EXHIBIT 3

EXHIBIT 3

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Joey Orduna Hastings
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Transaction # 4034875

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

GOLDEN ROAD MOTOR INN, INC., a Nevada Corporation, d/b/a ATLANTIS CASINO RESORT SPA Plaintiff, vs. SUMONA ISLAM, an individual; MEI-GSR HOLDINGS LLC, a Nevada limited liability company, d/b/a GRAND SIERRA RESORT; ABC CORPORATIONS; XYZ PARTNERSHIPS; AND JOHN DOES I through X, inclusive. Defendants.	Case No.: CV12-01171 Dept No.: B7

NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER

PLEASE TAKE NOTICE, that a Findings of Fact and Conclusions of Law and Order was entered on August 26, 2013. A copy of said Findings of Fact and Conclusions of Law and Order is attached hereto as Exhibit 1.

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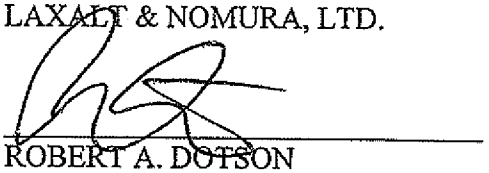
Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 1 day of October, 2013.

LAXALT & NOMURA, LTD.



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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of LAXALT & NOMURA, LTD., and that on this date, I caused to be served a true and correct copy of the foregoing by:

☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At the Law Offices of Laxalt & Nomura, mail placed in that designated area is given the correct amount of postage and is deposited that same date in the ordinary course of business, in a United States mailbox in the City of Reno, County of Washoe, Nevada.

☒ By electronic service by filing the foregoing with the Clerk of Court using the E-Flex system, which will electronically mail the filing to the following individuals.

☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand delivered this date to the address(es) at the address(es) set forth below, where indicated.

☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.

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DATED this 1st day of October, 2013.

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EXHIBIT 1

EXHIBIT 1

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~~[PROPOSED]~~ FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER

This matter came on for a non-jury trial on July 1, 2013 before the Court, Honorable Patrick Flanagan, District Judge, presiding. The Court heard evidence for 9 days and the arguments of counsel on the 10th day of trial. The Court, having carefully considered all of the exhibits in evidence, the testimony of the witnesses, trial statements of the parties, and the arguments of counsel, hereby issues the following Findings of Fact and Conclusions of Law:

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Findings of Fact

1. On or about April 15, 2008, ISLAM became an employee of the Golden Road Motor Inn, Inc., dba Atlantis Casino Resort Spa ("ATLANTIS").

2. On April 15, 2008, ISLAM executed the ATLANTIS Online System User Agreement ("Online System User Agreement"). Among other terms, the Online System User Agreement prohibits unauthorized downloading or uploading of software and information.

3. On April 15, 2008, in conjunction with her employment with ATLANTIS, ISLAM also executed an agreement with ATLANTIS concerning its Business Ethics Policy and Code of Conduct Acknowledgement and Conflicts of Interest Statement. This agreement ("Business Ethics Policy"), was again signed by ISLAM on January 23, 2009, February 26, 2010 and January 19, 2011. This policy in section 3.1 identifies confidential information as all nonpublic information regarding the company's operation and business activities and those of its customers and suppliers. Nonpublic means any information that is not officially disclosed through means such a press releases or other forms of publication, where it is not common knowledge. Section 4.4 prohibits the disclosure of inside information to persons outside the company or other persons within the company who are not authorized to receive such information. Pursuant to the terms of the Business Ethics Policy, ISLAM agreed not to disclose confidential information including customer lists or customer information (such as player tracking or club information) to any unauthorized persons, either during or after her termination, and not to take any documents or records belonging to ATLANTIS after her departure. She also agreed not to profit from confidential information of ATLANTIS. ISLAM's agreement to the terms of this contract was a condition of her employment with ATLANTIS.

4. On April 15, 2008, in conjunction with commencing her employment with ATLANTIS, ISLAM executed the ATLANTIS Company Policy regarding Company Property, Proprietary Information, and Trade Secrets (hereinafter referred to as "Trade Secret Agreement"). This agreement, including any updates, was again signed by ISLAM on January 23, 2009, February 26, 2010 and January 19, 2011. This agreement provides that any improper

use or dissemination of ATLANTIS intellectual property is a breach of the policy and may be a violation of state and federal trade secrets laws and also warns that such violation is punishable both civilly and criminally.

5. ISLAM was hired to be an Executive Casino Host at ATLANTIS. When she was hired, she was under a contractual obligation to her former employer, Harrah's, which prohibited her from working in a same or similar position within six months after separation from employment at Harrah's. In order to honor this obligation, ATLANTIS placed her in the position of concierge manager. She worked in the hotel side of the operation of the ATLANTIS and not in the gaming side of the operation until the expiration of the six month restriction imposed by her agreement with Harrah's. Thereafter, she was transferred to the gaming operation and began her employment as a host.

6. When ISLAM began to work as a host at ATLANTIS, she brought with her what she claimed to be her personal book of trade. ISLAM has identified Exhibits 75 and 80 as her book of trade.

7. Steve Ringkob, indeed almost every witness, testified that there were certain items that hosts were entitled to take with them from property to property and that a host's book of trade is the host's property and "nothing is wrong with her taking this information wherever she goes." However, he also testified that the player's gaming history and tracking at the ATLANTIS would become proprietary information.

8. Although the term "casino host book of trade" has been defined variously, it has generally been defined as those names and contact information of guests with whom the host has developed relationships through their own efforts. Ringkob defined it as those guests with whom the host has developed a relationship and it was not information coming from the casino.

9. The evidence is clear that ISLAM intentionally downloaded, by hand copying from the ATLANTIS computer screen, players' names, contact information, level of play, game preferences and other proprietary information from the ATLANTIS Casino's, casino management system, Patron Management Program.

10. On February 26, 2010, ISLAM signed a Non-Compete/Non-Solicitation Agreement with ATLANTIS ("Non-Compete Agreement"). Pursuant to the terms of the Non-Compete Agreement, ISLAM agreed that she would not, without the prior written consent of ATLANTIS, be employed by, in any way affiliated with, or provide services to any gaming operation located within 150 miles of ATLANTIS for a cooling off period of one year after the date that the employment relationship between she and the ATLANTIS ended.

11. During ISLAM'S employment at ATLANTIS, she had access to and worked with highly sensitive trade secrets and proprietary and confidential information of the ATLANTIS. This information included customer and guest lists, customer information and data including player contact information, tracking and club information, guest preferences and gaming tendencies of the guests. This information included not just the information for guests assigned to her, but also information for guests assigned to other hosts.

12. Before and during ISLAM'S employment, ATLANTIS undertook significant precautions to maintain the secrecy of its confidential information. These efforts included disabling USB ports in the computers at ATLANTIS, not providing or allowing printers, and monitoring all emails that are sent to recipients off property.

13. Despite the precautions taken to protect ATLANTIS' confidential trade secret information, during her employment at ATLANTIS ISLAM copied guest information by hand from the screen of the ATLANTIS computer onto spiral note pads. Ms. ISLAM, in her handwritten notes in spiral notebooks, which she identified as hers, copied players' names, contact information and also the designation of whether or not they played table games or slots. The information copied had the notation of the guests' marker information, for purposes of knowing what their credit limit was. Some notations included information regarding previous gaming results and losses incurred by that player. This is information Ms. ISLAM testified that she wrote down from the ATLANTIS computer. A copy of some of those spirals is found in Exhibit 80.

14. Ms. ISLAM testified that in the fall of 2011, she was becoming dissatisfied with her employment at the ATLANTIS. She testified that she had not been given a raise, that she

had only been given one bonus and not the quarterly bonuses that she states were promised to her, she felt isolated in her interpersonal relationships with other employees at the ATLANTIS and she had come to a point in her career where she believed that if she was ever going to make more money, she would have to seek employment elsewhere.

15. The evidence is that on or around October, Ms. ISLAM learned from Ms. Antonetti that the Grand Sierra Resort ("GSR") was hiring new employees. Through an online application, ISLAM applied for and interviewed with the GSR to obtain a position as a host.

16. At about that time, Ms. ISLAM asked Mr. DeCarlo for a copy of her Non-Compete Agreement with the ATLANTIS.

17. Sometime in December and January, two interviews took place. The first was with Ms. Hadley, at the GSR. Ms. Hadley testified that she was impressed with Ms. ISLAM. She testified she did not ask for ISLAM's book of business at that time.

18. A second interview was arranged between ISLAM and Hadley and Flaherty of the GSR. At that time, a more in-depth discussion took place relative to Ms. ISLAM's book of business. Mr. Flaherty testified and it's confirmed by the transcript of a subsequent interview that he told Ms. ISLAM not to bring anything from the ATLANTIS to the GSR, to bring nothing, but herself and her relationships.

19. During the course of the interview process, ISLAM and representatives of GSR discussed the fact that ISLAM was subject to an agreement restricting her employment with a competitor of ATLANTIS and ISLAM provided GSR with a copy of the Non-Compete Agreement. This conduct is consistent with ISLAM's testimony of her behavior when applying for the position with the ATLANTIS. She testified that she provided a copy of the Harrah's Non-Compete to the ATLANTIS prior to their offering of employment to her.

20. The testimony is that GSR then passed the ATLANTIS Non-Compete Agreement to its legal counsel. Legal counsel apparently reviewed that and gave the green light to hire Ms. ISLAM.

21. Ms. ISLAM was concerned that ATLANTIS would initiate litigation against her and sought assurances that GSR would provide legal representation to her should there be litigation over the Non-Compete. GSR agreed.

22. ISLAM terminated her employment as an Executive Casino Host with the ATLANTIS on January 19, 2012 and accepted an offer with GSR as an Executive Casino Host on the same day.

23. ISLAM began work at GSR at the end of January, 2012.

24. The ATLANTIS alleges that soon after ISLAM terminated her employment, ATLANTIS employees discovered that ISLAM had falsely modified, destroyed, falsely changed and/or sabotaged confidential, proprietary, trade secret information of ATLANTIS, including customer data belonging to the ATLANTIS on its online system to her benefit and the benefit of GSR and to the detriment of ATLANTIS.

25. The evidence adduced in this matter by Ms. ISLAM herself and other witnesses of the Plaintiff is that Ms. ISLAM did change the addresses, telephone number and/or the email addresses of guests that had been coded to her in the ATLANTIS' casino customer or guest database.

26. The evidence shows that shortly after Ms. ISLAM left the employ of the ATLANTIS, the guests who had been assigned to her at the ATLANTIS were distributed amongst the remaining ATLANTIS hosts who attempted to contact those guests to maintain and establish a continued relationship with the ATLANTIS. Shortly thereafter, those hosts reported difficultly, indeed inability to contact the guests. It quickly became apparent that the contact information had been sabotaged. ATLANTIS staff testified that they restored old copies of the Patron Management data to a location in the computer system where the auditors could access the information and the information was restored to the Patron Management Program, the guest marketing database, in a relatively short period of time.

27. Additionally, the evidence showed that none of the information was changed in the LMS database, which is the database known as the Lodging Management System that controls the hotel operations.

28. ISLAM testified that she did not show either Ms. Hadley or Mr. Flaherty the spiral notebooks which contained the information she had wrongfully taken from the ATLANTIS' database. Nevertheless, after her employment by the GSR began, Ms. ISLAM began to input that information, the information taken from the ATLANTIS and contained on the spiral notebooks, into the GSR database.

29. The testimony from the GSR representatives is that the database fields accessed and completed by ISLAM are limited. They restrict the information that a host could input to name, address, telephone number and contact information. There are no fields for a host to themselves input information regarding a player's gaming history, level of play or preference of game.

30. Both Ms. Hadley and Mr. Flaherty testified they never saw the spiral notebooks containing the information ISLAM had wrongfully taken from the ATLANTIS' database.

31. After the database sabotage was discovered by the ATLANTIS, ATLANTIS' general counsel, Debra Robinson, wrote a letter to GSR advising them that Ms. ISLAM was subject to a Non-Compete, Non-Disclosure Agreement and that she may have confidential information and ATLANTIS demanded the GSR cease and desist from the use of that information and return it forthwith.

32. In response to the cease and desist letter from ATLANTIS to the GSR and Ms. ISLAM relating to the ATLANTIS' concerns about ISLAM's employment, the counsel for the GSR sent a letter rejecting the assertions of the ATLANTIS and essentially maintaining that there was nothing confidential or proprietary that had been acquired by GSR and that all information provided by Ms. ISLAM came from her own personal relationships and her book of business.

33. The ATLANTIS reasonably initiated litigation.

34. On April 27, 2012, ATLANTIS filed its Complaint for relief with seven causes of action.

35. On May 9, 2012, this Court, through its sister Department, entered a Temporary Restraining Order barring Ms. ISLAM from any employment with GSR. That Order was

extended by Order of this Court dated July 5, 2012 which also applied to GSR. Thereafter, the parties stipulated to a Preliminary Injunction ending this case pending the case's resolution.

36. To the extent appropriate and to give intent to this order, any finding of fact should be found to be a conclusion of law. Similarly, to the extent appropriate any conclusion of law shall be deemed a finding of fact.

CONCLUSIONS OF LAW

Breach of Contract – Online Systems User Agreement, Business Ethics Policy, Trade Secrets Agreement as to ISLAM

1. The elements for establishing a breach of contract claim are: (1) A valid and existing contract was entered into between Plaintiff and Defendant; (2) Plaintiff performed or was excused from performance of the contract; (3) Defendant breached; and (4) Plaintiff sustained damages as a result of the breach. *Reichert vs. General Insurance Co. of Amer.*, 68 Cal. 2d 822, 69 Cal. Rptr. 321, 442 P.2d 377 (1968); *Marwan Ahmed Harara vs. Conoco Phillips Co.*, 375 F. Supp. 2d 905, 906 (9th Cir. 2005).

2. In order to succeed on a breach of contract claim in Nevada, a plaintiff must show "(1) the existence of a valid contract, (2) a breach by the defendant, and (3) damage as a result of the breach." *Saini v. Int'l Game Tech.*, 434 F. Supp. 2d 913, 919-920 (D. Nev. 2006), citing *Richardson v. Jones*, 1 Nev. 405, 405 (1865).

3. In its first cause of action the Plaintiff alleges the violation of three contracts. These are the Online User Agreement, the Business Ethics Policy, and the Trade Secrets Agreement. These agreements were signed by Defendant ISLAM and a representative of Plaintiff, ATLANTIS. This Court finds that these are valid contracts. The Court further finds that the Defendant ISLAM breached these contracts.

4. Based upon the fact that ISLAM downloaded players' names, contact information, level of play, game preferences and other proprietary information from the ATLANTIS Casino's, casino management system, Patron Management Program, the Court finds that she has breached these contracts and that the ATLANTIS has suffered damages as a

result of the breach. Consequently, the Court finds in favor of the Plaintiff and against Defendant Sumona ISLAM on the first cause of action.

5. The Court finds that damages should be awarded in favor of ATLANTIS and against ISLAM on this claim. These are made up of compensatory damages of $10,941 plus an additional $2,119 to repair the database, totaling $13,060.

Breach of Contract—Non-Compete Agreement as to ISLAM

6. The Non-compete/Non-solicitation Agreement was signed by ISLAM and a representative of ATLANTIS in 2010. The law presumes that all parties have the freedom to contract and establish the terms of employment between themselves. However, restrictive covenants are not favored in the law. The determination of the validity of such a contract as written is governed by whether or not it imposes upon the employee any greater restraint than is reasonably necessary to protect the business and the goodwill of the employer.

7. A restraint of trade is unreasonable if it is greater than that required to protect the person for whose benefit the restraint is imposed or imposes an undue hardship on the person restricted. *Hansen v. Edwards*, 83 Nev. 189, 426 P.2d 792 (1967). *See also, Jones v. Deeter*, 112 Nev. 291, 294, 913 P.2d 1272, 1274 (1996).

8. The public has an interest in seeing that competition is not unreasonably limited or restricted.

9. In the instant matter, this Court finds that the term restricting employment for a period of one year is reasonable and necessary to protect the interests of the ATLANTIS.

10. This Court finds that the term restricting employment within 150 miles from ATLANTIS is reasonable. It encompasses the markets of Sacramento and the evidence supports the threat that Thunder Valley and indeed other Northern California casinos pose to the casinos of Northern Nevada.

11. The Court finds, however, that the total exclusion from employment with a competitor is unreasonable. This Court finds that excluding the employment of an individual such as Ms. ISLAM, who has attempted to create a career in this industry from any role in any casino in any capacity is an unreasonable restraint on her and it imposes an undue hardship on

Ms. ISLAM and it is a restraint that is greater than that required for the protection of the person for whose benefit the restraint is imposed, the ATLANTIS. Therefore, the Court finds the Non-Competition contract unenforceable and dismisses the second cause of action related to breach of that contract.

Conversion of Property as to ISLAM

12. The elements of conversion are that a defendant exercises an act of dominion wrongfully exerted over the personal property of another in denial of or inconsistent with title rights therein, or in derogation, exclusion or defiance of such rights. *M.C. Multi Family Development, L.L.C. v. Crestdale Associates Ltd.*, 124 Nev. 901, 910, 196 P.3d 536 (2008) *citing Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 606, 5 P.3d 1043, 1048 (2000).

13. The caselaw here states that conversion generally is limited to those severe, major and important interferences with the right to control personal property that justified requiring the actor to pay the property's full value. Courts have noted that this remedy in general is harsh and is reserved for the most severe interferences with personal property.

14. The Court finds that the evidence adduced shows that the interference with the property of the ATLANTIS was not severe, that the information, although altered, was not lost and was easily restored. One measure of that is the fact that the damages sought for the restoration expense is de minimus in light of the value of not only Ms. ISLAM's book of trade, which she estimated at $3.5 to $4 million, but the operation of the ATLANTIS itself. Therefore, this Court finds that the Plaintiff has failed to establish the elements of conversion and the third cause of action is therefore dismissed.

Tortious Interference with Contractual Relations and Prospective Economic Advantage as to ISLAM

15. To establish intentional interference with contractual relations, ATLANTIS must show: (1) a valid and existing contract; (2) the defendant's knowledge of the contract; (3) intentional acts intended or designed to disrupt the contractual relationship; (4) actual

disruption of the contract; and (5) resulting damage. *Sutherland v. Gross*, 105 Nev. 192, 772 P.2d 1287, 1290 (1989).

16. The elements of the tort of wrongful interference with a prospective economic advantage are: (1) a prospective contractual relationship between the plaintiff and a third party; (2) the defendant's knowledge of this prospective relationship; (3) the intent to harm the plaintiff by preventing the relationship; (4) the absence of a privilege or justification by the defendant; and, (5) actual harm to the plaintiff as a result of the defendant's conduct. *Leavitt v. Leisure Sports, Inc.*, 103 Nev. 81, 88, 734 P.2d 1221, 1225 (1987); *Las Vegas-Tonopah-Reno Stage v. Gray Line*, 106 Nev. 283, 792 P.2d 386, 388 (1990).

17. Based upon the Nevada Supreme Court's decision in *Frantz v. Johnson*, 116 Nev. 455, 999 P.2d 351(2000), this Court is directed to look to the specific evidence adduced at trial to determine whether or not the acts of a defendant are more appropriately adjudicated under the Uniform Trade Secrets Act than under a claim for tortious interference with contract or prospective economic advantage. In an examination of the facts here, this Court has determined that the facts adduced in this trial make it more appropriate that the claim against Sumona ISLAM be adjudicated under the Uniform Trade Secrets Act.

Violation of Uniform Trade Secret Act, NRS 600A.010 et. seq. as to ISLAM and GSR

18. To establish a misappropriation claim under NRS § 600A.010 *et. seq.*, the plaintiff must show: (1) a valuable trade secret; (2) misappropriation[1] of the trade secret

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[1] "Misappropriation" per NRS 600A.030(2) means:
(a) Acquisition of the trade secret of another by a person by improper means;
(b) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or
(c) Disclosure or use of a trade secret of another without express or implied consent by a person who:
  (1) Used improper means to acquire knowledge of the trade secret;
  (2) At the time of disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was:
    (I) Derived from or through a person who had used improper means to acquire it;
    (II) Acquired under circumstances giving rise to a duty to maintain its secrecy or limits its use; or
    (III) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or
  (3) Before a material change of his or her position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

through use, disclosure, or nondisclosure of the use of the trade secret; and (3) the requirement that the misappropriation be wrongful because it was made in breach of an express or implied contract or by a party with a duty not to disclose. *Frantz v. Johnson*, 116 Nev. 455, 466, 999 P.2d 351, 358 (2000).

19. A trade secret is information that derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by the public, as well as information that is subject to efforts that are reasonable under the circumstances to maintain its secrecy. NRS 600A.040.

20. The determination of what is a trade secret is a question of fact for the trier of fact. *Frantz*, 116 Nev. at 466, 999 P.2d at 358. The caselaw indicates that contractual restrictions alone or designations alone do not control whether or not a particular design, compilation, or mechanism is a trade secret. To determine whether or not an item is a trade secret, the Court considers these factors. First, the extent to which the information is known outside the business and the ease or difficulty with which the information could be properly acquired by others. Second, whether the information was confidential or secret. Third, the extent and manner in which the employer guarded the secrecy of the information. Fourth, the former employee's knowledge of the customer's buying habits and other customer data and whether this information is known by the employer's competitors.

21. There was a consensus amongst all the witnesses that in the case of a customer with whom a host has established a relationship, that customer's name, address, contact information is not a trade secret. All of the witnesses here have identified certain items that they consider trade secrets in the gaming industry and these are well-qualified witnesses who have spent decades in this industry. Those items have been identified as, (1) player tracking records; (2) other hosts' customers; (3) initial buy-ins; (4) level of play; (5) whether the player plays table games or slots; (6) time of play; (7) customers' personal information that is personal to them, such as a Social Security number; (8) customers' casino credit; (9) customer's location, whether they are an international, regional or local player; (10) marketing strategy; (11) customers' birth date, which one witness testified was critical for credit accounts; (12) tier

levels, which is different than player ratings, they are more specific in terms of measurement; (13) comp information for the player; (14) players' history of play; (15) players' demographics; (16) players' financial information; (17) the company's financial information; (18) the company's marketing strategy; (19) other employees' information and customer information. The Court does not by this list deem this list to be exclusive. There may be other instances and other items that are properly designated as trade secrets, however, this was the evidence adduced in this trial.

22. This Court finds that this information is not known outside of the business of the ATLANTIS. Indeed, the previous 19 items are not easy to learn, in fact, it is difficult to acquire this information properly.

23. This Court further finds that there is no question that this information was confidential within the ATLANTIS and that has been demonstrated amply by the extent and manner in which the ATLANTIS took steps to guard the secrecy of this information. Specifically, Mr. Woods testified that there were no printers and that the USB ports on the computers were restricted, that the hosts had no ability to print or download guest lists. He further explained that security access was determined by the job designation. There was testimony that the passwords for this access were changed frequently and therefore it has been established beyond any reasonable doubt that the ATLANTIS considered all of this information a trade secret and this Court does so find.

24. This Court finds that the information written down in the spiral notebooks which Ms. ISLAM identified as hers was taken from the ATLANTIS' computer and is not information open to the public.

25. This Court finds that Ms. ISLAM has violated not only the terms and conditions of her contract, but also has committed a violation of the Uniform Trade Secrets Act.

26. This Court finds that Damages are appropriately awarded against ISLAM for violation of the Uniform Trade Secrets Act and awards damages totaling $10,814.

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Declaratory Relief

27. The sixth cause of action filed by the Plaintiff is a request for declaratory relief. The Courts grants and denies this claim as follows.

28. This Court finds that the Online System User Agreement is a valid contract. This Court finds that the Business Ethics Policy and Code of Conduct Agreement is a valid contract. This Court finds that the Trade Secrets Agreement is a valid contract. This Court finds that the Non-compete Agreement is overbroad and unenforceable. This Court also finds that those contracts have been breached.

29. This Court finds that the Defendant has violated the Uniform Trade Secrets Act and that the Plaintiff has suffered damages.

Proof of Damages

30. There are two distinct damage models proffered in this case. One is based on theoretical win based upon a customer lifetime value analysis proffered by the Plaintiff. The other is a damage analysis based on actual win - loss proffered by the Defendants in this case.

31. This Court has examined all of the exhibits in support of both models. This Court has listened to the testimony of Brandon McNeely, who testified on behalf of the Plaintiff in support of a valuation based upon theoretical wins. This Court finds that the customer lifetime value analysis is a solid one and is supported by scholarly research and empirical data.

32. This Court has also considered Mr. Aguero's testimony and reviewed his expert report, which is Exhibit 32. The Court has also reviewed Brandon McNeely's reports and the Exhibits included within Exhibit 59, A, B, C, D and E.

33. The Court has also considered the testimony of Mr. Frank DeCarlo when he testified about the mitigation marketing costs, and Lilia Santos, who testified to the loss of guests of the ATLANTIS to the GSR.

34. Having considered both models, this Court feels the more appropriate model in this particular case is the actual win-loss model. That model is based upon the data provided by

both parties, the hard data and an analysis that is well reasoned and supported not only by the evidence, but scholarly review.

35. Therefore, the compensatory damages as to Defendant ISLAM, as previously described will be on the first count for breach of contract, $10,941 plus an additional $2,119. As to the violation of the Uniform Trade Secret Act, judgment will be in favor of Plaintiff, against Defendant ISLAM in the amount of $10,814.

Punitive Damages

36. The Plaintiff has requested punitive damages be awarded in this case and this Court finds that punitive damages are warranted here.

37. Ms. ISLAM testified that her actions were malicious, as they were intended to hurt the ATLANTIS. Despite whatever reason she may have felt justified her actions, her actions were unjustified, they were willful, they were malicious, and they were intentional.

38. Punitive damages have a two-pronged effect. One is to punish the transgressor and the other is to serve as an example to deter others similarly situated from engaging in the same conduct. Therefore, there are several factors to be taken into consideration, including the willfulness of the conduct, the public interest that is at stake, and not the least of which is the Defendant's financial condition. Ms. ISLAM testified that she makes $80,000 per year. This Court is assessing significant compensatory damages against her. However, the Court feels that a significant punitive damage is necessary in order to deter others from violating those contracts between the ATLANTIS and its employees. This Court therefore has determined that a punitive damage award of $20,000, representing one quarter of her annual salary, is an appropriate punishment to Ms. ISLAM.

Attorney Fee Award

39. The Uniform Trade Secrets Act also provides for the award of Attorney's fees in the case of willful and malicious misappropriation.

40. Having found in favor of the Plaintiff as the prevailing party against the Defendant ISLAM, under the circumstances of this case, this Court will award attorney's fees

and litigation costs. Those fees will be awarded after appropriate affidavit of fees and the memorandum of costs are timely submitted.

Injunctive Relief

41. This Court further finds that this is an appropriate matter in which to impose a Permanent Injunction, pursuant to NRS 600A.040, prohibiting ISLAM from any further use of the trade secret information at issue until such time as the information becomes ascertainable by proper means by the public or is otherwise no longer a Trade Secret as defined by NRS 600A.030(5). In this regard, ISLAM is Ordered to destroy any and all customer lists obtained from or originating from ATLANTIS, including specifically the spiral notebooks, copies of which have been marked at trial as Exhibits 6, 80 and 81. Further, ISLAM is Ordered to purge from any electronic record or physical records, any and all information (including any information not previously produced by her in the litigation which is subsequently located) which has been identified in this decision as a trade secret, originating from the ATLANTIS.

CONCLUSION

42. Judgment in favor of ATLANTIS against Defendant ISLAM.

DATED AND DONE this 26 day of AUGUST, 2013.

Patrick Flanagan
DISTRICT JUDGE

Respectfully submitted,

LAXALT & NOMURA, LTD

By: _____

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

GOLDEN ROAD MOTOR INN, INC., a Nevada Corporation, d/b/a ATLANTIS CASINO RESORT SPA Plaintiff, vs. SUMONA ISLAM, an individual; MEI-GSR HOLDINGS LLC, a Nevada limited liability company, d/b/a GRAND SIERRA RESORT; ABC CORPORATIONS; XYZ PARTNERSHIPS; AND JOHN DOES I through X, inclusive. Defendants.	Case No.: CV12-01171 Dept No.: B7

NOTICE OF ENTRY OF FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT

PLEASE TAKE NOTICE, that a Findings of Fact and Conclusions of Law and Judgment was entered on September 27, 2013. A copy of said Findings of Fact and Conclusions of Law and Judgment is attached hereto as Exhibit 1.

///

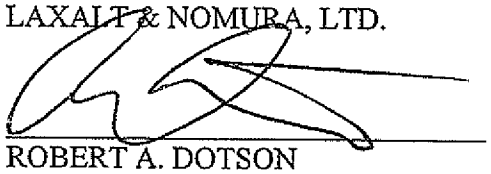
///

Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 1 day of October, 2013.

LAXALT & NOMURA, LTD.



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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of LAXALT & NOMURA, LTD., and that on this date, I caused to be served a true and correct copy of the foregoing by:

☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At the Law Offices of Laxalt & Nomura, mail placed in that designated area is given the correct amount of postage and is deposited that same date in the ordinary course of business, in a United States mailbox in the City of Reno, County of Washoe, Nevada.

☒ By electronic service by filing the foregoing with the Clerk of Court using the E-Flex system, which will electronically mail the filing to the following individuals.

☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand delivered this date to the address(es) at the address(es) set forth below, where indicated.

☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.

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DATED this 1st day of October, 2013.

L. Morgan Bogumil

L. MORGAN BOGUMIL

INDEX OF EXHIBITS

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EXHIBIT 1

EXHIBIT 1

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

GOLDEN ROAD MOTOR INN, INC., a Nevada Corporation, d/b/a ATLANTIS CASINO RESORT SPA,

Plaintiff,

vs.

SUMONA ISLAM, an individual; MEI-GSR HOLDINGS LLC d/b/a GRAND SIERRA RESORT; et.al.

Defendants.

Case No.: CV12-01171
Dept. No.: B7

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT

This matter came on for a non-jury trial on July 1, 2013 before the Honorable Patrick Flanagan, District Judge, presiding. The Court having heard the testimony of witnesses, reviewed the exhibits submitted into evidence and having heard the argument of Counsel finds in favor of the Defendant MEI-GSR HOLDINGS, LLC, d/b/a GRAND SIERRA RESORT on all causes of action alleged against it and awards Defendant MEI-GSR HOLDINGS LLC d/b/a GRAND SIERRA RESORT attorneys' fees pursuant to NRS 600A.060 and costs pursuant to NRS 18.110 and further makes the following findings of fact and conclusions of law

FINDINGS OF FACTS:

1. That in 2005 Sumona Islam became a casino host for Harrah's Casino in Reno.

2. That during the course of her employment with Harrah's she developed a list of players with information concerning those players commonly known as her "book of trade"

3. In April 2008 Sumona Islam left Harrah's and became employed by Plaintiff

Golden Road Motor Inn as a host at the Atlantis Casino.

4. At the time of her employment at Atlantis, Sumona provided a copy of her "book of trade" to Atlantis which was incorporated into the Atlantis data base. During her employment with Atlantis, she obtained additional players whom she included in her "book of trade".

5. In January 2011 Sumona Islam entered into a non-competition agreement with the Atlantis which provided that she could not be employed by any casino in any capacity within 150 mile radius for one year from her termination of employment with Atlantis.

6. In January 2012 she applied for a position as an executive casino host with GSR, a hotel casino in Reno owned by Defendant MEI-GSR HOLDINGS INC.

7. She informed GSR of her non-competition agreement with Atlantis and provided a copy of that document to GSR. GSR sent the document to its counsel for review and received an opinion that the agreement was unenforceable as written.

8. At the time of her hiring GSR through its agents told Sumona Islam not to bring any information from Atlantis, except for herself and her relations.

9. Although Ms. Islam was in possession of spiral notebooks in which she had copied information from the Atlantis' data base, she did not give or show those notebooks to anyone at GSR.

10. Upon her hiring in January 2012, Sumona entered certain information from her "book of trade" into the GSR database. This consisted of approximately 200 guests, that she wished to be assigned to her as a host based on her statement that she had prior relationships with these individuals.

11. The GSR database restricted the information which could be inputted by hosts to a player's name, address telephone number and contract information and has no fields in which Sumona could have inputted player ratings, casino credit history, or player history.

12. A customer's name, address and contact information are not trade secrets.

For purposes of this litigation it was determined that the following would constitute a trade secret

a) player tracking records;

b) other hosts customers;

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c) initial buy-ins;

d) level of play;

e) table games;

f) time of play;

g) customer's personal information such as a Social Security number

h) customer's casino credit;

i) customer's location, whether they're international, regional or local player beyond any information contained within the customer's address;

j) marketing strategy;

k) customer's birth date;

l) customer's tier ratings;

m) comp information ;

n) player's history of play;

o) player's demographics;

p) players' financial information;

q) company's financial information;

r) company's marketing strategy;

s) other employee's information and customer information.

13. In April 2012 house counsel for Atlantis sent a letter to GSR stating that Sumona had taken proprietary information from the Atlantis computers and changed other customer information in the Atlantis database.

14. Counsel for GSR informed plaintiff that Ms. Islam denied taking any proprietary information from Atlantis and requested Atlantis to provide the information which it believed had been misappropriated by Ms. Islam. Plaintiff did not provide any information.

15. Atlantis filed suit against Ms. Islam and GSR alleging that GSR had tortuously interfered with Atlantis' non-competition agreement, tortuously interfered with a prospective economic advantage belonging to Atlantis and violation of NRS 600A.010 commonly known as the Nevada Trade Secret Act.

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16. Plaintiff sought a preliminary injunction which enjoined GSR from using any information provided to it from Sumona Islam. GSR took reasonable steps to insure good faith and timely compliance with the injunction.

17. Atlantis knew that among the names it claimed were misappropriated were names which were legally and properly included in Ms. Islam's "book trade" but despite this knowledge brought and obtained an injunction preventing GSR from marketing to these individuals from August 27, 2012 through the trial of this matter in 2013.

18. Atlantis presented no credible evidence that GSR had a duty to investigate the names in Ms. Islam's "book of trade" beyond making inquiries of Ms. Islam. To the contrary there was credible testimony that casinos have a right to rely on the host's statements.

19. GSR provided a list of all the names and information concerning those individuals added to the GSR data base by Ms. Islam which showed that the information was limited to the individual player's name, address and contact information. None of which constitutes a trade secret under NRS 600A .10.

20. Atlantis presented no credible evidence that GSR had tortuously interfered with its non-competition agreement with Islam. Atlantis knew that GSR had hired Ms. Islam based on its attorneys legal opinion that the agreement was overly broad in denying Ms. Islam the right to work in any capacity in any casino. Atlantis further knew or should have known that the non-competition agreement was overly broad and unenforceable and unenforceable as a matter of law but continued to prosecute the claim.

21. Atlantis presented no credible evidence that GSR misappropriated any information constituting a trade secret and in fact maintained the litigation and the injunction to include names of persons which it knew and admitted at trial were legally in Ms. Islam's book of business and that she was entitled to provide to GSR.

22. Atlantis continued and maintained the litigation against GSR for misappropriation of trade secrets even when it knew that GSR was acting in good faith by relying on Ms. Islam's assertions concerning her "book of trade" and knew that the customer information provided by Ms. Islam was limited to the customers' name, address, telephone number and contact

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information.

23. GSR did not misappropriate a trade secret belonging to Atlantis;

24. GSR did not tortuously interfere with a contract between Sumona Islam and Atlantis.

25. GSR did not interfere with a prospective economic advantage belonging to Atlantis.

26. There is a lack of any evidence in the record that supports the claim of Atlantis that GSR misappropriated Atlantis' trade secrets and therefore, Atlantis has failed to meet its burden of proof.

27. That early on in the litigation Defendant Islam admitted that she had taken certain information from ATLANTIS in the form certain spiral notebooks.

28. That early on in the litigation Defendant Islam testified that she had not shown the information in the form of the spiral notebooks to any representative of GRS.

29. That early on in the litigation Defendant Islam testified and confirmed that she was told by the representatives of GSR not to bring anything with her except for herself and her relationships.

30. That early on in the litigation Defendant Islam testified and confirmed that she had told representatives of GSR that she did not bring trade secret information with her or that she had information belonging to ATLANTIS.

CONCLUSIONS OF LAW:

1. The non-competition agreement between Sumona Islam and Atlantis, in prohibiting casino employment in any capacity was overly broad and unenforceable as a matter of law.

2. That absent an enforceable employment contract or non-competition agreement with Atlantis, GSR could not as a matter of law, interfere with contractual relations between Sumona and Atlantis.

3. A customer's name address, and contact information is not a trade secret under

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NRS 600A.010. GSR did not misappropriate any trade secrets which belonged to Atlantis by allowing Sumona Islam to upload this information into its data base.

4. GSR did not improperly obtain the information concerning players listed above as set forth in 600A.030 and had a good faith reliance on Ms. Islam's assurances that all the names provided were part of her personal "book of trade"

5. The failure of Atlantis to produce any credible evidence at trial that GSR misappropriated trade secrets belonging to Atlantis constitutes ~~"objective specious". That subjective~~ bad faith that is shown by the Plaintiff's knowledge of certain facts as set forth in the findings of facts above; the decision to move forward against GSR and the extent of the litigation against GSR despite a lack of direct evidence against GSR. This is a sufficient basis for an award of attorney fees pursuant to NRS 600.060. Defendants are not required to prove a negative and under the objective specious standard a lack of evidence in the record of misappropriation; in addition to the actions as set forth above; is enough to show that the claim of misappropriation was made in bad faith (*Sasco v. Rosendin Electric Inc.*, 143 Cal. Rptr. 3d 828, 207 Cal. App 4th 837 (CA 2012)) and entitles GSR to Attorney's fees and costs in this matter.

6. That Atlantis sought, obtained, and maintained a preliminary injunction in this matter that included names which Atlantis knew were not trade secrets under NRS 600A.010 and continued to maintain that injunction even when it knew that those names were art of Sumona Islam's personal book of trade in order to thwart competition for those players from GSR and said conduct is evidence of bad faith entitling GSR to an award of attorney's fees and costs.

7. That the claims against GSR are dismissed and judgment entered in favor of the Defendant GSR and GSR is entitled to an award of costs pursuant to NRS 18.110.

8. GSR is also entitled to bring an appropriate motion for fees and costs pursuant to an offer of judgment dated May 20, 2013 under NRCP 68 and NRS 17.115.

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CONCLUSION

9. Judgment in favor of Defendant GSR against Plaintiff ATLANTIS.

DATED THIS 27 DAY OF SEPTEMBER 2013

Patrick Flanagan
DISTRICT JUDGE

Submitted by:

/s/ H. Stan Johnson
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EXHIBIT 2

EXHIBIT 2

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

GOLDEN ROAD MOTOR INN, INC., a Nevada Corporation, d/b/a ATLANTIS CASINO RESORT SPA Plaintiff, vs. SUMONA ISLAM, an individual; MEI-GSR HOLDINGS LLC, a Nevada limited liability company, d/b/a GRAND SIERRA RESORT; ABC CORPORATIONS; XYZ PARTNERSHIPS; AND JOHN DOES I through X, inclusive. Defendants.	Case No.: CV12-01171 Dept No.: B7

~~[PROPOSED]~~ FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER

This matter came on for a non-jury trial on July 1, 2013 before the Court, Honorable Patrick Flanagan, District Judge, presiding. The Court heard evidence for 9 days and the arguments of counsel on the 10th day of trial. The Court, having carefully considered all of the exhibits in evidence, the testimony of the witnesses, trial statements of the parties, and the arguments of counsel, hereby issues the following Findings of Fact and Conclusions of Law:

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Findings of Fact

1. On or about April 15, 2008, ISLAM became an employee of the Golden Road Motor Inn, Inc., dba Atlantis Casino Resort Spa ("ATLANTIS").

2. On April 15, 2008, ISLAM executed the ATLANTIS Online System User Agreement ("Online System User Agreement"). Among other terms, the Online System User Agreement prohibits unauthorized downloading or uploading of software and information.

3. On April 15, 2008, in conjunction with her employment with ATLANTIS, ISLAM also executed an agreement with ATLANTIS concerning its Business Ethics Policy and Code of Conduct Acknowledgement and Conflicts of Interest Statement. This agreement ("Business Ethics Policy"), was again signed by ISLAM on January 23, 2009, February 26, 2010 and January 19, 2011. This policy in section 3.1 identifies confidential information as all nonpublic information regarding the company's operation and business activities and those of its customers and suppliers. Nonpublic means any information that is not officially disclosed through means such a press releases or other forms of publication, where it is not common knowledge. Section 4.4 prohibits the disclosure of inside information to persons outside the company or other persons within the company who are not authorized to receive such information. Pursuant to the terms of the Business Ethics Policy, ISLAM agreed not to disclose confidential information including customer lists or customer information (such as player tracking or club information) to any unauthorized persons, either during or after her termination, and not to take any documents or records belonging to ATLANTIS after her departure. She also agreed not to profit from confidential information of ATLANTIS. ISLAM's agreement to the terms of this contract was a condition of her employment with ATLANTIS.

4. On April 15, 2008, in conjunction with commencing her employment with ATLANTIS, ISLAM executed the ATLANTIS Company Policy regarding Company Property, Proprietary Information, and Trade Secrets (hereinafter referred to as "Trade Secret Agreement"). This agreement, including any updates, was again signed by ISLAM on January 23, 2009, February 26, 2010 and January 19, 2011. This agreement provides that any improper

use or dissemination of ATLANTIS intellectual property is a breach of the policy and may be a violation of state and federal trade secrets laws and also warns that such violation is punishable both civilly and criminally.

5. ISLAM was hired to be an Executive Casino Host at ATLANTIS. When she was hired, she was under a contractual obligation to her former employer, Harrah's, which prohibited her from working in a same or similar position within six months after separation from employment at Harrah's. In order to honor this obligation, ATLANTIS placed her in the position of concierge manager. She worked in the hotel side of the operation of the ATLANTIS and not in the gaming side of the operation until the expiration of the six month restriction imposed by her agreement with Harrah's. Thereafter, she was transferred to the gaming operation and began her employment as a host.

6. When ISLAM began to work as a host at ATLANTIS, she brought with her what she claimed to be her personal book of trade. ISLAM has identified Exhibits 75 and 80 as her book of trade.

7. Steve Ringkob, indeed almost every witness, testified that there were certain items that hosts were entitled to take with them from property to property and that a host's book of trade is the host's property and "nothing is wrong with her taking this information wherever she goes." However, he also testified that the player's gaming history and tracking at the ATLANTIS would become proprietary information.

8. Although the term "casino host book of trade" has been defined variously, it has generally been defined as those names and contact information of guests with whom the host has developed relationships through their own efforts. Ringkob defined it as those guests with whom the host has developed a relationship and it was not information coming from the casino.

9. The evidence is clear that ISLAM intentionally downloaded, by hand copying from the ATLANTIS computer screen, players' names, contact information, level of play, game preferences and other proprietary information from the ATLANTIS Casino's, casino management system, Patron Management Program.

10. On February 26, 2010, ISLAM signed a Non-Compete/Non-Solicitation Agreement with ATLANTIS ("Non-Compete Agreement"). Pursuant to the terms of the Non-Compete Agreement, ISLAM agreed that she would not, without the prior written consent of ATLANTIS, be employed by, in any way affiliated with, or provide services to any gaming operation located within 150 miles of ATLANTIS for a cooling off period of one year after the date that the employment relationship between she and the ATLANTIS ended.

11. During ISLAM'S employment at ATLANTIS, she had access to and worked with highly sensitive trade secrets and proprietary and confidential information of the ATLANTIS. This information included customer and guest lists, customer information and data including player contact information, tracking and club information, guest preferences and gaming tendencies of the guests. This information included not just the information for guests assigned to her, but also information for guests assigned to other hosts.

12. Before and during ISLAM'S employment, ATLANTIS undertook significant precautions to maintain the secrecy of its confidential information. These efforts included disabling USB ports in the computers at ATLANTIS, not providing or allowing printers, and monitoring all emails that are sent to recipients off property.

13. Despite the precautions taken to protect ATLANTIS' confidential trade secret information, during her employment at ATLANTIS ISLAM copied guest information by hand from the screen of the ATLANTIS computer onto spiral note pads. Ms. ISLAM, in her handwritten notes in spiral notebooks, which she identified as hers, copied players' names, contact information and also the designation of whether or not they played table games or slots. The information copied had the notation of the guests' marker information, for purposes of knowing what their credit limit was. Some notations included information regarding previous gaming results and losses incurred by that player. This is information Ms. ISLAM testified that she wrote down from the ATLANTIS computer. A copy of some of those spirals is found in Exhibit 80.

14. Ms. ISLAM testified that in the fall of 2011, she was becoming dissatisfied with her employment at the ATLANTIS. She testified that she had not been given a raise, that she

had only been given one bonus and not the quarterly bonuses that she states were promised to her, she felt isolated in her interpersonal relationships with other employees at the ATLANTIS and she had come to a point in her career where she believed that if she was ever going to make more money, she would have to seek employment elsewhere.

15. The evidence is that on or around October, Ms. ISLAM learned from Ms. Antonetti that the Grand Sierra Resort ("GSR") was hiring new employees. Through an online application, ISLAM applied for and interviewed with the GSR to obtain a position as a host.

16. At about that time, Ms. ISLAM asked Mr. DeCarlo for a copy of her Non-Compete Agreement with the ATLANTIS.

17. Sometime in December and January, two interviews took place. The first was with Ms. Hadley, at the GSR. Ms. Hadley testified that she was impressed with Ms. ISLAM. She testified she did not ask for ISLAM's book of business at that time.

18. A second interview was arranged between ISLAM and Hadley and Flaherty of the GSR. At that time, a more in-depth discussion took place relative to Ms. ISLAM's book of business. Mr. Flaherty testified and it's confirmed by the transcript of a subsequent interview that he told Ms. ISLAM not to bring anything from the ATLANTIS to the GSR, to bring nothing, but herself and her relationships.

19. During the course of the interview process, ISLAM and representatives of GSR discussed the fact that ISLAM was subject to an agreement restricting her employment with a competitor of ATLANTIS and ISLAM provided GSR with a copy of the Non-Compete Agreement. This conduct is consistent with ISLAM's testimony of her behavior when applying for the position with the ATLANTIS. She testified that she provided a copy of the Harrah's Non-Compete to the ATLANTIS prior to their offering of employment to her.

20. The testimony is that GSR then passed the ATLANTIS Non-Compete Agreement to its legal counsel. Legal counsel apparently reviewed that and gave the green light to hire Ms. ISLAM.

21. Ms. ISLAM was concerned that ATLANTIS would initiate litigation against her and sought assurances that GSR would provide legal representation to her should there be litigation over the Non-Compete. GSR agreed.

22. ISLAM terminated her employment as an Executive Casino Host with the ATLANTIS on January 19, 2012 and accepted an offer with GSR as an Executive Casino Host on the same day.

23. ISLAM began work at GSR at the end of January, 2012.

24. The ATLANTIS alleges that soon after ISLAM terminated her employment, ATLANTIS employees discovered that ISLAM had falsely modified, destroyed, falsely changed and/or sabotaged confidential, proprietary, trade secret information of ATLANTIS, including customer data belonging to the ATLANTIS on its online system to her benefit and the benefit of GSR and to the detriment of ATLANTIS.

25. The evidence adduced in this matter by Ms. ISLAM herself and other witnesses of the Plaintiff is that Ms. ISLAM did change the addresses, telephone number and/or the email addresses of guests that had been coded to her in the ATLANTIS' casino customer or guest database.

26. The evidence shows that shortly after Ms. ISLAM left the employ of the ATLANTIS, the guests who had been assigned to her at the ATLANTIS were distributed amongst the remaining ATLANTIS hosts who attempted to contact those guests to maintain and establish a continued relationship with the ATLANTIS. Shortly thereafter, those hosts reported difficultly, indeed inability to contact the guests. It quickly became apparent that the contact information had been sabotaged. ATLANTIS staff testified that they restored old copies of the Patron Management data to a location in the computer system where the auditors could access the information and the information was restored to the Patron Management Program, the guest marketing database, in a relatively short period of time.

27. Additionally, the evidence showed that none of the information was changed in the LMS database, which is the database known as the Lodging Management System that controls the hotel operations.

28. ISLAM testified that she did not show either Ms. Hadley or Mr. Flaherty the spiral notebooks which contained the information she had wrongfully taken from the ATLANTIS' database. Nevertheless, after her employment by the GSR began, Ms. ISLAM began to input that information, the information taken from the ATLANTIS and contained on the spiral notebooks, into the GSR database.

29. The testimony from the GSR representatives is that the database fields accessed and completed by ISLAM are limited. They restrict the information that a host could input to name, address, telephone number and contact information. There are no fields for a host to themselves input information regarding a player's gaming history, level of play or preference of game.

30. Both Ms. Hadley and Mr. Flaherty testified they never saw the spiral notebooks containing the information ISLAM had wrongfully taken from the ATLANTIS' database.

31. After the database sabotage was discovered by the ATLANTIS, ATLANTIS' general counsel, Debra Robinson, wrote a letter to GSR advising them that Ms. ISLAM was subject to a Non-Compete, Non-Disclosure Agreement and that she may have confidential information and ATLANTIS demanded the GSR cease and desist from the use of that information and return it forthwith.

32. In response to the cease and desist letter from ATLANTIS to the GSR and Ms. ISLAM relating to the ATLANTIS' concerns about ISLAM's employment, the counsel for the GSR sent a letter rejecting the assertions of the ATLANTIS and essentially maintaining that there was nothing confidential or proprietary that had been acquired by GSR and that all information provided by Ms. ISLAM came from her own personal relationships and her book of business.

33. The ATLANTIS reasonably initiated litigation.

34. On April 27, 2012, ATLANTIS filed its Complaint for relief with seven causes of action.

35. On May 9, 2012, this Court, through its sister Department, entered a Temporary Restraining Order barring Ms. ISLAM from any employment with GSR. That Order was

extended by Order of this Court dated July 5, 2012 which also applied to GSR. Thereafter, the parties stipulated to a Preliminary Injunction ending this case pending the case's resolution.

36. To the extent appropriate and to give intent to this order, any finding of fact should be found to be a conclusion of law. Similarly, to the extent appropriate any conclusion of law shall be deemed a finding of fact.

CONCLUSIONS OF LAW

Breach of Contract – Online Systems User Agreement, Business Ethics Policy, Trade Secrets Agreement as to ISLAM

1. The elements for establishing a breach of contract claim are: (1) A valid and existing contract was entered into between Plaintiff and Defendant; (2) Plaintiff performed or was excused from performance of the contract; (3) Defendant breached; and (4) Plaintiff sustained damages as a result of the breach. *Reichert vs. General Insurance Co. of Amer.*, 68 Cal. 2d 822, 69 Cal. Rptr. 321, 442 P.2d 377 (1968); *Marwan Ahmed Harara vs. Conoco Phillips Co.*, 375 F. Supp. 2d 905, 906 (9th Cir. 2005).

2. In order to succeed on a breach of contract claim in Nevada, a plaintiff must show "(1) the existence of a valid contract, (2) a breach by the defendant, and (3) damage as a result of the breach." *Saini v. Int'l Game Tech.*, 434 F. Supp. 2d 913, 919-920 (D. Nev. 2006), citing *Richardson v. Jones*, 1 Nev. 405, 405 (1865).

3. In its first cause of action the Plaintiff alleges the violation of three contracts. These are the Online User Agreement, the Business Ethics Policy, and the Trade Secrets Agreement. These agreements were signed by Defendant ISLAM and a representative of Plaintiff, ATLANTIS. This Court finds that these are valid contracts. The Court further finds that the Defendant ISLAM breached these contracts.

4. Based upon the fact that ISLAM downloaded players' names, contact information, level of play, game preferences and other proprietary information from the ATLANTIS Casino's, casino management system, Patron Management Program, the Court finds that she has breached these contracts and that the ATLANTIS has suffered damages as a

result of the breach. Consequently, the Court finds in favor of the Plaintiff and against Defendant Sumona ISLAM on the first cause of action.

5. The Court finds that damages should be awarded in favor of ATLANTIS and against ISLAM on this claim. These are made up of compensatory damages of $10,941 plus an additional $2,119 to repair the database, totaling $13,060.

Breach of Contract—Non-Compete Agreement as to ISLAM

6. The Non-compete/Non-solicitation Agreement was signed by ISLAM and a representative of ATLANTIS in 2010. The law presumes that all parties have the freedom to contract and establish the terms of employment between themselves. However, restrictive covenants are not favored in the law. The determination of the validity of such a contract as written is governed by whether or not it imposes upon the employee any greater restraint than is reasonably necessary to protect the business and the goodwill of the employer.

7. A restraint of trade is unreasonable if it is greater than that required to protect the person for whose benefit the restraint is imposed or imposes an undue hardship on the person restricted. *Hansen v. Edwards*, 83 Nev. 189, 426 P.2d 792 (1967). *See also, Jones v. Deeter*, 112 Nev. 291, 294, 913 P.2d 1272, 1274 (1996).

8. The public has an interest in seeing that competition is not unreasonably limited or restricted.

9. In the instant matter, this Court finds that the term restricting employment for a period of one year is reasonable and necessary to protect the interests of the ATLANTIS.

10. This Court finds that the term restricting employment within 150 miles from ATLANTIS is reasonable. It encompasses the markets of Sacramento and the evidence supports the threat that Thunder Valley and indeed other Northern California casinos pose to the casinos of Northern Nevada.

11. The Court finds, however, that the total exclusion from employment with a competitor is unreasonable. This Court finds that excluding the employment of an individual such as Ms. ISLAM, who has attempted to create a career in this industry from any role in any casino in any capacity is an unreasonable restraint on her and it imposes an undue hardship on

Ms. ISLAM and it is a restraint that is greater than that required for the protection of the person for whose benefit the restraint is imposed, the ATLANTIS. Therefore, the Court finds the Non-Competition contract unenforceable and dismisses the second cause of action related to breach of that contract.

Conversion of Property as to ISLAM

12. The elements of conversion are that a defendant exercises an act of dominion wrongfully exerted over the personal property of another in denial of or inconsistent with title rights therein, or in derogation, exclusion or defiance of such rights. *M.C. Multi Family Development, L.L.C. v. Crestdale Associates Ltd.*, 124 Nev. 901, 910, 196 P.3d 536 (2008) *citing Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 606, 5 P.3d 1043, 1048 (2000).

13. The caselaw here states that conversion generally is limited to those severe, major and important interferences with the right to control personal property that justified requiring the actor to pay the property's full value. Courts have noted that this remedy in general is harsh and is reserved for the most severe interferences with personal property.

14. The Court finds that the evidence adduced shows that the interference with the property of the ATLANTIS was not severe, that the information, although altered, was not lost and was easily restored. One measure of that is the fact that the damages sought for the restoration expense is de minimus in light of the value of not only Ms. ISLAM's book of trade, which she estimated at $3.5 to $4 million, but the operation of the ATLANTIS itself. Therefore, this Court finds that the Plaintiff has failed to establish the elements of conversion and the third cause of action is therefore dismissed.

Tortious Interference with Contractual Relations and Prospective Economic Advantage as to ISLAM

15. To establish intentional interference with contractual relations, ATLANTIS must show: (1) a valid and existing contract; (2) the defendant's knowledge of the contract; (3) intentional acts intended or designed to disrupt the contractual relationship; (4) actual

disruption of the contract; and (5) resulting damage. *Sutherland v. Gross*, 105 Nev. 192, 772 P.2d 1287, 1290 (1989).

16. The elements of the tort of wrongful interference with a prospective economic advantage are: (1) a prospective contractual relationship between the plaintiff and a third party; (2) the defendant's knowledge of this prospective relationship; (3) the intent to harm the plaintiff by preventing the relationship; (4) the absence of a privilege or justification by the defendant; and, (5) actual harm to the plaintiff as a result of the defendant's conduct. *Leavitt v. Leisure Sports, Inc.*, 103 Nev. 81, 88, 734 P.2d 1221, 1225 (1987); *Las Vegas-Tonopah-Reno Stage v. Gray Line*, 106 Nev. 283, 792 P.2d 386, 388 (1990).

17. Based upon the Nevada Supreme Court's decision in *Frantz v. Johnson*, 116 Nev. 455, 999 P.2d 351(2000), this Court is directed to look to the specific evidence adduced at trial to determine whether or not the acts of a defendant are more appropriately adjudicated under the Uniform Trade Secrets Act than under a claim for tortious interference with contract or prospective economic advantage. In an examination of the facts here, this Court has determined that the facts adduced in this trial make it more appropriate that the claim against Sumona ISLAM be adjudicated under the Uniform Trade Secrets Act.

Violation of Uniform Trade Secret Act, NRS 600A.010 et. seq. as to ISLAM and GSR

18. To establish a misappropriation claim under NRS § 600A.010 *et. seq.*, the plaintiff must show: (1) a valuable trade secret; (2) misappropriation[1] of the trade secret

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[1] "Misappropriation" per NRS 600A.030(2) means:
(a) Acquisition of the trade secret of another by a person by improper means;
(b) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was acquired by improper means; or
(c) Disclosure or use of a trade secret of another without express or implied consent by a person who:
  (1) Used improper means to acquire knowledge of the trade secret;
  (2) At the time of disclosure or use, knew or had reason to know that his or her knowledge of the trade secret was:
    (I) Derived from or through a person who had used improper means to acquire it;
    (II) Acquired under circumstances giving rise to a duty to maintain its secrecy or limits its use; or
    (III) Derived from or through a person who owed a duty to the person seeking relief to maintain its secrecy or limit its use; or
  (3) Before a material change of his or her position, knew or had reason to know that it was a trade secret and that knowledge of it had been acquired by accident or mistake.

through use, disclosure, or nondisclosure of the use of the trade secret; and (3) the requirement that the misappropriation be wrongful because it was made in breach of an express or implied contract or by a party with a duty not to disclose. *Frantz v. Johnson*, 116 Nev. 455, 466, 999 P.2d 351, 358 (2000).

19. A trade secret is information that derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by the public, as well as information that is subject to efforts that are reasonable under the circumstances to maintain its secrecy. NRS 600A.040.

20. The determination of what is a trade secret is a question of fact for the trier of fact. *Frantz*, 116 Nev. at 466, 999 P.2d at 358. The caselaw indicates that contractual restrictions alone or designations alone do not control whether or not a particular design, compilation, or mechanism is a trade secret. To determine whether or not an item is a trade secret, the Court considers these factors. First, the extent to which the information is known outside the business and the ease or difficulty with which the information could be properly acquired by others. Second, whether the information was confidential or secret. Third, the extent and manner in which the employer guarded the secrecy of the information. Fourth, the former employee's knowledge of the customer's buying habits and other customer data and whether this information is known by the employer's competitors.

21. There was a consensus amongst all the witnesses that in the case of a customer with whom a host has established a relationship, that customer's name, address, contact information is not a trade secret. All of the witnesses here have identified certain items that they consider trade secrets in the gaming industry and these are well-qualified witnesses who have spent decades in this industry. Those items have been identified as, (1) player tracking records; (2) other hosts' customers; (3) initial buy-ins; (4) level of play; (5) whether the player plays table games or slots; (6) time of play; (7) customers' personal information that is personal to them, such as a Social Security number; (8) customers' casino credit; (9) customer's location, whether they are an international, regional or local player; (10) marketing strategy; (11) customers' birth date, which one witness testified was critical for credit accounts; (12) tier

levels, which is different than player ratings, they are more specific in terms of measurement; (13) comp information for the player; (14) players' history of play; (15) players' demographics; (16) players' financial information; (17) the company's financial information; (18) the company's marketing strategy; (19) other employees' information and customer information. The Court does not by this list deem this list to be exclusive. There may be other instances and other items that are properly designated as trade secrets, however, this was the evidence adduced in this trial.

22. This Court finds that this information is not known outside of the business of the ATLANTIS. Indeed, the previous 19 items are not easy to learn, in fact, it is difficult to acquire this information properly.

23. This Court further finds that there is no question that this information was confidential within the ATLANTIS and that has been demonstrated amply by the extent and manner in which the ATLANTIS took steps to guard the secrecy of this information. Specifically, Mr. Woods testified that there were no printers and that the USB ports on the computers were restricted, that the hosts had no ability to print or download guest lists. He further explained that security access was determined by the job designation. There was testimony that the passwords for this access were changed frequently and therefore it has been established beyond any reasonable doubt that the ATLANTIS considered all of this information a trade secret and this Court does so find.

24. This Court finds that the information written down in the spiral notebooks which Ms. ISLAM identified as hers was taken from the ATLANTIS' computer and is not information open to the public.

25. This Court finds that Ms. ISLAM has violated not only the terms and conditions of her contract, but also has committed a violation of the Uniform Trade Secrets Act.

26. This Court finds that Damages are appropriately awarded against ISLAM for violation of the Uniform Trade Secrets Act and awards damages totaling $10,814.

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Declaratory Relief

27. The sixth cause of action filed by the Plaintiff is a request for declaratory relief. The Courts grants and denies this claim as follows.

28. This Court finds that the Online System User Agreement is a valid contract. This Court finds that the Business Ethics Policy and Code of Conduct Agreement is a valid contract. This Court finds that the Trade Secrets Agreement is a valid contract. This Court finds that the Non-compete Agreement is overbroad and unenforceable. This Court also finds that those contracts have been breached.

29. This Court finds that the Defendant has violated the Uniform Trade Secrets Act and that the Plaintiff has suffered damages.

Proof of Damages

30. There are two distinct damage models proffered in this case. One is based on theoretical win based upon a customer lifetime value analysis proffered by the Plaintiff. The other is a damage analysis based on actual win - loss proffered by the Defendants in this case.

31. This Court has examined all of the exhibits in support of both models. This Court has listened to the testimony of Brandon McNeely, who testified on behalf of the Plaintiff in support of a valuation based upon theoretical wins. This Court finds that the customer lifetime value analysis is a solid one and is supported by scholarly research and empirical data.

32. This Court has also considered Mr. Aguero's testimony and reviewed his expert report, which is Exhibit 32. The Court has also reviewed Brandon McNeely's reports and the Exhibits included within Exhibit 59, A, B, C, D and E.

33. The Court has also considered the testimony of Mr. Frank DeCarlo when he testified about the mitigation marketing costs, and Lilia Santos, who testified to the loss of guests of the ATLANTIS to the GSR.

34. Having considered both models, this Court feels the more appropriate model in this particular case is the actual win-loss model. That model is based upon the data provided by

both parties, the hard data and an analysis that is well reasoned and supported not only by the evidence, but scholarly review.

35. Therefore, the compensatory damages as to Defendant ISLAM, as previously described will be on the first count for breach of contract, $10,941 plus an additional $2,119. As to the violation of the Uniform Trade Secret Act, judgment will be in favor of Plaintiff, against Defendant ISLAM in the amount of $10,814.

Punitive Damages

36. The Plaintiff has requested punitive damages be awarded in this case and this Court finds that punitive damages are warranted here.

37. Ms. ISLAM testified that her actions were malicious, as they were intended to hurt the ATLANTIS. Despite whatever reason she may have felt justified her actions, her actions were unjustified, they were willful, they were malicious, and they were intentional.

38. Punitive damages have a two-pronged effect. One is to punish the transgressor and the other is to serve as an example to deter others similarly situated from engaging in the same conduct. Therefore, there are several factors to be taken into consideration, including the willfulness of the conduct, the public interest that is at stake, and not the least of which is the Defendant's financial condition. Ms. ISLAM testified that she makes $80,000 per year. This Court is assessing significant compensatory damages against her. However, the Court feels that a significant punitive damage is necessary in order to deter others from violating those contracts between the ATLANTIS and its employees. This Court therefore has determined that a punitive damage award of $20,000, representing one quarter of her annual salary, is an appropriate punishment to Ms. ISLAM.

Attorney Fee Award

39. The Uniform Trade Secrets Act also provides for the award of Attorney's fees in the case of willful and malicious misappropriation.

40. Having found in favor of the Plaintiff as the prevailing party against the Defendant ISLAM, under the circumstances of this case, this Court will award attorney's fees

and litigation costs. Those fees will be awarded after appropriate affidavit of fees and the memorandum of costs are timely submitted.

Injunctive Relief

41. This Court further finds that this is an appropriate matter in which to impose a Permanent Injunction, pursuant to NRS 600A.040, prohibiting ISLAM from any further use of the trade secret information at issue until such time as the information becomes ascertainable by proper means by the public or is otherwise no longer a Trade Secret as defined by NRS 600A.030(5). In this regard, ISLAM is Ordered to destroy any and all customer lists obtained from or originating from ATLANTIS, including specifically the spiral notebooks, copies of which have been marked at trial as Exhibits 6, 80 and 81. Further, ISLAM is Ordered to purge from any electronic record or physical records, any and all information (including any information not previously produced by her in the litigation which is subsequently located) which has been identified in this decision as a trade secret, originating from the ATLANTIS.

CONCLUSION

42. Judgment in favor of ATLANTIS against Defendant ISLAM.

DATED AND DONE this 26 day of August, 2013.

Patrick Flanagan
DISTRICT JUDGE

Respectfully submitted,

LAXALT & NOMURA, LTD

By: _____

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

GOLDEN ROAD MOTOR INN, INC., a Nevada Corporation, d/b/a ATLANTIS CASINO RESORT SPA,

Plaintiff,

vs.

SUMONA ISLAM, an individual; MEI-GSR HOLDINGS LLC d/b/a GRAND SIERRA RESORT; et.al.

Defendants.

Case No.: CV12-01171
Dept. No.: B7

FINDINGS OF FACT AND CONCLUSIONS OF LAW AND JUDGMENT

This matter came on for a non-jury trial on July 1, 2013 before the Honorable Patrick Flanagan, District Judge, presiding. The Court having heard the testimony of witnesses, reviewed the exhibits submitted into evidence and having heard the argument of Counsel finds in favor of the Defendant MEI-GSR HOLDINGS, LLC, d/b/a GRAND SIERRA RESORT on all causes of action alleged against it and awards Defendant MEI-GSR HOLDINGS LLC d/b/a GRAND SIERRA RESORT attorneys' fees pursuant to NRS 600A.060 and costs pursuant to NRS 18.110 and further makes the following findings of fact and conclusions of law

FINDINGS OF FACTS:

1. That in 2005 Sumona Islam became a casino host for Harrah's Casino in Reno.

2. That during the course of her employment with Harrah's she developed a list of players with information concerning those players commonly known as her "book of trade"

3. In April 2008 Sumona Islam left Harrah's and became employed by Plaintiff

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Golden Road Motor Inn as a host at the Atlantis Casino.

4. At the time of her employment at Atlantis, Sumona provided a copy of her "book of trade" to Atlantis which was incorporated into the Atlantis data base. During her employment with Atlantis, she obtained additional players whom she included in her "book of trade".

5. In January 2011 Sumona Islam entered into a non-competition agreement with the Atlantis which provided that she could not be employed by any casino in any capacity within 150 mile radius for one year from her termination of employment with Atlantis.

6. In January 2012 she applied for a position as an executive casino host with GSR, a hotel casino in Reno owned by Defendant MEI-GSR HOLDINGS INC.

7. She informed GSR of her non-competition agreement with Atlantis and provided a copy of that document to GSR. GSR sent the document to its counsel for review and received an opinion that the agreement was unenforceable as written.

8. At the time of her hiring GSR through its agents told Sumona Islam not to bring any information from Atlantis, except for herself and her relations.

9. Although Ms. Islam was in possession of spiral notebooks in which she had copied information from the Atlantis' data base, she did not give or show those notebooks to anyone at GSR.

10. Upon her hiring in January 2012, Sumona entered certain information from her "book of trade" into the GSR database. This consisted of approximately 200 guests, that she wished to be assigned to her as a host based on her statement that she had prior relationships with these individuals.

11. The GSR database restricted the information which could be inputted by hosts to a player's name, address telephone number and contract information and has no fields in which Sumona could have inputted player ratings, casino credit history, or player history.

12. A customer's name, address and contact information are not trade secrets. For purposes of this litigation it was determined that the following would constitute a trade secret

a) player tracking records;

b) other hosts customers;

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c) initial buy-ins;

d) level of play;

e) table games;

f) time of play;

g) customer's personal information such as a Social Security number

h) customer's casino credit;

i) customer's location, whether they're international, regional or local player beyond any information contained within the customer's address;

j) marketing strategy;

k) customer's birth date;

l) customer's tier ratings;

m) comp information ;

n) player's history of play;

o) player's demographics;

p) players' financial information;

q) company's financial information;

r) company's marketing strategy;

s) other employee's information and customer information.

13. In April 2012 house counsel for Atlantis sent a letter to GSR stating that Sumona had taken proprietary information from the Atlantis computers and changed other customer information in the Atlantis database.

14. Counsel for GSR informed plaintiff that Ms. Islam denied taking any proprietary information from Atlantis and requested Atlantis to provide the information which it believed had been misappropriated by Ms. Islam. Plaintiff did not provide any information.

15. Atlantis filed suit against Ms. Islam and GSR alleging that GSR had tortuously interfered with Atlantis' non-competition agreement, tortuously interfered with a prospective economic advantage belonging to Atlantis and violation of NRS 600A.010 commonly known as the Nevada Trade Secret Act.

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16. Plaintiff sought a preliminary injunction which enjoined GSR from using any information provided to it from Sumona Islam. GSR took reasonable steps to insure good faith and timely compliance with the injunction.

17. Atlantis knew that among the names it claimed were misappropriated were names which were legally and properly included in Ms. Islam's "book trade" but despite this knowledge brought and obtained an injunction preventing GSR from marketing to these individuals from August 27, 2012 through the trial of this matter in 2013.

18. Atlantis presented no credible evidence that GSR had a duty to investigate the names in Ms. Islam's "book of trade" beyond making inquiries of Ms. Islam. To the contrary there was credible testimony that casinos have a right to rely on the host's statements.

19. GSR provided a list of all the names and information concerning those individuals added to the GSR data base by Ms. Islam which showed that the information was limited to the individual player's name, address and contact information. None of which constitutes a trade secret under NRS 600A .10.

20. Atlantis presented no credible evidence that GSR had tortuously interfered with its non-competition agreement with Islam. Atlantis knew that GSR had hired Ms. Islam based on its attorneys legal opinion that the agreement was overly broad in denying Ms. Islam the right to work in any capacity in any casino. Atlantis further knew or should have known that the non-competition agreement was overly broad and unenforceable and unenforceable as a matter of law but continued to prosecute the claim.

21. Atlantis presented no credible evidence that GSR misappropriated any information constituting a trade secret and in fact maintained the litigation and the injunction to include names of persons which it knew and admitted at trial were legally in Ms. Islam's book of business and that she was entitled to provide to GSR.

22. Atlantis continued and maintained the litigation against GSR for misappropriation of trade secrets even when it knew that GSR was acting in good faith by relying on Ms. Islam's assertions concerning her "book of trade" and knew that the customer information provided by Ms. Islam was limited to the customers' name, address, telephone number and contact

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information.

23. GSR did not misappropriate a trade secret belonging to Atlantis;

24. GSR did not tortuously interfere with a contract between Sumona Islam and Atlantis.

25. GSR did not interfere with a prospective economic advantage belonging to Atlantis.

26. There is a lack of any evidence in the record that supports the claim of Atlantis that GSR misappropriated Atlantis' trade secrets and therefore, Atlantis has failed to meet its burden of proof.

27. That early on in the litigation Defendant Islam admitted that she had taken certain information from ATLANTIS in the form certain spiral notebooks.

28. That early on in the litigation Defendant Islam testified that she had not shown the information in the form of the spiral notebooks to any representative of GRS.

29. That early on in the litigation Defendant Islam testified and confirmed that she was told by the representatives of GSR not to bring anything with her except for herself and her relationships.

30. That early on in the litigation Defendant Islam testified and confirmed that she had told representatives of GSR that she did not bring trade secret information with her or that she had information belonging to ATLANTIS.

CONCLUSIONS OF LAW:

1. The non-competition agreement between Sumona Islam and Atlantis, in prohibiting casino employment in any capacity was overly broad and unenforceable as a matter of law.

2. That absent an enforceable employment contract or non-competition agreement with Atlantis, GSR could not as a matter of law, interfere with contractual relations between Sumona and Atlantis.

3. A customer's name address, and contact information is not a trade secret under

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NRS 600A.010. GSR did not misappropriate any trade secrets which belonged to Atlantis by allowing Sumona Islam to upload this information into its data base.

4. GSR did not improperly obtain the information concerning players listed above as set forth in 600A.030 and had a good faith reliance on Ms. Islam's assurances that all the names provided were part of her personal "book of trade"

5. The failure of Atlantis to produce any credible evidence at trial that GSR misappropriated trade secrets belonging to Atlantis constitutes ~~"objective speciousness". That subjective~~ bad faith that is shown by the Plaintiff's knowledge of certain facts as set forth in the findings of facts above; the decision to move forward against GSR and the extent of the litigation against GSR despite a lack of direct evidence against GSR. This is a sufficient basis for an award of attorney fees pursuant to NRS 600.060. Defendants are not required to prove a negative and under the objective specious standard a lack of evidence in the record of misappropriation; in addition to the actions as set forth above; is enough to show that the claim of misappropriation was made in bad faith (*Sasco v. Rosendin Electric Inc.*, 143 Cal. Rptr. 3d 828, 207 Cal. App 4th 837 (CA 2012)) and entitles GSR to Attorney's fees and costs in this matter.

6. That Atlantis sought, obtained, and maintained a preliminary injunction in this matter that included names which Atlantis knew were not trade secrets under NRS 600A.010 and continued to maintain that injunction even when it knew that those names were art of Sumona Islam's personal book of trade in order to thwart competition for those players from GSR and said conduct is evidence of bad faith entitling GSR to an award of attorney's fees and costs.

7. That the claims against GSR are dismissed and judgment entered in favor of the Defendant GSR and GSR is entitled to an award of costs pursuant to NRS 18.110.

8. GSR is also entitled to bring an appropriate motion for fees and costs pursuant to an offer of judgment dated May 20, 2013 under NRCP 68 and NRS 17.115.

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CONCLUSION

9. Judgment in favor of Defendant GSR against Plaintiff ATLANTIS.

DATED THIS 27 DAY OF SEPTEMBER 2013

Patrick Flanagan
DISTRICT JUDGE

Submitted by:

/s/ H. Stan Johnson

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Joey Orduna Hastings
Clerk of the Court
Transaction # 4125122

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

GOLDEN ROAD MOTOR INN, INC., a Nevada corporation, dba ATLANTIS CASINO RESORT SPA,

Plaintiff,

vs.

Case No.: CV12-01171

Dept. No.: 7

SUMONA ISLAM, an individual, NAV-RENO-GS, LLC, a Nevada limited liability company, dba GRAND SIERRA RESORT; ABC CORPORATIONS; XYZ PARTNERSHIPS; and JOHN DOES I through X, inclusive,

Defendants.

_____/

ORDER

On August 5, 2013, Plaintiff, GOLDEN ROAD MOTOR INN, INC., dba ATLANTIS CASINO RESORT SPA (hereafter Atlantis), filed its *Verified Memorandum of Costs.* On August 7, 2013 Defendant, SUMONA ISLAM (hereafter Islam), filed her *Motion to Retax Costs.* On August 19, 2013, Atlantis filed its *Opposition to Defendant Sumona Islam's Motion to Retax Costs* and *Affidavit of Counsel in Support of Plaintiff's Opposition to Defendant Sumona Islam's Motion to Retax Costs.* On September 3, 2013, Islam filed her *Reply in Support of Motion to Retax Costs.*

On August 21, 2013, Atlantis filed its *Motion for Costs and Attorney's Fees,* and *Affidavit of Counsel in Support of Plaintiff's Motion for Costs and Attorney's Fees.* On September 3, 2013, Islam filed her *Opposition to Atlantis' Motion for Attorney's Fees and Costs.* On September 10, 2013, Atlantis filed its *Reply* and *Affidavit of Counsel in Support of Plaintiff's Reply to Motion* and submitted the matter for decision.

On September 30, 2013, Defendant, MEI-GSR HOLDINGS LLC dba GRAND SIERRA RESORT (hereafter Grand Sierra), filed its *Memorandum of Costs.* On October 3, 3013, Atlantis filed its *Motion to Retax Costs of Defendant Grand Sierra Resort.* On October 9, 2013, Grand Sierra filed its *Reply to Plaintiff's Objection to Defendant GSR's Memorandum of Costs.* On October 17, 2013, Atlantis filed its *Reply in Support of Plaintiff's Motion to Retax Costs of Defendant Grand Sierra Resort* and submitted the matter for decision.

On October 19, 2013, Grand Sierra filed its *Motion for Attorney's Fees.* On November 1, 2013, Islam filed her *Response to Grand Sierra's Motion for Attorney's Fees.* On November 4, 2013, Atlantis filed its *Opposition to GSR's Motion for Award of Attorney's Fees and Costs* and *Affidavit of Counsel in Support of Plaintiff's Opposition to GSR's Motion for Award of Attorney's Fees and Costs.*

Costs: Atlantis

The Atlantis seeks recovery of $17,130.61 in costs pursuant to NRS 18.020. This court has reviewed the invoices filed in support of the requests for cost reimbursement. This court finds the costs expended by the Plaintiff in this matter to be both reasonable and necessary. This Court has also reviewed the documentation and billing to determine the allocation of costs attributable to work performed against Defendant Islam and co-defendant Grand Sierra. This court finds that all but $60.00 is attributed to Ms. Islam. Therefore, Plaintiff is hereby awarded costs in the amount of **$17,070.61.**

Costs: Grand Sierra

Grand Sierra seeks recovery of $37,009.74 in costs pursuant to NRS 18.110. Included in the request is $18,026.15 in expert witness fees for Mr. Aguero. This request is extraordinary. This requests is deficient in itemization and justification. This court has reviewed Mr. Aguero's report.(Ex. 37) The majority of his report consists of his resume. While this court relied upon Mr. Aguero's report in formulating its finding, this resulted in an award of damages of $23,874.00.[1] Based upon the court's review of the expert report, the witness' testimony and the final award, the court reduces the award of expert witness fees to $3,000.00.

Grand Sierra seeks an award of $2,073.24 for two volumes of the trial transcripts. While undoubtedly of some assistance to trial counsel, this expense is not a necessary cost of litigation.

Grand Sierra seeks $11,337.79 in travel and lodging expenses for counsel. Grand Sierra is seeking to recoup the expenses of air, rental car, meals and lodging for both Mr. Johnson and Mr. Cohen.[2] Mr. Johnson represented the Grand Sierra at trial, giving the opening statement, cross-examining witnesses, presenting the Grand Sierra's case-in-chief and closing arguments. While Mr. Cohen undoubtedly provided some assistance to Grand Sierra, his participation was more opaque.[3] This court is without any information as to Mr. Cohen's participation in pretrial proceedings or incurred other expenses involved in this litigation. Grand Sierra provides scant documentation and itemization to support these expenses. As such, this court finds an award for costs of travel and lodging for Mr. Johnson to be more appropriate in this case. This court will excise the $4,369.50 sought for Mr. Cohen's airfare travel to Reno. Therefore, Defendant Grand Sierra Resort is awarded costs in the amount of **$15,540.85**.

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[1] The final award of $43,874 included $20,000 in punitive damages not attributable to Mr. Aguero's work.
[2] Defendant Grand Sierra Resorts employed Johnson/Cohen, a Las Vegas firm whose principals attended every day of trial. Any adjustment in the award of costs is no reflection on the client's choice of Las Vegas counsel.
[3] Mr. Cohen did raise one objection at trial, which was sustained.

The Award of Attorney's Fees

Generally speaking, the district court may not award attorneys' fees absent authority under statute, rule, or contract.[4] The Nevada Supreme Court has upheld an award of attorney's fees to a "prevailing party."[5] After weighing all the relevant factors, the district court may award up to the full amount of fees requested.

On the other hand, where the court has failed to consider many factors, and/or has made no findings based upon the evidence that the attorney's fees are reasonable and justified, it is an abuse of discretion for the court to award the full amount of fees requested. *Beattie v. Thomas*, 99 Nev. 579, 588, 688 P.2d 268, 274 (1983); *but see MRO Communications, Inc. v. AT&T Co.*, 197 F.3d 1276, 1284 (9th Cir. 1999)(where affidavits and exhibits submitted in support, and in opposition to, the motion for attorneys' fees were sufficient to enable a court to consider each of the four factors outlined in *Beattie* and conclude the amount of fees was reasonable and justified, the court did not abuse its discretion in awarding attorney's fees without making specific findings on the four factors).

In this case, this court presided over this entire litigation, culminating in a multi-week bench trial. As such, this court is familiar with the quality of the advocacy of the attorneys, the character of the work performed by the lawyers and the result of those efforts. The court has considered the *Beattie* factors in reaching its findings.

This court has also considered Defendant Islam's objections and request for apportionment of fees between herself and co-defendant Grand Sierra Resort. This court has reviewed plaintiff's billing invoices in an attempt to allocate fees between the co-defendants. This court has reviewed, *in camera*, the billing statements of

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[4] *See* Albios v. Horizon Communities, Inc., 122 Nev. 409, 132 P.3d 1022, 1028 (2006), *citing* State Department of Human Resources v. Fowler, 109 Nev. 782, 784, 858 P.2d 375,376 (1993).

[5] For attorneys' fees purposes, a plaintiff is prevailing if he succeeds on any significant issue in litigation which achieves some of the benefit he sought in bringing the suit. *See* Women's Federal Savings & Loan Association v. Nevada National Bank, 623 F.Supp. 401, 404 (D. Nev. 1987).

counsel for the Atlantis and Grand Sierra. This court finds apportionment of fees sought by Atlantis against Ms. Islam to be appropriate in this case.

The Atlantis Attorney's Fees

The Atlantis seeks an award of $364,422.00 in attorney's fees against Ms. Islam. In reviewing the invoices of Atlantis counsel, this court finds that 84.71% of the fees in this matter were expended toward the claims asserted against Ms. Islam. This court finds the fees to be reasonable and justified. Based upon said review, Plaintiff is hereby awarded attorney's fees in the amount of **$308,711.00.**

The Grand Sierra Resort Attorney's Fees

By separate *Order* dated November 6, 2013, this court has directed counsel for the Grand Sierra to submit a more detailed billing statement in support of their *Motion for Attorney's Fees.* Therefore, at this time, Grand Sierra's *Motion for Attorney's Fees* is **DENIED without prejudice.**

IT IS ORDERED:

Plaintiff Atlantis is awarded **$17,070.61** in costs and **$303,711.00** in attorney's fees.

Defendant Grand Sierra is awarded **$15,540.85** in costs. Grand Sierra's *Motion for Attorney's Fees* is **DENIED without prejudice.**

DATED this 8 day of October, 2013.

Patrick Flanagan
DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 8 day of November, 2013, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Robert Dotson, Esq. for Golden Road Motor Inn, Inc.,

Mark Wray, Esq. for Sumona Islam; and

H. Johnson, Esq. for GSR Enterprises

I deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

Judicial Assistant

EXHIBIT 1

EXHIBIT 1

FILED
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Joey Orduna Hastings
Clerk of the Court
Transaction # 2934084

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

GOLDEN ROAD MOTOR INN, INC., a Nevada Corporation, d/b/a ATLANTIS CASINO RESORT SPA Plaintiff, vs. SUMONA ISLAM, an individual; NAV-RENO-GS, LLC, a Nevada limited liability company, d/b/a GRAND SIERRA RESORT; ABC CORPORATIONS; XYZ PARTNERSHIPS; AND JOHN DOES I through X, inclusive. Defendants.	Case No.: CV12-01171 Dept No.: B6

AMENDED VERIFIED COMPLAINT FOR DAMAGES
Business Court Requested

Plaintiff GOLDEN ROAD MOTOR INN, INC. d/b/a ATLANTIS CASINO RESORT SPA ("PLAINTIFF" or "ATLANTIS"), by and through its counsel of record, Laxalt & Nomura, Ltd., amends its Verified Complaint For Damages filed with this Court on April 27, 2012 and alleges the following complaint against Defendants SUMONA ISLAM ("ISLAM") and NAV-RENO-GS, LLC d/b/a GRAND SIERRA RESORT ("GSR"), as follows:

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I.

PARTIES AND JURISDICTION

1. GOLDEN ROAD MOTOR INN, INC. is a Nevada domestic corporation with its principal place of business in the State of Nevada.

2. ISLAM is a resident of Washoe County, Nevada.

3. GSR is a Nevada limited liability company with its principal place of business in the State of Nevada.

4. Plaintiff does not know the true names and capacities or involvement, whether individual, corporate or otherwise, of the Defendants named herein as ABC CORPORATIONS, XYZ PARTNERSHIPS, and JOHN DOES I through X, inclusive. Plaintiff is informed and believes, and upon such information and belief alleges that each of the Defendants designated herein as ABC CORPORATIONS, XYZ PARTNERSHIPS, and/or DOE is negligently or otherwise legally responsible in some manner for the events and happenings referred to herein, and that each negligently or otherwise caused injury or damages proximately suffered by the Plaintiff, as more particularly alleged herein. Plaintiff is informed and believes, and upon such information and belief alleges that ABC CORPORATIONS or LLC's, XYZ PARTNERSHIPS, and/or DOE engaged in the operation of gaming and the hosting of gaming clients at the premises commonly known as the Grand Sierra Resort/GSR. Plaintiff prays leave to amend this Complaint to show their true names and capacities when the same have been finally determined.

5. The actions of the Defendants and their employees and/or agents, whether or not within the scope of their agency, were ratified by the other remaining individual, corporate or partnership Defendants.

6. This Court has subject matter jurisdiction over ATLANTIS' Amended Complaint due to the venue clause contained in the agreement between ATLANTIS and ISLAM regarding company property, proprietary information, and trade secrets and because the allegations complained of below occurred in Washoe County.

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II.

GENERAL ALLEGATIONS

7. ATLANTIS hired ISLAM on or about April 16, 2008 as a Concierge Manager.

8. On April 15, 2008, prior to commencing her employment with ATLANTIS, ISLAM executed the ATLANTIS Online System User Agreement ("Online System User Agreement").

9. On April 15, 2008, prior to commencing her employment with ATLANTIS, ISLAM also executed an agreement with the ATLANTIS concerning its Business Ethics Policy and Code of Conduct Acknowledgement and Conflicts of Interest Statement. This agreement ("Business Ethics Policy and Code of Conduct Agreement"), including any updates, was again signed by ISLAM on January 23, 2009, February 26, 2010 and January 19, 2011.

10. On April 15, 2008, prior to commencing her employment with ATLANTIS, ISLAM also executed the ATLANTIS Company Policy regarding Company Property, Proprietary Information, and Trade Secrets (hereinafter referred to as "Trade Secret Agreement"). This agreement, including any updates, was again signed by ISLAM on January 23, 2009, February 26, 2010 and January 19, 2011.

11. On February 26, 2010, ISLAM signed a Non-Compete/Non-Solicitation Agreement with the ATLANTIS ("Non-Compete Agreement").

12. ISLAM terminated her employment as an Executive Casino Host with the ATLANTIS on January 19, 2012.

13. Throughout ISLAM's employment at ATLANTIS she had access to and worked with highly sensitive trade secrets and proprietary and confidential information of the ATLANTIS, both online and offline, including but not limited to customer lists or customer information or data (such as player tracking or club information), related to matters of ATLANTIS' business.

14. In or about March, 2012, ATLANTIS began receiving complaints, and continues to receive complaints, from its established guests that ISLAM contacted them on behalf of GSR and extended offers for them to play at GSR.

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15. In or about March, 2012, ATLANTIS discovered that ISLAM had modified, destroyed, changed or sabotaged confidential, proprietary, trade secret information of ATLANTIS, including but not limited to customer data belonging to the ATLANTIS on its online system.

16. On April 6, 2012, ATLANTIS issued cease and desist letters to ISLAM and GSR with respect to their use and potential use of the confidential, proprietary and trade secret information of the ATLANTIS. ATLANTIS received a response on April 18, 2012 from counsel for GSR and ISLAM wherein all allegations against ISLAM and GSR were denied.

III.

FIRST CLAIM FOR RELIEF

(Breach of Contract— Confidentiality Agreement as to Islam)

17. ATLANTIS repeats, realleges and incorporates herein each and every allegation set forth in paragraphs 1-16 of its Amended Complaint, as well as each and every allegation contained in every other Claim for Relief, as if fully set forth herein.

18. Pursuant to the terms of the Online System User Agreement, ISLAM, among other things, agreed that all information on ATLANTIS' online system, including but not limited to communications created, sent and received using ATLANTIS' online systems was the property of ATLANTIS, and agreed to maintain confidentiality of the proprietary information / trade secrets of the ATLANTIS including but not limited to guests or perspective guests of the ATLANTIS.

19. Pursuant to the terms of the Business Ethics Policy and Code of Conduct Agreement, ISLAM agreed not to disclose confidential information including customer lists or customer information (such as player tracking or club information) to any unauthorized persons, either during or after her termination and not to take any documents or records belonging to ATLANTIS after her departure. She also agreed not to profit from confidential information of the ATLANTIS.

20. Pursuant to the terms of the Trade Secret Agreement, ISLAM agreed, among other things, that all ATLANTIS property including intellectual property such as hotel or casino

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customer/guest lists with facts about those customers' preferences, histories and other personal or business information, was to remain with the ATLANTIS both during and after her term of employment. ISLAM also agreed that any knowledge of ATLANTIS' intellectual property had by her must not be used or disseminated to any other person or entity for any purpose. Finally, ISLAM also agreed not to use or disseminate any ATLANTIS property, tangible, intellectual or otherwise, in any way that may potentially benefit any person or entity other than ATLANTIS.

21. ISLAM breached the above agreements with the ATLANTIS both during and after her employment by taking confidential information and intellectual property owned by the Atlantis and using it to her advantage and the advantage of GSR, her subsequent employer, and to the detriment of ATLANTIS.

22. As a direct, proximate and foreseeable result of ISLAM's breaches of confidentiality, ATLANTIS has suffered general and special damages in an amount in excess of Ten Thousand Dollars ($10,000).

23. ATLANTIS has been required to retain the services of an attorney to prosecute its claim against ISLAM and is entitled to reasonable attorney's fees and costs of suit incurred herein.

24. Wherefore, Plaintiff pleads for judgment against Defendants, and each of them, as more fully set forth below.

IV.

SECOND CLAIM FOR RELIEF

(Breach of Contract— Non-Compete Agreement as to Islam)

25. ATLANTIS repeats, realleges and incorporates herein each and every allegation set forth in paragraphs 1-24 of its Amended Complaint, as well as each and every allegation contained in every other Claim for Relief, as if fully set forth herein.

26. Pursuant to the terms of the Non-Compete Agreement, ISLAM agreed that she would not without the prior written consent of the ATLANTIS be employed by, in any way affiliated with, or provide services to any gaming business or enterprises located within 150

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miles of ATLANTIS for a period of one year after the date that the employment relationship between she and the ATLANTIS ended.

27. ISLAM also agreed that the Non-Compete Agreement was the minimum necessary to protect the ATLANTIS in the use and enjoyment of the confidential information and good will of the business of the ATLANTIS.

28. ISLAM further agreed that damages cannot fully and adequately compensate ATLANTIS in the event of a breach or violation and that, without limiting the right of ATLANTIS to seek all other legal and equitable remedies available to it, ATLANTIS shall be entitled to injunctive relief, including but not limited to a temporary restraining order, temporary injunction and permanent injunction to prevent any such violations or any continuation of such violations.

29. ISLAM terminated her employment with ATLANTIS on January 19, 2012, and, upon information and belief, became employed with GSR on or about January 30, 2012.

30. GSR is a gaming business or enterprise located within 150 miles of ATLANTIS.

31. ATLANTIS has not consented to ISLAM'S employment with GSR.

32. ISLAM has breached the Non-Compete Agreement by accepting employment with GSR prior to January 19, 2013.

33. As a direct, proximate and foreseeable result of ISLAM's breach of the Non-Compete Agreement, ATLANTIS has suffered general and special damages in an amount in excess of Ten Thousand Dollars ($10,000).

34. ATLANTIS has been required to retain the services of an attorney to prosecute its claim against ISLAM and is entitled to reasonable attorney's fees and costs of suit incurred herein.

35. Wherefore, Plaintiff pleads for judgment against Defendants, and each of them, as more fully set forth below.

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V.

THIRD CLAIM FOR RELIEF

(Conversion of Property as to Islam)

36. ATLANTIS repeats, realleges and incorporates herein each and every allegation set forth in paragraphs 1-35 of its Amended Complaint, as well as each and every allegation contained in every other Claim for Relief, as if fully set forth herein.

37. Pursuant to the terms of the Business Ethics Policy and Code of Conduct Agreement, ISLAM agreed that ATLANTIS' online systems are ATLANTIS' property, were provided for her business purposes use to increase her production and effectiveness and that the purpose of the agreement was to ensure use of ATLANTIS' online systems in a productive manner. ISLAM further agreed not to profit from confidential information of the ATLANTIS and not to make false or artificial entries in the books and records of the company for any reason.

38. Within 18 days before she voluntarily terminated her employment with ATLANTIS, ISLAM falsely modified, destroyed, falsely changed and/or sabotaged confidential, proprietary, trade secret information of ATLANTIS, including but not limited to customer data belonging to the ATLANTIS on its online system to her benefit and the benefit of GSR and to the detriment of ATLANTIS.

39. Specifically, ISLAM exercised wrongful control over ATLANTIS property without legal justification and without the consent of ATLANTIS by making address, telephone number and/or email address changes to ATLANTIS hotel or casino customer/guest data that she knew to be false or incorrect which resulted in a taking, use or interference with ATLANTIS property.

40. As a result of ISLAM's wrongful conversion, ATLANTIS customers and guests did not receive regular ATLANTIS offers, and in some cases instead received offers of play from ISLAM and GSR. The fact that some ATLANTIS customers received these direct communications is known as they called ATLANTIS to complain that they had been solicited by ISLAM and GSR.

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41. As a direct, proximate and foreseeable result of ISLAM's Conversion, ATLANTIS has suffered general and special damages in an amount in excess of Ten Thousand Dollars ($10,000).

42. ATLANTIS has been required to retain the services of an attorney to prosecute its claim against ISLAM and is entitled to reasonable attorney's fees and costs of suit incurred herein.

43. Wherefore, Plaintiff pleads for judgment against Defendants, and each of them, as more fully set forth below.

VI.

FOURTH CLAIM FOR RELIEF

(Tortious Interference with Contractual Relations and Prospective Economic Advantage as to Islam and GSR)

44. ATLANTIS repeats, realleges and incorporates herein each and every allegation set forth in paragraphs 1-43 of its Amended Complaint, as well as each and every allegation contained in every other Claim for Relief, as if fully set forth herein.

45. ATLANTIS has an actual Non-Compete Agreement with ISLAM.

46. GSR was aware of the Non-Compete Agreement before or immediately after it hired ISLAM.

47. ATLANTIS has a business relationship with the individuals on its customer/guest lists.

48. ISLAM intentionally, improperly and without privilege, interfered with the prospective economic advantage between ATLANTIS and the individuals on its customer/guest lists by inducing or otherwise causing the prospective economic advantage not to occur. ISLAM did this by: (1) sabotaging ATLANTIS customer/guest lists which caused its customers/guests not to receive offers from ATLANTIS which they might otherwise have accepted and (2) transmitting offers of play at GSR to existing customers of ATLANTIS contained on its confidential and proprietary customer/guest lists which either caused them to play at GSR

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instead of ATLANTIS or caused ATLANTIS to increase its offer of play or incentives to them in competition with GSR.

49. GSR intentionally, improperly and without privilege, interfered with the performance of the Non-Compete Agreement between ATLANTIS and ISLAM by inducing or otherwise causing ISLAM to accept employment with GSR in breach of the Non-Compete Agreement wherein ISLAM agreed that said agreement was the minimum necessary to protect ATLANTIS in the use and enjoyment of confidential information and the good will and business of the ATLANTIS and by facilitating the interference or directly causing the interference through the transmittal of offers and solicitations.

50. As a direct, proximate and foreseeable result of ISLAM and GSR's tortious interferences, ATLANTIS has suffered general and special damages in an amount in excess of Ten Thousand Dollars ($10,000).

51. At all times material hereto, the Defendants, and each of them, have acted fraudulently, oppressively, in conscious and malicious disregard of the rights of Plaintiff, and in furtherance of their own financial interests, such as to justify the assessment of punitive damages for the sake of punishment and to deter similar action in the future in a just and reasonable amount in excess of Ten Thousand Dollars ($10,000).

52. ATLANTIS has been required to retain the services of an attorney to prosecute its claim against ISLAM and GSR and is entitled to reasonable attorney's fees and costs of suit incurred herein.

53. Wherefore, Plaintiff pleads for judgment against Defendants, and each of them, as more fully set forth below.

VII.

FIFTH CLAIM FOR RELIEF

(Violation of Uniform Trade Secret Act, NRS 600.A.010 *et. seq.*, as to Islam and GSR)

54. ATLANTIS repeats, realleges and incorporates herein each and every allegation set forth in paragraphs 1-53 of its Amended Complaint, as well as each and every allegation contained in every other Claim for Relief, as if fully set forth herein.

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55. Pursuant to the terms of the Trade Secret Agreement, ISLAM agreed, among other things, that all ATLANTIS property including intellectual property such as hotel or casino customer/guest lists with facts about those customers' preferences, histories and other personal or business information, was to remain with the ATLANTIS both during after her term of employment. ISLAM also agreed that any knowledge of ATLANTIS' intellectual property had by her must not be used or disseminated to any other person or entity for any purpose. Finally, ISLAM also agreed not to use or disseminate any ATLANTIS property, tangible, intellectual or otherwise, in any way that may potentially benefit any person or entity other than ATLANTIS.

56. ISLAM breached the above referenced agreement(s) with the ATLANTIS both during and after her employment by taking confidential information and intellectual property owned by the Atlantis and using it to her advantage and the advantage of GSR, her subsequent employer, and to the detriment of ATLANTIS.

57. Said confidential information of the ATLANTIS constitutes a trade secret as it derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by the public or any other persons who can obtain commercial or economic value from its disclosure or use and ATLANTIS took reasonable efforts to maintain its secrecy.

58. ISLAM and GSR, through improper means, have and will likely continue to misappropriate the trade secrets of ATLANTIS.

59. As a direct, proximate and foreseeable result of ISLAM and GSR's misappropriation of the trade secrets of ATLANTIS, ATLANTIS has suffered general and special damages in an amount in excess of Ten Thousand Dollars ($10,000).

60. At all times material hereto, the Defendants, and each of them, have acted with willful, wanton and reckless behavior in misappropriating the trade secrets of the ATLANTIS such as to justify the assessment of exemplary damages in an amount not exceeding twice the award for the misappropriation.

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61. ATLANTIS has been required to retain the services of an attorney to prosecute its claim against ISLAM and GSR and is entitled to reasonable attorney's fees and costs of suit incurred herein.

62. Wherefore, Plaintiff pleads for judgment against Defendants, and each of them, as more fully set forth below.

VIII.

SIXTH CLAIM FOR RELIEF

(Declaratory Relief as to Islam and GSR)

63. ATLANTIS repeats, realleges and incorporates herein each and every allegation set forth in paragraphs 1-62 of its Amended Complaint, as well as each and every allegation contained in every other Claim for Relief, as if fully set forth herein.

64. NRS 30.030 *et seq.*, among other things authorizes the Courts of this State to declare the rights, status, validity and other legal relations of and between persons as they may be affected by a contract, statute or deed.

65. Plaintiff herein asserts that the aforementioned agreements are valid contracts that the respective Defendants have breached as alleged above and that Defendants have violated NRS 600A.010 *et. seq.* also as alleged above.

66. Accordingly, this Court has the power and authority to declare the rights and obligations of these parties in connection with the various contracts and the applicable Nevada statute and laws. Specifically, and without limitation, this Court can and should declare that the aforementioned agreements are valid contracts that have been respectively breached by Defendants and that Defendants have violated the Uniform Trade Secrets Act at NRS 600A.010 *et. seq.* entitling Plaintiff to immediate injunctive relief and damages.

67. ATLANTIS has been required to retain the services of an attorney to prosecute its claim against ISLAM and GSR and is entitled to reasonable attorney's fees and costs of suit incurred herein.

68. Wherefore, Plaintiff pleads for judgment against Defendants and each of them as more fully set forth below.

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IX.

SEVENTH CLAIM FOR RELIEF

(Injunctive Relief as to Islam and GSR)

69. ATLANTIS repeats, realleges and incorporates herein each and every allegation set forth in paragraphs 1-68 of its Amended Complaint, as well as each and every allegation contained in every other Claim for Relief, as if fully set forth herein.

70. ATLANTIS has an interest in protecting confidential and proprietary information and trade secrets related to its business.

71. In an effort to protect its confidential and proprietary matters related to its business, ATLANTIS mandates that its employees execute the aforementioned agreements both upon commencement of their employment and regularly throughout their employment.

72. ISLAM executed all such agreements referenced above, some multiple times.

73. ISLAM breached these agreements and continues to breach them.

74. ATLANTIS is entitled to an injunction precluding ISLAM from further breaching the terms of the agreements.

75. ATLANTIS will suffer irreparable harm by ISLAM'S continual breaches of the terms of the agreements if the relief requested by ATLANTIS is not granted.

76. ISLAM will not be burdened by complying with the terms of the agreements to which she previously agreed to abide.

77. ATLANTIS requests injunctive relief in the form of an order precluding ISLAM from further breaching the terms of the agreements.

78. ISLAM and GSR are subject to injunctive relief per NRS 600A.040 due to actual or threatened misappropriation of the trade secrets of ATLANTIS.

79. ATLANTIS has been required to retain the services of an attorney to prosecute its claim against ISLAM and GSR and is entitled to reasonable attorney's fees and costs of suit incurred herein.

80. Wherefore, Plaintiff pleads for judgment against Defendants and each of them as more fully set forth below.

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X.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against the Defendants, and each of them, as more fully set forth below.

WHEREFORE, Plaintiff, while expressly reserving its right to amend this Amended Complaint up to and including the time of trial to include additional Defendants, additional theories of recovery, and items of damage not yet ascertained, demands judgment against the Defendants, and each of them, as follows:

1. General damages in excess of $10,000;
2. Special damages in excess of $10,000;
3. Punitive or exemplary damages in an amount in excess of $10,000;
4. For a temporary restraining order;
5. For declaratory and permanent injunctive relief;
6. For pre and post-judgment interest;
7. For reasonable attorney's fees and costs of suit; and
8. For such other and further relief as the Court deems to be just and appropriate.

Affirmation Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 7 day of May, 2012.

LAXALT & NOMURA, LTD.

ROBERT A. DOTSON
Nevada State Bar No. 5285
ANGELA M. BADER
Nevada State Bar No. 5574
9600 Gateway Drive
Reno, Nevada 89521
(775) 322-1170
Attorneys for Plaintiff

VERIFICATION

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

Debra Robinson does hereby swear under penalty of perjury that the assertions are true:

That I am the General Counsel for Plaintiff in the above-entitled action; that I have read the foregoing **VERIFIED COMPLAINT FOR DAMAGES** and know the contents thereof; that the same is true of my own knowledge, except as to those matters which are therein stated upon information and belief, and as to those matters, I believe it to be true.

DEBRA B. ROBINSON

Subscribed and sworn to before me this
27th day of April, 2012.

NOTARY PUBLIC

DEE ANTHONY
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 07-1618-2 - Expires September 1, 2014

LAXALT & NOMURA, LTD.
ATTORNEYS AT LAW
9600 GATEWAY DRIVE
RENO, NEVADA 89521

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of LAXALT & NOMURA, LTD., and that on this date, I caused to be served a true and correct copy of the foregoing by:

☐ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope in a designated area for outgoing mail, addressed as set forth below. At the Law Offices of Laxalt & Nomura, mail placed in that designated area is given the correct amount of postage and is deposited that same date in the ordinary course of business, in a United States mailbox in the City of Reno, County of Washoe, Nevada.

☒ By electronic service by filing the foregoing with the Clerk of Court using the E-Flex system, which will electronically mail the filing to the following individuals.

☒ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand delivered this date to the address(es) at the address(es) set forth below.

☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address(es) noted below.

☐ Reno/Carson Messenger Service

addressed as follows:

DATED this 7th day of May, 2012.

/s/ Deborah Penhale for
L. MORGAN BOGUMIL

LAXALT & NOMURA, LTD.
ATTORNEYS AT LAW
9600 GATEWAY DRIVE
RENO, NEVADA 89521

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

SUMONA ISLAM, AN INDIVIDUAL,
Appellant,

vs.

GOLDEN ROAD MOTOR INN, LLC, A NEVADA CORPORATION D/B/A ATLANTIS CASINO RESORT SPA,
Respondents

No. 64452

Electronically Filed
Dec 05 2013 02:51 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

DOCKETING STATEMENT
CIVIL APPEALS

GENERAL INFORMATION

All appellants not in proper person must complete this docketing statement. NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, classifying cases for en banc, panel, or expedited treatment, compiling statistical information and identifying parties and their counsel.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 26 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. *See* KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

Docket 64452 Document 2013-36621

1. Judicial District Second Department B7

County Washoe Judge Hon. Patrick Flanagan

District Ct. Case No. CV12-01171

2. Attorney filing this docketing statement:

Attorney Mark Wray Telephone 775-348-8877

Firm Law Offices of Mark Wray

Address 608 Lander Street
Reno, Nevada 89509

Client(s) Sumona Islam

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

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

Attorney Robert A. Dotson; Angela M. Bader Telephone 775-322-1170

Firm Laxalt & Nomura, Ltd.

Address 9600 Gateway Drive
Reno, Nevada 89521

Client(s) Golden Road Motor Inn, Inc., dba Atlantis Casino Resort Spa

Attorney Robert L. Eisenberg Telephone 775-786-6868

Firm Lemons, Grundy & Eisenberg

Address 6005 Plumas Street, 3rd Floor
Reno, Nevada 89509

Client(s) Golden Road Motor Inn, Inc., dba Atlantis Casino Resort Spa

(List additional counsel on separate sheet if necessary)

Attorney Steven B. Cohen; Stan Johnson Telephone: 702-823-3500

Firm Cohen Johnson, LLC

Address 255 E. Warm Springs Drive, Suite 100, Las Vegas, Nevada 89119

Client(s) MEI-GSR Holdings, LLC, dba Grand Sierra Resort

4. Nature of disposition below (check all that apply):

- ☒ Judgment after bench trial
- ☐ Judgment after jury verdict
- ☐ Summary judgment
- ☐ Default judgment
- ☐ Grant/Denial of NRCP 60(b) relief
- ☐ Grant/Denial of injunction
- ☐ Grant/Denial of declaratory relief
- ☐ Review of agency determination
- ☐ Dismissal:
  - ☐ Lack of jurisdiction
  - ☐ Failure to state a claim
  - ☐ Failure to prosecute
  - ☐ Other (specify): _____
- ☐ Divorce Decree:
  - ☐ Original ☐ Modification
- ☐ Other disposition (specify): _____

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

This appeal is related to appeal case number 64349.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (*e.g.*, bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Not applicable.

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

The Atlantis brought claims against Islam and co-defendant Grand Sierra for breach of contract, conversion, interference with contract and prospective economic advantage, and violations of the Trade Secret Act.
The Atlantis lost on all claims versus the Grand Sierra, including the trade secret claims.
The Atlantis prevailed in breach of contract and trade secret claims against Islam, and lost on all other claims. Following the bench trial, the court awarded the Atlantis attorneys fees and costs.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether the district court erred in rewarding Atlantis attorneys fees.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☒ N/A

☐ Yes

☐ No

If not, explain:

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☒ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: The attorneys fees award to the Atlantis violated Due Process.

13. Trial. If this action proceeded to trial, how many days did the trial last? 11

Was it a bench or jury trial? Bench Trial

14. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No.

TIMELINESS OF NOTICE OF APPEAL

15. Date of entry of written judgment or order appealed from Nov 8, 2013

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

16. Date written notice of entry of judgment or order was served None

Was service by:

☐ Delivery

☐ Mail/electronic/fax

17. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. ***See*** **AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

18. Date notice of appeal filed Nov 15, 2013

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

19. Specify statute or rule governing the time limit for filing the notice of appeal, *e.g.*, NRAP 4(a) or other

NRAP 4(a)(1)

SUBSTANTIVE APPEALABILITY

20. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

☐ NRAP 3A(b)(1) ☐ NRS 38.205

☐ NRAP 3A(b)(2) ☐ NRS 233B.150

☐ NRAP 3A(b)(3) ☐ NRS 703.376

☒ Other (specify) NRAP 3A(b)(8)

(b) Explain how each authority provides a basis for appeal from the judgment or order:
The order awarding attorneys fess is a special order entered after final judgment.

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

(a) Parties:

Plaintiff: Golden Road Motor Inn, Inc., dba Atlantis Casino Resort Spa

Defendants: Sumona Islam, an individual and MEI-GSR Holdings, LLC, a Nevada Limited Liability Company, successor in interest to Nav-Reno-GS, LLC, dba Grand Sierra Resort.

(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:

All parties in the District Court action are parties to this appeal.

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.

All claims were made by the Atlantis; all were disposed of by oral rulings from the bench 7/18/13 and findings, conclusion and judgments entered 8/26/13 and 9/27/13. The Atlantis lost on all claims vs. the Grand Sierra and prevailed on breach of contract and trade secret act claims against Islam. The Atlantis lost on claims for breach of contract, conversion, and interference with contract and prospective economic advantage against Islam.

23. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

24. If you answered "No" to question 23, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

25. If you answered "No" to any part of question 24, explain the basis for seeking appellate review (*e.g.*, order is independently appealable under NRAP 3A(b)):
Not applicable.

26. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Sumona Islam
Name of appellant

Mark Wray
Name of counsel of record

Dec. 5, 2013
Date

Mark Wray
Signature of counsel of record

Washoe County, Nevada
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 5th day of December, 2013, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Robert A. Dotson
Angela M. Bader
Laxalt & Nomura
9600 Gateway Drive
Reno, Nevada 89521

Robert L. Eisenberg
Lemons, Grundy & Eisenberg
6005 Plumas Street, 3rd Floor
Reno, Nevada 89509

Steven B. Cohen
Stan Johnson
Cohen-Johnson
255 E. Warm Springs Road, Suite 100
Las Vegas, Nevada 89119

C. James Georgeson
Georgeson Angaran Chtd.
5450 Longley Lane
Reno, Nevada 89511

Dated this 5th day of December, 2013.

Signature