

BUSINESS RECORDS PREDICATE

Laying the foundation to enter business records into evidence Wyoming Rule of Evidence 803(6)

- Please state your full name for the record.
- Are you employed by (name of company/entity)?
- Are you the custodian of the records of (company)?
- Did you receive a subpoena to appear and produce the records set out in Exhibit “A”? (*Your subpoena should be this exhibit*)
- Do you have those records here today?
- Are the records you produced either the originals or true and accurate copies of the originals? (*If not already marked, have the records marked for identification*)
- Your Honor, may I approach the witness? (*Also provide opposing counsel a copy of the exhibit or opportunity to inspect if the exhibit has not already been provided to opposing counsel*)
- I am handing you what is marked as Exhibit “___”. (*Can be marked collectively or separately*)
Can you identify this exhibit as the records of (company)?
- Were these records prepared and are they maintained in the regular course of business of (company)?
- Is it the regular practice of (company) to prepare and maintain these records?
- Were these records either prepared by an employee or representative of (name of company) who has personal knowledge of the information contained in them, or prepared from information from an employee or representative who has personal knowledge of the acts, events, or conditions described in those records?
- Were the entries contained in these records prepared at or near the time of the act, events, or conditions described in the records, or reasonably soon thereafter?
- I offer Exhibit(s) “___” into evidence. (*Once accepted into evidence, also publish to jury in a jury trial: Your Honor, I would ask to publish Exhibit(s) “___” to the jury at this time.*)
- After the records have been accepted into evidence, you may question the witness about the content of the records.

WRE 803(6) Even after laying the foundation for the evidence, the Court may still exclude evidence if the source of the information or the method or circumstances of preparation indicate lack of trustworthiness. **WRE 805** Hearsay within hearsay is not admissible unless both levels of hearsay meet exceptions to the hearsay rule. A business record which meets the business records exception may still be inadmissible if the information contained in the record is inadmissible hearsay.

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