



The University of New Mexico

School of Law Library
MSC11 6080
1 University of New Mexico
Albuquerque, NM 87131-0001
Telephone (505) 277-0939
FAX (505) 277-0068

This document was scanned pursuant to the express permission of its author and rights holder.

The purpose of scanning this document was to make it available to University of New Mexico law students to assist them in their preparation and study for Law School exams.

This document is the property of the University of New Mexico School of Law. Downloading and printing is restricted to UNM Law School students. Printing and file sharing outside of the UNM Law School is strictly prohibited.

NOTICE: WARNING CONCERNING COPYRIGHT RESTRICTIONS

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specified conditions is that the photocopy or reproduction is no to be "used for any purpose other that private study, scholarship, or research." If the user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

Examination No. _____

**534 Federal Income Taxation
Semester I, 2003-04**

**UNM School of Law
Final Examination
December 18, 2003**

**Professor Mathewson
9:00 a.m.-12:00 p.m.
Three-hour exam**

INSTRUCTIONS

You may not collaborate with each other. The written product you turn in should be solely your work. Your answers may be handwritten or typed.

Answer each question. **If you use bluebooks, please use a separate bluebook for each question. If you type, start each question at the top of a page.**

Be sure that your Examination Number (NOT your name) is on each bluebook or typewritten page, as well as the course name and number and the professor's name. Number your bluebooks or typed pages.

You may use your casebook, statutory supplement, handouts from the professor, course notes, and any course outline that you have prepared for this course. You may not use any other materials.

Once you open the examination, you may not use any materials other than those permitted above. If information is ambiguous, note it on your answer and resolve it.

All taxpayers use the cash disbursements and receipts method unless the problem indicates otherwise.

[END OF INSTRUCTIONS]

QUESTION ONE

2003 was a rough year for Anstine Blecha. He is single and a former lawyer. He had the following transactions during the year.

On January 2, Blecha opened his own firm after working at Lieberman, Sharpton & Trainor for seven years. Blecha paid \$5000 for malpractice insurance for an indefinite term.

On February 1, a client paid him a \$200,000 retainer. Blecha deposited the funds in his personal bank account. He used the funds to purchase a new computer system for his office for \$20,000. He used the remaining funds to pay off outstanding debts.

On March 1, he settled a wrongful expulsion lawsuit with his former law firm. He worked there for seven years and was expelled after the law firm was served with a subpoena by the Internal Revenue Service seeking the names of clients Blecha had advised on failed tax shelters. Under the terms of the settlement, Lieberman, Sharpton & Trainor expressly disclaimed any liability but agreed to (i) lend Blecha \$100,000 for 5 years at 10 percent interest per year, (ii) pay him \$100,000 and (iii) pay his lawyer \$50,000. Blecha agreed to waive all rights and claims he had against the firm in exchange.

On March 5, he purchased an R.C. Gorman original for \$10,000. He hung the painting in his office.

On May 1, Blecha and his girlfriend, Truth, separated. They had been living together for five years. His girlfriend gave up her career as a journalist during that time to support his career. Upon separation, they entered into a Relationship Settlement Agreement pursuant to which Blecha agreed to transfer the Gorman painting to Truth. They valued the painting at \$20,000. In addition, Blecha agreed to pay Truth \$50,000 by May 1, 2004 and \$20,000 per year for the next five years. The agreement specified that Truth was receiving the painting as a settlement of all property claims that she had against Blecha and the remaining payments were maintenance payments paid in consideration of her foregoing her career to support his.

On May 18, Blecha's accountant discovered his fancy maneuvers with client funds. After the confrontation, Blecha deposited \$200,000 in his trust account for the client. The accountant, however, reported him to the district attorney. On June 1, Blecha was convicted for embezzling client funds and sentenced to ten years in prison. A friend represented him for free. Blecha had consulted with him in the past on real estate transactions at no charge.

Blecha had no other tax events for the year. What was Blecha's taxable income for the year? Please explain your answer.

QUESTION TWO

The tale of a ball. Barry Bonds set the record for the most home runs hit in a season. He hit a total of 73 home runs in 2001. Unfortunately there was a fight in the stands over the ball for the 73rd. Maybelle, who attended games two or three times a year, touched it first but lost it.

Actually, Rosa, another fan, took it away from her. Under the rules of Major League Baseball, the ball belongs to the league until it leaves the field of play. At that point, it abandons the ball and the lucky fan who first acquires possession becomes the owner. Maybelle maintains that she was the first to acquire possession and sued Rosa for ownership of the ball. Expert appraisers opined to the media that the ball was worth \$1,000,000. After incurring legal fees of \$200,000, Maybelle and Rosa agreed that the ball would be sold and they would share the proceeds. The ball was put up for auction in 2002. It sold for \$400,000. Maybelle's share was \$200,000. She paid her lawyer \$150,000 in cash and gave her a promissory note for the remaining \$50,000. Maybelle did not report the ball on her 2001 return. On her tax return for 2002, Maybelle deducted \$200,000 in attorneys' fees and an ordinary loss of \$300,000. Maybelle's only other income was her six figure salary as an executive at a technology company.

The Commissioner served Maybelle with a Notice of Deficiency asserting that Taxpayer had income of \$1,000,000 in 2001 and disallowing the loss and all of the attorneys' fees in 2002. Maybelle and the Commissioner stipulated to the foregoing facts and submitted the case to you as the Tax Court judge for a ruling. Please write an opinion determining the correct treatment of these items in both tax years. [Note there was a dispute over the ownership of the real ball. The tax issues raised here are fictional and are not based on the actual dispute].

QUESTION THREE

(Selected Problems from your Text perhaps with variations. Pick One)

- a. On January 2, 2003 for \$300,000 Taxpayer, a concert violinist, purchases a Tourte violin bow for use in her concerts. The purchase is made from an unrelated person. The equipment has a 6-year class life and is 5-year property under § 168(c). Taxpayer plans to use the bow for seven years, and expects it to have a salvage value of \$400,000 at the end of that time. Taxpayer is a single, calendar year taxpayer, and she uses the equipment only in her concerts. She uses the accelerated ACRS method provided by § 168(a), does not elect out of § 168(k) and elects to use § 179. What are the depreciation deductions to which she is entitled in each year of its use.
- b. Julia owns and runs a catering business which is profitable in Town X. She opens a new catering business in Town Y which is essentially run by her staff in Town Y, although Julia makes management decisions for the business. Julia also has a limited partnership interest in a real estate limited partnership that currently generates losses and expects to do so for the next several years. Julia asks you to advise her how to treat her Town Y catering business under the passive activity rules.

QUESTION FOUR

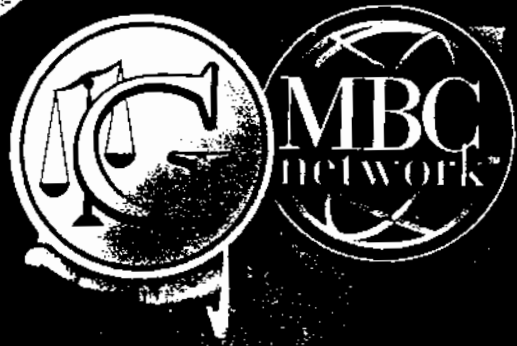
You represent Ethel Chapman, a successful personal injury lawyer in Albuquerque. She has been so successful that she has developed a national reputation. To enhance her name recognition, she plans to hold a holiday party at the Hyatt Tamaya Resort patterned after the Willie Gary Holiday Party. She is concerned about the tax consequences of holding the party, but having avoided tax classes in law school because she was terrified of numbers, she seeks your advice. Her instincts tell her that all of her expenditures--she plans to spend \$100,000--and those of her guests are deductible.

The brochure for the Willie Gary party is attached. Please review it and advise her about the tax consequences. She will host the party by herself. She will not have a foundation or affiliated entity as a co-host. Otherwise, she wants to hold events similar to those held by Gary.

Please review the attached brochure and advise her of whether the party will result in any income or deductions for her. In addition, advise about the tax consequences to her guests with respect to their attendance. The guest list will include lawyers from Albuquerque, Santa Fe, the rest of New Mexico and the United States. As a part of her deal with the Hyatt Tamaya Resort, a small number of employees selected by the hotel may attend all party functions, including meals at no charge. The hotel sought this because it believed that it could improve service to guests if hotel employees experienced the event in the same way as guests.

Remember, "Aint no party like an Ethel Chapman party cause an Ethel Chapman party don't stop."

You're Invited!



GARY
FOUNDATION

Share in the Holiday Spirit!

Scholarships! Scholarships!

Willie Gary

CELEBRITY GOLF CLASSIC
 Saturday, December 13th
 Registration 7:00 a.m.
 Shotgun Start 8:00 a.m.
 PGA Golf Club, PGA Village
 1916 Perfect Drive, Port St. Lucie, FL
 1-800-800-GOLF

Pre-registration call Bobbie Royal or go online:
 1-800-329-GARY - www.williegary.com
 \$2,000 per foursome or \$600 per individual
 All proceeds go to the Gary Foundation
 for scholarships.



Role Model Day

Friday, December 12th, 10:00 a.m.
 Galaxy Aviation, Witham Field

Presented By:
 The Gary Foundation & MBC



Celebrate With Us!



Willie E. Gary

Senior Partner
Chairman and CEO of the
Major Broadcasting Cable Network

Invites you to watch
"GARY'S GIFT"
an MBC Network Christmas Special
on December 25, 2003.

Please check your local
television listings for details.

Scholarships! Schedule



brate

Us!

illie E. Gary

Senior Partner
Chairman and CEO of the
Broadcasting Cable Network

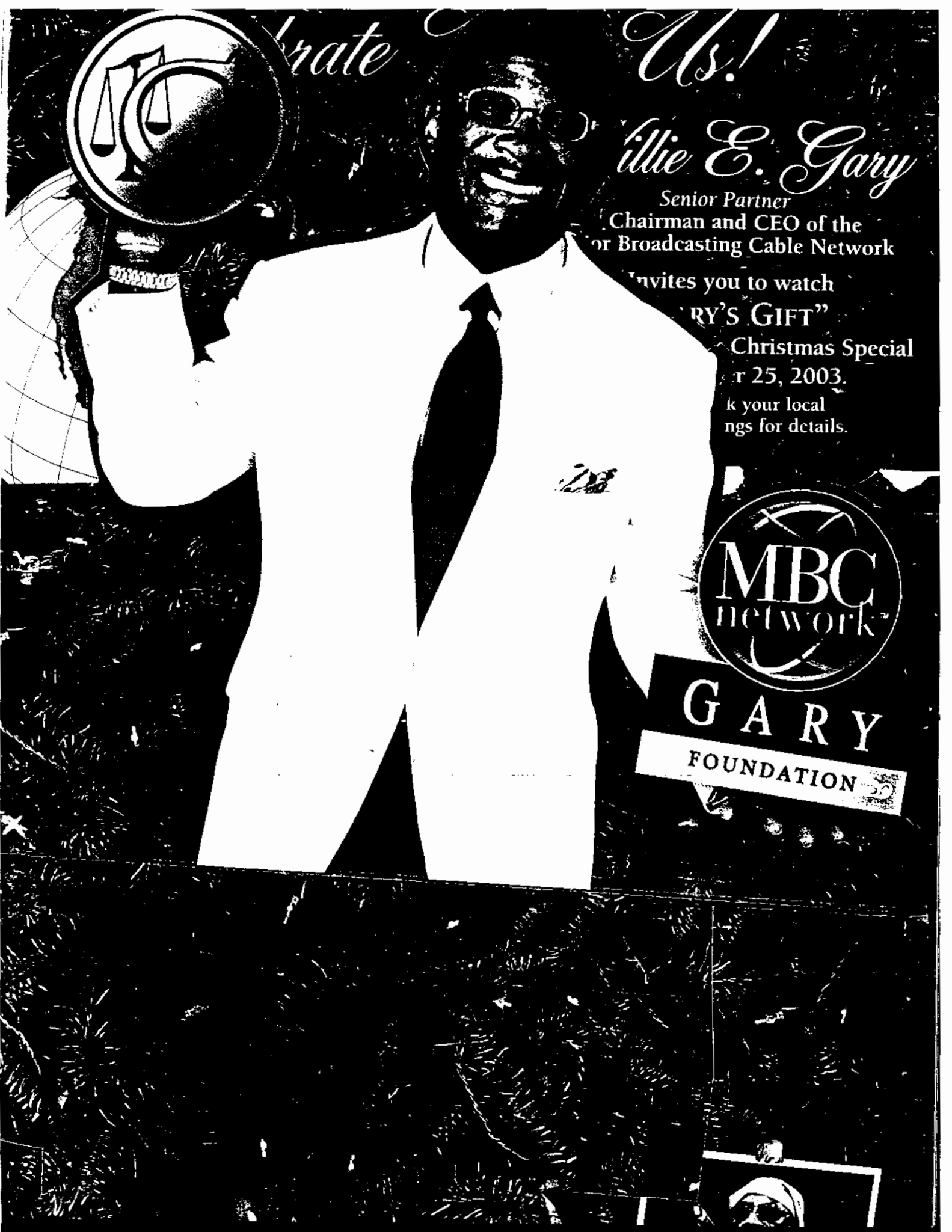
Invites you to watch

"GARY'S GIFT"

Christmas Special

December 25, 2003.

Check your local
television listings for details.



brate

Us!



illie E. Gary

Senior Partner
Chairman and CEO of the
Broadcasting Cable Network

invites you to watch

"GARY'S GIFT"

Christmas Special

December 25, 2003.

Check your local
listings for details.



A D V

scholarships! ... Scho





Special Guests

Evander Holyfield
 Marla Gibbs
 Reverend Jesse Jackson
 Don King
 Isaac Hayes
 Howard Hewett

Chris Tucker
 Cecil Fielder
 Calvin Peete
 Kim Fields
 Don Newcombe
 Louis Hudson
 Congressman Jesse Jackson, Jr.

Art Monk
 Betty Wright
 Dick Gregory
 Najee
 Lee Elder
 Clifton Davis
 The O'Jays

Julius Erving
 Alonzo Mourning
 Tommy Ford
 Kenny Smith
 Shaquille O'Neal
 Dominique Wilkins
 Marlon Jackson



Make the Holidays Memorable...

Please bring an unwrapped gift for a needy child.
 Toys will be distributed at the Kidz Carnival
 Thursday, December 18th, 1-5 p.m. at the Gary Law Firm





Willie E. Gary

Senior Partner

and the Law Firm of

Gary, Williams, Parenti, Finney, Lewis,
McManus, Watson & Sperando, P.L.

and

Kenneth Gary, President & CEO
of The Gary Foundation

Cordially Invite You to a



Holiday Festival

Friday, December 12, 2003

6:00 p.m. until

Waterside Professional Building

221 S.E. Osceola Street

Stuart, Florida 34994

For Directions
and Information

Call: 1-800-329-GARY

GARY

FOUNDATION

Cocktail Attire. This is a Law Firm Marketing Event.



MORE SPACE AVAILABLE
PLAN TO BE THERE

Entertainment Lineup

THE O'JAYS

THE TEMPTATIONS REVIEW FEATURING DENNIS EDWARDS

BETTY WRIGHT
THE DRIFTERS
PHAT CAT PLAYERS

DOUG E. FRESH
DJ BIZ MARKIE
PERFECT IMAGE

TRIN-I-TEE 5:7
FOUR SHADES
(REAL DEAL RECORDS)
JOEY GILMORE

GARY "LITTLE G" JENKINS
(FORMER LEAD SINGER OF SILK)

JIMMY "BO" HORNE & EJ'S COMPANY

WILLIE RODGERS & THE SOUL STIRRERS

AND MANY MORE!

See back for performance times and stages.

HOTEL INFORMATION

Hutchinson Island
Marriott Resort
800-775-5936

Courtyard by Marriott
772-229-1000

Holiday Inn Downtown
772-287-6200

Holiday Inn OceanSide
772-225-3000

Ramada Inn Downtown
772-281-6900

AIRLINE INFORMATION

US Airways
877-877-8287 • Refer to Gold File #68162374

For Special Airline Reservations

Delta Airlines
800.241.6760 • Refer to File #199502A

CHRISTMAS FESTIVAL PARK & RIDE

Stuart Airport/Witham Field

This is a Law Firm Marketing Event

Stage 1

6:00 p.m. - 6:30 p.m. DJ Mighty Mike
6:30 p.m. - 8:00 p.m. Perfect Image
8:00 p.m. - 8:30 p.m. Trin-i-tee 5:7
8:30 p.m. - 9:00 p.m. Doug E. Fresh
9:00 p.m. - 10:00 p.m. "Little G"
10:00 p.m. - 10:30 p.m. Mr. Gary & Partners
10:30 p.m. - 11:15 p.m. The Temptations Review
Featuring Dennis Edwards
11:15 p.m. - UNTIL The Clays

Stage 2

6:00 p.m. - 7:00 p.m. DJ Tom Adams
7:00 p.m. - 7:30 p.m. Four Shades
7:30 p.m. - 9:00 p.m. Joey Gilmore
9:00 p.m. - 9:40 p.m. Mr. Gary & Partners
9:40 p.m. - 10:00 p.m. Trin-i-tee 5:7
10:00 p.m. - 10:30 p.m. Soul Surrers
10:30 p.m. - 12:00 a.m. Todd Thorne
12:00 a.m. - UNTIL DJ Tom Adams

Stage 3

6:00 p.m. - 7:00 p.m. DJ George Coles
7:00 p.m. - 7:30 p.m. UNYSON
7:30 p.m. - 8:10 p.m. Mr. Gary & Partners
8:10 p.m. - 9:15 p.m. Jimmie "Bo" Horne
9:15 p.m. - 10:30 p.m. The Drifters
10:30 p.m. - 11:00 p.m. Four Shades
11:00 p.m. - 12:00 a.m. Jimmie "Bo" Horne
12:00 a.m. - UNTIL DJ George Coles

Stage 4

6:00 p.m. - 7:00 p.m. DJ Sidney Jerger
7:00 p.m. - 7:30 p.m. Soul Surrers
7:30 p.m. - 8:00 p.m. Trin-i-tee 5:7
8:00 p.m. - 8:30 p.m. Mr. Gary & Partners
8:30 p.m. - 9:45 p.m. Betty Wright
9:45 p.m. - 10:45 p.m. Phat Cat Flavors
10:45 p.m. - 11:15 p.m. Doug E. Fresh
11:00 p.m. - UNTIL Phat Cat Players

Stage 5

8:00 p.m. - 8:30 p.m. DJ Mingo
8:00 p.m. - 12:00 a.m. DJ Biz Markie

Schedule and stage lineup subject to change.