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IN THE SUPREME COURT OF THE STATE OF NEVADA

ARUZE USA, INC., AND UNIVERSAL
ENTERTAINMENT CORPORATION,

Appellants,

vs.

WYNN RESORTS, LIMITED

Respondent.

Supreme Court Case No. 61966

District Court Case No. A-12-656710-B

Electronically Filed
Apr 05 2013 02:19 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

**EXHIBITS TO APPELLANTS' DOCKETING
STATEMENT**

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Exhibit "A"

2. Attorney filing this docketing statement:

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* will comply with Nev. Sup. Ct. Rule 42 governing appearances before this Court within the required timeframe

Exhibit "B"

3. Attorney(s) representing respondents(s):

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Exhibit "C"

8. Nature of the action. Briefly describe the nature of the action and result below:

Defendant, Counterclaimant, and Appellant Aruze USA, Inc. ("Aruze USA") holds a nearly 20% ownership interest in Plaintiff, Counterdefendant, and Respondent Wynn Resorts, Limited ("Wynn Resorts"). Aruze USA is Wynn Resorts' largest shareholder and is wholly-owned by Defendant, Counterclaimant, and Appellant Universal Entertainment Corporation, approved as such by the Nevada Gaming Commission.

On February 18, 2012, the Board of Directors (the "Board") of Wynn Resorts purported to forcibly redeem Aruze USA's shares at an arbitrary 30% discount to the then-current stock market price, in exchange for a promissory note bearing interest at 2% requiring interest only payments for 10 years. One day later, Wynn Resorts initiated this litigation by filing a Complaint seeking, *inter alia*, a declaratory judgment that it had acted lawfully. Aruze USA and Universal Entertainment Corporation ("Universal") filed a Counterclaim alleging, *inter alia*, that the purported redemption violated the express terms of agreements between Wynn Resorts and Aruze USA and constituted a breach of the Board's fiduciary duties.

On August 31, 2012, Defendants, Counterclaimants, and Appellants Aruze USA and Universal filed a Notice of Motion and Motion for Preliminary Injunction in the District Court. The injunction sought to prevent Wynn Resorts from depriving Aruze USA of its rights as a shareholder, including voting its shares and proposing new directors, until there is a final determination on the merits of this case.

On October 2, 2012, the District Court orally denied Appellant's Motion for Preliminary Injunction without prejudice. The written order denying the motion was entered on October 15, 2012.

Aruze USA and Universal appeal the District Court's order denying the Motion for Preliminary Injunction.

Exhibit "D"

9. Issues on appeal. State concisely the principal issue(s) in this appeal:

- A. Whether the agreements between the parties, as a matter of law, bar Wynn Resorts from unilaterally redeeming Aruze USA's shares.
- B. Whether the agreements between the parties, as a matter of law, permit the exercise of redemption rights where an erroneous and improper determination of "unsuitability" has been made by the Board of Directors.
- C. Whether the Court below abused its discretion in ruling that the Appellants did not demonstrate a reasonable likelihood of success on the merits when the purported redemption of Aruze USA's shares constituted a breach of the Board's fiduciary duties because the primary purpose of the redemption of Aruze USA's shares was to interfere with the effectiveness of a stockholder vote.
- D. Whether the Board of Directors' actions should be given deference when they were made for the purpose of interfering with the effectiveness of a stockholder vote, and not in the exercise of business judgment.

Exhibit "E"

21. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Plaintiff and Counterdefendant: Wynn Resort, Limited

Defendant: Kazuo Okada

Defendant and Counterclaimant: Aruze USA, Inc. and Universal Entertainment Corporation

Counterdefendants: Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, Kimmarie Sinatra, D. Boone Wayson, Stephen A. Wynn, and Allan Zeman (the "Wynn Parties")

Counterdefendant, Counterclaimant, and Crossclaimant: Elaine P. Wynn

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, e.g., formally dismissed, not served, or other:

This appeal is limited to the district court's denial of Defendants/Counterclaimants' motion for a preliminary injunction against Wynn Resorts, Limited,

Exhibit "F"

22. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

Wynn Resorts, Limited:

1. Breach of Fiduciary Duty (Wynn Resorts against Okada)
2. Aiding & Abetting Breach of Fiduciary Duty (Wynn Resorts against Aruze USA & Universal)
3. Nevada Uniform Trade Secrets Act, NRS Chapter 600A (Wynn Resorts against Okada, ARUZE USA & Universal)
4. Declaratory Relief – NRS Chapter 30 (Wynn Resorts against Okada, ARUZE USA & Universal)

Aruze USA, Inc. and Universal Entertainment Corporation

1. Declaratory Relief (Aruze USA and Universal Against Wynn Resorts and the Wynn Directors)
2. Permanent Prohibitory Injunction (Aruze USA Against Wynn Resorts and the Wynn Directors)
3. Permanent Mandatory Injunction (Aruze USA Against Wynn Resorts and the Wynn Directors)
4. Breach of Contract in Connection with Wynn Resorts' Involuntary Redemption (Aruze USA Against Wynn Resorts)
5. Breach of Contract (Aruze USA Against Wynn Resorts)
6. Breach of Fiduciary Duty (Aruze USA Against the Wynn Directors)
7. Imposition of a Constructive Trust and Unjust Enrichment (Aruze USA Against Wynn Resorts)
8. Conversion (Aruze USA Against Wynn Resorts)
9. Violations of Nevada's Racketeer Influenced And Corrupt Organizations Act (RICO), N.R.S. § 207.350, *et. seq.* (Aruze USA Against Steve Wynn and Kim Sinatra)
10. Fraud/Fraudulent Misrepresentation (Aruze USA Against Wynn Resorts, Steve Wynn, and Kim Sinatra)
11. Negligent Misrepresentation (Aruze USA Against Wynn Resorts, Steve Wynn, and Kim Sinatra)
12. Civil Conspiracy (Aruze USA Against Steve Wynn and Kim Sinatra)
13. Promissory Estoppel (Aruze USA Against Wynn Resorts, Steve Wynn, and Kim Sinatra)
14. Fraud/Fraud in the Inducement (Aruze USA Against Wynn Resorts and Steve Wynn)
15. Negligent Misrepresentation (Aruze USA Against Wynn Resorts and Steve Wynn)
16. Breach of Contract (Aruze USA Against Steve Wynn)

17. Breach of Covenant of Good Faith and Fair Dealing (Aruze USA Against Steve Wynn)
18. Unconscionability /Reformation of Promissory Note (Aruze USA Against Wynn Resorts)

Elaine P. Wynn

1. Declaratory Relief, Discharge and/or Rescission (Elaine Wynn against Aruze USA and Steve Wynn)
2. Declaratory Relief, Unreasonable Restraint (Elaine Wynn against Aruze USA and Steve Wynn)
3. Declaratory Relief, Discharge or Rescission (Elaine Wynn against Aruze USA)
4. Permanent Injunctive Relief (Elaine Wynn against Aruze USA and Steve Wynn)

None of the above claims, counterclaims and cross-claims has been decided yet.