/2012 9:58 AM	Status	Valid
Transaction		Transaction No	20390	Print Valid	N/A
Transaction No		PCS Note No	16	Expires	Never
View					

Current ID: 010010101800060002

Manual Entry... Cancel

Ticket Number – 010010101800060003

Ticket Totals		Ticket (Access)		Accounting	
Total Tickets	0	Ticket	010010101800060003	Price	13.00
Entered Tickets		Visual ID	N11010101	Tax	0.00
Manual		PLU Desc	N1 Adult Reserve	Remaining Price	13.00
Event Name		Event Name	New York	Remaining Tax	0.00
Event State		Event State	06/27/2012	Exchangeable	Yes
Order ID		Order ID	1011526	Taxes	NNNNNNNN
Type		Type	Ticket	Upgrade Value	Not upgradeable
First Name		Quantity	1	Pass Return Value	
Last Name		Date Sold	06/17/2012 9:58 AM	Status	Valid
Transaction		Transaction No	20390	Print Valid	N/A
Transaction No		PCS Note No	16	Expires	Never
View					

Current ID: 010010101800060003

Manual Entry... Cancel

Ticket Number – 010010101800060004

Ticket Totals		Ticket Access		Accounting	
Total Tickets	0	Ticket	010010101800060004	Price	13.00
Entered Tickets		PLU	N112100101	Tax	0.00
Manual		PLU Desc	NY Adult Reserve	Remaining Price	13.00
010010101800060004		Event Name	New York	Remaining Tax	0.00
010010101800060004		Event Date	05/27/2012	Exchangeable	Yes
010010101800060004		Order ID	101155	Taxes	AMERICAN
010010101800060004		Type	Ticket	Upgrade Value	Not Applicable
010010101800060004		First Name		Quantity	1
Skipped		Last Name		Pass Return Value	
Used		Transaction		Access	
Not Used		Date Sold	05/17/2012 9:56 AM	Status	Valid
		Transaction No.	2409	Full Valid	N/A
		POS Note No.	10	Expires	Never

Current ID: 010010101800060004

Ticket Number – 010010101800060005

Ticket Totals		Ticket Access Usage		Accounting	
Total Tickets	0	Ticket	010010101800060005	Price	13.00
Entered Tickets		PLU	N112100101	Tax	0.00
Manual		PLU Desc	NY Adult Reserve	Remaining Price	0.00
010010101800060005		Event Name	New York	Remaining Tax	0.00
010010101800060005		Event Date	05/20/2012	Exchangeable	Yes
010010101800060005		Order ID	101233	Taxes	AMERICAN
010010101800060005		Type	Ticket	Upgrade Value	Not Applicable
010010101800060005		First Name	Affinity	Quantity	1
010010101800060005		Last Name	Vittori	Pass Return Value	
Skipped		Transaction		Access	
Used		Date Sold	05/19/2012 9:28 AM	Status	No Use left
Not Used		Transaction No.	20113	Full Valid	N/A
		POS Note No.	10	Expires	Never

Current ID: 010010101800060005

Ticket Number – 010010101800060006

The screenshot shows a software window with a sidebar on the left containing a list of ticket numbers. The main area is divided into three columns: 'Ticket | Access | Usage', 'Accounting', and 'Access'. The 'Ticket | Access | Usage' column contains: Ticket, Visual ID: 010010101800060006, PLU: NY1000101, PLU Desc: NY Adult Reserve, Event Name: New York, Event Start: 05/20/2012, Order ID: 1012831, Type: Ticket, First Name, Last Name, Transaction: 05/19/2012 9:24 AM, Date Sold, Transaction No: 26113, and POS Node No: 18. The 'Accounting' column contains: Price: 13.00, Tax: 0.00, Remaining Price: 0.00, Remaining Tax: 0.00, Exchangeable: Yes, Taxes: 888888888, Upgrade Value: Not upgradeable, Quantity: 1, and Fees Return Value. The 'Access' column contains: Access: No access, Status: Valid, First Valid: N/A, and Expires: Never. At the bottom, it says 'Current ID: 010010101800060006' and has 'Manual Entry' and 'Cancel' buttons.

Ticket Number – 010010101800060007

The screenshot shows a software window similar to the one above, but for ticket 010010101800060007. The 'Ticket | Access | Usage' column contains: Ticket, Visual ID: 010010101800060007, PLU: NY1000101, PLU Desc: NY Adult Reserve, Event Name: New York, Event Start: 05/19/2012 1:00, Order ID: 1012509, Type: Ticket, First Name: Franca, Last Name: Vickery, Transaction: 05/19/2012 11:05 AM, Date Sold, Transaction No: 26119, and POS Node No: 12. The 'Accounting' column contains: Price: 13.00, Tax: 0.00, Remaining Price: 13.00, Remaining Tax: 0.00, Exchangeable: Yes, Taxes: 888888888, Upgrade Value: Not upgradeable, Quantity: 1, and Fees Return Value. The 'Access' column contains: Access: Valid, Status: Valid, First Valid: N/A, and Expires: Never. At the bottom, it says 'Current ID: 010010101800060007' and has 'Manual Entry' and 'Cancel' buttons.

Ticket Number – 010010201800060008

Ticket [Access]		Accounting	
Ticket	Visual ID: 010010201800060008	Price	10.00
Visual ID	A719100102	Tax	0.00
PLU	PLU Desc: NY Canal Reserve	Remaining Price	10.00
PLU Desc	Event Name: New York	Remaining Tax	0.00
Event Name	Event Date: 05/19/2012 1:00	Exchangeable	Yes
Event Date	Order ID: 1012508	Taxes	NNNNNNNN
Order ID	Type: Ticket	Upgrade Value	Not upgradeable
Type	First Name:	Quantity	1
First Name	Last Name:	Pass Return Value	
Last Name	Transaction	Access	
Transaction	Date Sold: 05/18/2012 11:06 AM	Status	Valid
Date Sold	Transaction No: 26119	First Valid	N/A
Transaction No	POS Node No: 10	Expires	None
POS Node No			

Current ID: 010010201800060008

Ticket Number – 010400101800060009

Ticket [Access] [Lineage]		Accounting	
Ticket	Visual ID: 010400101800060009	Price	10.00
Visual ID	PLU: PL0140001	Tax	0.00
PLU	PLU Desc: Island Cruise Adult Reserve	Remaining Price	10.00
PLU Desc	Event Name: Liberty Harbor Cruise Reserve	Remaining Tax	0.00
Event Name	Event Date: 05/20/2012	Exchangeable	Yes
Event Date	Order ID: 1012752	Taxes	NNNNNNNN
Order ID	Type: Ticket	Upgrade Value	Not upgradeable
Type	First Name: Carlos	Quantity	1
First Name	Last Name: Rodriguez J	Pass Return Value	
Last Name	Transaction	Access	
Transaction	Date Sold: 05/20/2012 9:13 AM	Status	Ticket Requested
Date Sold	Transaction No: 26154	First Valid	N/A
Transaction No	POS Node No: 10	Expires	None
POS Node No			

Record 1 of 2 Current ID: 010400101800060009

EXHIBIT C-1



315 EAST SECOND STREET BOYERTOWN PA 19512 (610) 987-4000 FAX (610) 987-4001

June 5, 2013

Mr. Rafael Abreu
Statue Cruises
1 Audrey Zapp Drive,
CRRNJ Terminal at Liberty
Jersey City, NJ 07305

Dear Mr. Abreu:

I am writing in response to the request that you put forward to Cathy Allen as an explanation to the skipped transaction numbers that existed within the sale activity of the Galaxy system in operation at Statue Cruises.

We have assigned our engineers and support team to review the transaction examples that were provided and have identified that the instances of skipped transactions typically occurred between the payment for an order and an eventual issuance of the tickets. We have been able to reproduce this situation when creating a system error upon request of issuance of the tickets when the print at home delivery method is in use. The system would begin the SQL process to create the ticket records, but then experience some form of error and reverse the SQL transaction. This error could be caused by a multitude of reasons including SQL timeouts or a misconfigured ticket layout. We have confirmed that the generation of the tickets occurs after the transaction is aborted so there is not risk of valid tickets being produced without properly being recorded in the system and this does not represent any loss of commercial activity, nor would it affect the sales activity at any of the selling nodes. We suspect this issue could occur at other customers with similar circumstances and while the numbers may skip, there has been no report of lost revenue recording.

As noted, the skipped transaction numbers identified does not represent a situation where tickets were produced without properly recording. However, as it is common to review sequential transaction numbers to ensure completeness, Gateway will look to revise the code to either notate the missing transaction as an aborted attempt or we may restore the transaction number based on an incomplete operation since no transaction completed.

Please to not hesitate to ask further questions if we can provide assistance.

Sincerely,

A handwritten signature in black ink that reads "Darryl L. Moser".

Darryl L. Moser
Executive Vice President
Gateway Ticketing Systems, Inc.

EXHIBIT C-2

JNL Header Codes

1	HDR REC	General Header Record
8	POLL REC	Marks start of journal records from a node polled at a Concentrator
12	LOGON	Logon
13	LOGOFF	Logoff
14	CASHOUT	Cashout
15	MAINT	User selected the maintenance mode
16	ONLINE	User selected ticketing mode
17	RESTART	System restarted after a power failure or a crash
18	STARTUP	System startup
21	DOS MODE	Exited to DOS (AX1180)
22	ACCOUNT MODE	User selected accounting mode
23	NETWORK MODE	User selected network configuration/operations
36	LIFT SYS	User selected lift system
57	SUSPEND SHIFT REC	Suspend shift to be cashed out by a remote cashout
77	DM MEMO	Header record used when editing a General Config
79	BAD LOGON	Header record used for an invalid logon

JNL Header TranKind Values

1	TICKET TRANS	Ordinary sales or return transaction
3	TENDEX TRANS	Tender exchange (TENDEX) transactions
4	VOID TRANS	Void transactions
8	MODE_TRANS	Based on the value of JnlCode, records entry into Ticketing, Maintenance or Accounting mode
9	STARTUP TRANS	Records activation of the ticketing system
10	DEPOSIT TRANS	Deposits
11	OTHER_TRANS	Used for miscellaneous transactions, including logons, logoffs, change funds, cashouts, the "Print Ticket Set" function, moving event capacities, and activating events.
12	STOCK_TRANS	Records ticket stock usage before cashout (unless the "Suppress Stock Usage Calculation" option is selected in the Online Configuration)
13	USAGE TRANS	Records usage records (normally Access Control scans)
14	BATCH RETURN NON REV	Used for returning tickets issued for bulk exchange
15	RECEIPT_TRANS	Used for recording receipt function usage, if "Journalize Detail/Summary Receipts" options are selected
16	ORDER PICKUP	Order Pickups
17	ORDER UNPICKUP	Order Unpickups
18	SV LOOKUP	Stored Value Lookup
19	VEHICLE ENTRY MEMO TRANS	DVR: Vehicle triggered an Entrance
20	VEHICLE EXIT MEMO TRANS	DVR: Vehicle triggered an Exit
21	DM MEMO TRANS	User entered Data Maint
22	BAD LOGON TRANS	A failed login attempt
23	VIEW LOG TRANS	Viewed Log
24	CCF TRANS	CCF transaction

JNL Details Codes

4	VOID REC	Void record	JnlVoids.JnlVoidID
5	REFUND REC	Refund record	JnlRefunds.JnlRefundID
7	ID MEMO REC	ID associated memo record	MemoTbl.MemoTblID
8	POLL REC	Concentrator poll data indicator	N/A
9	MEMO REC	General memo record	MemoTbl.MemoTblID
19	CCF NODE REC	JnlCCFNode record	JnlCCFNodes.JnlCCFNodeID
20	PACKAGE DETAIL REC	Package Detail Record	JnlDetails.PackageDetailID

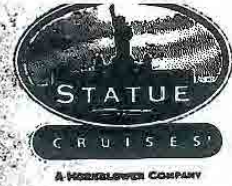
24	CUST ID REC	Customer ID record	Customers.CustomerID
25	ROSTER REC	Roster record	
26	DISCOUNT REC	Discount Record	JnlDiscounts.DiscountID
27	OVER_SHORT	Over/short amount for the shift record	JnlOverShort.JnlOverShortID
28	STOCK ISSUE	Ticket stock issued to booth	JnlStocks.JnlStockID
29	STOCK_USAGE	Ticket stock usage recorded at cashout	JnlStocks.JnlStockID
30	STOCK_RETURN	Ticket stock returned from the booth	JnlStocks.JnlStockID
31	STOCK VOID	Ticket stock void record	JnlStocks.JnlStockID
32	STOCK V RET	Ticket stock returned void record	JnlStocks.JnlStockID
33	CHANGE REC	Starting change fund for the shift	JnlChangeFunds.JnlChangeFundID
35	DRAFT REC	Credit authorization information	JnlDrafts.JnlDraftID
37	ORDER REC	Order transaction record	Orders.OrderID
38	EVENT REC	Event transaction record	N/A
39	OLD USAGE REC	Usage record	N/A
40	INVOICE REC	Invoice record	Orders.OrderID
41	SETTLE REC	Settlement record	Settlements.SettlementID
42	CURRENCY REC	Foreign currency record	JnlCurrencies.JnlCurrencyID
43	CAPACITY REC	Event capacity record	JnlCapacities.JnlCapacityID
44	ASSIGN_REAT_REC	Assigned seat record for Transportation	JnlAssignSeats.JnlAssignSeatID
45	OLV DRAFT REC	Additional draft data	Settlements.SettlementID
46	CCF MEMO REC	CCF memo data	JnlCCFMemos.JnlCCFMemoID
47	VISUAL ID REC	Visual ID record	N/A
48	RESERVATION REC	Resource reservation	N/A
49	CUST ACCOUNT REC	Customer Account Record	ARAccounts.AccountID
50	NEW USAGE REC	New usage record	JnlUsage.JnlUsageID
51	RESELLER DETAIL REC	Reseller Information Record	
52	RECEIPT REC	Receipt printed on demand	JnlReceipts.JnlReceiptID
53	EXTRA TKT INFO REC	Extra ticket information record	N/A
54	REASON REC	Reason record	JnlReasons.JnlReasonID
55	SURVEY REC	Survey response record	JnlSurveys.JnlSurveyID
56	DENOMINATION REC	Denominational deposit record	JnlDenominations.JnlDenominaionID
57	SUSPEND_SHIFT_REC	Current shift has been suspended for remote cashout	
58	EXTRA ITEM INFO REC	Transactional tax records for items	N/A
59	CASHOUT SHIFT REC		
60	NO_SALE_REC	No sale, open cashdrawer transaction	JnlNoSales.JnlNoSaleID
61	DEBIT REC	Debit sale transaction	JnlDebits.JnlDebitID
62	RECHARGE REC	Recharge to debit	JnlRecharges.JnlRechargeID
63	SALES PROG REC	Sales program	SalesPrograms.SalesProgramID
64	SV LOOKUP REC	Stored value lookup record	JnlSVLookups.JnlSVLookupID
65	EXTRA_DRAFT_REC	Stores Card Verification Number (CVN) and Address Verification Number (AVS) information	JnlDrafts.JnlDraftID
66	UPGRADE REC	Ticket upgraded record	JnlUpgrades.JnlUpgradeID
67	REPRINT REC	Ticket reprinted record	JnlReprints.JnlReprintID
68	ENTRY_TAX_REC	Tax info for individual ticket/item	N/A
		NOTE: This is different than tax record after a payment. This is an	

		entry about the tax related to the ticket or the item journalized	
69	STRATUS_ACTIVATION_REC	Activation of a Stratus gift card	
70	STRATUS_RECHARGE_REC	Recharge of a Stratus gift card	
71	EOT_REC	End Of Transaction	N/A
72	LOYALTY_CARD_REC	Info about loyalty cards and bonus promotions (like Greenbax)	
73	EXTRA_PAID_IO_REC	This record contains the PLU for any Paid In or Paid Out record that is an Orphan Ticket (does not have Product/Level/Fkey defined).	N/A
74	SUPER_TICKET_REC	Super-Ticket information	JnlSuperTickets.JnlSuperTicketID
75	ENCRYPT_REC		
76	ORDER_LINE_REC	Local journal has OrderLine number	N/A
77	DM_MEMO	See JnlHeaders.JnlCode	N/A
78	DM_MEMO_REC	Detail record for editing general config	MemoTbl.MemoTblID
79	BAD_LOGON	See JnlHeaders.JnlCode	
80	BAD_LOGON_MEMO_REC	Detail record for invalid logon	MemoTbl.MemoTblID
81	SKIDATA_SC_ACTIVATION_REC	activations of Skidata Smart Cards	JnlDrafts.JnlDraftID
82	SKIDATA_SC_RECHARGE_REC	recharges of Skidata Smart Cards	JnlDrafts.JnlDraftID
83	PAYMENT_CARD_REC	Payment Card Account Information to store up to 30 digits of an account number	JnlPayments.JnlPaymentID
84	VIEW_LOG_REC	User viewed encrypted (journal) record.	SecurityLog.SecurityLogID
85	GIFT_REC	Transaction includes Item with Register Gift option set. This record is one per Item record	JnlGifts.JnlGiftID
86	UDF_REC	User Defined Field record. This is per transaction and there could be more than one UDF_REC per transaction.	JnlUDFFields.JnlUDFFieldID
87	CONTACT_REC	Contact used for Gift. There is only one CONTACT_REC per transaction	CustContacts.CustContactID
88	SALES_PROGRAM_MEMO_REC	Sales Program for Virtual Sales Program	
89	SUPER_LINK_REC	Used for lineage of Super Ticket. When use in Ticket Lookup, this record is use to link all relevant tickets or passes together for purpose of viewing lineage.	N/A JnlSuperLinks.JnlSuperLinkID
90	PTO_REC	Prepurchased Ticket Order for Transportation	JnlPTOs.JnlPTOID
91	TRAN_REFUND_REC	Transportation Refund record	JnlTranRefunds.JnlTranRefundID
92	TRIP_SUMMARY_REC	Transportation Trip Summary Record	JnlTripSummaries.JnlTripSummaryID
93	SURCHARGE_REC	Transportation Surcharges	
94	USAGE2_REC	Extra information related to usage	

95	TRAN REFUND REC 2	Transportation Refunds	
96	TRAN REFUND REC 3	Transportation Refunds	
97	PACKAGE HEADER REC	Mark the beginning of a package	JnlPackages.JnlPackageID
98	PACKAGE FOOTER REC	Mark the end of a package	
99	USAGE3 REC	Smartcard usage	
1000	RESERVED SEAT REC	Reserved Seating	
1001	CONTACT NAME REC	Contact Name	
1002	TRIP SUMMARY REC 2	Trip Summary record 2	
1003	TRIP SUMMARY REC 3	Trip Summary record 3	
1004	ESELECT_PLUS_DRAFT_REC 1	eSelectPlusProtocol data	
1005	ESELECT_PLUS_DRAFT_REC 2	eSelectPlusProtocol data	
1006	ESELECT_PLUS_DRAFT_REC 3	eSelectPlusProtocol data	
1007	ESELECT_PLUS_DRAFT_REC 4	eSelectPlusProtocol data	
1008	ESELECT_PLUS_DRAFT_REC 5	eSelectPlusProtocol data	
1009	ESELECT_PLUS_DRAFT_REC 6	eSelectPlusProtocol data	
1010	SIAE FISCAL DATA REC	SIAE Fiscal Data	
1011	SIAE EVENT DATA REC	SIAE Event Data	
1012	SIAE ITEM DATA REC	SIAE Item Data	
1013	SIAE VENUE DATA REC	SIAE Venue Data	
1014	LOYALTY_ACCOUNT_REC	Loyalty Account	
1015	VALUE_LINK_DATA_REC	ValueLink Data	
1016	UPSELL REC	Upsell data	
1017	SERIAL NO USAGE REC	Serial Number Usage record	
Journal revenue record codes			
101	TKT REC	Ticket record	JnlTickets.JnlDetailID
102	ITEM REC	Item record	JnlItems.JnlItemID
103	FEE REC	Fee record	JnlItems.JnlItemID
120	TAX REC	Tax record	N/A
210	PAIDIN REC	Paid-in record	JnlPaidIOs.JnlPaidIOID
310	PAIDOUT REC	Paid-out record	JnlPaidIOs.JnlPaidIOID
401	TKT_REFUND REC	Ticket refund record	N/A
420	ST TAX REFUND REC	Tax refund record	JnlPaidIOs.JnlPaidIOID
532	PAYMENT REC	Payment record	JnlPayments.JnlPaymentID
533	REISSUE_REC	Reissuance information for a transportation ticket.	JnlReissues.JnlReissueID
610	DEPOSIT REC	Deposit record	JnlDeposits.JnlDepositID
620	COA_CHANGE_REC	Starting change fund for the shift with COA info	JnlChangeFunds.JnlChangeFundID

EXHIBIT D

Statue Cruises, LLC
1 Audrey Zapp Drive, Suite 203
CRRNJ Terminal at Liberty State Park
Jersey City, NJ 07305
www.statuecruises.com



June 4, 2013

Ms. Elizabeth W. Smith
Assistant Commissioner, New York City Department of Parks & Recreation
830 Fifth Avenue
The Arsenal, Central Park
New York, NY 10065

Dear Commissioner Smith,

An issue has arisen during the Comptroller's audit that we believe New York City Parks & Recreation may resolve. To wit, special event permits for landings at Battery Park slips 1 & 2 (not our licensed premises) are occasionally granted to satisfy special client needs. The fees for such landing permits are not in question. Permits were sought, granted and paid for as applicable.

An issue arises because the permit authorization letter appears to contradict the terms of our License Agreement. The permit letter calls for Statue Cruises to include gross receipts from events at slips 1 & 2, i.e., outside our licensed premises (which are 3, 4 & 5) despite the fact that equivalent fees are fully paid under the special use permit. Under Section 4.5 of the Licensed Agreement, Statue Cruises is responsible for reporting gross receipts and paying our license fee therein for commercial activity at the "license premises". Under Section 2 of the License Agreement, the "licensed premises" are clearly defined and limited to slips 3, 4 & 5. Further, while alternative slips may be authorized, Statue Cruises may never have more than 3 slips available. Clearly this language anticipated repairs and emergencies; not additional, special use permit situations. Permit language as currently drafted would require a double payment for landing slip usage. And this "penalty" would only affect Statue Cruises. Another operator without a licensed premise at Battery Park would only pay once! Double payment could not be the intent. Nor are more than 3 slips allowable under our agreement.

Statue Cruises would appreciate your review and correction of this oversight. Your action would restore equity to our agreement as well as eliminate an audit finding by the Comptroller's office.

I am available to discuss this matter at your earliest convenience. We appreciate your continued support and that of Parks & Recreation.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Burke".

Michael Burke
Vice President and COO

Enclosures

Cc: David Cerron
Alex Han

this License to be observed and performed by the Licensee. The Security Deposit shall remain with the City throughout the Term of this License.

(b) Security Deposit shall consist of cash, a certified check payable to the City of New York, an irrevocable letter of credit naming the City of New York as beneficiary, an interest-bearing bond or other negotiable interest-bearing instrument payable to the City of New York which the Comptroller shall approve as being of equal market value with the sum so required. The Security Deposit shall be held by the City without liability for interest thereon, as security for the full and faithful performance by the Licensee of each and every term and condition of this license on the part of the Licensee to be observed and performed. The Licensee shall collect or receive annually any interest or income earned on such interest-bearing bond or other negotiable interest-bearing instrument less any part thereof or amount which the City is or may hereafter be entitled or authorized by law to retain or to charge in connection therewith, whether as or in lieu of administrative expense or custodial charge, or otherwise. The City shall not be obligated to place or to keep cash deposited hereunder in interest-bearing bank accounts.

(c) If any fees or other charges or sums payable by Licensee to the City shall be overdue and unpaid or should the City make payments on behalf of the Licensee, or should the Licensee fail to perform any of the terms of this License, then Parks may, at its option, and without prejudice to any other remedy which the City may have on account thereof, after five(5) days' notice, appropriate and apply the Security Deposit or as much thereof as may be necessary to compensate the City toward the payment of license fees, late charges, liquidated damages or other sums due from the Licensee or towards any loss, damage or expense sustained by the City resulting from such default on the part of Licensee. In such event, the Licensee shall restore the Security Deposit to the original sum deposited within five days after written demand therefor. In the event Licensee shall fully and faithfully comply with all of the terms, covenants and conditions of this License and pay all License fees and other charges and sums payable by Licensee to the City, the Security Deposit shall be returned to Licensee following the surrender of the Licensed Premises by the Licensee in compliance with the provisions of this License.

4.5 (a) On or before the thirtieth (30th) day following each month of each Operating Year, Licensee shall submit to Parks, in a form reasonably satisfactory to Parks, a statement of Gross Receipts, signed and verified by an officer of Licensee, reporting any Gross Receipts generated under this License Agreement during the preceding month. Licensee shall also submit a summary report of Gross Receipts for each Operating Year within sixty (60) days of the end of each Operating Year of this License. Each of the reports referenced in the preceding two sentences shall report the Gross Receipts generated at the Licensed Premises in the categories including, without limitation, the following categories:

NPS Statue of Liberty Ferry Service	Gross Receipts from rates and charges for tickets for ferry service between the Licensed Premises and Liberty Island and Ellis Island ; and
NPS Island Cruise Service	Gross Receipts from rates and charges for tickets for NPS sightseeing cruises that begin and/or terminate at the Licensed Premises; and
Other Ferry Operations	Gross Receipts from rates and charges for tickets for all other

Miscellaneous

ferry operations that begin and or terminate at the Licensed Premises; and
All other Gross Receipts generated at and realized from Licensee's operation of the Licensed Premises.

(b) Licensee shall indicate on its statement of Gross Receipts whether or not these amounts are inclusive of sales tax collected.

(c) Licensee is solely responsible for the payment of all federal, state and local taxes applicable to the operation of the Licensed Premises. With the exception of federal, state, and City sales tax, no such applicable taxes, including but not limited to the New York City Commercial Rent Tax, may be deducted from gross receipts or from the compensation due under this License.

4.6 On or before the thirtieth (30th) day following each Operating Year, Licensee shall submit to Parks an income and expense statement pertaining to operations under this License, signed and verified by an officer of Licensee. Parks shall keep such statement confidential except as required by law or by a court of competent jurisdiction.

4.7 (a) Licensee, during the Term of this License, shall maintain adequate systems of internal control and shall keep complete and accurate records, books of account and data, including daily sales and receipts records, which shall show in detail the total business transacted by Licensee and the Gross Receipts therefrom. Such books and records maintained pursuant to this License shall be conveniently segregated from other business matters of Licensee and shall include, but not be limited to: all federal, state and local tax returns and schedules of the Licensee, records of daily bank deposits of the entire receipts from transactions in, at, on or from the Licensed Premises; sales slips, daily dated cash register receipts, sales books; duplicate bank deposit slips and bank statements.

(b) Licensee shall use such accounting and internal control methods and procedures and keep such additional books and records as may be acceptable to Parks and/or the Comptroller, and Parks and/or the Comptroller shall have the right to examine the record-keeping procedures of the Licensee prior to the commencement of the term of this License, and at any time thereafter, in order to assure that the procedures are adequate to reveal the true, correct and entire business conducted by the Licensee. Licensee shall maintain each year's records, books of account and data for a minimum of six (6) years.

(c) The failure or refusal of the Licensee to furnish any of the statements required to be furnished under this Article within thirty (30) days after its due date, the failure or refusal of the Licensee to maintain adequate internal controls or to keep any of the records as required by this Article or the existence of any unexplained discrepancy in the amount of fees required to be due and paid hereunder, as disclosed by audit conducted by Parks or the Comptroller, of more than five percent (5%) in any two (2) out of three (3) consecutive months or more than ten percent (10%) in one (1) month, shall be presumed to be a failure to substantially comply with the terms and conditions of this License and a default hereunder, which shall entitle Parks, at its option, to terminate this License in accordance with and subject to the terms of Section 3.3(a)

Liberty and Ellis Islands, and for the purpose of embarking and discharging passengers of vessels on sightseeing cruises and other ferry operations, which may include but are not limited to ferry service to Governor's Island and day and night charters of vessels, owned, operated or chartered by Licensee for the enjoyment and convenience of the public in accordance with the terms herein and to the satisfaction of the Commissioner.

1.2 Licensee shall obtain any and all approvals, permits, and other licenses required by federal, state and City laws, rules, regulations and orders which are or may become necessary to operate the Licensed Premises in accordance with the terms of this License. Parks and the Commissioner shall cooperate with Licensee in all reasonable aspects in obtaining such approvals, permits and licenses, including but not limited to executing or authorizing applications for same as may be necessary to permit Licensee to obtain such approvals, permits, or licenses. Whenever any act, consent, approval or permission is required of the City, Parks or the Commissioner under this License, the same shall be valid only if it is, in each instance, in writing and signed by the Commissioner or Commissioner's duly authorized representative, or the relevant City official if the required approval is the City's. No variance, alteration, amendment, or modification of this instrument shall be valid or binding upon the City, Parks, the Commissioner or their agents, unless the same is, in each instance, in writing and duly signed by the Commissioner or Commissioner's duly authorized representative.

1.3 It is expressly understood that no land, building, space, improvement, or equipment is leased to Licensee, and that Licensee shall not acquire any property interest in the Licensed Premises whatsoever but that during the Term of this License, Licensee shall have the use of the Licensed Premises in order to carry out the purposes herein provided. Except as herein provided, Licensee has the right to occupy and operate the Licensed Premises so long as this License is not terminated by the Commissioner in accordance with the terms hereof.

1.4 Licensee shall provide, at all times, free access to the Licensed Premises to the Commissioner or Commissioner's representatives and to other City, State and Federal officials having jurisdiction, for inspection purposes. Parks shall provide reasonable prior notice to Licensee of any inspection outside of normal operating hours, unless the inspection is in response to an emergency condition.

DEFINITIONS

- 2.1 As used throughout this License, the following terms shall have the meanings set forth below:
- (a) "City" shall mean the City of New York, its departments and political subdivisions.
 - (b) "Commissioner" shall mean the Commissioner of the New York City Department of Parks & Recreation or Commissioner's designee.
 - (c) "Comptroller" shall mean the Comptroller of the City of New York.
 - (d) "Expendable Equipment" or "Personal Equipment" shall mean all equipment,

other than Fixed Equipment, provided by Licensee.

(e) "Fixed Equipment" shall mean any property affixed in any way to Licensed Premises, whether or not removal of said equipment would damage Licensed Premises.

(i) "Additional Fixed Equipment" shall mean Fixed Equipment permanently affixed to Licensed Premises subsequent to the Commencement Date of this License.

(ii) "Fixed and Additional Fixed Equipment" shall refer to Fixed Equipment and Additional Fixed Equipment jointly and severally.

(f) "Parks" shall mean the New York City Department of Parks & Recreation.

(g) "Substantial Completion" or "Substantially Complete" shall mean that the Commissioner certifies that an improvement to the Licensed Premises has been completed substantially in accordance with the plans, specifications, schematics, working and mechanical drawings approved by Parks, notwithstanding that minor work remains to be completed, and that the improvement may be utilized by the public.

(h) "Final Completion" or "Finally Complete" shall mean that the construction of an improvement to the Licensed Premises has been completed to such an extent that the Commissioner certifies in a writing that it has been finally completed and no further work is required by Licensee pursuant to this Agreement in connection with the construction of said improvement. Notwithstanding the issuance of any such certification, Licensee shall be liable for any claims related to such construction and shall be responsible for any other obligations (including maintenance, repair and indemnity) set forth in this Agreement.

(i) "Year" or "Operating Year" shall both refer to the period between the Commencement Date in any calendar year and the day before the anniversary of the Commencement Date in the following calendar year.

(j) "Licensed Premises" shall mean the area so denoted on Exhibit C, that is, landing slips numbered 3, 4, and 5 and adjacent walkways located in Battery Park, Manhattan and shall include any other improvements constructed thereon, including without limitation all sidewalks, curbs, pathways, trees and landscaping. Parks may authorize Licensee to utilize a different landing slip subject to availability, provided however that the number of landing slips within the Licensed Premises shall be no more than three (3) during the Term of this License. Upon approval, such landing slip shall be deemed a portion of the Licensed Premises. The vessels operated by the Licensee are not part of the Licensed Premises.

(k) "Capital Improvements" shall mean all construction, reconstruction or renovation of the Licensed Premises, including architectural, engineering, and design fees and permitting costs necessary to implement such construction, reconstruction or renovation of the Licensed Premises. Capital Improvements also include the installation of all "Fixed Equipment," as that term is defined in this Section, which the Licensee installs or causes to be installed on the Licensed Premises. Capital Improvements shall not include routine maintenance and repairs required to be performed in the normal course of management and operation of the Licensed Premises. Licensee must secure written permission from Parks to perform any Capital



City of New York
Parks & Recreation

Adrian Benepe
Commissioner

July 23, 2009

Mr. Mike Burke
Vice President and Chief Operating Officer
Statue Cruises, LLC
1 Audrey Zapp Drive, Suite 203
CRRNJ Terminal at Liberty State Park
Jersey City, NJ 07305

The Arsenal
Central Park
New York, New York 10065

Elizabeth W. Smith
Assistant Commissioner
Revenue and Marketing

(212) 360-1366/betsy.smith@parks.nyc.gov

Re: License Agreement #M5-E-M
Special Event at Licensed Premises

EXAMPLE
PERMIT
LANGUAGE

Dear Mr. Burke:

New York City Department of Parks and Recreation, ("Parks") has reviewed Statue Cruises' ("Licensee") application requesting permission to use Gangway One and Gangway Two at Battery Park, in addition to Gangway Three, which is part of the Licensed Premises under License Agreement #M5-E-M ("License Agreement"), for the purpose of transporting patrons from Battery Park to the pier at Liberty State Park for a concert sponsored by AEG Live and Liberty Event Management ("Special Event") from July 31, 2009 to August 2, 2009 ("Term"). Parks has also reviewed your request to use Gangway One for the purpose of embarking and discharging passengers of vessels on sightseeing cruises and other ferry operations, a service that is normally conducted from Gangway Three, and to be permitted the use of Gangway Three for services connected to the Special Event.

Parks hereby approves of this request. Parks will issue a Temporary Use Authorization to Statue Cruises to conduct the Special Event at Gangway One and Gangway Two at Battery Park, Manhattan ("Permitted Premises"). Further, Statue Cruises shall be permitted to embark and discharge passengers of vessels on sightseeing cruises and other ferry operations from Gangway One at Battery Park, Manhattan during the Term of the Special Event.

In accordance with Section 4.5 of the License Agreement, Statue Cruises will be responsible for reporting a statement of gross receipts for income derived in connection with the Special Event, as well as gross receipts generated in connection with the License Agreement and Special Event. Further, Statue Cruises must include gross receipts generated from the Special Event in its monthly report of gross receipts for July 2009 and August 2009, and in addition may not deduct the fee associated with the Temporary Use Authorization from these gross receipt reports.

All other terms and conditions of License Agreement #M5-E-M shall remain in full force and effect.

If you have any questions regarding this matter, please contact Gabrielle Ohayon, Supervisor of Concession Development, at (212) 360-3454.

Sincerely,

Elizabeth W. Smith

cc: David Cerron, Chief Accountant for Revenue



EXHIBIT E

New York State Department of Taxation and Finance
Office of Tax Policy Analysis
Technical Services Division

TSB-A-03(7)S
Sales Tax
March 4, 2003

STATE OF NEW YORK
COMMISSIONER OF TAXATION AND FINANCE

ADVISORY OPINION

PETITION NO. S010829A

On August 29, 2001, the Department of Taxation and Finance received a Petition for Advisory Opinion from Sean and Francesca Kennedy, 980 Motsie Road, Biloxi, MS 39532.

The issue raised by Petitioners, Sean and Francesca Kennedy, is whether monthly receipts received from the lease of their vessel are exempt from sales and compensating use tax under Section 1115(a)(8) of the Tax Law.

Petitioners submitted the following facts as the basis for this Advisory Opinion.

Petitioners plan to enter into a 15-year lease of their 50-foot "commercial vessel" with a lessee who will operate the vessel as an excursion/sightseeing tour boat. The lessee will make trips in and around the New York and New Jersey Harbors and provide narrated tours in front of the Statue of Liberty and various other waterfront attractions. The lessee's captain will maintain control of the vessel at all times en route.

Applicable Law and Regulations

Section 1101(b) of the Tax Law provides, in part:

When used in this article for the purposes of the taxes imposed by subdivisions (a), (b), (c) and (d) of section eleven hundred five and by section eleven hundred ten, the following terms shall mean:

* * *

(5) Sale, selling or purchase. Any transfer of title or possession or both, exchange or barter, rental, lease or license to use or consume . . . conditional or otherwise, in any manner or by any means whatsoever for a consideration, or any agreement therefor, including the rendering of any service, taxable under this article, for a consideration or any agreement therefor.

* * *

(8) Vendor. (i) The term "vendor" includes:

* * *

(F) A person making sales of tangible personal property, the use of which is taxed by this article, where such person retains an ownership interest in such

-2-

TSB-A-03(7)S
Sales Tax
March 4, 2003

property and where such property is brought into this state by the person to whom such property is sold and the person to whom such property is sold becomes or is a resident or uses such property in any manner in carrying on in this state any employment, trade, business or profession. . . .

* * *

(16) Commercial vessel. A vessel used primarily (i) to transport persons or property, for hire, (ii) by the purchaser of the vessel to transport such person's tangible personal property in the conduct of such person's business, or (iii) for both such purposes.

Section 1105(a) of the Tax Law imposes a tax on the receipts from every retail sale of tangible personal property unless otherwise exempted or excluded from tax.

Section 1110 of the Tax Law provides, in relevant part:

(a) Except to the extent that property or services have already been or will be subject to the sales tax under this article, there is hereby imposed on every person a use tax for the use within this state . . . except as otherwise exempted under this article, (A) of any tangible personal property purchased at retail. . . .

Section 1111(i)(A) of the Tax Law provides, in part:

Notwithstanding any contrary provisions of this article or other law, with respect to any lease for a term of one year or more of (1) a motor vehicle, as defined in . . . the vehicle and traffic law . . . (2) a vessel, as defined in section twenty-two hundred fifty of such law (including any inboard or outboard motor and any trailer, as defined in section one hundred fifty-six of such law, leased in conjunction with such a vessel) . . . all receipts due or consideration given or contracted to be given for such property under and for the entire period of such lease, option to renew or similar provision, or combination of them, shall be deemed to have been paid or given and shall be subject to tax, and any such tax due shall be collected, as of the date of first payment under such lease, option to renew or similar provision, or combination of them, or as of the date of registration of such property with the commissioner of motor vehicles, whichever is earlier. Notwithstanding any inconsistent provisions of subdivision (b) of this section or of section eleven hundred seventeen of this article or of other law, for purposes of such a lease, option to renew or similar provision originally entered into outside this state, by a lessee (1) who was a resident of this state, and leased such property for use outside the state and who subsequently brings such property into this state for use here or (2) who was a nonresident and subsequently becomes a resident and brings the property into this state for use here, any remaining receipts due or consideration to be given after such lessee brings such property into this state shall be subject to tax as if the lessee had

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entered into or exercised such lease, option to renew or similar provision, or combination thereof, for the first time in this state and the relevant provisions of sections eleven hundred ten concerning imposition and computation of tax, eleven hundred eighteen concerning exemption from use tax for tax paid to another jurisdiction, eleven hundred thirty-two concerning presumption of taxability and conditions for registration and eleven hundred thirty-nine concerning refunds, of this article, shall be applicable to any sales or compensating use tax paid by the lessee before the lessee brought the property into this state, except to the extent that any such provision is inconsistent with a provision of this subdivision. . . .

Section 1115(a) of the Tax Law provides, in part:

Receipts from the following shall be exempt from the tax on retail sales imposed under subdivision (a) of section eleven hundred five and the compensating use tax imposed under section eleven hundred ten:

* * *

(8) Commercial vessels primarily engaged in interstate or foreign commerce and property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs (other than articles purchased for the original equipping of a new ship).

Section 1131(1) of the Tax Law provides, in part:

"Persons required to collect tax" or "person required to collect any tax imposed by this article" shall include: every vendor of tangible personal property or services; every recipient of amusement charges; and every operator of a hotel. . . .

Section 1132(c)(1) of the Tax Law provides, in part:

For the purpose of the proper administration of this article and to prevent evasion of the tax hereby imposed, it shall be presumed that all receipts for property or services of any type mentioned in subdivisions (a), (b), (c) and (d) of section eleven hundred five . . . are subject to tax until the contrary is established, and the burden of proving that any receipt . . . is not taxable hereunder shall be upon the person required to collect tax or the customer. Except as provided in subdivision (h) or (k) of this section, unless (i) a vendor, not later than ninety days after delivery of the property or the rendition of the service, shall have taken from the purchaser a resale or exemption certificate in such form as the commissioner may prescribe, signed by the purchaser and setting forth the purchaser's name and address and, except as otherwise provided by regulation of the commissioner, the number of the purchaser's certificate of authority, together with such other information as the commissioner may require, to the effect that the property or service was purchased

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for resale or for some use by reason of which the sale is exempt from tax under the provisions of section eleven hundred fifteen, and, where such resale or exemption certificate requires the inclusion of the purchaser's certificate of authority number or other identification number required by regulations of the commissioner, that the purchaser's certificate of authority has not been suspended or revoked and has not expired as provided in section eleven hundred thirty-four . . . the sale shall be deemed a taxable sale at retail. . . Where such a resale or exemption certificate . . . has been furnished to the vendor, the burden of proving that the receipt . . . is not taxable hereunder shall be solely upon the customer. . . .

Section 2250 of the Vehicle and Traffic Law provides, in part:

. . . a vessel shall be every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water. A vessel propelled by an outboard motor shall include the hull, but shall not include the outboard motor.

Section 527.15 of the Sales and Use Tax Regulations provides, in part:

(a) Section 1111(i) of the Tax Law provides special rules for the payment of sales and use tax on certain leases of motor vehicles, vessels and noncommercial aircraft. Rather than the tax being due upon each periodic lease payment, the Tax Law provides that with respect to the leases described in this section the tax is due at the inception of the lease on the total amount of the lease payments for the entire term of the lease.

(b)(4) *Vessel* means any vessel as defined in section 2250 of the Vehicle and Traffic Law, including any inboard or outboard motor and any trailer, as defined in section 156 of such law, leased in conjunction with such a vessel.

* * *

(d)(2)(ii)(a) With respect to the lease of a vessel (including any inboard or outboard motor) the use tax is based on the rate in effect where the vessel is primarily used or moored.

Section 528.9 of the Sales and Use Tax Regulations provides, in part:

(a) *Definitions.* The definitions in this section shall apply only for the purpose of the exclusions and the exemptions provided by Tax Law, sections 1105(c)(3)(iv) and 1115(a)(8) with respect to commercial vessels.

(1) *Vessel.* A *vessel* shall mean any type of water craft used for the transportation of property or persons on water. . . .

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* * *

(3) **Commercial vessel.** A *Commercial vessel* is any vessel used or engaged in the transportation for hire of persons or property on water. Any vessel used or engaged for other purposes on more than an occasional basis is not a commercial vessel.

(4) **Commercial vessel primarily engaged in interstate or foreign commerce.** A commercial vessel [is] primarily engaged in interstate or foreign commerce when 50 percent or more of the receipts from the vessel's activities are derived from interstate or foreign commerce.

(5) **Interstate or foreign commerce.** *Interstate or foreign commerce* means the transportation of persons or property between states or countries.

(b) **Exemption.** (1) Receipts from the sale of the following are exempt from the sales and compensating use tax:

(i) commercial vessels primarily engaged in interstate or foreign commerce;

(ii) property used by or purchased for the use of such vessels for fuel, provisions, supplies, maintenance and repairs; and

(iii) the services of installing, maintaining, servicing or repairing such commercial vessels or property. . . .

Section 532.4(b) of the Sales and Use Tax Regulations provides, in part:

Burden of proof. (1) The burden of proving that any receipt . . . is not taxable shall be upon the person required to collect the tax and the customer.

(2) A vendor who in good faith accepts from a purchaser a properly completed exemption certificate or, as authorized by the Department, other documentation evidencing exemption from tax not later than 90 days after delivery of the property or the rendition of the service is relieved of liability for failure to collect the sales tax with respect to that transaction. The timely receipt of the certificate or documentation itself will satisfy the vendor's burden of proving the nontaxability of the transaction and relieve the vendor of responsibility for collecting tax from the customer.

(i) A certificate or other document is "accepted in good faith" when a vendor has no knowledge that the exemption certificate or other document issued by the purchaser is false or is fraudulently presented. If reasonable ordinary due care is exercised, knowledge will not be imputed to the seller required to collect the tax.

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On the other hand, vessels used for the transportation, for compensation, of property through New York and New Jersey waters from a company's New York plant to its New Jersey distribution center and for transportation from the New Jersey distribution center to customers in New York qualify as being engaged in interstate commerce for the purpose of the exemption provided by Section 1115(a)(8) of the Tax Law. See Lone Star Industries, Inc., Adv Op State Tax Commission, November 25, 1981, TSB-A-81(53)S. Accordingly, transportation of persons for compensation from destinations in one state to destinations in another would qualify as a use of a vessel commercially in interstate commerce.

Whether the vessel in Petitioners' case meets the criteria for exemption under Section 1115(a)(8) of the Tax Law is a question of fact that cannot be determined based on the information provided in this Advisory Opinion, but must be resolved based on evidence which shows the actual extent of the vessel's activity within New York waters and in interstate and foreign commerce.

If the vessel is not exempt from sales and use tax, Petitioners, as vendors, would be required to collect any tax due on the lease of the vessel. See Sections 1101(b)(8)(i)(F) and 1131(1) of the Tax Law. In the case of a 15-year lease, such tax is to be computed on the total amount of payments due under the lease, option to renew or similar provision, or combination of them. The tax is due and payable to the Tax Department as of the date of the first payment made under the lease or at the time the vessel is registered with the Department of Motor Vehicles, whichever is earlier. See Section 1111(i) of the Tax Law.

In the event that it is expected that the vessel's use will meet the criteria for exemption, the lessee must properly complete and submit Form ST-121, *Exempt Use Certificate*, to Petitioners within 90 days after delivery of the vessel in order to relieve Petitioners of their liability to collect tax. See Section 1132(c)(1) of the Tax Law and Section 532.4(b) of the Sales and Use Tax Regulations. Therefore, if Petitioners, in good faith, timely accept a properly completed exempt use certificate from the lessee, Petitioners are relieved of their liability for failure to collect sales tax with respect to the lease, and the burden of proving that the lease is not taxable rests solely upon the lessee. The lessee continues to be liable for the tax where actual use of the vessel is not in qualifying exempt activity. Petitioners are not relieved of this duty to collect tax if they have knowledge that the exempt use certificate is false or fraudulent. See Carolyn Mazzenga, CPA, Adv Op Comm T&F, January 10, 2001, TSB-A-01(1)S.

DATED: March 4, 2003

/s/
Jonathan Pessen
Tax Regulations Specialist IV
Technical Services Division

NOTE: The opinions expressed in Advisory Opinions are limited to the facts set forth therein.

EXHIBIT F

Michael Burke

From: Cofer, James <cofer@sewkis.com>
Sent: Wednesday, June 19, 2013 2:00 PM
To: mburke@statuecruises.com
Subject: RE: tax position and City audit

Mike:

You have requested our advice regarding the application of Section 3 of the New York tax law to Statue Cruises.

Section 3 of the New York tax law provides "All corporations incorporated under the laws of the state of New York, exclusively engaged in the operation of vessels in foreign commerce, are exempted from all taxation in this state, for state and local purposes, upon their capital stock, franchises and earnings." The New York State Department of Taxation and Finance has confirmed in a letter dated August 9, 1998 that this exemption applies to all corporations, whether or not they are incorporated in New York.

Statue Cruises has historically used its vessels to operate two sightseeing tours. One tour originates in Liberty State Park, docks in Ellis Island and Liberty Island, and returns to Liberty State Park. The other tour originates in Battery Park, docks in Liberty Island and Ellis Island, and returns to Battery Park. Battery Park and Liberty Island are located in New York. Liberty State Park is located in New Jersey. In 1998, the U.S. Supreme Court held that while the original portion of Ellis Island, including the ferry slip, is located in New York, the land-filled portion of the Island is located in New Jersey. The ferry slip into which vessels dock is within the New York portion of the Island. Thereafter, passengers disembark onto New Jersey soil and return to New York when they enter the Main Building, which is located partly in New York and partly in New Jersey. As a result, the transportation of the passengers by Statue Cruises is from New York to a point in New Jersey and is clearly "foreign commerce" within the meaning of Section 3.

The question has been raised as to whether Statue Cruises is "exclusively" engaged in the operation of vessels in foreign commerce because a de minimis amount (less than 10%) of its activities consist of using vessels in New York waters (e.g., for sightseeing tours that do not call at a port outside New York). New York Tax Regulations Section 1-3.4(c)(5) provides that a corporation will be "exclusively" engaged in the operation of vessels in foreign commerce even if 10% of the value of its assets consist of investments. The regulations also provide that a corporation which is acting as an agent or is engaged in another business (such as operating a restaurant) will not qualify for the exemption. There is no direct guidance as to whether the incidental use of a vessel in non-foreign commerce causes a corporation to lose the exemption. Given the 10% guideline contained in the regulations for other investments, practitioners in the area generally take the view that a de minimis amount of intrastate vessel usage (e.g., New York Harbor cruises) not exceeding 10% of income should not taint the exemption.

In addition, there has long been a recognition under both U.S. and non-U.S. tax law that a de minimis (or "incidental") amount of income derived by a company which operates vessels does not cause the company to fail to qualify for a tax exemption. Under the U.S. model tax treaty, the OECD model tax treaty, the United National model tax treaty and Section 883 of the United States Internal Revenue Code, incidental activities conducted by shipping companies are generally exempt from taxation. The U.S. tonnage tax, which provides for a special tax regime applicable to U.S. flagged vessels engaged in international shipping, permits up to 20.1

percent of a shipping company's income to be derived from activities other than the operation of vessels in international commerce.

As can be seen from the above authorities, there is significant authority that a shipping company which derives a small amount of income from non-exempt activities will continue to qualify for an income exemption.

For the reasons stated above, Statue Cruises is engaged exclusively in the operation of vessels in interstate (or foreign, i.e., non-intrastate) commerce within the meaning of Section 3 of the New York tax law. As such, Statue Cruises is exempt from all New York State and New York City income and franchise taxes.

Please feel free to call me with any questions.

Regards,
Jim

James C. Cofer
Partner
Tel: (212) 574-1688
Email: cofer@sewkis.com

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Michael Burke

From: Cofer, James <cofer@sewkis.com>
Sent: Friday, May 24, 2013 3:56 PM
To: mburke@statuecruises.com
Cc: Betts, Derick; Farez, Nordin M.
Subject: New York Tax Question

Mike:

You have requested our advice regarding the New York State and New York City income tax exemption applicable to Statue Cruises.

Statue Cruises has historically used its vessels to operate two sightseeing tours. One tour originates in Liberty State Park, docks in Ellis Island and Liberty Island, and returns to Liberty State Park. The other tour originates in Battery Park, docks in Liberty Island and Ellis Island, and returns to Battery Park. Battery Park and Liberty Island are located in New York. Liberty State Park is located in New Jersey. In 1998, the U.S. Supreme Court held that while the original portion of Ellis Island, including the ferry slip, is located in New York, the land-filled portion of the Island is located in New Jersey. The ferry slip into which vessels dock is within the New York portion of the Island. Thereafter, passengers disembark onto New Jersey soil and return to New York when they enter the Main Building, which is located partly in New York and partly in New Jersey. As a result, the transportation of the passengers is from New York to a point in New Jersey.

Section 3 of the New York tax law provides "All corporations incorporated under the laws of the state of New York, exclusively engaged in the operation of vessels in foreign commerce, are exempted from all taxation in this state, for state and local purposes, upon their capital stock, franchises and earnings." The New York State Department of Taxation and Finance has confirmed in a letter dated August 9, 1998 that this exemption applies to all corporations, whether or not they are incorporated in New York. There is no guidance on when a corporation will be engaged "exclusively" in the operation of vessels in foreign commerce. However, practitioners in the area generally take the view that a de minimis amount of intrastate vessel usage (e.g., New York Harbor cruises) not exceeding 10% of income should not taint the exemption.

Statue Cruises is engaged exclusively in the operation of vessels in interstate (or foreign, i.e., non-intrastate) commerce. As such, pursuant to Section 3 of the New York tax law, Statue Cruises is exempt from all New York State and New York City income and franchise taxes.

Please feel free to call me with any questions.

Regards,
Jim

James C. Cofer
Partner
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EXHIBIT G

Statue Cruises, LLC

1 Audrey Zapp Drive, Suite 203
CRRM Terminal at Liberty State Park
Jersey City, NJ 07305

www.statuecruises.com



June 26, 2012

City of New York
Office of the Comptroller
Municipal Building
One Centre Street – Room 100
New York, NY 10007-2341

Att: H Tina Kim

Dear Ms. Kim,

Statue Cruises is in receipt of your letter under date June 20, 2012 advising that your office had identified the conditions of certain fencing near slips 3, 4 and 5 at Battery Park as unsafe. The health and safety of Statue Cruises' guests and crew is our first priority. Statue Cruises immediately arranged a site visit with representatives of the New York City Department of Parks & Recreations ("Parks") and the Battery Park Conservancy ("Conservancy") to assess the situation and determine an appropriate course of action. This meeting at Battery Park took place on Friday, June 22nd.

At our meeting with representatives of Parks and the Conservancy on June 22nd, it was determined that the immediate steps to make the situation safe will be taken in coordination with the Conservancy. Portable fence barricades with steel ties have been placed on the land side of any areas where panels are missing or very loose. Any panels that are so loose they are nearly falling-out have been removed.

Sincerely,

Michael Burke

Vice President & Chief Operating Officer

MB/ab

cc: Terry MacRae

David Cerron



NYC Parks

Elizabeth W. Smith
Assistant Commissioner
Revenue & Marketing

T 212.360.1366
F 212.360.3434

E betsy.smith@parks.nyc.gov

City of New York
Parks & Recreation

The Arsenal
Central Park
New York, NY 10065
www.nyc.gov/parks

June 20, 2013

Tina Kim
Deputy Comptroller
Office of the Comptroller
One Centre Street, Room 1100
New York, NY 10007-2341

Re: Audit Report on the Compliance of Statue Cruises, LLC with Its License Agreement

Dear Deputy Comptroller Kim,

This response addresses the findings and recommendations ("Recommendations") contained in the New York City Comptroller's ("Comptroller") Draft Audit Report ("Report"), dated June 6, 2013, on the Compliance of Statue Cruises, LLC ("Statue") with its License Agreement with the New York City Department of Parks & Recreation ("Parks"). The Report found that Statue maintained the required security deposit, carried the required insurance, submitted the required reports and paid its minimum fees in a timely manner. However, the Report also found several internal controls weaknesses that must be addressed expeditiously. The Report contained eight Recommendations. Recommendations 1 - 3 were issued to Statue. Recommendation 4 - 8, below, were issued to Parks.

Recommendation 4 - Coordinate efforts with the appropriate taxation authorities to address Statue Cruises' non-payment of taxes. If found that Statue Cruises must pay the necessary tax, Parks should ensure immediate payment of any taxes, interest and penalties that may be assessed.

Parks has referred the recommendation to the appropriate taxation authority to pursue the determination with Statue Cruises.

Recommendation 5 - Ensure that Statue hires an independent consultant to implement the necessary internal controls and that it hires a competent fiscal monitor for the duration of the agreement to ensure proper reporting of gross revenue and license fees in accordance with license terms.

The Report found that Statue did not have adequate internal controls over a portion of its ferry service operation related to gaps in the ticket number sequencing of Statue's Point of Sale ("POS") system, harbor cruises, temporary use authorizations and charter event revenue. Given the technical nature of the internal control weaknesses cited for Statue's ferry service, we believe it is appropriate for Statue to hire an independent consultant with expertise in information technology systems in order to identify and reduce possible risks with respect to POS system operations. Parks will work with Statue to ensure that such a consultant is identified and hired to resolve potential concerns in this regard.

Additionally, as the Comptroller was recently informed Statue will discontinue its harbor cruise service shortly, the area of its operations requiring the most attention from an internal control perspective, once it resumes ferry service to Liberty Island and Ellis Island. In this regard, we acknowledge your concern for a

financial monitor and will consider a monitor in the event that harbor cruises are reestablished by Statue or upon future review by Parks.

Recommendation 6 - Issue a Notice-to-Cure requiring that Statue Cruises pay the \$83,369 in additional license fees and late charges due the City, and take action to ensure that Statue Cruises corrects the internal control deficiencies identified in this report.

The Report found that Statue owes the City an additional \$83,369 in license fees and late charges as a result of missing ferry service ticket numbers in Statue's point of sale system, adjusted underreported charter cruise event revenue and underreported TUA revenue, as shown below.

Revenue Source	Amount Underreported	Amount Due
1. Missing Ferry Service Ticket Numbers	\$592,397	\$47,392
2. Adjusted Underreported Charter Cruise Event Revenue	\$12,928	\$1,034
3. Underreported TUA Revenue	\$204,601	\$16,368
4. Late Charges	-	\$18,575
Totals:	\$809,926	\$83,369

Parks has requested payment from Statue for the full amount due of \$83,369. However, we continue to discuss with Statue the matter of fees related to missing ferry service ticket numbers. Statue believes that the missing ticket numbers may not reflect actual tickets sold and not reported, but rather technical problems caused by point of sale terminal crashes and the number sequencing used when a replacement terminal is installed. If Statue can verify to Parks' satisfaction that the missing tickets numbers do not reflect actual sales, Parks may issue Statue a partial credit (in the amount of the verified non-ticket sales) against future license fees.

Recommendation 7 - In Conjunction with the National Park Service, consider exercising its rights under section 3.3 (a) of the license agreement if Statue Cruises does not comply with this Notice-to-Cure.

In the event that it becomes appropriate to consider exercising section 3.3 (a) of the license agreement, we will consult with the National Park Service.

Recommendation 8 - Periodically evaluate Statue Cruises' internal control procedures to ensure that Statue Cruises maintains an adequate system of internal controls, reports revenue and pays the appropriate license fees.

Parks will periodically evaluate Statue's internal control system as described in our response to Recommendation 5.

Finally, we appreciate the auditors' time and effort put into the preparation of this Report.

Thank you,



Elizabeth W. Smith

Cc: V. White (Commissioner, Parks), G. Davis (Mayor's Office of Operations), R. Garafola (Deputy Commissioner, Parks)