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9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **STIPULATION TO CONTINUE TRIAL AND RELATED DISCOVERY**

23 Plaintiff, GOLDEN ROAD MOTOR INN, INC. d/b/a ATLANTIS CASINO RESORT
24 SPA ("Plaintiff" or "ATLANTIS"), by and through its counsel, Laxalt & Nomura, and
25 Defendants, SUMONA ISLAM ("ISLAM"), by and through her counsel, Mark Wray, and NAV-
26 RENO-GS, LLC d/b/a GRAND SIERRA RESORT ("GSR"), by and through its counsel,
27 Cohen/Johnson, hereby stipulate to continue the trial date in this matter from March 25, 2013 to
28 June 10, 2013 based on the following recitals.

///

///

1 WHEREAS Plaintiff filed this action against Defendants on April 27, 2012, filed an
2 Amended Complaint naming the correct GSR entity on May 7, 2012, obtained an Ex-Parte
3 Motion For Temporary Restraining Order ("TRO") against Defendant ISLAM on May 9, 2012
4 and served Notice of Entry on May 10, 2012. On July 5, 2012 this Order was extended as
5 against ISLAM and GSR. Pursuant to the Stipulation of the parties, this TRO was to remain in
6 effect until the conclusion of a bench trial that was scheduled to proceed on August 27, 2012.
7 The parties subsequently continued this trial date to March 25, 2013 and stipulated to a
8 Preliminary Injunction that would continue the terms of the Temporary Restraining Order
9 entered against Defendants ISLAM and GSR to and including the conclusion of the March 25,
10 2013 trial. This Stipulation was granted on August 24, 2012.

11 WHEREAS Defendants ISLAM and GSR have requested a 6 month continuance to
12 conduct further discovery concerning Plaintiff's alleged damages. Plaintiff desires to expedite
13 this matter to conclusion without any further continuances, but is willing to stipulate to a
14 continuance to June 10, 2013, which it understands will result in a number 1 civil set, due to
15 Business Court designation.

16 WHEREAS on February 7, 2013, Defendant ISLAM filed a motion to dissolve a portion
17 of the Preliminary Injunction that restricts ISLAM from working for a competitor of the
18 ATLANTIS, and Plaintiff desires to maintain the status quo and Preliminary Injunction to and
19 including the conclusion of the anticipated June 10, 2013 trial.

20 WHEREAS the parties agree that this Stipulation to Continue shall not have any effect on
21 Plaintiff's ability to oppose ISLAM's Motion To Dissolve Preliminary Injunction or to seek to
22 extend the Preliminary Injunction to and including the conclusion of the June 10, 2013 trial, or to
23 seek a Permanent Injunction as part of the relief at trial.

24 While counsel for ISLAM disagrees, Plaintiff believes that ISLAM terminated her
25 employment with the ATLANTIS on January 19, 2012 after she had been hired by GSR as a
26 casino host, a known gaming business or enterprise located within 10 miles of the ATLANTIS.
27 The Non-Compete Agreement, signed by ISLAM, guaranteed the ATLANTIS that ISLAM
28 would not work in a gaming establishment within 150 miles of the ATLANTIS for a period of 1

1 year after the date that her employment relationship between she and the ATLANTIS ended. It
2 appears that ISLAM immediately began working for GSR after she terminated with the
3 ATLANTIS and was not suspended from that position until at least May 3, 2012. Thus, in order
4 to obtain the full benefit of the Non-Compete Agreement, Plaintiff believes that the time period
5 should run from the date she first complied with her contractual obligations. Moreover, her
6 obligations pursuant to the UTSA and contractual provisions of her agreements with the
7 ATLANTIS may support a decision by this Court to impose a Permanent Injunction which
8 extends beyond the trial and this Stipulation does not impact that authority.

9 WHEREAS barring unforeseen developments, the parties agree not to seek an additional
10 extension of the trial date.

11 WHEREAS the parties agree that a continuance of the trial date will continue only the
12 following discovery deadlines set forth below:

- | | | |
|----|---|-----------------------|
| 13 | 1. Close of discovery (45 days prior to trial): | April 26, 2013 |
| 14 | 2. Final date to serve and file dispositive motions | May 10, 2013 |
| 15 | (30 days prior to trial): | |
| 16 | 3. Final date to serve, file and submit motions in | May 27, 2013 |
| 17 | limine (15 days prior to trial): | |

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Affirmation Pursuant to NRS 239B.030

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

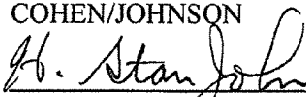
Dated this 12 day of February, 2013.

Dated this ____ day of February, 2013.

LAXALT & NOMURA, LTD.

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Attorneys for Plaintiff

Attorneys for Defendant

Nav-Reno-GS, LLC dba Grand Sierra Resort

Dated this ____ day of February, 2013.

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Dated this ____ day of February, 2013.

Dated this ____ day of February, 2013.

LAXALT & NOMURA, LTD.

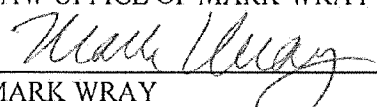
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Dated this 11th day of February, 2013.

LAW OFFICE OF MARK WRAY



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FILED

Electronically
02-12-2013:03:47:00 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 3528085

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8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR THE COUNTY OF WASHOE**

10 GOLDEN ROAD MOTOR INN, INC., a Nevada
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12 RESORT SPA,

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14 vs.

15 SUMONA ISLAM, an individual; GSR
16 ENTERPRISES, LLC, a Nevada limited liability
17 company, d/b/a GRAND SIERRA RESORT;
18 ABC CORPORATIONS; XYZ
19 PARTNERSHIPS; and JOHN DOES I through
20 X, inclusive,

21 Defendants.

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

22 **NON-OPPOSITION TO MOTION TO DISSOLVE PRELIMINARY INJUNCTION**

23 COMES NOW, Defendant, GRAND SIERRA RESORT ("GSR" or "Defendant"), by
24 and through its counsel of record, Cohen-Johnson, LLC, and after reviewing Defendant, Sumona
25 Islam's, Motion to Dissolve Preliminary Injunction, hereby files its Non-Opposition to the same.
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27 ...
28 ...

Affirmation Pursuant to NRSB.030

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

Dated this 12th day of February, 2013.

COHEN-JOHNSON, LLC

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CERTIFICATE OF MAILING

I hereby certify that on the 12th day of February, 2013, I served a copy of the foregoing
NON-OPPOSITION TO MOTION TO DISSOLVE PRELIMINARY INJUNCTION upon
each of the parties by depositing a copy of the same in a sealed envelope in the United States
Mail, Las Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

Robert A. Dotson, Esq.
Angela M. Bader, Esq.
Laxalt & Nomura, Ltd.
9600 Gateway Drive
Reno, Nevada 89521
Attorney for Plaintiff

Mark Wray, Esq.
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Reno, Nevada 89509
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and that there is a regular communication by mail between the place of mailing and the places so
addressed.



Melinda Collins, an employee of Cohen-Johnson, LLC

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8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR THE COUNTY OF WASHOE**

10 GOLDEN ROAD MOTOR INN, INC., a Nevada
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12 RESORT SPA,

Case No.: CV12-01171
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12 Plaintiff,

13 vs.

14 SUMONA ISLAM, an individual; GSR
15 ENTERPRISES, LLC, a Nevada limited liability
16 company, d/b/a GRAND SIERRA RESORT;
17 ABC CORPORATIONS; XYZ
18 PARTNERSHIPS; and JOHN DOES I through
19 X, inclusive,

20 Defendants.

21 **SUPPLEMENTAL OPPOSITION TO**
22 **MOTION FOR PARTIAL SUMMARY JUDGMENT**

23 Defendant, GRAND SIERRA RESORT ("GSR" or "Defendant"), by and through its
24 counsel of record, Cohen-Johnson, LLC, hereby files its Supplemental Opposition to Motion for
25 Partial Summary Judgment in the above-entitled matter. This Supplemental Opposition is made
26 and based upon the following Memorandum of Points and Authorities and the pleadings and
27 papers on file herein.

28 **MEMORANDUM OF POINTS AND AUTHORITIES**

I. INTRODUCTION

This is a supplemental memorandum in support of Defendant Golden Sierra Resort's
(GSR) Opposition to the Plaintiff's Motion for Partial Summary Judgment, Plaintiff on the 4th

1 and 5th claims for relief. Specifically the claim of Tortious Interference with Contractual
2 Relations and Prospective Economic Advantage against GSR; and Violation of Uniform Trade
3 Secret Act, NRS 600A.010 et. seq. as to GSR.

4 **II. BRIEF STATEMENT OF FACTS**

5 Defendant GSR incorporates the previous statement of facts but does include the
6 following additional testimony by Debra Robinson, Esq. the general counsel for Atlantis who
7 testified that it was not the casino's problem or responsibility to verify that the names provided
8 by an executive host were not governed by a confidentiality agreement. It was her testimony that
9 the responsibility for complying with the agreement is solely that of the employee. (see
10 deposition of Debra Robinson, Esq. P. 94 II 4-25) attached hereto as Exhibit 3). She also
11 testified that she did not know what contractual relationship existed between the Atlantis and the
12 players Atlantis alleges were misappropriated by Sumona (See Exhibit 3 p.62 II 2 through
13 P.63 II 3). It must also be noted that although an extensive listing of player names was included
14 as part of the Plaintiff's non-retained, in-house "experts" report, not a single one of these players
15 has been identified as a witness who will testify at trial. This means that Plaintiff's evidence in
16 these matters is based solely on speculation and hearsay.

17 **III. LAW AND ARGUMENT**

18 A motion for Summary Judgment cannot rest on speculation but must be based on
19 evidence which would be admissible at trial. The hearsay list of players affected by Ms. Islam's
20 alleged conduct cannot support such a finding on the issue of liability. Additionally, the
21 testimony of Sumona Islam noted in the original opposition plus the testimony of Debra
22 Robinson noted above raise significant issues of material fact which preclude summary judgment
23 on the issue of liability as to each claim against GSR.

24 **A. TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS**

25 To prevail on this claim the Plaintiff must prove:

- 26 (1) a prospective contractual relationship between the plaintiff and a third party;
27 (2) the defendant's knowledge of this prospective relationship;
28 (3) the intent to harm the plaintiff by preventing the relationship;

1 (4) the absence of privilege or justification by the defendant; and,

2 (5) actual harm to the plaintiff as a result of the defendant's conduct. Las Vegas-Tonopah-
3 Reno Stage Line, Inc. v. Gray Line Tours of Southern Nevada, 106 Nev 283, 792 P. 2d 386 (1990)

4 In the present case the Plaintiff claims rely upon assumptions whose validity must be determined
5 by a jury. Only the jury can decide if Atlantis has a protectable contractual basis requiring
6 customers to limit their respective gaming activities to the Atlantis. Defendant not only contests
7 the assumption that an individual who patronizes a casino has entered into an ongoing contract
8 with that casino which precludes future play at any other gambling establishment. This is
9 especially true since Atlantis' general counsel is unable to articulate a basis for the claim of an
10 ongoing contractual relationship.

11 Likewise only a jury can decide if, as Sumona Islam swears, Atlantis itself actively
12 engaged in the very conduct it now seeks to punish, and therefore any recovery should be denied
13 based on the doctrines of "unclean hands" and "estoppel." *Assuming arguendo* that Sumona
14 Islam engaged in the conduct alleged by Atlantis, as she testified Atlantis encouraged its
15 employees to ignore non-competition and confidentiality agreements with other Reno Casinos
16 (eg Harrahs). Atlantis cannot create a corporate atmosphere encouraging an employ to engage in
17 the very conduct they now abjure. The doctrine of estoppel bars Atlantis from obtaining any
18 equitable relief since they have acted in bad faith with respect to the subject matter of its claims.
19 *Omega Industries, Inc. v. Raffaele et. al. 894 Supp. 1425 (Nev. 1995).*

20 **B. PROSPECTIVE ECONOMIC ADVANTAGE**

21 Plaintiff also claims that the Defendant interfered with a prospective economic
22 advantage, however has produced no evidence in support of this contention, other than
23 speculation by its non-retained in-house "experts". To clarify these claims the Defendant filed a
24 Request for Production seeking:

25 **REQUEST NO. 21:** Produce a copy of the gaming record for each person
26 identified in Exhibit A of the Plaintiff's Computation of Damages for the years
27 2007 through 2012 including the dates of all visits, whether said visits were
28 "comped" the nature of any "comp", wins, losses, and any W-4s issued to any
person identified in said exhibit A.

1 This information would first document the ongoing economic relationship between
2 Atlantis and these "purloined players" as well as any changes, including diminutions, to the level
3 of play. Only then can a determination be made as to whether there was a loss of prospective
4 economic advantage. Plaintiff's response was:

5 **RESPONSE TO REQUEST NO. 21:** Plaintiff objects to this request on
6 the grounds that it is compound and over broad in both time and scope and
7 therefore unduly burdensome and not likely to lead to the discovery of admissible
8 evidence.

9 Plaintiff further objects to this request on the ground that it calls for proprietary
10 and trade secret information of Atlantis which is the subject of this lawsuit and
11 also contains private and confidential information of persons not a party to this
12 lawsuit. Plaintiff further objects to this request as it requires Plaintiff to perform
13 an electronic search/query in order to produce a document or electronic file not
14 already in existence which is not required by NRCP.

15 While the motion to compel a proper response to this and other written discovery is being
16 prepared, the foregoing illustrates why summary judgment is improper. Plaintiff is deliberately
17 obfuscating the evidence necessary to sustain its claims, both as to liability and damages and
18 without full disclosure of this information cannot sustain its burden of proof. In addition the
19 blatant refusal to disclose this player information provides further support for finding that the
20 Plaintiff is litigating with "unclean hands" and should be subject to estoppel.

21 **IV. CONCLUSION**

22 The foregoing establishes that Atlantis cannot demonstrate by admissible evidence that
23 there exist no contested issues of material fact, nor that it is entitled to partial summary judgment
24 on the issue of liability as a matter of law. Therefore, GSR requests that this Court deny
25 Plaintiff's Motion for Partial Summary Judgment.

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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 15th day February, 2013.

COHEN-JOHNSON, LLC

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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PAGES
3	Partial Deposition Transcript of Debra Robinson	5

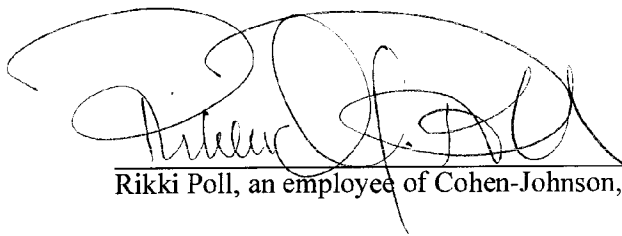
CERTIFICATE OF MAILING

I hereby certify that on the 15th day of February, 2013, I served a copy of the foregoing
**SUPPLEMENTAL OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT** upon each of the parties by depositing a copy of the same in a sealed envelope in
the United States Mail, Las Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

Robert A. Dotson, Esq.
Angela M. Bader, Esq.
Laxalt & Nomura, Ltd.
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Attorney for Plaintiff

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Attorney for Sumona Islam

and that there is a regular communication by mail between the place of mailing and the places so
addressed.



Rikki Poll, an employee of Cohen-Johnson, LLC

1 responsibilities, Sumona found the job rewarding, and many of her players were like
2 friends and even like family. As result of her efforts from 2005 through 2008, Sumona
3 developed a following of players that she took care of and that were loyal to her.

4 Rackenberg had since left Harrah's and gone to the Atlantis as a Director of Table
5 Games. In 2008, Rackenberg contacted her about taking a job as Executive Casino Host
6 at the Atlantis. At a meeting at the Twin Dragon with Rackenberg and Frank DeCarlo,
7 the Atlantis director of VIP services, DeCarlo said he wanted to hire her, but he told her
8 she had to bring her own customers and generate gaming play equal to 50 times her
9 salary. Sumona told them she would think about it and get back to them.

10 Sumona did not call back after the first meeting with the Atlantis. Harrah's was
11 paying her a base salary in the low \$40,000 range, but with the bonus that she earned and
12 got paid nearly every month, she was making over \$50,000 a year as a casino host at
13 Harrah's. Going to the Atlantis on DeCarlo's terms appeared to be too risky.

14 After a couple of months, DeCarlo called her back. He asked if he scared her
15 away at the first meeting. Sumona told him yes, he had. DeCarlo said he had a new offer
16 for her. He said that one of his hosts, "Baly", had gone to the Peppermill and he needed
17 someone to take over Baly's position. DeCarlo told her she could bring whatever she
18 could from Harrah's and he would give her Baly's customer list.

19 Sumona met DeCarlo and Steve Ringkob at a bar across from the Atlantis.
20 Ringkob asked what kind of players she could bring to the Atlantis. Sumona told them
21 about her customers. They offered her a \$60,000 base salary with a quarterly bonus of
22 \$3,500-plus, but just as important, they promised her Sunday/Monday days off, which
23 she couldn't have at Harrah's because she was at the bottom of the seniority list. As a
24 single mom, days off were important, and Sumona wanted at least one common day off
25 with her daughter.

26 While at Harrah's, Sumona had signed a contract that if she ever left Harrah's she
27 couldn't work as a host anywhere in a 200-mile radius for six months. Before she
28 accepted the offer from the Atlantis, she gave them a copy of her Harrah's agreement.

1 Sumona believes that Debra Robinson, the Atlantis in-house counsel, reviewed the
2 contract.

3 To circumvent the non-compete, the Atlantis hired Sumona under a fictitious job
4 title. DeCarlo told Sumona she would work as a host and do all her job duties as a host,
5 however, until the first six months was over, her job title would be "Concierge Manager",
6 the fake title the Atlantis also used for Lilia Santos and David Law, former Harrah's
7 casino hosts who had been hired by the Atlantis. Sumona was told that after six months,
8 she would get her real title, Executive Casino Host. With that understanding, Sumona
9 began working at the Atlantis, performing her responsibilities as Executive Casino Host,
10 but under the job title of Concierge Manager.

11 After Sumona started at the Atlantis, Harrah's sent letters stating that she was
12 violating her non-compete with Harrah's. The Atlantis told Sumona not to worry, the
13 Atlantis would take care of it, and Sumona believes that in-house counsel Robinson
14 handled the response to Harrah's letter. Nothing ever came of it.

15 Sumona started at the Atlantis in April, 2008. On her first day, DeCarlo
16 introduced Sumona to Santos, and Sumona was given an office with Santos which they
17 shared until Sumona left the Atlantis four years later.

18 During their initial conversations, Sumona told Santos she was replacing Baly and
19 getting his list. Santos informed her that Baly's list had been cherry picked by every host
20 at the Atlantis already, including Santos, and for Sumona not to expect anything.

21 Feeling disappointed and betrayed, Sumona spoke to DeCarlo, who said he had
22 Baly's list and would be giving it to her. Sumona kept asking until finally, several weeks
23 later, DeCarlo handed over a list with about 60 or 70 names on it. Sumona went through
24 the list and found about 95% of the names didn't have correct address or phone number.
25 Sumona talked to DeCarlo, who reminded her she had brought a big list of customers
26 from Harrah's so not to worry, she would be fine.

27 When she began working as an Executive Casino Host at the Atlantis, Sumona had
28 a printout of her guest list from Harrah's. The list had between 1,000 and 1,200 contacts

1 she had generated during her years at Harrah's. She mailed out a card to her Harrah's
2 players letting them know she was now at the Atlantis.

3 DeCarlo and Eric Dale also explained to her how to put her list of players from
4 Harrah's in Outlook format and save it in a flash drive. They told her it would make it
5 easier for them to download information into the Atlantis system instead of entering
6 everything one at a time. She entered her list of players into Microsoft Outlook, which
7 she saved to a flash drive and handed over to DeCarlo and Dale. Her players list thus
8 became part of the Atlantis computer system. Sumona still has a copy of the list as it
9 was printed out from the Atlantis computer system.

10 After starting work at the Atlantis, she would see Ringkob on the floor, and he
11 would ask her when all her big players from Harrah's were coming, or, he would ask how
12 come they came but didn't play much.

13 Similarly, when she ran into John Farahi, the Atlantis owner, on the casino floor,
14 he would ask her who she had already brought in and who she was bringing the week
15 after. She told DeCarlo it was really stressful, and he told her that's how it works at the
16 Atlantis.

17 Sumona learned that the home-grown Atlantis Executive Casino Hosts, like Susan
18 Moreno, disliked the Executive Casino Hosts that came over from Harrah's. Moreno
19 would not even exchange "hellos". Sumona felt like an outcast, and commiserated with
20 Santos.

21 At the end of February, 2010, about two years after she started working as an
22 Executive Casino Host at the Atlantis, DeCarlo handed her a non-compete agreement and
23 told her to sign it. She asked him to explain. He told her it was nothing, that John Farahi
24 wanted everyone to sign it, however, no one was getting anything in return so no judge in
25 town would go with it, if she ever had to go to court. She told him she'd read it and get
26 back to him the next day. DeCarlo left their office. Around 12:30 pm the same day, he
27 stormed in to the office where Sumona and Santos were working and started screaming at
28 Sumona for not signing the non-compete. Sumona had not seen him angry like that

1 before and she was intimidated. DeCarlo demanded that Sumona sign the non-compete
2 right at that moment if she wanted to keep her job. He said he needed to take it to John
3 Farahi by 1 p.m. She signed.

4 Sumona knew that as an Executive Casino Host for the Atlantis, most of the time
5 her numbers were better than other team members. Sumona felt that she worked harder
6 on her phone calls and emails to her guests than did her peers. In the four years she
7 worked at the Atlantis, however, she never got a raise. And even though she qualified for
8 a bonus many times, she received a bonus only once.

9 She tried many times to talk with DeCarlo about a raise but he told her in these
10 tough economic times she should be thankful to have a job. Sumona was not impressed
11 by that response, knowing that the Atlantis was buying a property in Colorado, and
12 having heard John Farahi brag openly about how he had paid \$50 million cash toward the
13 expansion of the Atlantis without having to borrow like the Peppermill had for its
14 expansion.

15 Several months before Sumona resigned from the Atlantis, she had a meeting with
16 DeCarlo in which he told her that in the last quarter she had grown her business 17%, and
17 the quarter before that, 12%. She told him she was going through financial hardship and
18 she wouldn't mind taking over more responsibilities, however, she needed a raise.
19 DeCarlo told her she was too intelligent to be a host and she should be in management.
20 However, he said, she was making too much money and needed to take a pay cut. He
21 shared his personal experience with her about how he took a pay cut and ultimately
22 became the manager he is today. He tried to talk her into taking a pay cut and going into
23 management. She told him at that point in her life, she could not afford to take a pay cut.
24 DeCarlo told her that the Atlantis had purchased the property in Colorado and someone
25 like her would be perfect candidate. She told him she couldn't leave town because of her
26 daughter and her ex-husband's rights of visitation. DeCarlo told that the Atlantis would
27 come after her if she tried to work anywhere else in town.

1 Sumona felt trapped, angry and betrayed. The Atlantis was trying to force her
2 into a management job for less money, using the non-compete to prevent her from
3 leaving to work anywhere else. The Atlantis had her entire book of business on its
4 computer system. If she left, the list of players she had worked so hard to develop over
5 so many years would be handed over to someone like Susan Moreno.

6 Sumona started looking for employment more than 150 miles away from Reno
7 where she might be able to relocate for at least 12 months. She was offered a job at Agua
8 Caliente casino near Palm Springs, California. They offered her an \$85,000 yearly
9 salary. However, her daughter didn't want to move because her father lives in Reno and
10 she had a new baby step-brother.

11 As she was considering the California job, Sumona's co-worker Angie Antonetti
12 told Sumona that the Grand Sierra Resort was hiring and the Grand Sierra would not care
13 about the non-compete agreement. Antonetti said she did not want to take any more
14 abuse from the Atlantis and she was trying to get a job somewhere else. Antonetti
15 suggested that when they both left, they should take their players with them, meaning,
16 change some of the contact information in the program they used to keep track of their
17 players, so it would not be so easy for Susan Moreno or Eden Moore to pirate their
18 customer lists once Antonetti and Sumona were gone.

19 Sumona's anger toward her treatment by the Atlantis got the best of her, and
20 before she left in January 2012 to take the Executive Casino Host position at Grand
21 Sierra Resort, Sumona changed some information on her own book of business on the
22 Atlantis computer system, for example, changing the player's address, or phone number,
23 or email. Sumona had always had access to the computer system to change player
24 information, but in this case, she put in incorrect contact information for some of her
25 players instead of the correct information. She made the changes because she was angry,
26 knowing that Susan Moreno or someone like her would be contacting Sumona's players,
27 essentially stealing the benefit of Sumona's years of work, and Sumona did not want it to
28 be so easy for her. The changes were made in a program that Sumona used called

1 “Acres”; however, in another program used by the Atlantis, the “LMS” system, the
2 information about her customers remained the same, so the Atlantis still had accurate
3 information on the LMS system when Sumona left.

4 When she applied as an Executive Casino Host at the Grand Sierra Resort,
5 Sumona gave the Grand Sierra a copy of the non-compete that she had signed for
6 DeCarlo at the Atlantis. Before being hired by the Grand Sierra, Sumona was assured
7 that the Grand Sierra had reviewed the non-compete and had no legal concerns. The
8 Grand Sierra committed to her that if anything happened regarding the non-compete, the
9 Grand Sierra would take care of her and her legal expense.

10 She told DeCarlo she had received offers from the Palm Springs area and also
11 from someone in town, and he told her to go far away, because if she stayed in town, the
12 Atlantis would come after her and make her life miserable. She told him she understood
13 but she had to do what was best for her family.

14 The Grand Sierra offered Sumona a base salary of \$80,000 and bonuses based on
15 performance. She felt the offer from Grand Sierra would be a better job and she would
16 not have to leave Reno, so she accepted the Grand Sierra offer and turned down the
17 California job.

18 After starting at the Grand Sierra at the beginning of February, 2012, Sumona took
19 with her a list of guests in hand-written notebooks and from the printout from the
20 Harrah’s customers, both of which have been produced to the other parties in this case.

21 While she had an active roster of 600-700 guests for which she hosted at the
22 Atlantis, she was limited by the policy at the Grand Sierra to having no more than 300-
23 400 players she could host.

24 When she was provided access to the Grand Sierra system, Sumona discovered
25 that most of her players on her list of players were already in the Grand Sierra system,
26 consistent with Sumona’s experience that players from the Atlantis gamble at other
27 casinos. In her experience, no casino owns exclusive rights to any player, and players
28 gamble at more than one casino and have hosts at various casinos.

1 She added to the Grand Sierra system some of her players, maybe a hundred or
2 two hundred of them, from her Harrah's list and from her notebooks. The Grand Sierra
3 then sent out letters for Sumona to some of her players announcing her arrival at Grand
4 Sierra and inviting them to visit.

5 In addition, players that Sumona had known from the Atlantis but who were
6 assigned to other hosts at the Atlantis found out she had moved to Grand Sierra and
7 called her and asked her to be their host at the Grand Sierra.

8 In April, 2012, the Atlantis counsel Debra Robinson sent a cease and desist letter
9 to Sumona and the Grand Sierra alleging that Sumona was violating the non-compete
10 agreement, to which the attorneys for the Grand Sierra responded.

11 On May 9, 2012, Judge Brent Adams issued an ex parte temporary restraining
12 order that the Atlantis applied for and obtained without notice to Sumona. The
13 restraining order prohibited her from working in any capacity for any competitor of the
14 Atlantis within 150 miles for a year after her resignation from the Atlantis.

15 The restraining order also forbade her from utilizing or disclosing the
16 "confidential, proprietary and trade secret information of the Atlantis" and from
17 "contacting or soliciting the customers of the Atlantis." The Atlantis was claiming
18 ownership of, and "trade secret" status for, the list of players that Sumona had brought to
19 the Atlantis from Harrah's and that Ringkob and Dale had her input to the Atlantis
20 computer system.

21 In response to the restraining order, the Grand Sierra immediately suspended
22 Sumona from work. Even though the Grand Sierra still issues her a paycheck every pay
23 period, she has not worked at the Grand Sierra or anywhere else since the restraining
24 order was issued.

25 Sumona is the eldest daughter in her family. Her father had a heart attack and died
26 four years ago at age 52. Sumona's mother had never worked in her life; Sumona now
27 has responsibility for the welfare of her mother and her daughter. The preliminary
28 injunction and the maintenance of this lawsuit against her in general are substantial

1 hardships on the sole wage earner of a household who needs to work in her field in order
2 to save the book of business in which she invested her life for the past seven years.

3 III

4 THE CLAIMS AND DEFENSES

5 In *Wood v. Safeway, supra*, the court said that the substantive law applicable to the
6 case controls which facts are material. *Id.* at 731, 121 P.3d at 1031.

7 The seven claims for relief in the Amended Complaint are as follows:

- 8 1. Breach of contract (confidentiality agreement);
- 9 2. Breach of contract (non-compete);
- 10 3. Conversion (changing information in the computer system);
- 11 4. Interference with contractual relations/prospective economic advantage (the
12 computer changes and soliciting players for the Grand Sierra);
- 13 5. Violation of Uniform Trade Secret Act (player list);
- 14 6. Declaratory relief (agreements are valid and defendants have violated trade
15 secret act); and
- 16 7. Injunctive relief (to prevent further breaching of agreements).

17 *See*, Amended Complaint, filed May 7, 2012.

18 In addition to denying the material allegations of the Amended Complaint, Islam's
19 affirmative defenses include:

- 20 A. Failure to state a claim;
- 21 B. The Atlantis committed the first material breach;
- 22 C. Failure of performance by the Atlantis, including failure to satisfy express
23 or implied conditions;
- 24 D. Unclean hands/failure to act equitably;
- 25 E. Estoppel;
- 26 F. Contract formation defenses, including coercion, duress, invalid
27 consideration or lack thereof, illegality, unconscionability and adhesion;
- 28 G. Lack of proprietary rights in the players list;

1 H. Waiver and ratification of the alleged wrongful conduct;

2 I. Violation of public policy.

3 *See*, Answer filed June 1, 2012.

4 IV

5 SEPARATE STATEMENT OF MATERIAL ISSUES OF FACT

6 Based on the applicable law and the statement of facts presented in this
7 Opposition, at least the following genuine issues of material fact, at a minimum, preclude
8 partial summary judgment for the Atlantis:

9 1. Is there a valid confidentiality or non-compete agreement between Islam
10 and the Atlantis. *See Islam Affidavit, attached, and Deposition of Sumona Islam, Ex. 1 to*
11 *Plaintiff's Motion.*

12 2. Is any alleged confidentiality or non-compete agreement unenforceable due
13 to failure of performance by the Atlantis or failure of conditions. *Id.*

14 3. Is the restraint on trade in the Atlantis non-compete agreement
15 unreasonable or in violation of public policy. *Id.*

16 4. Is the conduct alleged against Islam an act of conversion. *Id.*

17 5. Was any property of the Atlantis converted. *Id.*

18 6. Who, if anyone, owns the list of players that Islam developed while at
19 Harrah's, the Atlantis and Grand Sierra. *Id.*

20 7. Is there a contractual relationship with players that supports the Atlantis
21 claim against Islam for interference with prospective economic advantage. *Id.*

22 8. Do Islam and Grand Sierra have knowledge of a contractual relationship.

23 9. Is there privilege justification for Islam changing information on her
24 players list on the Acres system. *Id.*

25 10. Is the players list a trade secret. *Id.*

26 11. Was there a misappropriation of an alleged trade secret. *Id.*

27 12. Is the Atlantis guilty of unclean hands. *Id.*

GENUINE ISSUES OF FACT EXIST AS TO ALL OF THE ATLANTIS CLAIMS

In that the Atlantis predicates its motion on the idea that there are no genuine issues of material fact as to the issue of liability, the burden is on the Atlantis to establish the non-existence of any genuine issue of fact as to each of its seven claims. *City of Boulder v. State*, 106 Nev. 390, 392, 793 P.2d 845 (1990).

1. Breach of contract

A valid breach of contract claim has four elements. A plaintiff must establish that (1) a valid contract existed, (2) the plaintiff performed as specified by the contract, (3) the defendant failed to perform as specified by the contract, and (4) the plaintiff suffered an economic loss as a result of the defendant's breach of contract. *Henderson-Smith & Assocs. v. Nahamani Family Serv. Ctr.*, 752 N.E.2d 33, 43 (Ill. App. 2001); *Kreiss v. McCown DeLeeuw & Co.*, 37 F. Supp. 2d 294, 298 (S.D.N.Y. 1999).

Islam wishes to highlight disputed facts as to the first two elements: the existence of a valid contract and the plaintiff's performance.

Concerning the existence of a valid contract, in its recent decision in *Certified Fire Prot. v. Precision Constr.*, 128 NAO 35, 212 Nev. LEXIS 79 (Aug. 9, 2012), the court held:

"Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds, and consideration." *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d 1254, 1257 (2005). A meeting of the minds exists when the parties have agreed upon the contract's essential terms. *Roth v. Scott*, 112 Nev. 1078, 1083, 921 P.2d 1262, 1265 (1996). Which terms are essential "depends on the agreement and its context and also on the subsequent conduct of the parties, including the dispute which arises and the remedy sought." Restatement (Second) of Contracts § 131 cmt. g (1981). "[W]hether a contract exists is [a question] of fact, requiring this court to defer to the district court's findings unless they are clearly erroneous or not based on substantial evidence." *May*, 121 Nev. at 672-73, 119 P.3d at 1257.

Id., emphasis added.

1 The contracts as to which a factual dispute exists are the three documents that are
2 listed in the first claim for relief grouped as the “confidentiality agreement”, consisting
3 the Online System User Agreement, Business Ethics Policy, etc., and Company Policy
4 Regarding Company Property, Proprietary Information and Trade Secrets, which are
5 Exhibits 4, 5 and 6 to the moving papers, and in addition, the Non-Compete/Non-
6 Solicitation Agreement, which is Exhibit 7.

7 The “Atlantis Company Policy Regarding Company Property, Proprietary
8 Information and Trade Secrets” recites that the intellectual property of the Atlantis
9 includes casino/customer guest lists. *See*, Exhibit 6, 3rd paragraph. It further states that
10 improper use or dissemination of such intellectual property breaches the agreement and
11 may be a violation of state and federal trade secrets laws. While hard to read, the online
12 user agreement similarly recites that information is trade secret if it is on an Atlantis
13 computer system. *See*, Exhibit 4, Section 6.2. The business ethics policy covers a wide
14 variety of subjects and includes a section stating that customer lists are confidential
15 information. *See*, Exhibit 5, Section 3.2.

16 The position of the Atlantis is that these exhibits are enforceable agreements to the
17 extent they prevent Islam from disseminating information to others that the Atlantis
18 claims as trade secret or confidential. *See*, Motion, pp. 2-4.

19 This position is in error. By themselves, Exhibits 4, 5 and 6 do not establish the
20 existence of a trade secret or confidential information. “An agreement between the
21 employer and the employee that something is a trade secret or confidential is not
22 controlling if in fact it is not.” *Cambridge Filter Corp. v. Int’l Filter Co., Inc.*, 548
23 F.Supp. 1301, 1306 (D.Nev. 1982). “The most important consideration is whether the
24 information is readily accessible to a reasonably diligent competitor. Where the
25 plaintiff’s customers are known to competitors as potential customers, the plaintiff’s
26 customer list is not a trade secret.” *Id.* Hence, the question of whether the players list is
27 a trade secret or confidential is a question of fact, depending on the circumstances, and is
28 not determined merely by the existence of Exhibits 4, 5 and 6.

1 The evidence that Islam provides in her affidavit shows that the names of the
2 players are readily accessible to other casinos. Furthermore, her affidavit shows that the
3 Atlantis customers are known to competitors as potential customers. In this case, the
4 bulk of the players list came from Harrah's, which proves that the players list is readily
5 accessible to other casinos and that the players are known to other casinos. Islam further
6 attests in her affidavit that when she was provided access to the Grand Sierra system, she
7 discovered that most of her players on list were already in the Grand Sierra system,
8 consistent with her experience that players from the Atlantis gamble at other casinos.
9 Viewed in the light most favorable to Islam, the players list contains information known
10 to the other casinos and therefore is neither trade secret nor confidential.

11 Additionally, as Islam states in her affidavit, the value that a casino receives
12 depends on the cultivation of these clients by the Executive Casino Hosts, through their
13 personal interaction with the players, and not from the list itself, and thus the list of
14 players names and contact information is not in the nature of a trade secret to the extent
15 its value derives from Islam's own services.

16 Furthermore, the evidence in Islam's affidavit shows that the Atlantis did not
17 provide Islam access to confidential information; on the contrary, the Atlantis
18 downloaded information received from Islam, who received some of it originally from
19 Harrah's. Harrah's likely received much of it in the past from hiring hosts from other
20 casinos, which makes the attempt by the Atlantis to claim the information as its own
21 rather audacious.

22 Whether Exhibits 4, 5 and 6 are valid contracts to the extent they purport to
23 prevent Islam from using the alleged "trade secret" and "confidential information" on her
24 players list is very much a factual issue. At the very least, the Atlantis has not carried its
25 burden of establishing that there is no genuine issue of material fact. *City of Boulder*,
26 *supra*; *see also*, NRCP 56(c).

27 Genuine issues also exist as to whether the non-compete agreement is a valid
28 contract because of public policy. Islam's 19th affirmative defense alleges violation of

1 public policy. The public policy issues in this case begin with the fact that non-compete
2 and other similar restraint-of-trade agreements are against public policy unless the terms
3 are reasonable. The public policy implications of any anti-competitive agreement are
4 acknowledged in every Nevada case dealing with the attempted enforcement of such a
5 restraint. See, e.g., *Jones v. Deeter*, 112, Nev. 291, 294, 913 P.2d 1272, 1274 (1996).

6 In *Camco, Inc. v. Baker*, 113 Nev. 512, 519, 936 P.2d 829 (1997), the defendants
7 argued that the non-competition clause in a buy-sell agreement unreasonably restrained
8 trade because it covered too broad an area and the court agreed, stating:

9 We adopt the view that "to be reasonable, the territorial restriction should be
10 limited to the territory in which appellants [(former employers)] established
customer contacts and good will."

11 . . .

12 In light of this court's acknowledgement that non-compete covenants are restraints
of trade and subject to careful scrutiny when made in an employment context, we
13 hold that the covenant at issue is overly broad as to future territory for possible
expansion. Therefore, even though there was consideration to support the Bakers
14 and Grosses' agreements not to compete with SuperPawn, we conclude that Camco
15 did not enjoy a reasonable likelihood of success on the merits of its claim, and thus
16 injunctive relief was properly denied

17 *Id.*

18 In the "seminal case" cited by the Atlantis in its moving papers, the court found
19 that the covenant was too restrictive and invalidated it. *Hanson v. Edwards*, 83 Nev. 189,
20 426 P.2d 792 (1967). Also in that "seminal case", the court held that in actions to
21 enforce post-employment, anti-competitive covenants, a restraint on employment will be
22 upheld only if it is reasonably necessary to protect the business and goodwill of the
23 employer. *Hansen v. Edwards*, 83 Nev. 189, 191, 426 P.2d 792, 793 (1967).

24 In addition, "[b]ecause the loss of a person's livelihood is a very serious matter,
25 post employment anti-competitive covenants are scrutinized with greater care than are
26 similar covenants incident to the sale of a business." *Traffic Control Servs. v. United*
27 *Rentals Northwest, Inc.*, 120 Nev. 168, 172, 87 P.3d 1054, 1057 (2004).

1 The covenant at issue purports to prevent Islam from being employed for an entire
2 year at any other gaming property in any capacity, which this Court already has found to
3 be overbroad and unreasonable by limiting the preliminary injunction to employment of
4 Islam in the capacity of Executive Casino Host by the Grand Sierra, as opposed to
5 employment in any position. In light of that ruling by this Court, and the principles found
6 in *Hansen* and its progeny, the burden is on the Atlantis to present evidence showing that
7 the overbroad terms of this non-compete agreement are “reasonably necessary to protect
8 the business and goodwill of the employer.” The Atlantis has failed to do so in its
9 moving papers. The Atlantis instead relies on the naked terms of the agreement itself,
10 which is inadequate under Nevada law.

11 Viewed in the light most favorable to Islam, the evidence is that the players do not
12 belong to anyone, including the Atlantis. The evidence also points to the degree of
13 mobility of the Executive Casino Hosts who service these players. Islam, Santos, and
14 Laws moved from Harrah’s to Atlantis, and “Bally” moved from the Atlantis to the
15 Peppermill. Accordingly, the extent to which the Atlantis non-compete is reasonably
16 necessary to protect business and goodwill is an issue of fact to be determined from the
17 disputed evidence, and not by summary adjudication.

18 Not only should the non-compete not be enforceable for the foregoing reasons, the
19 circumstances under which the Atlantis obtained the non-compete are pertinent. Islam
20 attests to the menacing conduct by DeCarlo that forced her into signing. The Atlantis
21 may assert that duress is irrelevant because an at-will employee's continued employment
22 is sufficient consideration for enforcing a non-competition agreement, *Camco, Inc. v.*
23 *Baker*, 113 Nev. 512, 519, 936 P.2d 829(1997), but this is not simply an issue of failure
24 of consideration. Islam has presented evidence that it was only due to DeCarlo’s
25 intimidation that Islam signed the non-compete on Feb. 26, 2010, which may be one
26 reason why lawyers for the Grand Sierra determined in 2012 that the non-compete would
27 be unenforceable.
28

1 The second element of a breach of contract that the Atlantis must establish by
2 undisputed evidence is the plaintiff's performance. *Henderson-Smith and Kreiss, supra*.
3 Contract law does not allow a party who has breached a contract first to sue for its
4 enforcement against the other party. As the court stated in *Bradley v. Nevada C.O.R. Ry*,
5 42 Nev. 411, 421, 178 P. 906, 908 (1919): "If there is anything well settled, it is that the
6 party who commits the first breach of the contract cannot maintain an action against the
7 other for a subsequent failure to perform."

8 Islam's 2nd and 3rd affirmative defenses are based on the failure of the Atlantis to
9 pay bonuses and merit increases to Islam, which is a breach of the promises made to her
10 when she accepted employment, or stated alternatively, a breach of the conditions
11 pursuant to which she signed Exhibits 4 through 7. Basic contract law requires that a
12 party cannot enforce a contract without first showing that it performed the obligations, or
13 satisfied the conditions, for the other party's performance. For example, in *Rogers v.*
14 *Jackson*, 804 A.2d 379 (Maine 2002), a lender sued a borrower on a promissory note.
15 The borrower contended that his obligation to pay under the note was subject to an
16 unfulfilled condition that he would pay the note when he was able. The court held that
17 whether the conditions were satisfied created genuine issues of fact that precluded
18 summary judgment. *Id.* at 382. Here, not only did the Atlantis fail to pay merit
19 increases, and fail to pay any bonus except for a single occasion, the Atlantis told Islam
20 that she should take a pay cut and be transferred to a management position, whilst the
21 Atlantis turned over her players list to other Executive Casino Hosts.

22 Under the *Bradley* case, which states that a party who breaches first cannot sue the
23 other party, this Opposition has shown by competent evidence that there is a genuine
24 issue of fact as to whether the Atlantis performed the obligations on its part to be
25 performed, and summary judgment on the breach of contract claims should be denied.

26 **2. Conversion**

27 Whether a conversion has occurred generally is a question of fact for the jury.
28 *Evans v. Dean Witter Reynolds*, 116 Nev. 598, 606, 5 P.3d 1043, 1048 (2000).

1 The theory of conversion offered by the Atlantis is that Islam made false entries on
2 its database. *See*, Motion, p. 13, lines 3-14. This is not the tort of conversion.
3 Conversion is a distinct act of dominion wrongfully exerted over another's personal
4 property in defiance of its rights. *M.C. Multi-Family Development, L.L.C. v. Crestdale*
5 *Associates, Ltd.*, 124 Nev. 901, 910, 196 P.3d 536 (2008). "[C]onversion generally is
6 limited to those severe, major, and important interferences with the right to control
7 personal property that justify requiring the actor to pay the property's full value. *Edwards*
8 *v. Emperor's Garden Rest.*, 122 Nev. 317, 328, 130 P.3d 1280, 1287 (2006). Here, Islam
9 always had the right to access the Acres system to make changes to her own players list,
10 and she made 87 changes to a list on Acres (not on the other Atlantis databases)
11 containing hundreds of names, by altering an address or phone number here or there.
12 This is not "severe, major and important interferences with the right to control personal
13 property that justify requiring the actor to pay the property's full value." *Edwards, supra.*
14 Furthermore, the data that she altered was from Islam herself, it had been imported to the
15 Atlantis computer system from Islam, under circumstances raising at least a factual issue
16 as to whether the data was the *exclusive property* of the Atlantis. *See, M.C. Multi-Family*
17 *Development, supra* (holding that a jury should decide whether conversion occurred
18 where the contractors' license exclusively belonged to the plaintiff and the plaintiff
19 alleged it was used in an unauthorized manner).

20 In short, even if the data on the Acres system was the exclusive property of the
21 Atlantis, which is a material disputed issue of fact by itself, the act that the Atlantis
22 claims to constitute conversion is not conversion as a matter of law.

23 **3. Interference with Contractual Relations/Prospective Economic**
24 **Advantage**

25 The Atlantis next asserts that undisputed evidence supports summary judgment
26 against Islam and the Grand Sierra for the tort of interference with prospective economic
27 advantage, and against Grand Sierra for the tort of interference with contractual relations.
28 *See*, Motion, pp. 14-16.

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

8 As to the "prospective contractual relationship" between the Atlantis and a third
9 party, the Atlantis contends that a "prospective economic advantage naturally exists
10 between ATLANTIS and its established guests." *See*, Motion, p. 14, lines 7-9. The
11 Atlantis has misstated the nature of the proof required. The proof that is required is of a
12 "prospective contractual relationship", not a "prospective economic advantage". If this
13 tort only required a company to establish a "prospective economic advantage", instead of
14 a "prospective contractual relationship", then Coke would be unable to compete with
15 Pepsi, Chevrolet would be unable to compete with Ford, and the Grand Sierra would be
16 unable to compete with the Atlantis. Fortunately for America, that is not the case. Here,
17 the relationship is one of a casino with a player, which is neither an exclusive
18 relationship, nor a contractual relationship. And if the Atlantis is seeking to make the
19 outlandish claim of having such a relationship, then that claim is not supported by any
20 evidence or argument in the moving papers.

21 By the same token, there is no proof that Islam or the Grand Sierra were aware of
22 a prospective contractual relationship between the Atlantis and its players, nor evidence
23 of any intent to harm by preventing such a contractual relationship. The only evidence is
24 that Islam changed 87 pieces of data on her players list to make life more difficult for
25 Susan Moreno when the Atlantis turned over Islam's list of hundreds of players to
26 Moreno. Whether Islam had a privilege or justification for what she did under the
27 circumstances is a question of fact not suitable for summary adjudication.
28

1 Again, the tort cannot mean what the Atlantis says it means without stifling
2 competition in a free market economy. Not only is there no factual basis for this claim,
3 there is no legal basis, and summary adjudication should be denied.

4 **4. Violation of Uniform Trade Secret Act**

5 The Atlantis claims that the alleged trade secret that was allegedly
6 misappropriated by Islam is her own players list. *See*, Motion, p. 17.

7 Islam's 16th affirmative defense in turn disputes the alleged trade secret or
8 proprietary nature of her players list.

9 The Uniform Trade Secrets Act defines a "trade secret" as "information, including,
10 without limitation, a formula, pattern, compilation, program, device, method, technique,
11 product, system, process, design, prototype, procedure, computer programming
12 instruction or code that:

13 "(a) Derives independent economic value, actual or potential, from not
14 being generally known to, and not being readily ascertainable by proper means by
15 the public or any other persons who can obtain commercial or economic value
from its disclosure or use; and

16 "(b) Is the subject of efforts that are reasonable under the circumstances to
17 maintain its secrecy."

18 The factors to consider as to whether Islam's list of players is a trade secret of the
19 Atlantis include:

20 (1) the extent to which the information is known outside of the business and the
21 ease or difficulty with which the acquired information could be properly acquired
22 by others; (2) whether the information was confidential or secret; (3) the extent
23 and manner in which the employer guarded the secrecy of the information; and (4)
the former employee's knowledge of customer's buying habits and other customer
data and whether this information is known by the employer's competitors . . .

24 *Finkel v. Cashman Profl, Inc.*, 270 P.3d at 1259, 1264 (Nev. 2012) citing *Frantz v.*
25 *Johnson*, 116 Nev. 455, 466, 999 P.2d 351, 358 (2000).

26 Proceeding merely from the standpoint of all the factors that must be considered in
27 determining whether given information is a "trade secret", the Atlantis acknowledges that
28 "[w]hether information is a trade secret generally is a question of fact." *See*, Motion, p.

1 17, lines 5-6. The cases of *Finkel* and *Frantz* affirm that the issue is one of fact as well.
2 *Id.*

3 In arguing the disputed facts, the Atlantis asserts that Islam's players list is a trade
4 secret of the Atlantis, completely ignoring the fact that they acquired this "trade secret"
5 from Islam when she left Harrah's to come to work for the Atlantis. Thus, while the
6 Atlantis argues that it goes to "extreme efforts to maintain its secrecy" by having
7 employees sign four (4) agreements, the reality is that the information was not secret
8 because "the information is known outside of the business" of the Atlantis. *See, Finkel*
9 *and Frantz, supra*. Furthermore, the "knowledge of customer's buying habits" is not a
10 secret, since the same customers habituate the other casinos in town. Islam's affidavit
11 shows that the majority of the names on her customer list are well known by all the
12 casinos, including Harrah's, the Atlantis, and the Grand Sierra. Her affidavit shows that
13 most players do not play at only one casino. The names and contact information of these
14 players obviously are readily ascertainable by proper means by other casinos.

15 Shifting gears slightly, at page 18, line 11 of the moving papers, the Atlantis
16 argues it is entitled under NRS 600A.032 to a presumption that since they have a written
17 agreement, they took efforts to maintain secrecy. The statute has nothing to do with a
18 confidentiality agreement. The statute concerns placing "Confidential" labels on a
19 "medium or container that describes or includes any portion of the trade secret." *Id.*
20 Even if a presumption applied here, however, it would be easily rebutted by the evidence
21 that the Atlantis got the information from their competitor.

22 Regarding trade secrets and economic value, Islam's declaration describes what an
23 Executive Casino Host's responsibilities are, and supports the conclusion that the real
24 economic value of the customer list is from the ongoing personal relationship between
25 the host and her players. Any benefit that the Atlantis claims by having a list of names to
26 whom to send mailings is not the true economic value. The economic value is derived
27 from the play that Islam is able to achieve from the guests on her list, by developing a
28 relationship with each of them that leads to casino visits, greater play, and greater

1 revenues for the casinos. In short, the evidence viewed in the light most favorable to
2 Islam is that the names on her players list are not a trade secret deriving independent
3 economic value by themselves.

4 Islam also disputes that she misappropriated anything. NRS 600A.030(2) defines
5 "misappropriation" to mean:

- 6 (a) Acquisition of the trade secret of another by a person by improper means;
7 (b) Acquisition of a trade secret of another by a person who knows or has reason
8 to know that the trade secret was acquired by improper means; or
9 (c) Disclosure or use of a trade secret of another without express or implied
10 consent by a person who:
11 (1) Used improper means to acquire knowledge of the trade secret;
12 (2) At the time of disclosure or use, knew or had reason to know that his or her
13 knowledge of the trade secret was:

- 14 (I) Derived from or through a person who had used improper means to
15 acquire it;
16 (II) Acquired under circumstances giving rise to a duty to maintain its
17 secrecy or limit its use; or
18 (III) Derived from or through a person who owed a duty to the person
19 seeking relief to maintain its secrecy or limit its use; or
20 (3) Before a material change of his or her position, knew or had reason to know
21 that it was a trade secret and that knowledge of it had been acquired by accident or
22 mistake.

23 Going down the list of each of the various descriptions of "misappropriation",
24 Islam's position is that she engaged in none of the acts defined as "misappropriation" in
25 the statute, bearing in mind that the players list was hers to copy and to use at all times.

26 **5. Declaratory Relief**

27 The declaratory relief claim is surplusage, asking the Court to determine the rights
28 of the parties under the Atlantis agreements, which is what the breach of contract claims

1 are for. Thus, the Atlantis offers no argument in its moving papers on the declaratory
2 relief claim, and summary adjudication should be denied.

3 **6. Injunctive Relief**

4 Permanent injunctive relief may only be granted if there is no adequate remedy at
5 law, *a balancing of equities favors the moving party*, and success on the merits is
6 demonstrated.” *Chateau Vegas Wine, Inc. v. Southern Wine & Spirits of Am., Inc.*, 265
7 P.3d 680, 684 (Nev. 2011) (emphasis added).

8 The 5th and 6th affirmative defenses speak to the conduct of the Atlantis, which is
9 set forth in the affidavit of Islam, concerning the circumstances under which the Atlantis
10 brought Islam into its employ, obtained her players list, took her players list from her, and
11 is now seeking to claim the list as their own. The Atlantis also sought to force Islam into
12 a lower paying job by using the threat of its non-compete to keep her from seeking
13 employment elsewhere. Islam invokes the principle of unclean hands and the doctrine
14 that “he who seeks equity must do equity.” *Mosso v. Lee*, 53 Nev. 176, 295 P. 776
15 (1931). The Atlantis is asking the Court to use equitable powers on its behalf while the
16 Atlantis has not acted equitably. The equitable powers of this Court should not be used
17 to aid parties with unclean hands.

18 **VI**

19 **CONCLUSION**

20 Islam requests that the Court deny the Atlantis motion for partial summary
21 judgment on grounds that there are genuine issues of material fact and summary
22 judgment is inappropriate.

23 DATED: September 10th, 2012 LAW OFFICES OF MARK WRAY

24
25 By Mark Wray
26 MARK WRAY
27 Attorney for Defendant SUMONA ISLAM
28

State of Nevada)
County of Washoe) ss.

1 **AFFIDAVIT OF MARK WRAY IN OPPOSITION TO MOTION FOR PARTIAL**
2 **SUMMARY JUDGMENT**

3 State of Nevada)
4) ss.
5 County of Washoe)

6 I, Mark Wray, depose and state under penalty of perjury under the laws of the
7 State of Nevada:

8 1. I am the attorney for Sumona Islam in this action. I know the following
9 facts of my personal knowledge and could, if asked, competently testify to the truth of the
10 same under oath.

11 2. This action was filed April 27, 2012. The Amended Complaint was filed
12 May 7, 2012. I filed a Notice of Appearance on May 15, 2012. My client's Answer to
13 the Amended Complaint was filed June 1, 2012. The Joint Case Conference Report was
14 filed June 29, 2012. Islam's Initial Disclosures Pursuant to NRCP 16.1 were served on
15 the other parties July 11, 2012. The Atlantis Motion for Partial Summary Judgment was
16 filed August 23, 2012.

17 3. At this point, the Atlantis has taken four depositions, and has produced
18 selected documents from its files that it chooses to disclose.

19 4. On August 30, 2012, I served on the Atlantis my client's first Request for
20 Production of Documents pursuant to NRCP 34, a true copy of which is attached as
21 Exhibit 1, and on August 31, 2012, I served her Second Request for Production, attached
22 as Exhibit 2. These requests are designed to obtain information from records of the
23 Atlantis which my client does not have in her possession, which the Atlantis has not
24 chosen to disclose up to this point, and which would be highly probative of the defenses
25 my client is asserting.

26 5. Responses to the discovery that I have propounded are not due until
27 October 3, 2012.
28

6. Once I receive the documents from the Rule 34 requests for production, I plan to notice the depositions of Frank DeCarlo, Debra Robinson and Lilia Santos, each of whom is an Atlantis employee, and each of whom possesses information relevant to the affirmative defenses pleaded by my client in this action. DeCarlo was involved in the hiring of my client and the representations made to her at the time of hiring. He is knowledgeable about her alleged position as “Concierge Manager”. He was involved in obtaining the non-compete from her. DeCarlo spoke to my client about needing to take a pay cut and moving into management instead of serving as an Executive Casino Host. He was her supervisor during the four years of her employment at the Atlantis. Robinson was the in-house legal counsel for the Atlantis when my client provided a copy of her non-compete from Harrah’s. I believe she responded to Harrah’s demands to cease and desist in 2008. Robinson is knowledgeable about the non-compete agreement obtained from my client. Robinson would also be knowledgeable about the circumstances of similar non-competes, involving either other Executive Casino Hosts or other current and former employees of the Atlantis during the time period that my client was at the Atlantis. I believe that Santos was present when DeCarlo had my client sign the non-compete, and that Santos also would be able to corroborate the incidents that are related by my client in the statement of facts in this Opposition.

7. Obtaining the documents that I have requested in discovery and obtaining the depositions of DeCarlo, Robinson and Santos are necessary to my preparation of the defense in this action.

Further affiant sayeth naught.

Mark Wray
MARK WRAY

Subscribed and sworn to before me
this 10th day of September, 2012.

Notary

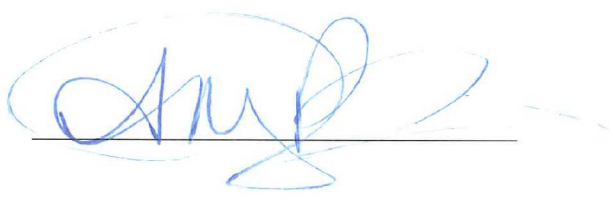
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CERTIFICATE OF SERVICE

The undersigned employee of the Law Offices of Mark Wray certifies that a true copy of the foregoing document was sealed in an envelope with first class postage prepaid thereon and deposited in the U.S. Mail at Reno, Nevada on September 10, 2012 addressed as follows:

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

Steven B. Cohen
Stan Johnson
Cohen/Johnson
6293 Dean Martin Drive, Ste G
Las Vegas, Nevada 89118



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AFFIRMATION

The undersigned certifies that this document does not contain the Social Security
number of any person.

DATED: Sept 10, 2012 Mark Wray
MARK WRAY

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LIST OF EXHIBITS

Exhibit 1	August 30, 2012	Defendant Sumona Islam's First Request for Production of Documents to Plaintiff	5 pages
Exhibit 2	August 31, 2012	Defendant Sumona Islam's Second Request for Production of Documents to Plaintiff	3 pages

FILED

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Joey Orduna Hastings
Clerk of the Court
Transaction # 3215808

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8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9 **IN AND FOR THE COUNTY OF WASHOE**

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

12 Plaintiff,

13 vs.

14 SUMONA ISLAM, an individual; GSR
15 ENTERPRISES, LLC, a Nevada limited liability
16 company, d/b/a GRAND SIERRA RESORT;
17 ABC CORPORATIONS; XYZ
18 PARTNERSHIPS; and JOHN DOES I through
19 X, inclusive,

20 Defendants.

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

21 **OPPOSITION TO MOTION FOR PARTIAL SUMMARY JUDGMENT**

22 Defendant, GRAND SIERRA RESORT ("GSR" or "Defendant"), by and through its
23 counsel of record, Cohen-Johnson, LLC, hereby files its Opposition to Motion for Partial
24 Summary Judgment in the above-entitled matter. This Opposition is made and based upon the
25 following Memorandum of Points and Authorities and the pleadings and papers on file herein.

26 **MEMORANDUM OF POINTS AND AUTHORITIES**

27 **I. INTRODUCTION**

28 In Plaintiff's Motion for Partial Summary Judgment, Plaintiff asks the Court to find for
Golden Road Motor Inn dba Atlantis Casino Resort Spa ("Atlantis" or "Plaintiff") and against
the Defendants as to liability only on Plaintiff's claims for (1) Breach of Contract –

1 Confidentiality Agreements as to Islam; (2) Breach of Contract – Non-Compete Agreement as to
2 Islam; (3) Conversion of Property as to Islam; (4) Tortious Interference with Contractual
3 Relations and Prospective Economic Advantage as to Islam and GSR; and (5) Violation of
4 Uniform Trade Secret Act, NRS 600A.010 et. seq. as to Islam and GSR.

5 Unfortunately for Plaintiff, there are numerous issues of material fact.

6 **II. BRIEF STATEMENT OF FACTS**

7 Defendant GSR incorporates by reference the statement of facts contained in Islam's
8 Opposition to Plaintiff's motion for summary judgment.

9 **III. LEGAL STANDARDS AND ARGUMENT**

10 **A. SUMMARY JUDGMENT STANDARD**

11 N.R.C.P. 56, states in pertinent part:

12 (a) For claimant. A party against whom a claim, counterclaim, or
13 cross-claim is asserted or a declaratory judgment is sought may, at
14 any time, move with or without supporting affidavits for a
15 summary judgment in his favor as to all or any part thereof.

16 (b) For Defending Party. A party against whom a claim,
17 counterclaim, or cross-claim is asserted or a declaratory judgment
18 is sought may, at any time, move with or without supporting
19 affidavits for a summary judgment in the party's favor as to all or
20 any part thereof.

21 (c) Motion and proceedings thereon. The judgment sought shall be
22 rendered forthwith if the pleadings, depositions, answers to
23 interrogatories, and admissions on file, together with the affidavits,
24 if any, show that there is no genuine issue as to any material fact
25 and that the moving party is entitled to a judgment as a matter of
26 law.

27 Summary judgment is appropriate only "where there is no legally sufficient evidentiary
28 basis for a reasonable jury to find for the nonmoving party." *Moss v. Washoe Med. Ctr., Inc.*,
2006 U.S. Dist. LEXIS 11781 at 2 (D. Nev. 2006); *see* NRCP 56(c). To satisfy this threshold,
the moving party must successfully establish two different burdens. The movant must make a
prima facie case for summary judgment in its favor by establishing that: (1) there is an apparent
absence of any genuine dispute of material fact (the "burden of production"), and (2) that the

1 movant is entitled to judgment as a matter of law on the basis of the undisputed facts (the
2 “burden of persuasion”). *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Calderone v. United*
3 *States*, 799 F.2d 254, 259 (6th Cir 1986).

4 Essentially, the party moving for summary judgment bears the initial burden of
5 production to demonstrate that the requisite standard for summary judgment has been met. *See*
6 NRCP 56(c); *Butler v. Bogdonavich*, 101 Nev. 449 (1985); *Pacific Pool Construction Co. v.*
7 *McClain's Concrete, Inc.*, 101 Nev. 557 (1985); *Celotex Corp.*, 477 U.S. at 323; *British Airways*
8 *Board v. Boeing Co.*, 585 F.2d 946, 951 (9th Cir 1978). The moving party, therefore, bears a
9 “heavy burden” of demonstrating the absence of any material issues of fact, because summary
10 judgment is a “drastic device” that cuts off a party's rights to present his or her case at trial.
11 *Posadas v. City of Reno*, 109 Nev. 448 (1993); *Nationwide Life Insurance Company v. Bankers*
12 *Leasing Association, Inc.*, 182 F.3d 157, 160 (2d Cir. 1999).

13 To meet the burden of production, the moving party must identify and cite for the
14 Court the parts of the record that indicate the absence of a genuine issue of material fact. NRCP
15 56(c); *see also Premiere Digital Access, Inc. v. Cent. Tel. Co.*, 360 F. Supp. 2d 1161 (D. Nev.
16 2005); *Clauson v. Lloyd*, 103 Nev. 432 (1987). Alternatively, the moving party may identify for
17 the Court the parts of the record the absence of a genuine issue of material fact. *See Flint v.*
18 *Dennison*, 488 F.3d 816 (9th Cir. 2007). If the moving party fails to meet the initial burden of
19 production, the opposing party is under no obligation to produce anything. *Adickes v. S.H. Kress*
20 *& Co.*, 398 U.S. 144 (1970); *Burns v. Mayer*, 175 F. Supp. 2d 1259 (D. Nev. 2001).

21 NRCP 56(c) requires a motion for summary judgment to be supported or opposed
22 by verified pleadings, discovery, admissions, and affidavits. *See Vermeff v. City of Boulder City*,
23 119 Nev. 549 (2003). However, as for the moving party, the Court may only consider materials
24 that would be admissible under the rules of evidence at trial. *See Fraser v. Goodale*, 342 F.3d
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26
27
28

1 1032 (9th Cir. 2003); *see also* *Maes v. Henderson*, 33 F. Supp. 2d 1281 (D. Nev. 1999). Unlike
2 the movant, the non-moving party is not required to produce evidence in a form that would be
3 admissible at trial. *See Nichols v. Byrd*, 435 F. Supp. 2d 1101, 1104-05 (D. Nev. 2006); *see also*
4 *Maes v. Henderson*, 33 F. Supp. 2d 1281 (D. Nev. 1999).

5 B. THE DECLARATIONS AND EXHIBITS TO THE MOTION ARE INADEQUATE

6 NRCP 56(e) permits parties to use affidavits to support or oppose a motion for summary
7 judgment. Affidavits "shall be made on personal knowledge shall set forth the facts as would
8 admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the
9 matters stated therein." NRCP 56(e); *see Catrone v. 105 Casino Corp.*, 82 Nev. 166 (1966).
10 Accordingly, a supporting memorandum, not sworn or in affidavit form, which makes factual
11 assertions, will not meet the requirements of Rule 56(e) and, therefore, cannot be relied upon by
12 a Court in establishing the basis for summary judgment. *Macklin v. Butler*, 553 F.2d 525 (7th Cir
13 1977).

14 Due to the aforementioned requirement, motions for summary judgment are generally
15 based in whole or in part on affidavits or declarations. Affidavits may not be set forth in a
16 conclusory manner without factual support in the record, but instead must be stated specifically
17 and be made under oath and signed before a notary public. *See King v. Carlidge*, 121 Nev. 926,
18 928 (2005); *Moss v. Washoe Med. Ctr., Inc.*, 2006 U.S. Dist. LEXIS 11781 (D. Nev. 2006);
19 *Hickman v. Meadow Wood Reno*, 96 Nev. 782 (1980).

20 In addition to affidavits and declarations, parties may also include documents to support
21 or oppose the motion for summary judgment. To use supporting documents, parties must comply
22 with the following: (1) the documents must be part of the record before the trial court; (2) the
23 documents must be attached to an affidavit that meets the requirements of NRCP 56(e); (3) the
24 documents must be authenticated under the rules of evidence for admissibility at trial; (4) the
25 documents must be authenticated under the rules of evidence for admissibility at trial; (4) the
26 documents must be authenticated under the rules of evidence for admissibility at trial; (4) the
27 documents must be authenticated under the rules of evidence for admissibility at trial; (4) the
28 documents must be authenticated under the rules of evidence for admissibility at trial; (4) the

1 document must actually be admissible under the rules of evidence applicable at trial through the
2 testimony of the affiant or declarant. *See In Re Citric Acid Litig.*, 191 F.3d 1090 (9th Cir. 1999);
3 *Orr v. Bank of Am.*, 285 F.3d 764 (9th Cir. 2002); *Havas v. Hughes Estate*, 98 Nev. 172 (1982);
4 *Cranmore v. UNUM Provident Corp.*, 430 F. Supp. 2d 1143, 1148-49 (D. Nev. 2006); *Sea-Kand*
5 *Serv., Inc., v. Lozen Int'l, LLC*, 285 F.3d 808 (9th Cir. 2002).

6
7 In this case, the only evidence before this Court is Defendants' supporting
8 memorandum along with several self-serving declarations; exhibits consisting of unauthenticated
9 documents and transcripts, and unverified pleadings on record in this matter. Defendants' use of
10 unauthenticated exhibits in support of their Motions is improper because failure to authenticate
11 documents does not comport with the rules of evidence regarding admissibility at trial.

12 Furthermore, a self-serving affidavit (in this case, a declaration) bears on credibility. *See*
13 *SEC v. Phan*, 500 F.3d 895 (9th Cir. 2007); *United States v. Shumway*, 199 F.3d 1093 (9th Cir.
14 1999); *In re Kaypro*, 218 F.3d 1070 (9th Cir. 2000); *Paine v. City of Lompoc*, 265 F.3d 975 (9th
15 Cir. 2001). This is a circumstance that may lead the court to deny the motion for summary
16 judgment -- particularly if the motion is made in the early stage of the case. *Dennison v. Allen*
17 *Group Leasing Corp.*, 110 Nev. 181, 871 P.2d 288 (1994).

18
19 C. LIABILITY HAS NOT BEEN ESTABLISHED AS TO THE FOURTH CLAIM FOR
20 RELIEF AGAINST DEFENDANT GSR.

21 The Plaintiff's Fourth Claim for relief is for Tortious Interference with Contractual
22 Relations and Prospective Economic Advantage as to GSR. Plaintiff seeks to have this court
23 grant summary judgment as to liability against defendant GSR. To prevail on this claim the
24 Plaintiff must prove: 1) a valid and existing contract; 2) the defendant's knowledge of the
25 contract; 3) intentional acts intended or designed to disrupt the contractual relationship; 4) actual
26 disruption of the contact; and 5) resulting damage. *J.J. Industries, LLC v. Bennett*, 119 Nev. 269,
27 274, 71 P. 3d 1264, 1267 (2003).
28

1 Plaintiff's motion for summary judgment should be denied as to liability since issues of
2 fact clearly exist as to element one; whether there is a valid or existing contract. If the contract at
3 issue, in this case a non-competition agreement is not valid or enforceable there can be no
4 interference with contract. It will be necessary for the court to have a hearing on the merits to
5 make a final determination as to the validity or enforceability of the contract before summary
6 judgment could be granted. During the course of this litigation it has become clear that there are
7 a number of defenses and issues that could affect the validity and enforceability of the contract in
8 question.
9

10 **1. The Non-Competition Agreement is Unenforceable Due to Duress.**

11 As set forth in her deposition Islam testified about the circumstances under which she
12 signed the non-compete agreement. Islam testified that Frank DeCarlo came into her office
13 earlier in the day and told her to sign the agreement and not to worry about it because no court
14 would enforce it basically due to a lack of consideration. Islam indicated she would like to think
15 about it and discuss the matter with an attorney. Within a few hours DeCarlo returned in an
16 agitated and threatening state and demanded that Islam sign the agreement right then because he
17 had a meeting at one o'clock and he had to have all the agreements signed by then. When Islam
18 still had issues with the agreement Islam was basically told you can either sign it or you will be
19 terminated. Under this duress Islam signed the agreement. Whether the agreement would be
20 enforceable under these circumstances is a question of fact which must be determined at a
21 hearing on the merits. *See*, Islam deposition attached as Exhibit 1.
22
23

24 The doctrine of economic duress is designed to "preclude the wrongful exploitation of
25 business exigencies to obtain disproportionate exchanges of value." Rich & Whillock, 157
26 Cal.App.3d at 1159, 204 Cal.Rptr. at 90. A claim of economic duress hinges on a showing of
27 "the doing of a wrongful act which is sufficiently coercive to cause a reasonably prudent person
28

1 faced with no reasonable alternative to succumb to the perpetrator's pressure." Rich & Whillock,
2 Inc. v. Ashton Development, Inc., 204 Cal.Rptr. 86, 89 (Ct.App.1984). Amoroso Const. Co. v.
3 Lazovich & Lazovich, 810 P.2d 775 (1991) (Jury found three signed releases were not
4 enforceable because they were signed under duress, in fear that Amoroso would withhold
5 payment on other current projects)

6
7 In Rich & Whillock, a California court found economic duress where a developer, with
8 knowledge of the plaintiff's dire financial position, offered to pay the plaintiff an unfairly
9 insufficient amount to settle a claim when the plaintiff had no alternative other than to accept.

10 In Thompson Crane & Trucking Co., v. Eyman, 123 Cal App. 2d 904(1954) , the court
11 found economic duress where an accountant, on the day before a tax deadline, demanded extra
12 payment for his services above the amount already agreed to. Id. at 1045-46. The court found
13 that the plaintiff agreed to the increase only because the plaintiff would be subject to an
14 assessment which would result in his "financial ruin" if the tax forms were not mailed that
15 day. Id. at 1044. The court found that because of the time constraints there was no other
16 alternative to prevent the threatened loss; therefore, the plaintiff was excused from performance
17 due to economic duress. Id. at 1047.

18
19 In the case before the court Islam was pressured in a menacing manner by DeCarlo and
20 given the choice of signing the non-competition agreement or being terminated. For a single
21 working mother the prospect of being suddenly terminated was clearly economic duress and
22 obviously such is an issue of fact which would prevent the court from granting summary
23 judgment against GSR since a reasonable trier of fact could find the non-compete agreement
24 void and unenforceable.

25
26 **3. The Non-Competition Agreement Is Against Public Policy And Is**
27 **Unconscionable.**

28 The Supreme Court of Nevada has addressed the issue of post-employment anti-

1 competitive clauses in a number of cases. In *Camco, Inc. v. Baker*, 113 Nev. 512, 936 P.2d 829
2 (1997), a former employer brought action against former management employees, seeking to
3 enforce a restrictive covenant in an employment agreement. While the Court agreed that the
4 post-employment anti-competition clause had been supported by sufficient consideration in
5 accordance with the majority rule, it determined that a provision in the non-competition clause
6 which restricted former management employees from competing in any area within 50 miles of
7 an area targeted for corporate expansion by the employer was unreasonable. The Court upheld
8 the decision of the Eighth Judicial District Court which had denied the employers request for
9 preliminary injunction.
10

11 In analyzing the enforceability of a post-employment anti-competition agreement, the
12 Court stated that it must consider whether such a covenant would likely be deemed reasonable or
13 void as against public policy. *Id.* 113 Nev. at 518, 936 P.2d at 832. The *Camco* Court looked to
14 the case of *Hanson v. Edwards*, 83 Nev. 189, 426 P.2d 792 (1967) where that Court held:
15

16 An agreement on the part of an employee not to compete with his employer after
17 termination of the employment is in restraint of trade and will not be enforced in
18 accordance with its terms unless the same are reasonable. Where the
19 public interest is not directly involved, the test usually stated for determining the
20 validity of the [non-competition] covenant as written is whether it imposes upon
21 the employee any greater restraint than is reasonably necessary' to protect the
22 business and goodwill of the employer. *A restraint of trade is unreasonable, in the absence of statutory authorization or dominant or social or economic*
23 *justification, if it is greater than is required for the protection of the person for*
whose benefit the restraint is imposed or imposes undue hardship upon the person
restricted The period of time during which the restraint is to last and the territory
that is included are important factors to be considered in determining the
reasonableness of the agreement.

24 *Emphasis in original, Camco* 113 Nev. at 51,8, 936 P.2d at 832 - 833, quoting, *Hanson*, supra,
25 Nev. at 191 - 192, 426 P.2d at 793. The *Camco* Court also referenced the case of *Ellis v.*
26 *McDaniel*, 95 Nev. 455, 596 P.2d 222 (1979) where the Court held:

27 There is no inflexible formula for deciding the ubiquitous question of
28 reasonableness. However, because the loss of a person's livelihood is a very

1 serious matter, post-employment anti-competitive covenants are scrutinized with
2 greater care ...

3 Camco 113 Nev. at 518, 936 P.2d at 833, quoting, Ellis 95 Nev. at 458 - 459, 596 P.2d at 224.

4 The Camco Court also referenced the case of Weatherford Oil & Tool Co. v.
5 Campbell, 327 S.W. 2d 76 (Tex. Civ. App. 1959) where that Court held that a geographical
6 restriction "in any area where [employer] may be operating or carrying on business" void as
7 unlimited as to territory. Camco 113 Nev. at 520, 936 P.2d at 834, citing, Weatherford, 327 S.W.
8 2d at 77. The Camco Court concluded that the provisions at issue are unreasonable in territorial
9 scope and therefore unenforceable as against public policy.

10
11 Finally, in Jones v. Deeter, 112 Nev. 291, 913 P.2d 1272 (1996) an employer brought
12 action against his former employee, seeking to enforce a restrictive covenant. The Nevada
13 Supreme Court held that the restrictive covenant prohibiting the employee from competing with
14 the employer within a 100 mile radius for five (5) years after leaving employment was per se
15 unreasonable and unenforceable. In so holding, the Court applied the test for determining
16 whether a covenant not to compete is enforceable which was set forth in Hansen, supra. While
17 the former employee argued that the provisions set forth in Section 613.200 of the Nevada
18 Revised Statutes - which makes willful interference with a former employee obtaining
19 employment elsewhere in the state a gross misdemeanor - does not render post-employment anti-
20 competitive covenants unenforceable, the reasonableness test set forth in Hanson, applies. Thus,
21 the amount of time a covenant lasts, the territory it covers and the hardship imposed upon the
22 person restricted, are factors for the Court to consider in determining whether such a covenant is
23 reasonable. Jones Nev. at 296, 913 P.2d at 1275, quoting, Hansen, 83 Nev. at 191, 426 P.2d at
24 793. The Jones Court concluded that the covenant at issue in that case was not reasonable and
25 that it was, therefore, unenforceable. *Id.*

26
27 Since the court must apply a reasonableness test in this case it cannot do so without a trial
28

1 on the merits. Factual issues exist which would determine the reasonableness of the covenant,
2 especially as it relates to the hardship imposed. The court cannot determine that factual issue
3 without a trial on the merits. Pursuant to the arguments and authorities expressed above, GSR
4 submits that the terms of the restrictive covenant unreasonable, both as to scope and duration. A
5 one year time period is unreasonable and a restriction from being employed in any capacity in
6 any gaming company is not only unreasonable, but also unconscionable given Islam's financial
7 and personal situation and without social or economic justification—it imposes an undue
8 hardship on Islam.
9

10 **4. GSR Is Protected By The Privilege Of Competition.**

11 Plaintiff cannot prevail on its claims because any action of GSR is protected by the
12 privilege of competition. What this litigation is really about is Plaintiff's attempt to limit
13 all competition, not merely unfair competition.
14

15 In *Crockett v. Sahara Realty Corp.*, the Supreme Court of Nevada specifically recognized
16 free competition as a privilege or justification for interference with prospective business
17 advantage. 591 P.2d 1135, 1136 (Nev. 1979). The court stated that:

18 Perhaps the most significant privilege or justification for interference with a
19 prospective business advantage is free competition. Ours is a competitive
20 economy in which business entities vie for economic advantage. In a sense, all
21 vendees are potential buyers of the products and services of all sellers in a given
22 line, and success goes to him who is able to induce potential customers not to deal
23 with a competitor. Thus, as Prosser states: So long as the plaintiff's
24 contractual relations are merely contemplated or potential, it is considered to be in
25 the interest of the public that any competitor should be free to divert them to
26 himself by all fair and reasonable means.

27 *Id.* (quoting *Buckaloo v. Johnson*, 537 P.2d 865, 872 (Cal. 1975)). As later courts have
28 explained, [p]rivilege or justification can exist when defendant acts to protect his own
interests. *Custom Teleconnect, Inc. v. Int'l Tele-Sen's, Inc.*, 254 F. Supp. 2d 1173, 1181 (D. Nev.
2003); see also *Leavitt v. Leisure Sports Inc.*, 734 P.2d 1221, 1226 (Nev. 1987). Further, the

1 gravamen of [an interference with prospective economic advantage] cause of action is that
2 the interference be unlawful or resort to improper means. Thus, a competitor is privileged to
3 divert business to itself by all fair and reasonable means. *Id.*

4 Consequently, when alleging interference with prospective business advantage, a plaintiff
5 must show that the means used to divert the prospective advantage was unlawful, improper or
6 was not fair and reasonable. *Id.* The Ninth Circuit has elaborated on the factors necessary to
7 prove privilege of competition, stating that a firm's interference with another's prospective
8 economic relation falls within the privilege of competition as long as: (1) the relation concerns a
9 matter involved in the competition between the firm and the other; (2) the firm does not employ
10 wrongful means; (3) the firm's action does not create or continue an unlawful restraint of trade;
11 and (4) the firm's purpose is at least in part to advance its interest in competing with the other.

12
13 *L.A. Land Co. v. Brunswick Corp.*, 6 F.3d 1422, 1431 (9th Cir. 1993) (citation omitted).

14 Although the *L.A. Land* case deals with California state law, its discussion is instructive. The
15 present case satisfies all of the factors necessary to establish a competition defense. GSR and all
16 gaming properties in the Reno area have marketed to publicly known customers through
17 legitimate means of competition, and has done so to advance its interest in competing with the
18 Plaintiff. Therefore, the alleged interference with Plaintiff's business advantage is justified, and
19 Plaintiff cannot establish its claim. Although Plaintiff alleges that GSR's contact with Defendant
20 Islam was an inducement to breach her contract, that claim is still very much in dispute: there are
21 material issues of fact regarding whether GSR did in fact induce a breach of the non-competition
22 agreement, because it is unclear as to whether the restrictions in the agreement are enforceable.
23 Therefore, GSR's actions are justified by the privilege of competition, and regardless, issues of
24 material fact remain that preclude summary judgment on Plaintiff's interference claim.
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1 **5. Plaintiff Cannot Establish That GSR's Actions Caused Its Alleged Damage.**

2 Plaintiff claims that it has been harmed by GSR's actions because GSR sent
3 communications to customers that have gambled at the Atlantis. Plaintiff has not, however,
4 demonstrated that it was GSR's behavior that actually caused these customers to gamble at GSR
5 or whether they stopped gambling at the Atlantis or that they gambled less at the Atlantis; or that
6 they would have lost and not won at the Atlantis, and that but for GSR's interference, those
7 customers would still be gambling at Atlantis. Plaintiff has produced no evidence that any
8 alleged customer of Atlantis has stopped gambling there and will not gamble at Atlantis in the
9 future. Atlantis cannot prove which customers, if any, left Atlantis due to any action of GSR, or
10 simply because they were dissatisfied with their treatment at Atlantis after Ms. Islam left the
11 Atlantis. This is not unusual, Atlantis must admit that a certain amount of customers typically
12 follow a casino host or go elsewhere after a host leaves the casino. There could be any number of
13 reasons for a customer to try other casinos; simply the fact that GSR may have contacted some of
14 these customers, which it was entitled to do as stated above, is insufficient to establish causation.
15 Further, as discussed above, even if those customers did switch to GSR as a result of GSR's
16 contacts, these actions were justified by the competition privilege.

17 If a party cannot demonstrate that the alleged interference was a result of the defendant's
18 conduct, a claim for interference with prospective business advantage must fail. *See,*
19 *e.g., Wichinsky v. Mosa*, 847 P.2d 727, 730 (Nev. 1993) (finding that the plaintiff's
20 interference with prospective economic advantage claim failed, in part because the plaintiff did
21 not offer evidence that the reduced purchase price offered from a third party was due to the
22 action of the defendant and the evidence suggested several other plausible explanations); *see*
23 *also Rotec Indus., Inc. v. Mitsubishi Corp.*, 348 F.3d 1116, 1122 (9th Cir. 2003) (affirming the
24 district court's dismissal of the action because the plaintiff failed to demonstrate causation
25 26
27 28

1 between the allegedly improper interference and the damage to the economic
2 relationship); Guam Paradise Co. v. Mitsubishi Corp., Ltd., 12 F.3d 1106, 1993 WL 497217, at
3 *1 (9th Cir. 1993) (denying summary judgment where the plaintiff could not prove causation for
4 its interference with prospective economic advantage claim, because the plaintiff offer[ed] no
5 significant, probative evidence to establish that it was reasonably probable it would have
6 obtained the contract [at issue] but for [the defendant's] wrongful interference.). After all a
7 contact or an offer to an alleged Atlantis customer establishes nothing. In a free market place the
8 customer could accept the GSR offer and visit GSR, but then could still visit Atlantis and
9 gamble; therefore, Plaintiff's claim of damage is entirely speculative. Accordingly, because
10 Plaintiff has not offered any evidence that its alleged harm was actually the result of conduct by
11 GSR, its claim for intentional interference with a business advantage cannot stand,
12 and summary judgment must be denied.

13
14
15 **6. Summary Judgment Must Be Denied Because Atlantis Has Not Shown That**
16 **Anything Islam May Have Taken Was Confidential.**

17 Summary judgment must be denied because Plaintiff has not demonstrated that any
18 information brought to GSR was confidential, or that GSR had knowledge that Ms. Islam
19 brought any information with her that was confidential. Ms. Islam has testified that she was not
20 told to bring any information with her by GSR. Ms. Islam also testified that she never informed
21 GSR that she had brought any information with her. GSR did not learn of any note books or any
22 other information that Ms. Islam may have brought with her until such was produced by Ms.
23 Islam in this litigation. In fact Tom Flaherty testified that he told her to just bring herself and
24 nothing else.

25
26 The critical fact is that the contents of Atlantis's customer lists are in no way confidential.
27 The information contained therein regarding the names and addresses of Ms. Islam's customers
28 are readily ascertainable from public sources. Nor does it matter that the Atlantis agreements

1 characterizes their customer lists as confidential - because the identity of the customers is public
2 information that can be easily obtained, such information *is not confidential as a matter of law*. It
3 does not matter that the Agreements characterize their customer list as confidential
4 information. *See Cambridge Filter Corp. v. International Filter Co., Inc.*, 548 F. Supp. 1301,
5 1306 (D. Nev. 1982) (An agreement between the employer and the employee that something is a
6 trade secret or confidential is not controlling if in fact it is not.) (citing *Ingrassia v. Bailey*, 117
7 Cal. App. 2d 117, 123-24, 341 P.2d 370, 375 (Ct. App. 1959)); *Eaton Corp. v. Appliance Valves*
8 *Corp.*, 526 F. Supp. 1172, 1178 (N.D. Ind. 1981), *aff'd*, 688 F.2d 842 (7th Cir. 1982) (although
9 employees had signed non-disclosure agreements, the court refused to issue an injunction,
10 explaining that [l]abeling information 'trade secret' or 'confidential information' is not
11 conclusive. The Court must look to more than labels.). *See also Thompson v. Impaxx, Inc.*, 113
12 Cal. App. 4th 1425, 1430, 7 Cal. Rptr. 3d 427, 430 (Ct. App. 2003) (Labeling information as a
13 trade secret or confidential information does not conclusively establish that the information fits
14 this description.); *Cincinnati Tool Steel Co. v. Breed*, 136 Ill. App. 3d 267, 275, 482 N.E.2d 170,
15 175 (App. Ct. 1985) (refusing to enforce confidentiality agreement, explaining that
16 confidentiality agreements like covenants not to compete should only be enforceable if ... the
17 information which they seek to protect is in fact confidential); *Am. Shippers Supply Co. v.*
18 *Campbell*, 456 N.E.2d 1040, 1044 (Ind. Ct. App. 1983) (despite employment agreement stating
19 that customer lists and contact information were confidential, employer failed to meet its burden
20 of showing that said information was, in fact, confidential).

21
22
23
24 **7. Atlantis Cannot Establish That GSR Interfered With Atlantis's Prospective**
25 **Business Advantage**

26 Atlantis's interference with prospective business advantage claim asserts that there exists
27 a prospective relationship between Atlantis and its customers of which GSR was aware through
28 information from Ms. Islam, and GSR intended to and did harm Atlantis by contacting these

1 customers without justification. This argument fails for several reasons, including: (1) the
2 identity of these customers is not confidential and can be easily determined from public sources;
3 (2) the customers are not the exclusive property of Atlantis; (3) GSR's actions are protected by
4 the privilege of competition; and (4) Atlantis cannot establish that GSR's actions caused
5 Atlantis's alleged harm.

6
7 **8. Atlantis Cannot Prove, Under The Standard Set Forth In Relevant Case Law,
That GSR Acted Intentionally To Disrupt Its Contract With Islam.**

8
9 One of the critical elements of a claim of intentional interference with a contract is
10 intentional acts intended or designed to disrupt the contractual relationship. *See, e.g., J.J. Indus.,*
11 *LLC v. Bennett*, 71 P.3d 1264, 1267 (New 2003). As the Supreme Court of Nevada has asserted,
12 one does not commit the necessary intentional act ... merely by entering into an agreement with
13 knowledge that the other party cannot perform because there is an existing contract between the
14 other party and a third person. *Id.* at 1268. Further, [t]he fact of a general intent to interfere,
15 under a definition that includes imputed knowledge of consequences, does not alone suffice to
16 impose liability, but rather [i]nquiry into the motive or purpose of the actor is necessary. *Nat'l*
17 *Right to Life Political Action Comm. v. Friends of Bryan*, 741 F. Supp. 807, 814 (D. New
18 *1990*) (quoting *DeVoto v. Pacific Fid. Life Ins. Co.*, 618 F.2d 1340, 1347 (9th Cir. 1980)). Thus,
19 in cases alleging an intentional interference with a contract, the court must consider the party's
20 motive, and whether the person pursue[d] an improper objective of harming Plaintiff or use [d]
21 wrongful means that in fact caused injury to Plaintiffs contractual relationship. *Id.* at 815; *see*
22 *also J.J. Indus., LLC*, 71 P.3d at 1268 (noting that such an inquiry usually concerns the
23 defendant's ultimate purpose or the objective that he or she is seeking to advance, such that mere
24 knowledge of the contract is insufficient to establish that the defendant intended or designed to
25 disrupt the plaintiffs contractual relationship).

26
27
28 Under these cases, it is *not* enough that GSR knew of Islam's non-compete agreement,

1 and hired Islam anyway. If GSR believed that it was not pursuing an improper purpose, and if it
2 was not using wrongful means, then there is no liability. The intent of GSR is clearly an issue of
3 fact which would prevent the entry of summary judgment.

4 What Nevada courts require to establish intent for a tortious interference claim, is not as
5 set forth in the movant's motion. Atlantis suggests that intent may be proven if the defendant
6 knows of the contract and then itself hires that employee. Nevada courts require deeper inquiry
7 than Atlantis indicates. *See J.J. Indus., LLC*, 71 P.3d at 1267-68; *see also Nat'l Right to Life*
8 *Political Action Comm.*, 741 F. Supp. at 814-15. These cases make clear that simply having
9 knowledge of the contract is insufficient to support a claim for tortious interference. Rather, the
10 court must delve deeper into the party's motive, and find that that party acted improperly or
11 wrongfully. Atlantis alleges that the fact that GSR knew about Islam's contract with Atlantis,
12 but then took steps to hire and compensate her, proves intent. Under the law in Nevada, however,
13 as discussed *supra*, these actions are clearly insufficient to establish intent. Atlantis has offered
14 no further evidence of GSR's improper motive or objective.

15
16 Significantly, then, Atlantis cannot demonstrate that GSR's actions meet the proper test
17 under relevant law. Not only has Atlantis not offered sufficient evidence, but GSR could not
18 possibly be considered to possess the requisite improper motive, because it was merely trying to
19 hire an employee whom it believed was leaving the Atlantis anyway because of the actions and
20 bad faith of Atlantis. During the time that GSR hired Islam, GSR believed that the Agreement
21 was not enforceable given its terms and the conduct of Atlantis. It therefore proceeded with the
22 hiring of Islam. In this situation, there remained *no intent* to interfere with Islam's contract with
23 Atlantis. This is because GSR did not believe there was a valid and enforceable contract with
24 Atlantis. This is because GSR did not believe there was a valid and enforceable contract with
25 Atlantis. This is because GSR did not believe there was a valid and enforceable contract with
26 Atlantis. This is because GSR did not believe there was a valid and enforceable contract with
27 Atlantis. This is because GSR did not believe there was a valid and enforceable contract with
28 Atlantis. This is because GSR did not believe there was a valid and enforceable contract with

1 proven where the party had no reason to believe that other parties had certain contractual rights,
2 and thus could not have intended that they be breached). If the person whose actions
3 interfere does not have the intent to cause the result, his conduct does not subject him to
4 liability. Straube v. Larson, 600 P.2d 371, 374 (Or. 1979). This, therefore, is sufficient to
5 preclude summary judgment on Atlantis' tortious interference claim, because the critical
6 requirement of intent necessary to prove such a claim has not been satisfied.
7

8 C. LIABILITY HAS NOT BEEN ESTABLISHED AS TO THE FIFTH CLAIM FOR
9 RELIEF AGAINST DEFENDANT GSR.

10 GSR is entitled to judgment as a matter of law on Plaintiffs' claim that GSR violated the
11 Uniform Trade Secrets Act, N.R.S. 600A.010-.100. The elements of a claim under the Nevada
12 Uniform Trade Secrets Act, N.R.S. 600A.010-.100, are that (1) the plaintiff owned a valuable
13 "trade secret"; (2) the defendant misappropriated the trade secret through use, disclosure, or
14 nondisclosure of use; and (3) the misappropriation was wrongful because it was made in breach
15 of an express or implied contract or by a party with a duty not to disclose. Frantz v. Johnson, 116
16 Nev. 455, 466, 999 P.2d 351, 358 (2000) (per curiam). A "trade secret" is any information,
17 including a design, prototype, or procedure, that (a) derives independent economic value from
18 not being generally known or readily ascertainable by the public, and (b) is the subject of
19 reasonable efforts to maintain its secrecy. Id., 116 Nev. at 466, 999 P. 2d at
20 358 (citing NRS 600A.030(5)). The determination of whether corporate information, such as
21 customer and pricing information, is a trade secret is a question for the finder of
22 fact. See Woodward Insur., Inc. v. White, 437 N.E.2d 59, 67 (Ind.1982). Factual issues to be
23 determined include:
24
25

26 (1) the extent to which the information is known outside of the business and the ease or
27 difficulty with which the acquired information could be properly acquired by others; (2) whether
28

1 the information was confidential or secret; (3) the extent and manner in which the employer
2 guarded the secrecy of the information; and (4) the former employee's knowledge of customer's
3 buying habits and other customer data and whether this information is known by the employer's
4 competitors *Id.* (citations omitted); *see also* K.H. Larsen, Annotation, Former Employee's
5 Duty, in Absence of Express Contract, Not to Solicit Former Employer's Customers or Otherwise
6 Use This Knowledge of Customer Lists Acquired in Earlier Employment, 28 A.L.R.3d 7
7 (1969) (setting forth a comprehensive list of factors for consideration of
8 whether customer information constitutes a trade secret).

10 Whether Atlantis can demonstrate to the Court that it has any trade secrets subject to
11 misappropriation under the law is a question of fact. Atlantis must demonstrate that it derives
12 independent economic value from its alleged Trade Secrets consisting is customer names and
13 addresses. A plaintiff who seeks relief for misappropriation of trade secrets must identify the
14 trade secrets and carry the burden of showing that they exist. MAI Svs. Corp. v. Peak Computer,
15 Inc., 991 F.2d 511, 522 (9th Cir. 1993). In the present matter, Atlantis has failed to carry its
16 burden of proof by submitting any competent evidence regarding this issue. Atlantis simply
17 identifies all customer information as a trade secret. Moreover, Atlantis asserts that simply
18 because this information was the subject of a contract and non-disclosure agreement that it is a
19 trade secret. However, Atlantis' sweeping generalization does not a trade secret make.

22 Assuming any such information rises to the level of being a trade secret; Atlantis has
23 failed to demonstrate that the information was misappropriated. Under the UTSA,
24 misappropriation requires Atlantis to prove scienter.

25 In Nevada, misappropriation means:

26 (a) Acquisition of the trade secret of another by a person by improper means;

27 (b) Acquisition of a trade secret of another by a person who knows or has reason to know that the
28

1 trade secret was acquired by improper means;

2 (c) Disclosure or use of a trade secret of another without express or implied consent by a person
3 who;

4 (1) Used improper means to acquire knowledge of the trade secret;

5 (2) At the time of disclosure or use, knew or had reason to know that his knowledge of
6 the trade secret was:

7 (I) Derived from or through a person who has used improper means to acquire it;

8 (II) Acquired under circumstances giving rise to a duty to maintain its secrecy or
9 limit its use; or

10 (III) Derived from or through a person who owed a duty to the person seeking
11 relief to maintain its secrecy or limit its use; or

12 (3) Before a material change of his position, knew or had reason to know that it was a
13 trade secret and that knowledge of it had been acquired by accident or mistake.

14 NRS 600A.030(2) (emphasis added). Improper means is defined by statute as follows:

15 Improper means includes, without limitation:

16 (1) Theft;

17 (2) Bribery;

18 (3) Misrepresentation;

19 (4) Willful breach or willful inducement of a breach of a duty to maintain secrecy;

20 (5) Willful breach or willful inducement of a breach of a duty imposed by common law,
21 statute, contract, license, protective order or other court or administrative order; and

22 (6) Espionage through electronic or other means.

23 Atlantis has not and cannot demonstrate that any of the alleged Trade Secrets were
24 misappropriated by GSR.

1 In fact, to the contrary, there is substantial evidence that GSR did not encourage or solicit
2 Islam to misappropriate any information that could possibly be a Trade Secret, See, deposition
3 excerpts from Tom Flaherty and Shelly Hadley attached hereto as Exhibit 2. Atlantis also fails
4 to present any evidence to this Court of any willful breach or willful inducement to breach any
5 duty owed by Islam, if one existed. All of the above issues require competent evidence for the
6 court to make any determination, which only demonstrates that without question these are all
7 issues of fact which prohibit summary judgment.
8

9 **IV. CONCLUSION**

10 Therefore, GSR requests that this Court deny Plaintiff's Motion for Partial Summary
11 Judgment.

12 Dated this 12th day of September, 2012.

13 COHEN-JOHNSON, LLC.

14
15 By: /s/ H. Stan Johnson
16 H. Stan Johnson, Esq.
17 Nevada Bar No. 00265
18 Brian A. Morris, Esq.
19 Nevada Bar No. 11217
20 6293 Dean Martin Drive, Suite G
21 Las Vegas, Nevada 89118
22 Attorneys for Grand Sierra Resort
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CERTIFICATE OF MAILING

I hereby certify that on the 12th day of September, 2012, I served a copy of the foregoing
OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT upon each of
the parties by depositing a copy of the same in a sealed envelope in the United States Mail, Las
Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

Robert A. Dotson, Esq.
Angela M. Bader, Esq.
Laxalt & Nomura, Ltd.
9600 Gateway Drive
Reno, Nevada 89521
Attorney for Plaintiff

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, Nevada 89509
Attorney for Sumona Islam

and that there is a regular communication by mail between the place of mailing and the places so
addressed.



Gabriela Suarez, an employee of Cohen-Johnson, LLC

AFFIRMATION

The undersigned certifies that this document does not contain the social security number of any person.

Dated this 13th day of September, 2012.

COHEN-JOHNSON, LLC.

By: /s/ H. Stan Johnson
H. Stan Johnson, Esq.
Nevada Bar No. 00265
Brian A. Morris, Esq.
Nevada Bar No. 11217
6293 Dean Martin Drive, Suite G
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1 **2490**
2 MARK WRAY, #4425
3 LAW OFFICES OF MARK WRAY
4 608 Lander Street
5 Reno, Nevada 89509
6 (775) 348-8877
7 (775) 348-8351 fax
8 Attorneys for Defendant SUMONA ISLAM

9
10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

11
12 IN AND FOR THE COUNTY OF WASHOE

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

16 Plaintiff,

Case No. CV12-01171

17 vs.

Dept. B7

18 SUMONA ISLAM, an individual;
19 NAV-RENO-GS, LLC, a Nevada
20 limited liability company, d/b/a
21 GRAND SIERRA RESORT; ABC
22 CORPORATIONS; XYZ PARTNERSHIPS;
23 AND JOHN DOES I through X,
24 inclusive,

25 Defendants.
26 _____/

27 **MOTION TO DISSOLVE PRELIMINARY INJUNCTION**

28 Defendant Sumona Islam, by her undersigned counsel, moves to dissolve that
portion of the preliminary injunction that restricts Islam from working for a competitor of
the Atlantis.

1 I
2 FACTS

3 On February 26, 2010, Islam signed a non-compete that stated she couldn't work
4 for a competitor of the Atlantis within 150 miles for a full year after she left. *See*,
5 Amended Complaint.

6 She left the Atlantis January 19, 2012 to take a casino host position with the Grand
7 Sierra. *Id.*

8 The Atlantis sued, claiming she had breached her non-compete and other
9 agreements. *Id.* On May 9, 2012, the Atlantis obtained an ex parte restraining order to
10 prevent Islam from working for any competitor within 150 miles. On July 5, 2012, the
11 Court issued a modified restraining order, in which Grand Sierra was told to cease
12 employing her as a casino host, if the Grand Sierra had not done so already.

13 On August 24, 2012, Islam and the other parties stipulated to entry of an
14 injunction on the same terms as the July 5, 2012 temporary restraining order. The
15 injunction states it "shall be in effect until otherwise modified pursuant to stipulation or
16 Order of the Court or to the completion of the trial on the merits scheduled for March 25,
17 2013."

18 On January 19, 2013, the one-year non-compete expired.

19 II
20 ARGUMENT

21 It was most important to Islam that the stipulation to the preliminary injunction
22 include language that allows the injunction to be modified, because as soon as the one
23 year non-compete expired, Islam intended to bring the motion she is making now.

24 In *Finkel v. Cashman Prof'l, Inc.*, 270 P.3d 1259 (Nev. 2012), the court held that
25 once the period of limitation in a non-compete expires, the agreement is unenforceable
26 and the court should dissolve the preliminary injunction. *Id.* at 1265.

27 Accordingly, Islam requests that in recognition of the law pronounced in *Finkel*,
28 which holds that a non-compete that has terminated by its terms is no longer enforceable,

1 that portion of the injunction which prevents her from working for a competitor of the
2 Atlantis should be dissolved to allow her to go back to work.

3 DATED: Feb. 7, 2013 LAW OFFICES OF MARK WRAY

4
5 By 
6 MARK WRAY
7 Attorney for Defendant SUMONA ISLAM
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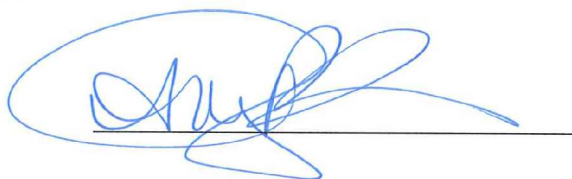
CERTIFICATE OF SERVICE

The undersigned employee of the Law Offices of Mark Wray certifies that a true copy of the foregoing document was sealed in an envelope with first class postage prepaid thereon and deposited in the U.S. Mail at Reno, Nevada on

FEBRUARY 7, 2013 addressed as follows:

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

Steven B. Cohen
Stan Johnson
Cohen/Johnson
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AFFIRMATION

The undersigned certifies that this document does not contain the Social Security
number of any person.

DATED: Feb. 7, 2013 Mark Wray
MARK WRAY

1 CERTIFICATE OF SERVICE

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

- 5 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
6 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
7 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
8 area is given the correct amount of postage and is deposited that same date in the
9 ordinary course of business, in a United States mailbox in the City of Reno,
10 County of Washoe, Nevada.
- 11 ☒ By electronic service by filing the foregoing with the Clerk of Court using the E-
12 Flex system, which will electronically mail the filing to the following individuals.
- 13 ☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand
14 delivered this date to the address(es) at the address(es) set forth below.
- 15 ☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to
16 be telecopied to the number indicated after the address(es) noted below.
- 17 ☐ Reno/Carson Messenger Service.
- 18 ☒ By email to the email addresses below.

19 addressed as follows:

20 Steven B. Cohen, Esq.
21 Stan Johnson, Esq.
22 Cohen/Johnson
23 6293 Dean Martin Drive, Ste G
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scohen@cohenjohnson.com
sjohnson@cohenjohnson.com

25 DATED this 22 day of August, 2012.

26 
27 L. MORGAN BOGUMIL
28

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13 Attorneys for Plaintiff

14 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

15 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

19 Plaintiff,

20 vs.

21 SUMONA ISLAM, an individual; NAV-RENO-
22 GS, LLC, a Nevada limited liability company,
23 d/b/a GRAND SIERRA RESORT; ABC
24 CORPORATIONS; XYZ PARTNERSHIPS;
25 AND JOHN DOES I through X, inclusive.

26 Defendants.

27 **STIPULATION FOR PRELIMINARY INJUNCTION**

28 Plaintiff, GOLDEN ROAD MOTOR INN, INC. d/b/a ATLANTIS CASINO RESORT
SPA ("Plaintiff"), by and through its counsel, Laxalt & Nomura, and Defendants, SUMONA
ISLAM, by and through her counsel, Mark Wray, and NAV-RENO-GS, LLC d/b/a GRAND
SIERRA RESORT ("GSR"), by and through its counsel, Cohen/Johnson, hereby stipulate to a
Preliminary Injunction in favor of Plaintiff, which will continue the terms of the Temporary
Restraining Order attached hereto as Exhibit 1 which was entered against Defendants Sumona
Islam and GSR on July 5, 2012, until otherwise modified pursuant to stipulation or Order of the
Court or to the completion of the trial on the merits scheduled for March 25, 2013.

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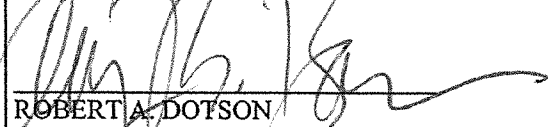
Affirmation Pursuant to NRS 239B.030

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

Dated this 23rd day of August, 2012.

LAXALT & NOMURA, LTD.

COHEN/JOHNSON



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LAW OFFICE OF MARK WRAY

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Attorneys for Defendant Sumona Islam

Affirmation Pursuant to NRS 239B.030

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

Dated this 23 day of August, 2012.

LAXALT & NOMURA, LTD.

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INDEX OF EXHIBITS

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3173135

EXHIBIT 1

EXHIBIT 1

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Clerk of the Court

Transaction # 3061306

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8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

9 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

13 Plaintiff,

14 vs.

15 SUMONA ISLAM, an individual; NAV-RENO-
16 GS, LLC, a Nevada limited liability company,
d/b/a GRAND SIERRA RESORT; ABC
17 CORPORATIONS; XYZ PARTNERSHIPS;
AND JOHN DOES I through X, inclusive.

18 Defendants.

19 **ORDER GRANTING GOLDEN ROAD MOTOR INN, INC.'S MOTION**
20 **FOR TEMPORARY RESTRAINING ORDER AGAINST DEFENDANT SUMONA**
21 **ISLAM AND AGREEMENT BETWEEN DEFENDANT NAV-RENO-GS, LLC, d/b/a**
GRAND SIERRA RESORT AND GOLDEN ROAD MOTOR INN, INC.

22 Laxalt & Nomura, Ltd., counsel for GOLDEN ROAD MOTOR INN, INC. d/b/a
23 ATLANTIS CASINO RESORT SPA ("PLAINTIFF" or "ATLANTIS"), has filed an *Ex-Parte*
24 *Motion For Temporary Restraining Order and Motion for Preliminary Injunction* asking this
25 Court to enjoin the defendants, SUMONA ISLAM ("ISLAM") and NAV-RENO-GS, LLC d/b/a
26 GRAND SIERRA RESORT ("GSR") from particular actions alleged to be in violation of several
27 agreements signed by ISLAM as a condition to her employment with ATLANTIS. This motion
28 for Temporary Restraining Order came on before the Court (Department 6) on Monday May 7,

1 2012, the honorable Brent Adams, District Judge, presiding, Plaintiff ATLANTIS appeared
2 through Robert Dotson of the law firm of Laxalt & Nomura, and Defendant GSR appeared
3 through Steven Cohen and Stan Johnson of the law firm Cohen Johnson. Sumona Islam did not
4 appear. Based upon review of the Verified Complaint, the Ex Parte Motion, the Verified
5 Amended Complaint and the affidavits attached thereto, and the arguments of counsel, the Court
6 granted the Motion as requested as to ISLAM and in a more narrowed scope as to GSR. An
7 Order was entered as to ISLAM on May 9, 2012. Shortly thereafter, the case was transferred
8 multiple times and has now been reassigned to this department. This Court convened a status
9 check on June 20, 2012.

10 This Court has reviewed all of the pleadings on file (including the Verified Complaint,
11 the Ex Parte Motion, the Verified Amended Complaint and the affidavits attached thereto, the
12 partial transcript from the May 7th hearing, and the Answers filed by each Defendant) considered
13 the arguments of counsel and has solicited and considered the proposed Orders from each party
14 and finds as follows:

15 1. ISLAM appears to have been, prior to the entry of the initial TRO, in violation of
16 at least some provisions of the various agreements regarding the use and dissemination or
17 proprietary information and trade secrets and of the non-compete agreement which were signed
18 as a condition of her employment with the ATLANTIS by having accepted employment with
19 GSR and soliciting customers of the ATLANTIS.

20 2. Based on the Affidavits of Steve Ringkob and Susan Moreno, it appears that
21 ISLAM is in possession of trade secrets and confidential information that ATLANTIS considers
22 valuable and proprietary, and that ISLAM has utilized or is likely to utilize that information in
23 her employment with GSR.

24 3. The letter from counsel for GSR indicates that GSR was in fact employing
25 ISLAM, despite having notice of the non-compete agreement.

26 4. The facts shown by affidavit and the Verified Complaint demonstrate that
27 immediate and irreparable injuries are likely to occur, or perhaps already have occurred, and that
28 the Defendants' actions must be enjoined in order to prevent further harm.

1 5. Plaintiff's counsel made reasonable efforts to notify all opposing parties of the Ex
2 Parte Motion, and Counsel for GSR did in fact receive notice and attended the May 7th hearing.
3 Since that time both Defendants have made appearances in the case and counsel for each has
4 attended the June 20th hearing, counsel for GSR by telephonic means.

5 6. Because of the likelihood that immediate and irreparable injury will occur absent
6 a temporary restraining order, and because it appears that Plaintiff is likely to succeed on the
7 merits, the Court previously granted the Motion for Temporary Restraining Order as to
8 Defendant SUMONA ISLAM and now extends the previously entered Order as to Defendant
9 Islam.

10 Accordingly, it is hereby

11 ORDERED, ADJUDGED AND DECREED that the Order entered on May 9, 2012 is
12 extended and will now, by stipulation of the Parties, expire at the conclusion of the bench trial
13 currently set to begin on August 27, 2012.

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant NAV-
15 RENO-GS, LLC dba GRAND SIERRA RESORT ("GSR") shall not directly or indirectly, or
16 through any third parties, knowingly receive any information of any nature which it has any
17 reason to believe was acquired by Defendant SUMONA ISLAM, directly or indirectly through
18 PLAINTIFF, or make use of any such information, or make use of any information which it
19 knows has been the product of information Defendant SUMONA ISLAM brought to GSR
20 through her employment;
21

22 1. Defendant NAV-RENO-GS, LLC dba GRAND SIERRA RESORT ("GSR")
23 agrees that it shall not directly or indirectly, knowingly receive any proprietary information
24 concerning any customer, customer activity, customer identity or address from Defendant
25 SUMONA ISLAM, which she obtained during her employment with the Atlantis or make use of
26 any proprietary information which it knows is proprietary information Defendant SUMONA
27 ISLAM brought to GSR through her employment;
28

2. Except in the normal course of this litigation, GSR will not cooperate with Defendant SUMONA ISLAM in any way or communicate with her concerning any confidential and proprietary trade secret information of the ATLANTIS; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that to the extent GSR has not already done so, it shall cease employing Defendant SUMONA ISLAM as a Casino Host.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff is required to post security for the Temporary Restraining Order in the amount of \$5,000 before this Order will be filed and effective.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Preliminary Injunction shall be set as a bench trial on the merits before this Court on August 27, 2012 at the hour of 9:30 a.m. A status check shall be set for August 2, 2012. The parties are to submit and exchange a list of proposed live witnesses and copies of any proposed exhibits and affidavits not previously attached to any of the motion papers by 5:00 p.m. on August 17, 2012. Any trial briefs, if any, shall be submitted to the Court no later than 5:00 p.m. on August 22, 2012.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to the stipulation of the parties at the June 20th hearing this Temporary Restraining Order shall remain in effect until the conclusion of the bench trial scheduled to proceed on August 27, 2012.

DATED this 5 day of July, 2012.

Patrick Flanagan
DISTRICT JUDGE

Respectfully submitted,
LAXALT & NOMURA, LTD

By:

ROBERT A. DOTSON (NSB # 5285)
ANGELA M. BADER, ESQ. (NSB #5574)

FILED

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Joey Orduna Hastings
Clerk of the Court
Transaction # 3174446

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9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **ORDER ON STIPULATION FOR PRELIMINARY INJUNCTION**

23 Pursuant to the Stipulation For Preliminary Injunction, on file herein, and good cause
24 appearing,

25 ///

26 ///

27 ///

28 ///

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

1 IT IS HEREBY ORDERED that a Preliminary Injunction shall issue in favor of Plaintiff,
2 on the terms of the Temporary Restraining Order entered on July 5, 2012, and be in effect until
3 otherwise modified pursuant to stipulation or Order of the Court or to the completion of the trial
4 on the merits scheduled for March 25, 2013.

5 Dated this 24 day of AUGUST, 2012.

6
7 Patrick Flanagan
8 DISTRICT COURT JUDGE

9 Respectfully submitted,

10 LAXALT & NOMURA, LTD

11
12 By: Robert A. Dotson
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13 Attorneys for Plaintiff

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11 GOLDEN ROAD MOTOR INN, INC., a Nevada
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13 RESORT SPA

Case No.: CV12-01171

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14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **NOTICE OF ENTRY OF ORDER**

23 PLEASE TAKE NOTICE, that an Order on Stipulation For Preliminary Injunction, was
24 entered on August 24, 2012, a copy of which is attached hereto as Exhibit 1.

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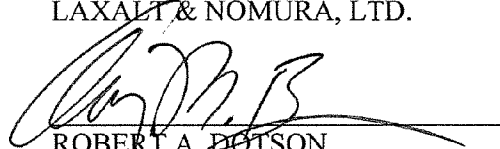
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Affirmation Pursuant to NRS 239B.030

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

Dated this 29th day of August, 2012.

LAXALT & NOMURA, LTD.



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Attorneys for Plaintiff

1 CERTIFICATE OF SERVICE

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

5 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
6 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
7 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
8 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.

9 ☒ 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.

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

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

14 ☐ Reno/Carson Messenger Service.

15 ☒ By email to the email addresses below.

16 addressed as follows:

17 Steven B. Cohen, Esq.
18 Stan Johnson, Esq.
19 Cohen/Johnson
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Las Vegas, NV 89118

Mark Wray, Esq.
Law Office of Mark Wray
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mwray@markwraylaw.com

20 scohen@cohenjohnson.com
21 sjohnson@cohenjohnson.com

22 DATED this 24 day of August, 2012.

23 
24 L. MORGAN BOGUMIL
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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PAGES
1	Order on Stipulation For Preliminary Injunction	3

EXHIBIT 1

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Joey Orduna Hastings
Clerk of the Court
Transaction # 3174744

EXHIBIT 1

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3174446

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15 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

19 Plaintiff,

20 vs.

21 SUMONA ISLAM, an individual; NAV-RENO-
22 GS, LLC, a Nevada limited liability company,
23 d/b/a GRAND SIERRA RESORT; ABC
24 CORPORATIONS; XYZ PARTNERSHIPS;
25 AND JOHN DOES I through X, inclusive.

26 Defendants.

27 **ORDER ON STIPULATION FOR PRELIMINARY INJUNCTION**

28 Pursuant to the Stipulation For Preliminary Injunction, on file herein, and good cause

appearing,

///

///

///

///

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

1 IT IS HEREBY ORDERED that a Preliminary Injunction shall issue in favor of Plaintiff,
2 on the terms of the Temporary Restraining Order entered on July 5, 2012, and be in effect until
3 otherwise modified pursuant to stipulation or Order of the Court or to the completion of the trial
4 on the merits scheduled for March 25, 2013.

5 Dated this 24 day of AUGUST, 2012.

6
7 Patrick Flanagan
8 DISTRICT COURT JUDGE

9 Respectfully submitted,

10 LAXALT & NOMURA, LTD

11
12 By: Robert A. Dotson

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Transaction # 3178377

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12 Attorneys for Plaintiff

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

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

13 Plaintiff,

14 vs.

15 SUMONA ISLAM, an individual; NAV-
16 RENO-GS, LLC, a Nevada limited liability
17 company, d/b/a GRAND SIERRA RESORT;
18 ABC CORPORATIONS; XYZ
19 PARTNERSHIPS; AND JOHN DOES I
20 through X, inclusive.

19 Defendants.

Case No.: CV12-01171

Dept No.: B7

20 **STIPULATED PROTECTIVE ORDER**

21 IT IS HEREBY STIPULATED, AGREED, AND UNDERSTOOD by the parties to this
22 action, by and through their undersigned counsel of record, that in the course of this litigation a
23 party may produce documents and information that are claimed to be confidential and/or
24 proprietary, and may be subject to confidentiality limitations on disclosure due to federal laws,
25 state laws, and privacy rights. Public disclosure of such information could be detrimental to the
26 producing party's and/or a non-producing party's interests. Similarly, such confidential may be
27 disclosed by written discovery, deposition testimony, or in other filings with the Court. The
28

1 parties accordingly submit this Stipulated Protective Order for the approval and enforcement of
2 the Court and hereby stipulate as follows:

3 1. In this Stipulated Protective Order, the words set forth below shall have the
4 following meanings:

5 a. "Court" means this Court, and any judge to which this Proceeding may be
6 assigned, including Court staff participating in such proceedings.

7 b. "Confidential" means any Information that the Designating Party believes
8 in good faith is entitled to confidential treatment under applicable law.

9 c. "Confidential Materials" means any Documents, Testimony or
10 Information designated as "Confidential" or "Highly Confidential-Attorneys' Eyes Only"
11 pursuant to the provisions of this Stipulated Protective Order.

12 d. "Designating Party" means the Party or non-party that designates
13 materials as "Confidential."

14 e. "Disclose" or "Disclosed" or "Disclosure" means to reveal, divulge, give,
15 or make available Materials, or any part thereof, or any information contained therein.

16 f. "Documents" includes written, reported, or graphic matter, however
17 stored, produced, or reproduced, including, but not limited to, testimony at depositions upon oral
18 examination or upon written questions, answers to interrogatories, information obtained from the
19 inspection of premises, tangible objects, or documents, answers to requests for admission, and
20 anything that is a "writing" under applicable rules of evidence, and includes information set forth
21 in responses to discovery requests, and deposition testimony, any material produced during
22 discovery or otherwise, and any copies, reproductions, or summaries of all or any part of the
23 foregoing.

24 g. "Highly Confidential-Attorneys' Eyes Only" means any Information that
25 the Designating Party believes in good faith is entitled to confidential treatment under applicable
26 law and that constitutes or discloses extremely sensitive competitive business information whose
27 disclosure to another party or non-party to this Proceeding would create a substantial risk of
28 serious injury that could not be avoided by less restrictive means.

1 h. "Information" means the content of Documents or Testimony.
2 i. "Proceeding" means the above-entitled proceeding Case No. CV02-05602.
3 j. "Testimony" means all depositions, declarations or other testimony taken
4 or used in this Proceeding.

5 2. Any party or non-party shall have the right to designate as "Confidential" or
6 "Highly Confidential-Attorneys' Eyes Only" (by stamping the relevant page or as otherwise set
7 forth herein) any Document, response to discovery, Testimony or Information which the
8 Designating Party considers in good faith to contain non-public information that is entitled to
9 confidential treatment under applicable law ("Confidential Materials" as defined above). Where
10 a document or response consists of more than one page, the first page and each page on which
11 Confidential Material appears shall be so designated. For Confidential Materials produced in
12 some form other than Documents, and for any other tangible items, including, without limitation,
13 compact discs or DVDs, the Designating Party must affix in a prominent place on the exterior of
14 the container or containers in which the Confidential Materials or items are stored the legend
15 "Confidential" or "Highly Confidential-Attorneys' Eyes Only." If only portions of the
16 information or item warrant protection, the Designating Party, to the extent practicable, shall
17 identify the "Confidential" portions.

18 3. A party or non-party shall have the right to designate portions or the entirety of
19 the Testimony at the deposition as "Confidential" or "Highly Confidential-Attorneys' Eyes
20 Only" (before the deposition is concluded) with the right to identify more specific portions of the
21 Testimony as to which protection is sought within 30 days following receipt of the deposition
22 transcript, and to request the preparation of a separate transcript of such Confidential Materials.
23 Any other party may object to such designation in writing or on the record. Upon such
24 objection, the parties shall follow the procedures described in paragraph 10 below. After any
25 designation made according to the procedure set forth in this paragraph, the designated
26 documents or information shall be treated according to the designation until the matter is
27 resolved according to the procedures described in paragraph 10 below, and counsel for all parties
28

1 shall be responsible for marking all previously unmarked copies of the designated material in
2 their possession or control with the specified designation.

3 4. All Confidential Materials produced or exchanged in the course of this case (other
4 than information that is publicly available) shall not be used for any purpose other than the
5 prosecution or defense of this case.

6 5. Except with the prior written consent of other parties, or upon prior order of this
7 Court obtained upon notice to opposing counsel, materials designated as "Confidential" shall not
8 be disclosed to any person other than the following persons:

9 a. the Court and Court personnel as allowed or directed by the Court, as well
10 as any mediator or settlement judge that may be retained by the parties or assigned by the Court;
11 provided however, that a party seeking to file "Confidential Materials" in connection with any
12 motion must file a motion to seal pursuant to applicable rules;

13 b. the parties, including any officer or employee of a party, to the extent
14 deemed necessary by legal counsel for the prosecution or defense of this litigation;

15 c. outside legal counsel for the parties, and those attorneys' respective
16 employees and agents as necessary for the preparation of this action for trial;

17 d. certified court reporters and videographers transcribing or filming
18 depositions or testimony involving such Confidential Materials;

19 e. experts or consultants retained for the prosecution or defense of this
20 litigation, provided that each such person shall execute a copy of the Certification annexed to this
21 Order as Exhibit "1" (which shall be retained by counsel to the party so disclosing the
22 Confidential Materials and made available for inspection by opposing counsel during the
23 pendency or after the termination of the action upon good cause shown and order of the Court)
24 before being shown or given any Confidential Materials; and

25 f. a non-party witness who may be examined and may testify concerning
26 such Confidential Material if (1) it appears on its face or from other documents that the witness
27 is the author or recipient of the Confidential Material or (2) the witness had access to the
28 Confidential Material during his or her former employment.

1 6. Except with the prior written consent of other parties, or upon prior order of this
2 Court obtained upon notice to opposing counsel, material designated as "Highly Confidential-
3 Attorneys' Eyes Only" shall only be disclosed to the persons described in subsections (a), (c),
4 (d), (e) and (f) of Paragraph 5.

5 7. Any persons receiving Confidential Materials shall not reveal or discuss such
6 information to or with any person who is not entitled to receive such information, except as set
7 forth herein.

8 8. Unless otherwise permitted by statute, rule or prior court order, papers filed with
9 the court under seal shall be accompanied by a contemporaneous motion for leave to file those
10 documents under seal, and shall be filed consistent with the court's electronic filing procedures.

11 9. A party may designate as "Confidential" or "Highly Confidential-Attorneys' Eyes
12 Only" documents or discovery materials produced by a non-party by providing written notice to
13 all parties of the relevant document numbers or other identification within thirty (30) days after
14 receiving such documents or discovery materials. Any party or non-party may voluntarily
15 disclose to others without restriction any information designated by that party or non-party as
16 Confidential Materials," although a document may lose its confidential status if it is made public.

17 10. If a party contends that any material is not entitled to confidential treatment, such
18 party may at any time give written notice to the party or non-party who designated the material.
19 The party or non-party who designated the material shall have twenty-five (25) days from the
20 receipt of such written notice to apply to the Court for an order designating the material as
21 confidential. The party or non-party seeking the order has the burden of establishing that the
22 document is entitled to protection. Notwithstanding any challenge to the designation of material
23 pursuant to this Stipulated Protective Order, all documents shall be treated as Confidential
24 Materials and shall be subject to the provisions hereof unless and until one of the following
25 occurs: (a) the Designating Party withdraws the designation in writing; (b) the Designating Party
26 fails to apply to the Court for an order designating the material "Confidential" or "Highly
27 Confidential-Attorneys' Eyes Only" within the time period specified above after receipt of a
28

1 written challenge to such designation; or (c) the Court rules the material does not qualify as
2 Confidential Material.

3 11. The terms of this Order do not preclude, limit, restrict, or otherwise apply to the
4 use of documents at trial. The parties shall meet and confer regarding the procedures for use of
5 Confidential Materials at trial and shall move the Court for entry of an appropriate order.

6 12. The inadvertent production by any of the undersigned Parties or non-Parties to the
7 Proceeding of any Document, Testimony or Information during discovery in this Proceeding
8 without a designation of "Confidential" or "Highly Confidential-Attorneys' Eyes Only" shall be
9 without prejudice to any claim that such item constitutes "Confidential Material" and such Party
10 shall not be held to have waived any rights by such inadvertent production. In the event that any
11 Document, Testimony or Information that is subject to a "Confidential" or "Highly Confidential-
12 Attorneys' Eyes Only" designation is inadvertently produced without such designation, the Party
13 that inadvertently produced the document shall give written notice of such inadvertent
14 production within twenty (20) days of discovery of the inadvertent production, together with a
15 further copy of the subject Document, Testimony or Information designated as "Confidential" or
16 "Highly Confidential-Attorneys' Eyes Only" (the "Inadvertent Production Notice"). Upon
17 receipt of such Inadvertent Production Notice, the Party that received the inadvertently produced
18 Document, Testimony or Information shall promptly destroy the inadvertently produced
19 Document, Testimony or Information and all copies thereof, or, at the expense of the producing
20 Party, return such together with all copies of such Document, Testimony or Information to
21 counsel for the producing Party and shall retain only the designated Materials. Should the
22 receiving Party choose to destroy such inadvertently produced Document, Testimony or
23 Information, the receiving Party shall notify the producing Party in writing of such destruction
24 within ten (10) days of receipt of written notice of the inadvertent production. This provision is
25 not intended to apply to any inadvertent production of any Information protected by attorney-
26 client or work product privileges. In the event that this provision conflicts with any applicable
27 law regarding waiver of confidentiality through the inadvertent production of Documents,
28 Testimony or Information, such law shall govern.

1 13. If any person subject to this Stipulated Protective Order who has custody of any
2 Confidential Materials receives a subpoena or other process ("Subpoena") from any government
3 or other person or entity demanding production of Confidential Materials, the recipient of the
4 Subpoena shall promptly give notice of the same by electronic mail transmission within 7
5 calendar days to counsel of record for the Designating Party, and shall furnish such counsel with
6 a copy of the Subpoena. Upon receipt of this notice, the Designating Party may, in its sole
7 discretion and at its own cost, move to quash or limit the Subpoena, otherwise oppose production
8 of the Confidential Materials, and/or seek to obtain confidential treatment of such Confidential
9 Materials from the subpoenaing person or entity to the fullest extent available under law. The
10 recipient of the Subpoena may not produce any Confidential Materials pursuant to the Subpoena
11 prior to the date specified for production on the Subpoena; provided, however, that nothing
12 herein shall be construed as requiring the recipient of the Subpoena to challenge or appeal any
13 order requiring production of Confidential Materials protected by this Order, or to subject itself
14 to any penalties for noncompliance with any legal process or order, or to seek any relief from this
15 Court.

16 14. The entry of this Stipulated Protective Order does not alter, waive, modify, or
17 abridge any right, privilege or protection otherwise available to any Party with respect to the
18 discovery of matters, including but not limited to any Party's right to assert the attorney-client
19 privilege, the attorney work product doctrine, or other privileges, or any Party's right to contest
20 any such assertion. Nothing herein shall affect the ability of a party to seek relief for an
21 inadvertent disclosure of material protected by privilege or work product protection.

22 15. All provisions of this Order restricting the communication or use of Confidential
23 Materials shall continue to be binding after the conclusion of this action, unless otherwise agreed
24 or ordered. Upon conclusion of the litigation, a party in the possession of Confidential Materials,
25 other than that which is contained in pleadings, correspondence, and deposition transcripts, shall
26 either (a) return such documents no later than thirty (30) days after conclusion of this action to
27 counsel for the party or non-party who provided such information, or (b) destroy such documents
28

1 within the time period upon consent of the party who provided the information and certify in
2 writing within thirty (30) days that the documents have been destroyed.

3 16. Any party to the Proceeding who has not executed this Stipulated Protective
4 Order as of the time it is presented to the Court for signature may thereafter become a party to
5 this Stipulated Protective Order by its counsel's signing and dating a copy thereof and filing the
6 same with the Court, and serving copies of such signed and dated copy upon the other parties to
7 this Stipulated Protective Order.

8 17. Any witness or other person, firm or entity from which discovery is sought may
9 be informed of and may obtain the protection of this Order by written notice to the parties'
10 respective counsel or by oral advice at the time of any deposition or similar proceeding.

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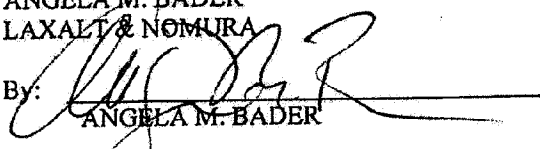
28

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: 8/17, 2012

ROBERT A. DOTSON
ANGELA M. BADER
LAXALT & NOMURA

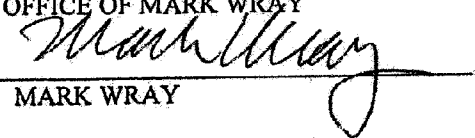
By: 

ANGELA M. BADER

Attorneys for Plaintiff

Dated: 8/17, 2012

LAW OFFICE OF MARK WRAY

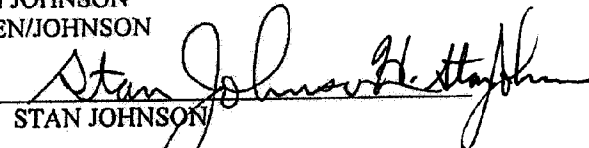
By: 

MARK WRAY

Attorneys for Defendant Sumona Islam

Dated: 8-10, 2012

STEVEN B. COHEN
STAN JOHNSON
COHEN/JOHNSON

By: 

STAN JOHNSON

Attorneys for Defendant
Nav-Reno-GS, LLC d/ba Grand Sierra Resort

IT IS SO ORDERED.

This ___ day of _____, 2012.

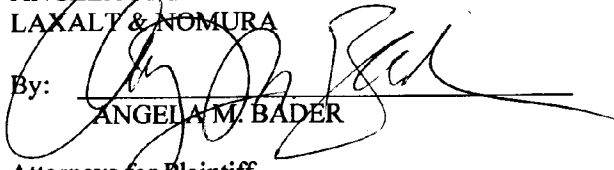
DISTRICT COURT JUDGE

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: 8/27, 2012

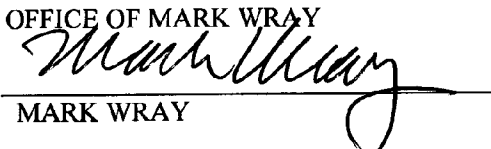
ROBERT A. DOTSON
ANGELA M. BADER
LAXALT & NOMURA

By: 
ANGELA M. BADER

Attorneys for Plaintiff

Dated: 8/17, 2012

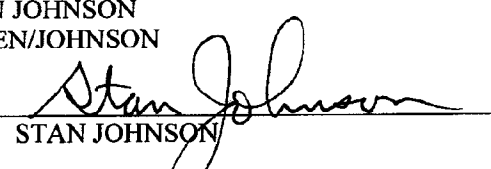
LAW OFFICE OF MARK WRAY

By: 
MARK WRAY

Attorneys for Defendant Sumona Islam

Dated: 8-10, 2012

STEVEN B. COHEN
STAN JOHNSON
COHEN/JOHNSON

By: 
STAN JOHNSON

Attorneys for Defendant
Nav-Reno-GS, LLC d/ba Grand Sierra Resort

IT IS SO ORDERED.

This 27 day of August, 2012.


DISTRICT COURT JUDGE

**EXHIBIT 1
CERTIFICATION**

I hereby certify my understanding that Confidential Information is being provided to me pursuant to the terms and restrictions of the Protective Order dated _____, in the matter of *Golden Road Motor Inn, Inc. d/b/a Atlantis Casino Resort Spa, Plaintiff vs. Sumona Islam and NAV-Reno-GS, LLC d/b/a Grand Sierra Resort, Defendants*, Case No. CV12-01171, now pending in the Second Judicial District Court of the State of Nevada in and for the County of Washoe. I have been given a copy of that Order and read it. I agree to be bound by the Order. I will not reveal the Confidential Information to anyone, except as allowed by the Order. I will maintain all such Confidential Information – including copies, notes, or other transcriptions made therefrom – in a secure manner to prevent unauthorized access to it. No later than thirty (30) days after the conclusion of this action, I will return the Confidential Information – including copies, notes or other transcriptions made therefrom – to the counsel who provided me with the Confidential Information. I hereby consent to the jurisdiction of the Second Judicial District Court of the State of Nevada in and for the County of Washoe for the purpose of enforcing the Protective Order.

DATED: _____

1 **2540**
2 ROBERT A. DOTSON, ESQ.
3 Nevada State Bar No. 5285
4 rdotson@laxalt-nomura.com
5 ANGELA M. BADER, ESQ.
6 Nevada State Bar No. 5574
7 abader@laxalt-nomura.com
8 LAXALT & NOMURA, LTD.
9 9600 Gateway Drive
10 Reno, Nevada 89521
11 Tel: (775) 322-1170
12 Fax: (775) 322-1865
13 Attorneys for Plaintiff

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **NOTICE OF ENTRY OF ORDER**

23 PLEASE TAKE NOTICE, that a Stipulated Protective Order was entered on August 27,
24 2012, a copy of which 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 28th day of August, 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

1 **CERTIFICATE OF SERVICE**

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

5 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
6 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
7 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
8 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.

9 ☒ 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.

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

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

14 ☐ Reno/Carson Messenger Service.

15 ☒ By email to the email addresses below.

16 addressed as follows:

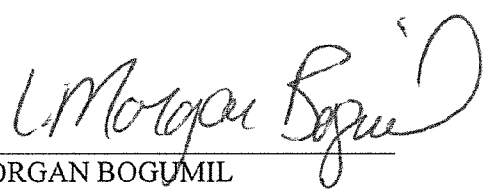
17 Steven B. Cohen, Esq.
18 Stan Johnson, Esq.
19 Cohen/Johnson
6293 Dean Martin Drive, Ste G
Las Vegas, NV 89118

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, NV 89509

mwray@markwraylaw.com

20 scohen@cohenjohnson.com
21 sjohnson@cohenjohnson.com

22 DATED this 28 day of August, 2012.

23 
24 L. MORGAN BOGUMIL
25
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27
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INDEX OF EXHIBITS

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FILED
Electronically
08-28-2012:10:49:17 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 3179227

EXHIBIT 1

EXHIBIT 1

FILED

Electronically
08-27-2012:04:52:36 PM
Joey Orduna Hastings
Clerk of the Court
Transaction # 3178377

3370

1 ROBERT A. DOTSON, ESQ.

2 Nevada State Bar No. 5285

3 rdotson@laxalt-nomura.com

4 ANGELA M. BADER, ESQ.

5 Nevada State Bar No. 5574

6 abader@laxalt-nomura.com

7 LAXALT & NOMURA, LTD.

8 9600 Gateway Drive

9 Reno, Nevada 89521

10 Tel: (775) 322-1170

11 Fax: (775) 322-1865

12 Attorneys for Plaintiff

13
14
15 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
16
17 **IN AND FOR THE COUNTY OF WASHOE**

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

21 Plaintiff,

22 vs.

23 SUMONA ISLAM, an individual; NAV-
24 RENO-GS, LLC, a Nevada limited liability
25 company, d/b/a GRAND SIERRA RESORT;
26 ABC CORPORATIONS; XYZ
27 PARTNERSHIPS; AND JOHN DOES I
28 through X, inclusive.

Defendants.

Case No.: CV12-01171

Dept No.: B7

STIPULATED PROTECTIVE ORDER

IT IS HEREBY STIPULATED, AGREED, AND UNDERSTOOD by the parties to this action, by and through their undersigned counsel of record, that in the course of this litigation a party may produce documents and information that are claimed to be confidential and/or proprietary, and may be subject to confidentiality limitations on disclosure due to federal laws, state laws, and privacy rights. Public disclosure of such information could be detrimental to the producing party's and/or a non-producing party's interests. Similarly, such confidential may be disclosed by written discovery, deposition testimony, or in other filings with the Court. The

1 parties accordingly submit this Stipulated Protective Order for the approval and enforcement of
2 the Court and hereby stipulate as follows:

3 I. In this Stipulated Protective Order, the words set forth below shall have the
4 following meanings:

5 a. "Court" means this Court, and any judge to which this Proceeding may be
6 assigned, including Court staff participating in such proceedings.

7 b. "Confidential" means any Information that the Designating Party believes
8 in good faith is entitled to confidential treatment under applicable law.

9 c. "Confidential Materials" means any Documents, Testimony or
10 Information designated as "Confidential" or "Highly Confidential-Attorneys' Eyes Only"
11 pursuant to the provisions of this Stipulated Protective Order.

12 d. "Designating Party" means the Party or non-party that designates
13 materials as "Confidential."

14 e. "Disclose" or "Disclosed" or "Disclosure" means to reveal, divulge, give,
15 or make available Materials, or any part thereof, or any information contained therein.

16 f. "Documents" includes written, reported, or graphic matter, however
17 stored, produced, or reproduced, including, but not limited to, testimony at depositions upon oral
18 examination or upon written questions, answers to interrogatories, information obtained from the
19 inspection of premises, tangible objects, or documents, answers to requests for admission, and
20 anything that is a "writing" under applicable rules of evidence, and includes information set forth
21 in responses to discovery requests, and deposition testimony, any material produced during
22 discovery or otherwise, and any copies, reproductions, or summaries of all or any part of the
23 foregoing.

24 g. "Highly Confidential-Attorneys' Eyes Only" means any Information that
25 the Designating Party believes in good faith is entitled to confidential treatment under applicable
26 law and that constitutes or discloses extremely sensitive competitive business information whose
27 disclosure to another party or non-party to this Proceeding would create a substantial risk of
28 serious injury that could not be avoided by less restrictive means.

1 h. "Information" means the content of Documents or Testimony.

2 i. "Proceeding" means the above-entitled proceeding Case No. CV02-05602.

3 j. "Testimony" means all depositions, declarations or other testimony taken
4 or used in this Proceeding.

5 2. Any party or non-party shall have the right to designate as "Confidential" or
6 "Highly Confidential-Attorneys' Eyes Only" (by stamping the relevant page or as otherwise set
7 forth herein) any Document, response to discovery, Testimony or Information which the
8 Designating Party considers in good faith to contain non-public information that is entitled to
9 confidential treatment under applicable law ("Confidential Materials" as defined above). Where
10 a document or response consists of more than one page, the first page and each page on which
11 Confidential Material appears shall be so designated. For Confidential Materials produced in
12 some form other than Documents, and for any other tangible items, including, without limitation,
13 compact discs or DVDs, the Designating Party must affix in a prominent place on the exterior of
14 the container or containers in which the Confidential Materials or items are stored the legend
15 "Confidential" or "Highly Confidential-Attorneys' Eyes Only." If only portions of the
16 information or item warrant protection, the Designating Party, to the extent practicable, shall
17 identify the "Confidential" portions.

18 3. A party or non-party shall have the right to designate portions or the entirety of
19 the Testimony at the deposition as "Confidential" or "Highly Confidential-Attorneys' Eyes
20 Only" (before the deposition is concluded) with the right to identify more specific portions of the
21 Testimony as to which protection is sought within 30 days following receipt of the deposition
22 transcript, and to request the preparation of a separate transcript of such Confidential Materials.
23 Any other party may object to such designation in writing or on the record. Upon such
24 objection, the parties shall follow the procedures described in paragraph 10 below. After any
25 designation made according to the procedure set forth in this paragraph, the designated
26 documents or information shall be treated according to the designation until the matter is
27 resolved according to the procedures described in paragraph 10 below, and counsel for all parties

28

1 shall be responsible for marking all previously unmarked copies of the designated material in
2 their possession or control with the specified designation.

3 4. All Confidential Materials produced or exchanged in the course of this case (other
4 than information that is publicly available) shall not be used for any purpose other than the
5 prosecution or defense of this case.

6 5. Except with the prior written consent of other parties, or upon prior order of this
7 Court obtained upon notice to opposing counsel, materials designated as "Confidential" shall not
8 be disclosed to any person other than the following persons:

9 a. the Court and Court personnel as allowed or directed by the Court, as well
10 as any mediator or settlement judge that may be retained by the parties or assigned by the Court;
11 provided however, that a party seeking to file "Confidential Materials" in connection with any
12 motion must file a motion to seal pursuant to applicable rules;

13 b. the parties, including any officer or employee of a party, to the extent
14 deemed necessary by legal counsel for the prosecution or defense of this litigation;

15 c. outside legal counsel for the parties, and those attorneys' respective
16 employees and agents as necessary for the preparation of this action for trial;

17 d. certified court reporters and videographers transcribing or filming
18 depositions or testimony involving such Confidential Materials;

19 e. experts or consultants retained for the prosecution or defense of this
20 litigation, provided that each such person shall execute a copy of the Certification annexed to this
21 Order as Exhibit "1" (which shall be retained by counsel to the party so disclosing the
22 Confidential Materials and made available for inspection by opposing counsel during the
23 pendency or after the termination of the action upon good cause shown and order of the Court)
24 before being shown or given any Confidential Materials; and

25 f. a non-party witness who may be examined and may testify concerning
26 such Confidential Material if (1) it appears on its face or from other documents that the witness
27 is the author or recipient of the Confidential Material or (2) the witness had access to the
28 Confidential Material during his or her former employment.

1 6. Except with the prior written consent of other parties, or upon prior order of this
2 Court obtained upon notice to opposing counsel, material designated as "Highly Confidential-
3 Attorneys' Eyes Only" shall only be disclosed to the persons described in subsections (a), (c),
4 (d), (e) and (f) of Paragraph 5.

5 7. Any persons receiving Confidential Materials shall not reveal or discuss such
6 information to or with any person who is not entitled to receive such information, except as set
7 forth herein.

8 8. Unless otherwise permitted by statute, rule or prior court order, papers filed with
9 the court under seal shall be accompanied by a contemporaneous motion for leave to file those
10 documents under seal, and shall be filed consistent with the court's electronic filing procedures.

11 9. A party may designate as "Confidential" or "Highly Confidential-Attorneys' Eyes
12 Only" documents or discovery materials produced by a non-party by providing written notice to
13 all parties of the relevant document numbers or other identification within thirty (30) days after
14 receiving such documents or discovery materials. Any party or non-party may voluntarily
15 disclose to others without restriction any information designated by that party or non-party as
16 Confidential Materials," although a document may lose its confidential status if it is made public.

17 10. If a party contends that any material is not entitled to confidential treatment, such
18 party may at any time give written notice to the party or non-party who designated the material.
19 The party or non-party who designated the material shall have twenty-five (25) days from the
20 receipt of such written notice to apply to the Court for an order designating the material as
21 confidential. The party or non-party seeking the order has the burden of establishing that the
22 document is entitled to protection. Notwithstanding any challenge to the designation of material
23 pursuant to this Stipulated Protective Order, all documents shall be treated as Confidential
24 Materials and shall be subject to the provisions hereof unless and until one of the following
25 occurs: (a) the Designating Party withdraws the designation in writing; (b) the Designating Party
26 fails to apply to the Court for an order designating the material "Confidential" or "Highly
27 Confidential-Attorneys' Eyes Only" within the time period specified above after receipt of a
28

1 written challenge to such designation; or (c) the Court rules the material does not qualify as
2 Confidential Material.

3 11. The terms of this Order do not preclude, limit, restrict, or otherwise apply to the
4 use of documents at trial. The parties shall meet and confer regarding the procedures for use of
5 Confidential Materials at trial and shall move the Court for entry of an appropriate order.

6 12. The inadvertent production by any of the undersigned Parties or non-Parties to the
7 Proceeding of any Document, Testimony or Information during discovery in this Proceeding
8 without a designation of "Confidential" or "Highly Confidential-Attorneys' Eyes Only" shall be
9 without prejudice to any claim that such item constitutes "Confidential Material" and such Party
10 shall not be held to have waived any rights by such inadvertent production. In the event that any
11 Document, Testimony or Information that is subject to a "Confidential" or "Highly Confidential-
12 Attorneys' Eyes Only" designation is inadvertently produced without such designation, the Party
13 that inadvertently produced the document shall give written notice of such inadvertent
14 production within twenty (20) days of discovery of the inadvertent production, together with a
15 further copy of the subject Document, Testimony or Information designated as "Confidential" or
16 "Highly Confidential-Attorneys' Eyes Only" (the "Inadvertent Production Notice"). Upon
17 receipt of such Inadvertent Production Notice, the Party that received the inadvertently produced
18 Document, Testimony or Information shall promptly destroy the inadvertently produced
19 Document, Testimony or Information and all copies thereof, or, at the expense of the producing
20 Party, return such together with all copies of such Document, Testimony or Information to
21 counsel for the producing Party and shall retain only the designated Materials. Should the
22 receiving Party choose to destroy such inadvertently produced Document, Testimony or
23 Information, the receiving Party shall notify the producing Party in writing of such destruction
24 within ten (10) days of receipt of written notice of the inadvertent production. This provision is
25 not intended to apply to any inadvertent production of any Information protected by attorney-
26 client or work product privileges. In the event that this provision conflicts with any applicable
27 law regarding waiver of confidentiality through the inadvertent production of Documents,
28 Testimony or Information, such law shall govern.

1 13. If any person subject to this Stipulated Protective Order who has custody of any
2 Confidential Materials receives a subpoena or other process ("Subpoena") from any government
3 or other person or entity demanding production of Confidential Materials, the recipient of the
4 Subpoena shall promptly give notice of the same by electronic mail transmission within 7
5 calendar days to counsel of record for the Designating Party, and shall furnish such counsel with
6 a copy of the Subpoena. Upon receipt of this notice, the Designating Party may, in its sole
7 discretion and at its own cost, move to quash or limit the Subpoena, otherwise oppose production
8 of the Confidential Materials, and/or seek to obtain confidential treatment of such Confidential
9 Materials from the subpoenaing person or entity to the fullest extent available under law. The
10 recipient of the Subpoena may not produce any Confidential Materials pursuant to the Subpoena
11 prior to the date specified for production on the Subpoena; provided, however, that nothing
12 herein shall be construed as requiring the recipient of the Subpoena to challenge or appeal any
13 order requiring production of Confidential Materials protected by this Order, or to subject itself
14 to any penalties for noncompliance with any legal process or order, or to seek any relief from this
15 Court.

16 14. The entry of this Stipulated Protective Order does not alter, waive, modify, or
17 abridge any right, privilege or protection otherwise available to any Party with respect to the
18 discovery of matters, including but not limited to any Party's right to assert the attorney-client
19 privilege; the attorney work product doctrine, or other privileges, or any Party's right to contest
20 any such assertion. Nothing herein shall affect the ability of a party to seek relief for an
21 inadvertent disclosure of material protected by privilege or work product protection.

22 15. All provisions of this Order restricting the communication or use of Confidential
23 Materials shall continue to be binding after the conclusion of this action, unless otherwise agreed
24 or ordered. Upon conclusion of the litigation, a party in the possession of Confidential Materials,
25 other than that which is contained in pleadings, correspondence, and deposition transcripts, shall
26 either (a) return such documents no later than thirty (30) days after conclusion of this action to
27 counsel for the party or non-party who provided such information, or (b) destroy such documents
28

1 within the time period upon consent of the party who provided the information and certify in
2 writing within thirty (30) days that the documents have been destroyed.

3 16. Any party to the Proceeding who has not executed this Stipulated Protective
4 Order as of the time it is presented to the Court for signature may thereafter become a party to
5 this Stipulated Protective Order by its counsel's signing and dating a copy thereof and filing the
6 same with the Court, and serving copies of such signed and dated copy upon the other parties to
7 this Stipulated Protective Order.

8 17. Any witness or other person, firm or entity from which discovery is sought may
9 be informed of and may obtain the protection of this Order by written notice to the parties'
10 respective counsel or by oral advice at the time of any deposition or similar proceeding.

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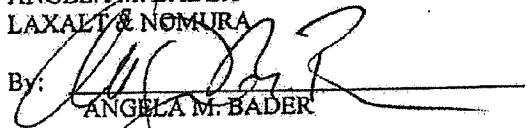
28

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: 8/17, 2012

ROBERT A. DOTSON
ANGELA M. BADER
LAXALT & NOMURA

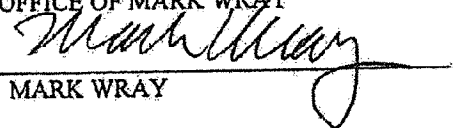
By: 

ANGELA M. BADER

Attorneys for Plaintiff

Dated: 8/17, 2012

LAW OFFICE OF MARK WRAY

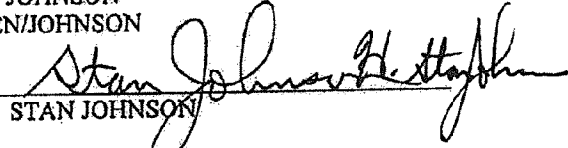
By: 

MARK WRAY

Attorneys for Defendant Sumona Islam

Dated: 8-10, 2012

STEVEN B. COHEN
STAN JOHNSON
COHEN/JOHNSON

By: 

STAN JOHNSON

Attorneys for Defendant
Nav-Reno-GS, LLC d/ba Grand Sierra Resort

IT IS SO ORDERED.

This ___ day of _____, 2012.

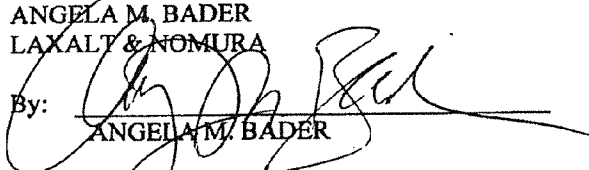
DISTRICT COURT JUDGE

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: 8/27, 2012

ROBERT A. DOTSON
ANGELA M. BADER
LAXALT & NOMURA

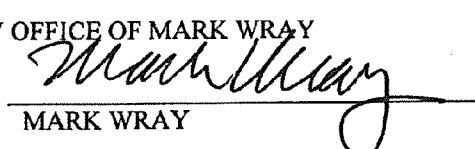
By: 

ANGELA M. BADER

Attorneys for Plaintiff

Dated: 8/17, 2012

LAW OFFICE OF MARK WRAY

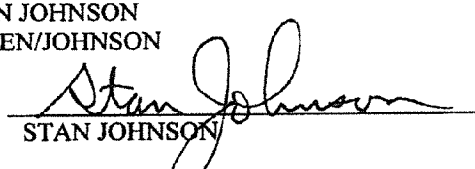
By: 

MARK WRAY

Attorneys for Defendant Sumona Islam

Dated: 8-10, 2012

STEVEN B. COHEN
STAN JOHNSON
COHEN/JOHNSON

By: 

STAN JOHNSON

Attorneys for Defendant
Nav-Reno-GS, LLC d/ba Grand Sierra Resort

IT IS SO ORDERED.

This 27 day of August, 2012.


DISTRICT COURT JUDGE

**EXHIBIT 1
CERTIFICATION**

I hereby certify my understanding that Confidential Information is being provided to me pursuant to the terms and restrictions of the Protective Order dated _____, in the matter of *Golden Road Motor Inn, Inc. d/b/a Atlantis Casino Resort Spa, Plaintiff vs. Sumona Islam and NAV-Reno-GS, LLC d/b/a Grand Sierra Resort, Defendants*, Case No. CV12-01171, now pending in the Second Judicial District Court of the State of Nevada in and for the County of Washoe. I have been given a copy of that Order and read it. I agree to be bound by the Order. I will not reveal the Confidential Information to anyone, except as allowed by the Order. I will maintain all such Confidential Information – including copies, notes, or other transcriptions made therefrom – in a secure manner to prevent unauthorized access to it. No later than thirty (30) days after the conclusion of this action, I will return the Confidential Information – including copies, notes or other transcriptions made therefrom – to the counsel who provided me with the Confidential Information. I hereby consent to the jurisdiction of the Second Judicial District Court of the State of Nevada in and for the County of Washoe for the purpose of enforcing the Protective Order.

DATED: _____

1 **1120**
2 ROBERT A. DOTSON, ESQ.
3 Nevada State Bar No. 5285
4 rdotson@laxalt-nomura.com
5 ANGELA M. BADER, ESQ.
6 Nevada State Bar No. 5574
7 abader@laxalt-nomura.com
8 LAXALT & NOMURA, LTD.
9 9600 Gateway Drive
10 Reno, Nevada 89521
11 Tel: (775) 322-1170
12 Fax: (775) 322-1865
13 Attorneys for Plaintiff

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **AMENDED JOINT CASE CONFERENCE REPORT**

23 Discovery Planning/Dispute
24 Conference Requested:

25 YES ___ NO ✓

26 **I.**

27 **PROCEEDINGS PRIOR TO CASE CONFERENCE REPORT**

28 A. Date of Filing of Complaint: April 27, 2012

B. Date of Filing of Amended Complaint: May 7, 2012

1 C. Date of Filing of Answer by Each Defendant:

2 1. Nav-Reno-GS, LLC d/b/a Grand Sierra Resort ("GSR") May 31, 2012

3 2. Sumona Islam ("Islam") June 1, 2012

4 D. Date that Early Case Conference was Held and Who Attended: June 19, 2012

5 For Plaintiff:

6 Angela M. Bader
7 Laxalt & Nomura, Ltd.
8 9600 Gateway Drive
9 Reno, Nevada 89521

9 For Defendant GSR:

10 Stan Johnson
11 Cohen/Johnson
12 6293 Dean Martin Drive, Ste G
13 Las Vegas, NV 89118

13 For Defendant Islam:

14 Mark Wray, Esq.
15 Law Office of Mark Wray
16 608 Lander Street
17 Reno, NV 89509

17 **II.**

18 **A BRIEF DESCRIPTION OF THE NATURE OF THE ACTION AND EACH CLAIM**
19 **FOR RELIEF OR DEFENSE: [16.1(c)(1)]**

20 A. Description of the action: This is an action against a former Atlantis employee, Sumona
21 Islam, and her subsequent employer, GSR, stemming from misappropriation and conversion of
22 confidential, proprietary and trade secret information / data to the detriment of the Atlantis and
23 the benefit of Defendants.

24 B. Claims for relief: Breach of Contract, Conversion of Property, Tortious Interference with
25 Contractual Relations and Prospective Economic Advantage, Violation of Uniform Trade Secret
26 Act, Declaratory Relief and Injunctive Relief.

27 ///

28 ///

1 C. Defenses for GSR:

2 1. Plaintiff has engaged in conduct which constitutes a waiver of rights under the
3 contracts alleged in the Verified Complaint. By reason of such waiver, Defendants are excused
4 from further performance of the obligations under the alleged contract and indemnification, if
5 any.

6 2. Plaintiff's causes of action are barred by the doctrines of laches and waiver.

7 3. The Amended Verified Complaint, and each and every alleged cause of action
8 contained therein, fails to state a cause of action.

9 4. Plaintiff has unclean hands and are not entitled to the relief requested herein.

10 5. Plaintiff has not exhausted all available remedies prior to filing this suit.

11 6. This answering Defendant is informed, believes and thereon alleges that any and
12 all contracts to which Plaintiffs and Defendants were parties were breached by Plaintiff and
13 therefore Defendants were excused from performance thereon.

14 7. This answering Defendant is informed, believes and thereon alleges that any
15 contract, obligation or agreement alleged in the Amended Verified Complaint as having been
16 entered into, that any duty of performance by Defendants is excused by reason of failure of
17 consideration, breach of condition precedent, and possibility of purpose or waiver by Plaintiff
18 and/or acceptance by Plaintiff.

19 8. This answering Defendant is informed, believes and thereon alleges that any
20 contract, obligation or agreement alleged in the Amended Verified Complaint is adhesive in
21 nature and against public policy and therefore void, voidable or enforceable.

22 9. Defendant incorporates by reference those affirmative defenses enumerated in
23 Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further
24 investigation or discovery reveals the applicability of such defenses, Defendants reserve the right
25 to seek leave of Court to amend this answer to specifically assert any such defense. Such
26 defenses are herein incorporated by reference for the specific purpose of not waiving any such
27 defense.

28 ///

1 D. Defenses for Islam:

2 1. Each purported claim for relief fails to state a claim for which the Court may
3 grant relief.

4 2. Plaintiff committed the first material breach of its obligations owed to this
5 responding party and therefore each purported claim for relief is barred as a matter of law.

6 3. Each purported claim for relief is barred by the failure to satisfy express or
7 implied conditions.

8 4. Each purported claim for relief is barred by Plaintiff's failure, without
9 justification or excuse, to perform each alleged contract on which Plaintiff's alleged claims are
10 based.

11 5. Each purported claim for relief, including, but not limited to, Plaintiff's alleged
12 claims for equitable relief, is barred by Plaintiff's failure to act equitably.

13 6. Each purported claim for relief is barred by Plaintiff's unclean hands.

14 7. Each purported claim for relief is barred by estoppel.

15 8. Plaintiff's own acts and omissions are the direct and proximate cause of Plaintiff's
16 alleged injuries and damages, if any.

17 9. This responding party at all times acted in reliance on a good faith belief that her
18 conduct was justified or in accordance with applicable law.

19 10. Each purported claim for relief is barred by defenses to formation of a valid
20 contract, including, but not limited to, coercion, duress, invalid consideration or lack thereof,
21 illegality, unconscionability and adhesion.

22 11. Plaintiff failed to mitigate its alleged damages, if any.

23 12. Plaintiff's alleged damages, if any, were the direct and proximate cause of acts
24 and omissions by third parties other than this responding party.

25 13. This responding party is entitled to an offset against any sums allegedly due to
26 Plaintiff.

27 14. Each purported claim for relief is barred by Plaintiff's breach of the implied
28 covenant of good faith and fair dealing.

15. Each purported claim for relief is barred by Plaintiff's negligent misrepresentation.

16. Each of Plaintiff's claims fails in that Plaintiff has not proprietary or enforceable right in the data or information that is the subject of the alleged contracts.

17. Plaintiff's conduct constitutes a waiver and ratification of the alleged wrongful conduct, if any, alleged against this responding party.

18. Each purported claim for relief is barred to the extent it violates this responding party's rights under the Constitutions of the United States and State of Nevada.

19. Each purported claim for relief should be precluded as violating the public policy of the State of Nevada.

III.

LIST OF ALL DOCUMENTS, DATA COMPILATIONS AND TANGIBLE THINGS IN THE POSSESSION, CUSTODY OR CONTROL OF EACH PARTY WHICH WERE IDENTIFIED OR PROVIDED AT THE EARLY CASE CONFERENCE OR AS A RESULT THEREOF [16.1(a)(1)(B) AND 16.1(c)(4)]

A. Plaintiff: See Plaintiff's NRCP 16.1 Disclosure, First Supplemental NRCP 16.1 Disclosure, and Second Supplemental NRCP 16.1 Disclosure attached hereto as Exhibit "1".

B. Defendant GSR: See Initial List of Witnesses and Documents Pursuant to NRCP 16.1, and First Supplement to Initial List of Witnesses and Documents Pursuant to NRCP 16.1 attached hereto as Exhibit “2”.

C. Defendant Islam: See Defendant Sumona Islam's Initial Disclosures attached hereto as Exhibit "3".

IV.

**LIST OF PERSONS IDENTIFIED BY EACH PARTY AS LIKELY TO HAVE
INFORMATION DISCOVERABLE UNDER RULE 26(b), INCLUDING
IMPEACHMENT OR REBUTTAL WITNESSES [16.1(a)(1)(A) AND 16.1(c)(3)]**

A. Plaintiff: See Plaintiff's NRCP 16.1 Disclosure, First Supplemental NRCP 16.1 Disclosure, and Second Supplemental NRCP 16.1 Disclosure attached hereto as Exhibit "1".

1 B. Defendant GSR: See Initial List of Witnesses and Documents Pursuant to NRCP 16.1,
2 and First Supplement to Initial List of Witnesses and Documents Pursuant to NRCP 16.1
3 attached hereto as Exhibit "2".

4 C. Defendant Islam: See Defendant Sumona Islam's Initial Disclosures attached hereto as
5 Exhibit "3".

6 V.

7 **DISCOVERY PLAN [16.1(b)(2) AND 16.1(c)(2)]**

8 A. What changes, if any, should be made in the timing, form or requirements for disclosures
9 under 16.1(a): None

10 When disclosures under 16.1(a)(1) were made or will be made:

- 11 1. Plaintiff: June 19, 2012, July 16, 2012 and August 27, 2012
12 2. Defendant GSR: July 3, 2012 and August 15, 2012
13 3. Defendant Islam: July 11, 2012

14 B. Subjects on which discovery may be needed: Discovery will be conducted pursuant to
15 NRCP 26.

16 C. Discovery should not be conducted in phases or limited to or focused upon particular
17 issues.

18 D. No changes should be made in limitations on discovery imposed under these rules.

19 E. No other orders should be entered by court under Rule 26(c) or Rule 16(b) and (c).

20 F. Estimated time for trial: 5 days.

21 G. Trial date: March 25, 2013.

22 VI.

23 **DISCOVERY AND MOTION DATES [16.1(c)(5)-(8)]**

24 A. *Amended* dates agreed by the parties:

- 25 1. Close of discovery (45 days prior to trial): February 8, 2013
26 2. Final dates to file motions to amend pleadings November 12, 2012
27 or add parties (without a further court order)
28 (90 days prior to close of discovery):

- 1 3. Final dates for expert disclosures:
2 i. initial disclosures November 12, 2012
 (90 days prior to close of discovery):
3 ii. rebuttal disclosures: December 12, 2012
4 4. Final date to serve and file dispositive motions February 25, 2013
 (30 days prior to trial):
5 5. Final date to serve, file and submit motions in March 11, 2013
6 limine (15 days prior to trial):

7 **VII.**

8 **JURY DEMAND [16.1(c)(10)]**

9 No jury has been demanded.

10 **VIII.**

11 **INITIAL DISCLOSURES/OBJECTIONS [16.1(a)(1)]**

12 If a party objects during the Early Case Conference that initial disclosures are not
13 appropriate in the circumstances of this case, those objections must be stated herein. The Court
14 shall determine what disclosures, if any, are to be made and shall set the time for such disclosure.

15 This report is signed in accordance with Rule 26(g)(1) of the Nevada Rules of Civil
16 Procedure. Each signature constitutes a certification that to the best of the signer's knowledge,
17 information and belief, formed after a reasonable inquiry, the disclosures made by the signer are
18 complete and correct as of this time.

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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 16th day of September, 2012.

LAXALT & NOMURA, LTD.

ROBERT A. DOTSON

Nevada State Bar No. 5285

ANGELA M. BADER, ESQ.

Nevada State Bar No. 5574

9600 Gateway Drive

Reno, Nevada 89521

Attorneys for Plaintiff

Dated this _____ day of September 2012.

LAW OFFICE OF MARK WRAY

MARK WRAY

Nevada State Bar No. 4425

608 Lander Street

Reno, NV 89509

Attorneys for Defendant

Sumona Islam

Dated this 6th day of September, 2012.

COHEN/JOHNSON

STEVEN B. COHEN

Nevada State Bar No. 2327

STAN JOHNSON

Nevada State Bar No. 265

6293 Dean Martin Drive, Ste G

Las Vegas, NV 89118

Attorneys for Defendant

Nav-Reno-GS, LLC d/ba Grand Sierra Resort

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Affirmation Pursuant to NRS 239B.030

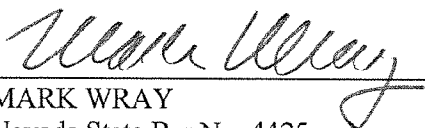
The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this _____ day of September, 2012. Dated this _____ day of September, 2012.
LAXALT & NOMURA, LTD. COHEN/JOHNSON

ROBERT A. DOTSON
Nevada State Bar No. 5285
ANGELA M. BADER, ESQ.
Nevada State Bar No. 5574
9600 Gateway Drive
Reno, Nevada 89521
Attorneys for Plaintiff

STEVEN B. COHEN
Nevada State Bar No. 2327
STAN JOHNSON
Nevada State Bar No. 265
6293 Dean Martin Drive, Ste G
Las Vegas, NV 89118
Attorneys for Defendant
Nav-Reno-GS, LLC d/ba Grand Sierra Resort

Dated this 5th day of September 2012.
LAW OFFICE OF MARK WRAY



MARK WRAY
Nevada State Bar No. 4425
608 Lander Street
Reno, NV 89509
Attorneys for Defendant
Sumona Islam

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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PAGES
1	Plaintiff's NRCP 16.1 Disclosure, First Supplemental NRCP 16.1 Disclosure, and Second Supplemental NRCP 16.1 Disclosure	22
2	Initial List of Witnesses and Documents Pursuant to NRCP 16.1, and First Supplement to Initial List of Witnesses and Documents Pursuant to NRCP 16.1	11
3	Defendant Sumona Islam's Initial Disclosures	7

FILED

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3203913

EXHIBIT 1

EXHIBIT 1

325,087 6/19
AB

1 ROBERT A. DOTSON, ESQ.
2 Nevada State Bar No. 5285
3 rdotson@laxalt-nomura.com
4 ANGELA M. BADER, ESQ.
5 Nevada State Bar No. 5574
6 abader@laxalt-nomura.com
7 LAXALT & NOMURA, LTD.
8 9600 Gateway Drive
9 Reno, Nevada 89521
10 Tel: (775) 322-1170
11 Fax: (775) 322-1865
12 Attorneys for Plaintiff

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **PLAINTIFF'S NRCP 16.1 DISCLOSURE**

23 Plaintiff, GOLDEN ROAD MOTOR INN, INC. d/b/a ATLANTIS CASINO RESORT
24 SPA, by and through its counsel, LAXALT & NOMURA Ltd., hereby produces the following
25 list of witnesses and documents, in accordance with NRCP 16.1:

26 ///

27 ///

28 ///

///

1 **A. NRCP 16.1(a)(1)(A) LIST OF WITNESSES**

- 2 1. Sumona Islam
3 c/o Mark Wray, Esq.
4 Law Office of Mark Wray
5 608 Lander Street
6 Reno, NV 89509
7 (775) 348-8877

8 Ms. Islam is expected to testify as to the facts and circumstances surrounding the
9 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 10 2. Tom Flaherty
11 Vice President of Casino Operations
12 Grand Sierra Resort
13 c/o Steven B. Cohen, Esq.
14 Cohen/Johnson
15 6293 Dean Martin Drive, Ste G
16 Las Vegas, Nevada 89118
17 (702) 823-3500

18 Mr. Flaherty is expected to testify as to the facts and circumstances surrounding the
19 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 20 3. Sterling Lungren
21 Human Resources Director
22 Grand Sierra Resort
23 c/o Steven B. Cohen, Esq.
24 Cohen/Johnson
25 6293 Dean Martin Drive, Ste G
26 Las Vegas, Nevada 89118
27 (702) 823-3500

28 Mr. Lungren is expected to testify as to the facts and circumstances surrounding the
29 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 30 4. Shelly Hadley
31 Executive Director Casino Marketing
32 Grand Sierra Resort
33 c/o Steven B. Cohen, Esq.
34 Cohen/Johnson
35 6293 Dean Martin Drive, Ste G
36 Las Vegas, Nevada 89118
37 (702) 823-3500

38 Ms. Hadley is expected to testify as to the facts and circumstances surrounding the
39 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

40 ///

1 5. Steve Ringkob
2 Director of Slot Operations
3 Atlantis Casino Resort Spa
4 c/o Robert A. Dotson, Esq.
5 Laxalt & Nomura
6 9600 Gateway Drive
7 Reno, NV 89521
8 (775) 322-1170

9 Mr. Ringkob is expected to testify as to the facts and circumstances surrounding the
10 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

11 6. Susan Moreno
12 Senior Executive Casino Host
13 Atlantis Casino Resort Spa
14 c/o Robert A. Dotson, Esq.
15 Laxalt & Nomura
16 9600 Gateway Drive
17 Reno, NV 89521
18 (775) 322-1170

19 Ms. Moreno is expected to testify as to the facts and circumstances surrounding the
20 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

21 7. Teresa Finn
22 Director of Human Resources
23 Atlantis Casino Resort Spa
24 c/o Robert A. Dotson, Esq.
25 Laxalt & Nomura
26 9600 Gateway Drive
27 Reno, NV 89521
28 (775) 322-1170

 Ms. Finn is expected to testify as to the facts and circumstances surrounding the
allegations contained in Plaintiff's Amended Verified Complaint For Damages.

 8. Brandon McNeely
Database Coordinator – Sales & Marketing
Atlantis Casino Resort Spa
c/o Robert A. Dotson, Esq.
Laxalt & Nomura
9600 Gateway Drive
Reno, NV 89521
(775) 322-1170

 Mr. McNeely is expected to testify as to the facts and circumstances surrounding the
allegations contained in Plaintiff's Amended Verified Complaint For Damages.

///

1 9. Abraham Pearson
2 Application Development Manager - IT
3 Atlantis Casino Resort Spa
4 c/o Robert A. Dotson, Esq.
5 Laxalt & Nomura
6 9600 Gateway Drive
7 Reno, NV 89521
8 (775) 322-1170

9 Mr. Pearson is expected to testify as to the facts and circumstances surrounding the
10 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

11 10. Debra Robinson
12 General Counsel
13 Atlantis Casino Resort Spa
14 c/o Robert A. Dotson, Esq.
15 Laxalt & Nomura
16 9600 Gateway Drive
17 Reno, NV 89521
18 (775) 322-1170

19 Ms. Robinson, if called, is expected to testify as to the facts and circumstances
20 surrounding the allegations contained in Plaintiff's Amended Verified Complaint For Damages.

21 11. Any and all witnesses listed by the Defendants.

22 **B. NRCP 16.1(a)(1)(B) LIST OF DOCUMENTS, DATA, TANGIBLE THINGS:**

- 23 1. Online System User Agreement, bates stamped ATL 0001 - 0004.
- 24 2. Business Ethics Policy and Code of Conduct Acknowledgement and Conflicts of
25 Interest Statement, bates stamped ATL 0005 – 0018.
- 26 3. Company Policy regarding Company Property, Proprietary Information, and Trade
27 Secrets, bates stamped ATL 0019 – 0021.
- 28 4. Non-Compete/Non-Solicitation Agreement, bates stamped ATL 0022.
5. April 6, 2012 letters, bates stamped ATL 0023 – 0031.
6. April 18, 2012 letter, bates stamped ATL 0032 – 0034.
7. Affidavit of Steve Rinkob, bates stamped ATL 0035 – 0036.
8. Affidavit of Susan Moreno, bates stamped ATL 0037 – 0038.
9. Declaration of Teresa Finn, bates stamped ATL 0039 – 0040.

- 1 10. Summary of modifications to customer database by Sumona Islam in days leading
2 up to her resignation, bates stamped ATL 0041 – 0043.
3 11. Audit History, redacted to protect privacy and confidentiality of the modifications
4 made by Ms. Islam to the customer database, bates stamped ATL 0044 – 0048.
5 12. Example of GSR solicitations, bates stamped ATL 0049.
6 13. Example of GSR solicitations, bates stamped ATL 0050.
7 14. Example of GSR solicitations, bates stamped ATL 0051.
8 15. Example of GSR solicitations, bates stamped ATL 0052.

10 **C. NRCP 16.1(a)(1)(C) (computation of damages claimed by disclosing party):**

11 Notwithstanding that Plaintiff's damages are continuing, Plaintiff is in the process of
12 computing its damages and the partial computation will be provided when completed.
13

14 **D. NRCP 16.1(a)(1)(D) (insurance agreements):**

15 Not Applicable.

16 **E. NRCP 16.1(a)(2) (expert witnesses):**

17 Plaintiff will comply with NRCP 16.1(a)(2) at the time to be ordered or dictated by the
18 Court.

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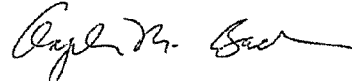
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Affirmation Pursuant to NRS 239B.030

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

DATED this 19th day of June, 2012.

LAXALT & NOMURA, LTD.



ROBERT A. DOTSON
Nevada State Bar No. 5285
ANGELA M. BADER, ESQ.
Nevada State Bar No. 5574
9600 Gateway Drive
Reno, Nevada 89521
(775) 322-1170
Fax: (75) 322-1865
Attorneys for Plaintiff

1 **CERTIFICATE OF SERVICE**

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

5
6 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
7 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
8 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
9 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.

10 ☐ 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.

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

13 ☐ (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.

14 ☐ Reno/Carson Messenger Service.

15 ☐ By email to the email addresses below.

16 addressed as follows:

17 Via Mail

Via Personal Delivery

18 Steven B. Cohen, Esq.
19 Cohen/Johnson
20 6293 Dean Martin Drive, Ste G
Las Vegas, NV 89118

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, NV 89509

21 scohen@cohenjohnson.com

mwwray@markwraylaw.com

22
23 DATED this 19th day of June, 2012.

24 
25 _____
26 An employee of Laxalt & Nomura, Ltd.

1 ROBERT A. DOTSON, ESQ.
2 Nevada State Bar No. 5285
3 rdotson@laxalt-nomura.com
4 ANGELA M. BADER, ESQ.
5 Nevada State Bar No. 5574
6 abader@laxalt-nomura.com
7 LAXALT & NOMURA, LTD.
8 9600 Gateway Drive
9 Reno, Nevada 89521
10 Tel: (775) 322-1170
11 Fax: (775) 322-1865
12 Attorneys for Plaintiff

13 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

14 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

18 Plaintiff,

19 vs.

20 SUMONA ISLAM, an individual; NAV-RENO-
21 GS, LLC, a Nevada limited liability company,
22 d/b/a GRAND SIERRA RESORT; ABC
23 CORPORATIONS; XYZ PARTNERSHIPS;
24 AND JOHN DOES I through X, inclusive.

25 Defendants.

26 **PLAINTIFF'S FIRST SUPPLEMENTAL NRCP 16.1 DISCLOSURE**

27 Plaintiff, GOLDEN ROAD MOTOR INN, INC. d/b/a ATLANTIS CASINO RESORT
28 SPA, by and through its counsel, LAXALT & NOMURA Ltd., hereby submits their
Supplemental 16.1(a)(1) as follows:

The supplemental documents and/or witnesses are listed in **BOLD** and in *ITALICS*. All
other documents and/or witnesses included within this disclosure have previously been produced
and/or identified by Plaintiff throughout the course of the subject litigation.

///

///

1 **A. NRCP 16.1(a)(1)(A) LIST OF WITNESSES**

- 2 1. Sumona Islam
3 c/o Mark Wray, Esq.
4 Law Office of Mark Wray
5 608 Lander Street
6 Reno, NV 89509
7 (775) 348-8877

8 Ms. Islam is expected to testify as to the facts and circumstances surrounding the
9 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 10 2. Tom Flaherty
11 Vice President of Casino Operations
12 Grand Sierra Resort
13 c/o Steven B. Cohen, Esq.
14 Cohen/Johnson
15 6293 Dean Martin Drive, Ste G
16 Las Vegas, Nevada 89118
17 (702) 823-3500

18 Mr. Flaherty is expected to testify as to the facts and circumstances surrounding the
19 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 20 3. Sterling Lungren
21 Human Resources Director
22 Grand Sierra Resort
23 c/o Steven B. Cohen, Esq.
24 Cohen/Johnson
25 6293 Dean Martin Drive, Ste G
26 Las Vegas, Nevada 89118
27 (702) 823-3500

28 Mr. Lungren is expected to testify as to the facts and circumstances surrounding the
29 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 30 4. Shelly Hadley
31 Executive Director Casino Marketing
32 Grand Sierra Resort
33 c/o Steven B. Cohen, Esq.
34 Cohen/Johnson
35 6293 Dean Martin Drive, Ste G
36 Las Vegas, Nevada 89118
37 (702) 823-3500

38 Ms. Hadley is expected to testify as to the facts and circumstances surrounding the
39 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

40 ///

1 5. Steve Ringkob
2 Director of Slot Operations
3 Atlantis Casino Resort Spa
4 c/o Robert A. Dotson, Esq.
5 Laxalt & Nomura
6 9600 Gateway Drive
7 Reno, NV 89521
8 (775) 322-1170

9 Mr. Ringkob is expected to testify as to the facts and circumstances surrounding the
10 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

11 6. Susan Moreno
12 Senior Executive Casino Host
13 Atlantis Casino Resort Spa
14 c/o Robert A. Dotson, Esq.
15 Laxalt & Nomura
16 9600 Gateway Drive
17 Reno, NV 89521
18 (775) 322-1170

19 Ms. Moreno is expected to testify as to the facts and circumstances surrounding the
20 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

21 7. Teresa Finn
22 Director of Human Resources
23 Atlantis Casino Resort Spa
24 c/o Robert A. Dotson, Esq.
25 Laxalt & Nomura
26 9600 Gateway Drive
27 Reno, NV 89521
28 (775) 322-1170

29 Ms. Finn is expected to testify as to the facts and circumstances surrounding the
30 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

31 8. Brandon McNeely
32 Database Coordinator – Sales & Marketing
33 Atlantis Casino Resort Spa
34 c/o Robert A. Dotson, Esq.
35 Laxalt & Nomura
36 9600 Gateway Drive
37 Reno, NV 89521
38 (775) 322-1170

39 Mr. McNeely is expected to testify as to the facts and circumstances surrounding the
40 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

41 ///

1 9. Abraham Pearson
2 Application Development Manager - IT
3 Atlantis Casino Resort Spa
4 c/o Robert A. Dotson, Esq.
5 Laxalt & Nomura
6 9600 Gateway Drive
7 Reno, NV 89521
8 (775) 322-1170

9 Mr. Pearson is expected to testify as to the facts and circumstances surrounding the
10 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

11 10. Debra Robinson
12 General Counsel
13 Atlantis Casino Resort Spa
14 c/o Robert A. Dotson, Esq.
15 Laxalt & Nomura
16 9600 Gateway Drive
17 Reno, NV 89521
18 (775) 322-1170

19 Ms. Robinson, if called, is expected to testify as to the facts and circumstances
20 surrounding the allegations contained in Plaintiff's Amended Verified Complaint For Damages.

21 11. Any and all witnesses listed by the Defendants.

22 **B. NRCP 16.1(a)(1)(B) LIST OF DOCUMENTS, DATA, TANGIBLE THINGS:**

- 23 1. Online System User Agreement, bates stamped ATL 0001 - 0004.
24 2. Business Ethics Policy and Code of Conduct Acknowledgement and Conflicts of
25 Interest Statement, bates stamped ATL 0005 – 0018.
26 3. Company Policy regarding Company Property, Proprietary Information, and Trade
27 Secrets, bates stamped ATL 0019 – 0021.
28 4. Non-Compete/Non-Solicitation Agreement, bates stamped ATL 0022.
29 5. April 6, 2012 letters, bates stamped ATL 0023 – 0031.
30 6. April 18, 2012 letter, bates stamped ATL 0032 – 0034.
31 7. Affidavit of Steve Rinkob, bates stamped ATL 0035 – 0036.
32 8. Affidavit of Susan Moreno, bates stamped ATL 0037 – 0038.
33 9. Declaration of Teresa Finn, bates stamped ATL 0039 – 0040.

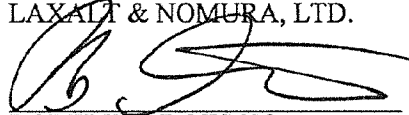
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Affirmation Pursuant to NRS 239B.030

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

DATED this 16th day of July, 2012.

LAXALT & NOMURA, LTD.



ROBERT A. DOTSON
Nevada State Bar No. 5285
ANGELA M. BADER, ESQ.
Nevada State Bar No. 5574
9600 Gateway Drive
Reno, Nevada 89521
(775) 322-1170
Fax: (75) 322-1865
Attorneys for Plaintiff

1 **CERTIFICATE OF SERVICE**

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

- 5
- 6 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
7 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
8 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
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10 ordinary course of business, in a United States mailbox in the City of Reno,
11 County of Washoe, Nevada.
- 12 ☐ By electronic service by filing the foregoing with the Clerk of Court using the E-
13 Flex system, which will electronically mail the filing to the following individuals.
- 14 ☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand
15 delivered this date to the address(es) at the address(es) set forth below.
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20 addressed as follows:

21 Steven B. Cohen, Esq.
22 Stan Johnson, Esq.
23 Cohen/Johnson
24 6293 Dean Martin Drive, Ste G
25 Las Vegas, NV 89118

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, NV 89509

mwray@markwraylaw.com

scohen@cohenjohnson.com
sjohnson@cohenjohnson.com

26 DATED this 16th day of July, 2012.

27 
28 An employee of Laxalt & Nomura, Ltd.

1 ROBERT A. DOTSON, ESQ.
2 Nevada State Bar No. 5285
3 rdotson@laxalt-nomura.com
4 ANGELA M. BADER, ESQ.
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6 abader@laxalt-nomura.com
7 LAXALT & NOMURA, LTD.
8 9600 Gateway Drive
9 Reno, Nevada 89521
10 Tel: (775) 322-1170
11 Fax: (775) 322-1865
12 Attorneys for Plaintiff

13 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

14 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

18 Plaintiff,

19 vs.

20 SUMONA ISLAM, an individual; NAV-RENO-
21 GS, LLC, a Nevada limited liability company,
22 d/b/a GRAND SIERRA RESORT; ABC
23 CORPORATIONS; XYZ PARTNERSHIPS;
24 AND JOHN DOES I through X, inclusive.

25 Defendants.

26 **PLAINTIFF'S SECOND SUPPLEMENTAL NRCP 16.1 DISCLOSURE**

27 Plaintiff, GOLDEN ROAD MOTOR INN, INC. d/b/a ATLANTIS CASINO RESORT
28 SPA, by and through its counsel, LAXALT & NOMURA Ltd., hereby submits their
Supplemental 16.1(a)(1) as follows:

The supplemental documents and/or witnesses are listed in **BOLD** and in *ITALICS*. All
other documents and/or witnesses included within this disclosure have previously been produced
and/or identified by Plaintiff throughout the course of the subject litigation.

///

///

1 A. NRCP 16.1(a)(1)(A) LIST OF WITNESSES

- 2 1. Sumona Islam
3 c/o Mark Wray, Esq.
4 Law Office of Mark Wray
5 608 Lander Street
6 Reno, NV 89509
7 (775) 348-8877

8 Ms. Islam is expected to testify as to the facts and circumstances surrounding the
9 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 10 2. Tom Flaherty
11 Vice President of Casino Operations
12 Grand Sierra Resort
13 c/o Steven B. Cohen, Esq.
14 Cohen/Johnson
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16 Las Vegas, Nevada 89118
17 (702) 823-3500

18 Mr. Flaherty is expected to testify as to the facts and circumstances surrounding the
19 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 20 3. Sterling Lungren
21 Human Resources Director
22 Grand Sierra Resort
23 c/o Steven B. Cohen, Esq.
24 Cohen/Johnson
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27 (702) 823-3500

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29 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 30 4. Shelly Hadley
31 Executive Director Casino Marketing
32 Grand Sierra Resort
33 c/o Steven B. Cohen, Esq.
34 Cohen/Johnson
35 6293 Dean Martin Drive, Ste G
36 Las Vegas, Nevada 89118
37 (702) 823-3500

38 Ms. Hadley is expected to testify as to the facts and circumstances surrounding the
39 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

40 ///

1 5. Steve Ringkob
2 Director of Slot Operations
3 Atlantis Casino Resort Spa
4 c/o Robert A. Dotson, Esq.
5 Laxalt & Nomura
6 9600 Gateway Drive
7 Reno, NV 89521
8 (775) 322-1170

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10 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

11 6. Susan Moreno
12 Senior Executive Casino Host
13 Atlantis Casino Resort Spa
14 c/o Robert A. Dotson, Esq.
15 Laxalt & Nomura
16 9600 Gateway Drive
17 Reno, NV 89521
18 (775) 322-1170

19 Ms. Moreno is expected to testify as to the facts and circumstances surrounding the
20 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

21 7. Teresa Finn
22 Director of Human Resources
23 Atlantis Casino Resort Spa
24 c/o Robert A. Dotson, Esq.
25 Laxalt & Nomura
26 9600 Gateway Drive
27 Reno, NV 89521
28 (775) 322-1170

29 Ms. Finn is expected to testify as to the facts and circumstances surrounding the
30 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

31 8. Brandon McNeely
32 Database Coordinator – Sales & Marketing
33 Atlantis Casino Resort Spa
34 c/o Robert A. Dotson, Esq.
35 Laxalt & Nomura
36 9600 Gateway Drive
37 Reno, NV 89521
38 (775) 322-1170

39 Mr. McNeely is expected to testify as to the facts and circumstances surrounding the
40 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

41 ///

1 9. Abraham Pearson
2 Application Development Manager - IT
3 Atlantis Casino Resort Spa
4 c/o Robert A. Dotson, Esq.
5 Laxalt & Nomura
6 9600 Gateway Drive
7 Reno, NV 89521
8 (775) 322-1170

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10 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

11 10. Debra Robinson
12 General Counsel
13 Atlantis Casino Resort Spa
14 c/o Robert A. Dotson, Esq.
15 Laxalt & Nomura
16 9600 Gateway Drive
17 Reno, NV 89521
18 (775) 322-1170

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20 surrounding the allegations contained in Plaintiff's Amended Verified Complaint For Damages.

21 11. Any and all witnesses listed by the Defendants.

22 **B. NRCP 16.1(a)(1)(B) LIST OF DOCUMENTS, DATA, TANGIBLE THINGS:**

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25 Interest Statement, bates stamped ATL 0005 – 0018.
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27 Secrets, bates stamped ATL 0019 – 0021.
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32 8. Affidavit of Susan Moreno, bates stamped ATL 0037 – 0038.
33 9. Declaration of Teresa Finn, bates stamped ATL 0039 – 0040.

10. Summary of modifications to customer database by Sumona Islam in days leading up to her resignation, bates stamped ATL 0041 – 0043.
11. Audit History, redacted to protect privacy and confidentiality of the modifications made by Ms. Islam to the customer database, bates stamped ATL 0044 – 0048.
12. Example of GSR solicitations, bates stamped ATL 0049.
13. Example of GSR solicitations, bates stamped ATL 0050.
14. Example of GSR solicitations, bates stamped ATL 0051.
15. Example of GSR solicitations, bates stamped ATL 0052.
16. Sumona Islam's personnel file, redacted as to Social Security number, account numbers, and drivers license number, bates stamped ATL 0053 – 0135.
17. *Sales and Marketing Comp Issuance Form signed by Sumona Islam, bates stamped ATL 0136.*
18. *Concierge Lounge Schedules, bates stamped ATL 0137 – 0151.*
19. *Internet Authorization Form signed by Sumona Islam, bates stamped ATL 0152.*
20. *Memo re Host Internet Access Agreements, bates stamped ATL 0153.*
21. *Network Access Requests signed by Sumona Islam, bates stamped ATL 0154 – 0165.*
22. *Online System User Agreement signed by Sumona Islam, bates stamped ATL 0166 – 0169.*
23. *Termination Checklist for Sumona Islam, bates stamped ATL 0170.*
24. *Termination Notice, bates stamped ATL 0171.*

C. NRCP 16.1(a)(1)(C) (computation of damages claimed by disclosing party):

Notwithstanding that Plaintiff's damages are continuing, Plaintiff is in the process of computing its damages and the partial computation will be provided when completed.

///

1 D. NRCP 16.1(a)(1)(D) (insurance agreements):

2 Not Applicable.

3 E. NRCP 16.1(a)(2) (expert witnesses):

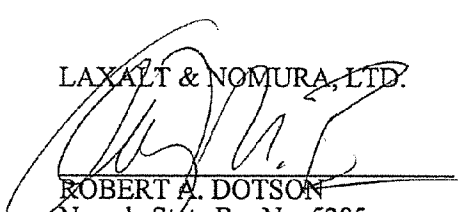
4 Plaintiff will comply with NRCP 16.1(a)(2) at the time to be ordered or dictated by the
5 Court.

6 **Affirmation Pursuant to NRS 239B.030**

7 The undersigned does hereby affirm that the preceding document does not contain the
8 social security number of any person.
9

10 DATED this 24th day of August, 2012.

11 LAXALT & NOMURA, LTD.

12 
13 ROBERT A. DOTSON
14 Nevada State Bar No. 5285
15 ANGELA M. BADER, ESQ.
16 Nevada State Bar No. 5574
17 9600 Gateway Drive
18 Reno, Nevada 89521
19 (775) 322-1170
20 Fax: (75) 322-1865
21 Attorneys for Plaintiff
22
23
24
25
26
27
28

1 CERTIFICATE OF SERVICE

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

- 5
- 6 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
7 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
8 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
9 area is given the correct amount of postage and is deposited that same date in the
10 ordinary course of business, in a United States mailbox in the City of Reno,
11 County of Washoe, Nevada.
- 12 ☐ By electronic service by filing the foregoing with the Clerk of Court using the E-
13 Flex system, which will electronically mail the filing to the following individuals.
- 14 ☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand
15 delivered this date to the address(es) at the address(es) set forth below.
- 16 ☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to
17 be telecopied to the number indicated after the address(es) noted below.
- 18 ☐ Reno/Carson Messenger Service.
- 19 ☐ By email to the email addresses below.

20 addressed as follows:

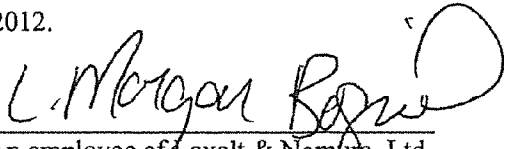
21 Steven B. Cohen, Esq.
22 Stan Johnson, Esq.
23 Cohen/Johnson
24 6293 Dean Martin Drive, Ste G
25 Las Vegas, NV 89118

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, NV 89509

mwray@markwraylaw.com

scohen@cohenjohnson.com
sjohnson@cohenjohnson.com

26 DATED this 27 day of August, 2012.

27 
28 An employee of Laxalt & Nomura, Ltd.

FILED
Electronically
09-10-2012:09:52:22 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 3203913

EXHIBIT 2

EXHIBIT 2

COHEN-JOHNSON, LLC
6293 Dean Martin Drive, Suite G
Las Vegas, Nevada 89118
(702) 823-3500 FAX: (702) 823-3400

1 **COHEN-JOHNSON, LLC**
2 H. STAN JOHNSON
3 Nevada Bar No. 00265
4 sjohnson@cohenjohnson.com
5 BRIAN A. MORRIS, ESQ.
6 Nevada Bar No. 11217
7 bam@cohenjohnson.com
8 6293 Dean Martin Drive, Suite G
9 Las Vegas, Nevada 89118
10 Telephone: (702) 823-3500
11 Facsimile: (702) 823-3400
12 Attorneys for Grand Sierra Resort

13 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
14 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171
Dept. No.: 7

Plaintiff,

vs.

18 SUMONA ISLAM, an individual; GSR
19 ENTERPRISES, LLC, a Nevada limited liability
20 company, d/b/a GRAND SIERRA RESORT;
21 ABC CORPORATIONS; XYZ
22 PARTNERSHIPS; and JOHN DOES I through
23 X, inclusive,

Defendants.

24 **INITIAL LIST OF WITNESSES AND DOCUMENTS**
25 **PURSUANT TO NRCP 16.1**

26 Defendant, GRAND SIERRA RESORT ("GSR" or "Defendant"), by and through its
27 counsel of record, Cohen-Johnson, LLC, hereby submits its Initial List of Witnesses and
28 Documents Pursuant to NRCP 16.1 in this matter as follows:

I. **WITNESSES**

A. Person Most Knowledgeable
Golden Road Motor Inn, Inc.
dba Atlantis Casino Resort Spa
c/o Laxal & Nomura, Ltd.
9600 Gateway Drive
Reno, Nevada 89521

...

1 This witness is expected to testify as to the facts and circumstances surrounding the
2 claims and allegations which are the subject of instant litigation.

3
4 B. Sumona Islam
c/o Law Offices of Mark Wray
5 608 Lander Street
Reno, Nevada 89509

6 This witness is expected to testify as to the facts and circumstances surrounding the
7 claims and allegations which are the subject of instant litigation.

8
9 C. Shelly Hadley
c/o Cohen-Johnson, LLC
10 6293 Dean Martin Drive, Suite G
Las Vegas, Nevada 89118

11 This witness is expected to testify as to the facts and circumstances surrounding the
12 claims and allegations which are the subject of instant litigation.

13
14 D. Tom Flaherty
c/o Cohen-Johnson, LLC
15 6293 Dean Martin Drive, Suite G
Las Vegas, Nevada 89118

16 This witness is expected to testify as to the facts and circumstances surrounding the
17 claims and allegations which are the subject of instant litigation.

18
19 E. Sterling Lundgren
c/o Cohen-Johnson, LLC
20 6293 Dean Martin Drive, Suite G
Las Vegas, Nevada 89118

21 This witness is expected to testify as to the facts and circumstances surrounding the
22 claims and allegations which are the subject of instant litigation.

23
24 F. Deborah Kite
c/o Cohen-Johnson, LLC
25 6293 Dean Martin Drive, Suite G
Las Vegas, Nevada 89118

26 This witness is expected to testify as to the facts and circumstances surrounding the
27 claims and allegations which are the subject of instant litigation.

28 ...

1 G. Terry Vavra
2 c/o Cohen-Johnson, LLC
3 6293 Dean Martin Drive, Suite G
4 Las Vegas, Nevada 89118

5 This witness is expected to testify as to the facts and circumstances surrounding the
6 claims and allegations which are the subject of instant litigation.

7 H. Christian Ambrose
8 c/o Cohen-Johnson, LLC
9 6293 Dean Martin Drive, Suite G
10 Las Vegas, Nevada 89118

11 This witness is expected to testify as to the facts and circumstances surrounding the
12 claims and allegations which are the subject of instant litigation.

13 Defendant reserves the right to supplement the witness disclosures as further
14 investigation and discovery may reveal additional information.

15 **II. DOCUMENTS**

16 A. Employee File for Sumona Islam, Bates Nos. GSR00001-GSR00029.

17 Defendant reserves the right to supplement the document disclosures as further
18 investigation and discovery may reveal additional information.

19 **III. INSURANCE**

20 Defendant is unaware of any insurance which would be available to satisfy all or part of a
21 possible judgment in the action or to indemnify or reimburse for payments made to satisfy the
22 judgment.

23 ...

24 ...

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28 ...

...

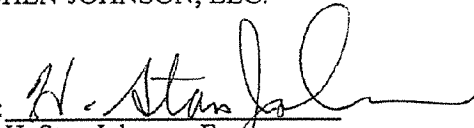
...

COHEN-JOHNSON, LLC
6293 Dean Martin Drive, Suite G
Las Vegas, Nevada 89118
(702) 823-3500 FAX: (702) 823-3400

1 Defendant reserves the right to supplement the insurance information as further
2 investigation and discovery may reveal additional information.

3 Dated this 3rd day of July, 2012.

4 COHEN-JOHNSON, LLC.

5
6 By: 

7 H. Stan Johnson, Esq.
8 Nevada Bar No. 00265
9 Brian A. Morris, Esq.
10 Nevada Bar No. 11217
11 6293 Dean Martin Drive, Suite G
12 Las Vegas, Nevada 89118
13 Attorneys for Grand Sierra Resort
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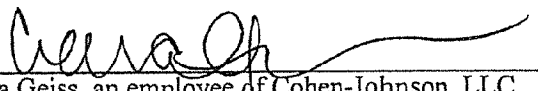
CERTIFICATE OF MAILING

I hereby certify that on the 3rd day of July, 2012, I served a copy of the foregoing
INITIAL LIST OF WITNESSES AND DOCUMENTS PURSUANT TO NRCP 16.1 upon
each of the parties by depositing a copy of the same in a sealed envelope in the United States
Mail, Las Vegas, Nevada, First-Class Postage fully prepaid, and addressed to:

Robert A. Dotson, Esq.
Angela M. Bader, Esq.
Laxalt & Nomura, Ltd.
9600 Gateway Drive
Reno, Nevada 89521
Attorney for Plaintiff

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, Nevada 89509
Attorney for Sumona Islam

and that there is a regular communication by mail between the place of mailing and the places so
addressed.


Ciara Geiss, an employee of Cohen-Johnson, LLC

COHEN-JOHNSON, LLC
H. STAN JOHNSON
Nevada Bar No. 00265
sjohnson@cohenjohnson.com
BRIAN A. MORRIS, ESQ.
Nevada Bar No. 11217
bam@cohenjohnson.com
6293 Dean Martin Drive, Suite G
Las Vegas, Nevada 89118
Telephone: (702) 823-3500
Facsimile: (702) 823-3400
Attorneys for Grand Sierra Resort

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; GSR
ENTERPRISES, 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.: 7

**FIRST SUPPLEMENT TO LIST OF WITNESSES AND DOCUMENTS
PURSUANT TO NRCP 16.1**

Defendant, GRAND SIERRA RESORT ("GSR" or "Defendant"), by and through its
counsel of record, Cohen-Johnson, LLC, hereby submits its First Supplement to List of
Witnesses and Documents Pursuant to NRCP 16.1 in this matter as follows (**new information
will be in bold**):

I. WITNESSES

- A. Person Most Knowledgeable
Golden Road Motor Inn, Inc.
dba Atlantis Casino Resort Spa
c/o Laxal & Nomura, Ltd.
9600 Gateway Drive
Reno, Nevada 89521

1 This witness is expected to testify as to the facts and circumstances surrounding the
2 claims and allegations which are the subject of instant litigation.

3
4 B. Sumona Islam
5 c/o Law Offices of Mark Wray
608 Lander Street
Reno, Nevada 89509

6 This witness is expected to testify as to the facts and circumstances surrounding the
7 claims and allegations which are the subject of instant litigation.

8
9 C. Shelly Hadley
c/o Cohen-Johnson, LLC
6293 Dean Martin Drive, Suite G
10 Las Vegas, Nevada 89118

11 This witness is expected to testify as to the facts and circumstances surrounding the
12 claims and allegations which are the subject of instant litigation.

13
14 D. Tom Flaherty
c/o Cohen-Johnson, LLC
6293 Dean Martin Drive, Suite G
15 Las Vegas, Nevada 89118

16 This witness is expected to testify as to the facts and circumstances surrounding the
17 claims and allegations which are the subject of instant litigation.

18
19 E. Sterling Lundgren
c/o Cohen-Johnson, LLC
6293 Dean Martin Drive, Suite G
20 Las Vegas, Nevada 89118

21 This witness is expected to testify as to the facts and circumstances surrounding the
22 claims and allegations which are the subject of instant litigation.

23
24 F. Deborah Kite
c/o Cohen-Johnson, LLC
6293 Dean Martin Drive, Suite G
25 Las Vegas, Nevada 89118

26 This witness is expected to testify as to the facts and circumstances surrounding the
27 claims and allegations which are the subject of instant litigation.

28 ...

1 G. Terry Vavra
2 c/o Cohen-Johnson, LLC
3 6293 Dean Martin Drive, Suite G
4 Las Vegas, Nevada 89118

5 This witness is expected to testify as to the facts and circumstances surrounding the
6 claims and allegations which are the subject of instant litigation.

7 H. Christian Ambrose
8 c/o Cohen-Johnson, LLC
9 6293 Dean Martin Drive, Suite G
10 Las Vegas, Nevada 89118

11 This witness is expected to testify as to the facts and circumstances surrounding the
12 claims and allegations which are the subject of instant litigation.

13 Defendant reserves the right to supplement the witness disclosures as further
14 investigation and discovery may reveal additional information.

15 **II. DOCUMENTS**

- 16 A. Employee File for Sumona Islam, Bates Nos. GSR00001-GSR00029;
17 B. Emails from Islam to Various Parties, Bates Nos. GSR00030-GSR00722;
18 C. Islam Pay Records, Bates Nos. GSR00723-GSR00738;
19 D. Performance Improvement Notice. Bates No. GSR00739;
20 E. Islam Customer List, Bates Nos. GSR00740-GSR00752; and
21 F. Emails from Various Parties to Islam, Bates Nos. GSR00753-GSR01029.

22 Defendant reserves the right to supplement the document disclosures as further
23 investigation and discovery may reveal additional information.

24 **III. INSURANCE**

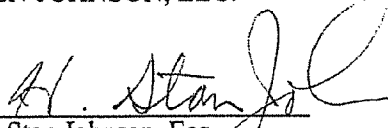
25 Defendant is unaware of any insurance which would be available to satisfy all or part of a
26 possible judgment in the action or to indemnify or reimburse for payments made to satisfy the
27 judgment.
28 ...

COHEN-JOHNSON, LLC
6293 Dean Martin Drive, Suite G
Las Vegas, Nevada 89118
(702) 823-3500 FAX: (702) 823-3400

1 Defendant reserves the right to supplement the insurance information as further
2 investigation and discovery may reveal additional information.

3 Dated this 15th day of August, 2012.

4 COHEN-JOHNSON, LLC.

5
6 By: 
7 H. Stan Johnson, Esq.
8 Nevada Bar No. 00265
9 Brian A. Morris, Esq.
10 Nevada Bar No. 11217
11 6293 Dean Martin Drive, Suite G
12 Las Vegas, Nevada 89118
13 Attorneys for Grand Sierra Resort
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COHEN-JOHNSON, LLC
6293 Dean Martin Drive, Suite G
Las Vegas, Nevada 89118
(702) 823-3500 FAX: (702) 823-3400

CERTIFICATE OF MAILING

I hereby certify that on the 15th day of August, 2012, I served a copy of the foregoing
FIRST SUPPLEMENT TO LIST OF WITNESSES AND DOCUMENTS PURSUANT TO
NRCP 16.1 (with CD) upon each of the parties by depositing a copy of the same in a sealed
envelope in the United States Mail, Las Vegas, Nevada, First-Class Postage fully prepaid, and
addressed to:

Robert A. Dotson, Esq.
Angela M. Bader, Esq.
Laxalt & Nomura, Ltd.
9600 Gateway Drive
Reno, Nevada 89521
Attorney for Plaintiff

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, Nevada 89509
Attorney for Sumona Islam

and that there is a regular communication by mail between the place of mailing and the places so
addressed.


Ciara Geiss, an employee of Cohen-Johnson, LLC

FILED
Electronically
09-10-2012:09:52:22 AM
Joey Orduna Hastings
Clerk of the Court
Transaction # 3203913

EXHIBIT 3

EXHIBIT 3

1 **2540**
2 MARK WRAY, #4425
3 LAW OFFICES OF MARK WRAY
4 608 Lander Street
5 Reno, Nevada 89509
6 (775) 348-8877
7 (775) 348-8351 fax
8 Attorneys for Defendant SUMONA ISLAM

9
10 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
11
12 IN AND FOR THE COUNTY OF WASHOE

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

16 Plaintiff,

Case No. CV12-01171

17 vs.

Dept. B7

18 SUMONA ISLAM, an individual;
19 NAV-RENO-GS, LLC, a Nevada
20 limited liability company, d/b/a
21 GRAND SIERRA RESORT; ABC
22 CORPORATIONS; XYZ PARTNERSHIPS;
23 AND JOHN DOES I through X,
24 inclusive,

25 Defendants.
26 _____/

27 **DEFENDANT SUMONA ISLAM'S INITIAL DISCLOSURES**

28 Pursuant to NRCP 16.1(a)(1), Defendant Sumona Islam makes the following
initial disclosures:

1 **A. The name and, if known, the address and telephone number of each**
2 **individual likely to have information discoverable under Rule 26(b),**
3 **including for impeachment or rebuttal, identifying the subjects of the information:**

- 4 1. Sumona Islam, c/o Law Offices of Mark Wray, 608 Lander Street, Reno,
5 Nevada 89509, 775-348-8877
- 6 2. Richard Rackenberg, c/o Laxalt & Nomura, Ltd., 9600 Gateway Drive,
7 Reno, Nevada 89521, 775-322-1170, who served as the Director of Table
8 Games at the Atlantis Casino and participated in the hiring of Ms. Islam at
9 Harrah's Casino in 1997 and also at the Atlantis in 2008.
- 10 3. Frank DeCarlo, c/o Laxalt & Nomura, Ltd., 9600 Gateway Drive, Reno,
11 Nevada 89521, 775-322-1170, who served as the Director of VIP Services
12 at the Atlantis Casino and hired Ms. Islam in 2008.
- 13 4. Steve Rinkgov, c/o Laxalt & Nomura, Ltd., 9600 Gateway Drive, Reno,
14 Nevada 89521, 775-322-1170, who was in attendance at the meeting when
15 Ms. Islam was hired.
- 16 5. Susan Moreno, c/o Laxalt & Nomura, Ltd., 9600 Gateway Drive, Reno,
17 Nevada 89521, 775-322-1170, who was a casino host at the Atlantis during
18 the same time period as Ms. Islam.
- 19 6. Lilia Santos, c/o Laxalt & Nomura, Ltd., 9600 Gateway Drive, Reno,
20 Nevada 89521, 775-322-1170, who was a casino host at the Atlantis during
21 the same time period as Ms. Islam and has knowledge of the working
22 conditions.
- 23 7. Eric Dale, who was employed at the Atlantis and has knowledge of the
24 contact list Ms. Islam brought over from Harrah's.
- 25 8. John Farahi, c/o Laxalt & Nomura, Ltd., 9600 Gateway Drive, Reno,
26 Nevada 89521, 775-322-1170, who is the CEO of the Atlantis Casino
- 27 9. Angie Antonetti, who is a former employee of the Atlantis Casino and has
28 knowledge of the operations and practices of the Atlantis Casino.

- 1 10. Eden Moore, who was a casino host at the Atlantis Casino during the same
2 time period as Ms. Islam and has knowledge of the working conditions.
3 11. Tom Flaherty, c/o Cohen/Johnson, 6293 Dean Martin Drive, Ste G, Las
4 Vegas, Nevada 89118, 702-823-3500, who was employed by the Grand
5 Sierra Resort and reviewed Ms. Islam's contract from the Atlantis Casino
6 12. Shelly Hadley, c/o Cohen/Johnson, 6293 Dean Martin Drive, Ste G, Las
7 Vegas, Nevada 89118, 702-823-3500, who was employed by the Grand
8 Sierra Resort and hired Ms. Islam to work at the GSR.

9 **B. A copy of, or a description by category and location of, all documents, data**
10 **compilations, and tangible things that are in the possession, custody, or**
11 **control of the party and which are discoverable under Rule 26(b):**

Bates #	Date of Document	Description
ISLAM 1- 57		Islam's client list, book 1
ISLAM 58- 128		Islam's client list, book 2
ISLAM 129- 203		Islam's client list, book 3
ISLAM 204- 258		Islam's client list, book 4
ISLAM 259- 276		Islam's client list, book 5

18 **C. A computation of any category of damages claimed by the disclosing party,**
19 **making available for inspection and copying as under Rule 34 the documents**
20 **or other evidentiary matter, not privileged or protected from disclosure, on**
21 **which such computation is based, including materials bearing on the nature**
22 **and extent of injuries suffered:**

23 N/A
24
25
26
27
28

1 D. Any insurance agreement under which any person carrying on an insurance
2 business may be liable to satisfy part or all of a judgment which may be
3 entered in the action or to indemnify or reimburse for payments made to
4 satisfy the judgment and any disclaimer or limitation of coverage or
5 reservation of rights under any such insurance agreement:

6 Islam is unaware at this time of any such insurance agreement.

7 DATED: July 11, 2012

8 
9 _____
10 MARK WRAY
11 Attorney for Defendant SUMONA ISLAM
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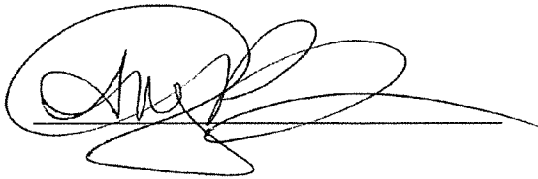
1 CERTIFICATE OF SERVICE

2 The undersigned employee of the Law Offices of Mark Wray certifies that a true
3 copy of the foregoing document was sealed in an envelope with first class postage
4 prepaid thereon and deposited in the U.S. Mail at Reno, Nevada on

5 July 11, 2012 addressed as follows:
6

7 Robert A. Dotson
8 Angela M. Bader
9 Laxalt & Nomura, Ltd.
10 9600 Gateway Drive
11 Reno, Nevada 89521

12 Steven B. Cohen
13 Stan Johnson
14 Cohen/Johnson
15 6293 Dean Martin Drive, Ste G
16 Las Vegas, Nevada 89118



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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: July 11, 2012



MARK WRAY
Attorney for Defendant

1 **2645**
2 MARK WRAY, #4425
3 LAW OFFICES OF MARK WRAY
4 608 Lander Street
5 Reno, Nevada 89509
6 (775) 348-8877
7 (775) 348-8351 fax
8 Attorneys for Defendant SUMONA ISLAM

9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

10 IN AND FOR THE COUNTY OF WASHOE

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

14 Plaintiff,

Case No. CV12-01171

15 vs.

Dept. B7

16
17 SUMONA ISLAM, an individual;
18 NAV-RENO-GS, LLC, a Nevada
19 limited liability company, d/b/a
20 GRAND SIERRA RESORT; ABC
21 CORPORATIONS; XYZ PARTNERSHIPS;
22 AND JOHN DOES I through X,
23 inclusive,

24 Defendants.

25 **OPPOSITION OF SUMONA ISLAM TO ATLANTIS MOTION FOR PARTIAL**
26 **SUMMARY JUDGMENT**

27 This is a motion that ought not to have been filed. By no stretch of the
28 imagination can this case be said to involve undisputed liability, and in fact, liability is

1 factually disputed on every one of the seven claims for relief. The dispute begins on the
2 very first line of the Atlantis statement of facts, where the Atlantis states:

3 “1. ATLANTIS hired ISLAM on or about April 16, 2008 as a Concierge
4 Manager; she was transferred to Executive Casino Host on October 2, 2008.” Motion, p.
5 2, lines 23-24.

6 The Atlantis did not hire Islam to be a Concierge Manager. The Atlantis hired her
7 away from Harrah’s, where she was an Executive Casino Host, to be an Executive Casino
8 Host with the Atlantis, and to bring with her the book of business she had developed
9 while at Harrah’s. Because of her non-compete agreement with Harrah’s, which
10 prevented her from working as a host at another casino for six months, the Atlantis gave
11 Islam a fake title called “Concierge Manager”, so she worked as a casino host under the
12 fictitious title of “Concierge Manager” until the non-compete expired in October 2008.
13 *See*, Islam Affidavit, attached.

14 Thus, this case cannot get past the first claimed fact without running into a dispute,
15 and this particular dispute is material. How Islam was hired, why she was hired, and
16 what happened to that players list that she brought with her from Harrah’s, all are
17 material facts in this action, which bear directly upon issues such as whether the Atlantis
18 has any proprietary right to that players’ list, and whether the inequitable conduct by the
19 Atlantis in acquiring the players list from Islam bars its equitable claims for relief.

20 Before getting further into those issues, however, Islam respectfully suggests that
21 the motion for partial summary judgment is premature and that the motion should be
22 denied while Islam completes discovery.

23 I

24 SUMMARY JUDGMENT SHOULD BE DENIED UNDER NRCP 56(f) TO 25 ALLOW ISLAM TO COMPLETE DISCOVERY

26 Although this Opposition also addresses the merits of the motion, in case the Court
27 does not allow her to complete discovery before ruling on the motion, Islam would
28 appreciate the opportunity to complete discovery before the Court entertains the motion.

1 The case has been pending only a short time. The action was filed April 27, 2012.
2 The Amended Complaint was filed May 7, 2012. Counsel for Islam filed a Notice of
3 Appearance on May 15, 2012. Islam's Answer to the Amended Complaint was filed June
4 1, 2012. The Joint Case Conference Report was filed June 29, 2012. Islam's Initial
5 Disclosures Pursuant to NRCP 16.1 were served on the other parties July 11, 2012. The
6 Atlantis Motion for Partial Summary Judgment was filed August 23, 2012. See Wray
7 Aff., attached.

8 On August 30, 2012, Islam served on the Atlantis her first Request for Production
9 of Documents pursuant to NRCP 34, a true copy of which is attached as Exhibit 1, and on
10 August 31, 2012, Islam served her Second Request for Production, attached as Exhibit 2.
11 These requests seek information from records of the Atlantis which Islam does not have
12 in her possession and which would be highly probative of Islam's defenses. Islam also
13 wishes to take the depositions of Frank DeCarlo, Debra Robinson and Lilia Santos. *Id.*

14 In *Collins v. Union Federal Savings and Loan Association*, 99 Nev. 284, 302, 662
15 P.2d 610, 622, fn.8 (1983), the court said: "A trial court may, in its sound discretion,
16 refuse to grant summary judgment if the motion is made at an early stage of discovery
17 because the court feels that further development is needed to assist it in its decision."
18 Islam believes that the Court should be entitled to a fully developed record before ruling
19 upon a motion granting partial summary judgment. The Atlantis is, after all, seeking
20 judgment as to liability on all seven of its claims for relief, thereby preventing Islam from
21 having a trial, based on a motion filed less than two months after the discovery period
22 opened, in a case where the Atlantis already has obtained ex parte injunctive relief
23 against Islam without notice to her.

24 As the 22 exhibits attached to the moving papers illustrate, the Atlantis has taken
25 four depositions, and the Atlantis voluntarily has disclosed selected records to Islam.
26 Two of those depositions, and some of the voluntary disclosures, are being used by the
27 Atlantis in support of its motion. Those would be depositions the Atlantis chose to take
28 and disclosures the Atlantis chose to make, rather than discovery Islam requested. From

1 Islam's perspective, the motion for partial adjudication is a rush to judgment based only
2 on selected evidence of the Atlantis, before Islam can do any discovery of her own.

3 Islam has stipulated to a preliminary injunction order in favor of the Atlantis that
4 preserves the status quo pending trial, and thus the Atlantis is hardly in a position to be
5 complaining if Islam would like to complete discovery before filing her opposition to a
6 motion for summary adjudication.

7 Rule 56(f) states:

8 **When Affidavits Are Unavailable.** Should it appear from the affidavits of
9 a party opposing the motion that the party cannot for reasons stated present
10 by affidavit facts essential to justify the party's opposition, the court may
11 refuse the application for judgment or may order a continuance to permit
12 affidavits to be obtained or depositions to be taken or discovery to be had or
13 may make such other order as is just.

13 Islam has presented the declaration of her counsel, attached, as required by the rule, in
14 requesting that the motion be denied to allow her to complete discovery.

15 In *Aviation Ventures, Inc. v. Joan Morris, Inc.*, 121 Nev. 113, 110 P.3d 59 (2005),
16 the court reversed a summary judgment after the district court denied a motion to
17 continue under 56(f). The Supreme Court noted that less than *eight months* had passed
18 between the complaint and granting summary judgment. There was no evidence that the
19 defendants lacked diligence in conducting discovery. The court held that the district
20 court should have granted the continuance to consider the circumstances as to the parties'
21 agreement surrounding a note and for proper development of the record. *Id.*

22 Similarly, in *Halimi v. Blacketor*, 105 Nev. 105, 770 P.2d 531 (1989), the court
23 reversed a summary judgment after the district denied a motion to continue under 56(f).
24 The plaintiff asked for additional time to conduct discovery in support of his contention
25 that the defendant had failed to deposit necessary documents in escrow not required by
26 the parties' option agreement. The court noted that *less than a year* had passed between
27 the complaint and the motion for summary judgment. Also, the plaintiff had used
28

1 diligence in prosecuting the action. The court held the district abused its discretion in
2 denying the continuance.

3 Likewise, in *Harrison v. Falcon Products, Inc.*, 103 Nev. 558, 746 P.2d 642
4 (1987), the court reversed a summary judgment after the district court denied a motion to
5 continue under 56(f). The record showed the plaintiff was not dilatory in conducting
6 discovery and that the plaintiff had requested additional time to conduct to take
7 depositions and serve requests for admission. The court noted that *less than two years*
8 had passed between the complaint and the summary judgment. The court held that
9 granting summary judgment without allowing the plaintiff to complete her discovery at
10 such an early stage of the proceedings was an abuse of discretion.

11 Here, the motion was filed less than two months after the Joint Case Conference
12 report. Based on these authorities and the short procedural history of this case, the Court
13 should deny the motion for summary judgment as premature until Islam completes her
14 identified discovery.

15 II 16 FACTS

17 Before discussing any aspect of the motion further, Islam would like the Court to
18 appreciate that from her standpoint, the presentation of facts by the Atlantis at pages 2-7
19 of the motion fails to tell the whole truth. Obviously, under *Wood v. Safeway, Inc.*, 121
20 Nev. 724, 121 P.3d 1026 (2005) and other cases, the pleadings and proof are to be
21 viewed in a light most favorable to the non-moving party. Indeed, all of the non-
22 movant's statements should be accepted as true, *Sawyer v. Sugarless Shops, Inc.*, 106
23 Nev. 265, 792 P.2d 14 (1990), and even inferences from such evidence should be
24 accepted as true. *Johnson v. Steel, Inc.*, 100 Nev. 181, 678 P.2d 676 (1984). The Atlantis
25 statement of facts only tells the facts in the light most favorable to the Atlantis.

26 The following statement of facts will provide the Court with a more balanced and
27 complete picture of this case. The following facts are based on Islam's personal
28 knowledge and are attested to by her attached affidavit.

1 Sumona was born in Bangladesh on August 20, 1974. She immigrated to the
2 United States in 1994 and is a U.S. citizen. She came here to pursue her dream of
3 attending college in the United States.

4 In 1996, she worked as a slot attendant at Circus Circus in Reno, before being
5 hired as a slot host by Richard Rackenberg at Harrah's in 1997. After six months, she
6 went to dealer school and became a dealer. A year and a half later, she was promoted to
7 Table Games Supervisor.

8 From her earnings at Harrah's, Sumona supported her husband and daughter while
9 he went through the University of Nevada. The plan was for her husband to graduate and
10 get a job to support her while she finished school, but that didn't happen. She divorced
11 him in 2002. As a single mother, she worked full-time at Harrah's while attending
12 Nevada, earning a degree in business management.

13 In early 2005, Sumona was promoted to casino host at Harrah's, a job she worked
14 at very hard for the next three years. To get her started, Harrah's provided Sumona a list
15 of players, many of whom she already knew from her years working at Harrah's. She
16 added to and developed that list over the next three years.

17 The position of a casino host entails many responsibilities, which Sumona
18 describes as similar to running one's own business under the umbrella of the casino. As a
19 host, Sumona needed to have her own marketing plans for how to sell the casino to
20 different players. Sometimes she hosted personal, mini-events and invited her players to
21 attend. She also needed to take care of a wide variety of players' needs and to wear many
22 hats. Her personal touch could make all the difference. She would act as personal
23 assistant, booking reservations for such things as hotels, restaurants, golf, and other
24 events. She was often on the phone, calling players simply to touch bases, answer
25 questions, or discuss their personal preferences. She had to be available almost at any
26 time, at least to answer phone calls. She also would spend time with her players when
27 they were at the casino, or going with them to lunch and dinner and outings such as
28 golfing. Sometimes she was a friend, or even a counselor and advisor. Despite all the

1
2 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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

6 Appellant/Cross-Respondent,
7 vs.

8 SUMONA ISLAM, an individual,
9 Respondent/Cross-Appellant
10 and

11 MEI-GSR HOLDINGS LLC, a Nevada
12 limited liability company d/b/a GRAND
13 SIERRA RESORT which claims to be
14 the successor in interest to NAV-RENO-
15 GS, LLC,

16 Respondent.

17 SUMONA ISLAM, an individual,
18 Appellant

19 vs.

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

23 Respondent.

24 MEI-GSR HOLDINGS LLC d/b/a
25 GRAND SIERRA RESORT,

26 Appellant/Cross-Respondent,
27 vs.

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

Respondent/Cross-Appellant.

Electronically Filed
Sep 02 2014 04:32 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

Case No.: 64349

Case No.: 64452

Case No.: 65497

**JOINT APPENDIX
VOLUME II**

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This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

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This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

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This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

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This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

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This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

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This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

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This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

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	(ATL 1001 – 1004).....	App. 4413-4417
22	Trial Exhibit 32	
	Expert report and CV of Jeremy A. Aguero.....	App. 4418-4450
23	Trial Exhibit 33	
24	Spreadsheet for offer dated April 1-23	
	(GSR-AMBROSE 0052-0061).....	App. 4451-4461
25	Trial Exhibit 34	
26	Spreadsheet for offer dated April 24-May 23	
	(GSR-AMBROSE 0001-0015).....	App. 4462-4477
27	///	
28	///	

1	Trial Exhibit 35	
2	Spreadsheet for offer dated April 24- May 23	
3	Non-Locals Duplicates	
4	(GSR-AMBROSE 0016-0018).....	App. 4478-4481
5	Trial Exhibit 36	
6	Spreadsheet for offer dated May 24 – June 19 Non-locals	
7	(GSR-AMBROSE 0092-0121).....	App. 4482-4512
8	<u>VOLUME XXII – FILED UNDER SEAL</u>	
9	This Volume is filed under seal pursuant to the Stipulated Protective Order	
10	entered on August 27, 2012 by the district court (2 App. 347-357) and by	
11	order of the district court during trial (19 App. 3948:12-13).	
12	Trial Exhibit 37	
13	Spreadsheet for offer dated June20 – July17 Non-Locals	
14	(GSR-AMBROSE 0062-0091).....	App. 4513-4543
15	Trial Exhibit 38	
16	Spreadsheet for offer dated April 1- 23 Locals	
17	(GSR-AMBROSE 0032-0051).....	App. 4544-4564
18	Trial Exhibit 39	
19	Spreadsheet for offer dated April 24- May 23	
20	(GSR-AMBROSE 0019-0026).....	App. 4565-4573
21	Trial Exhibit 40	
22	Spreadsheet for offer dated May 24 – Jun 19 Locals	
23	(GSR-AMBROSE 0027-0031).....	App. 4574-4579
24	Trial Exhibit 41	
25	Ambrose Emails	
26	(GSR-AMBROSE 0122-0159).....	App. 4580-4618
27	Trial Exhibit 42	
28	Revenue Spreadsheets	
29	(GSR-Singh 0001-0007).....	App. 4619-4626
30	Trial Exhibit 43	
31	Harrah’s June 26, 2008 letter to Islam	
32	(ATL 0266 – 0279).....	App. 4627-4641
33	Trial Exhibit 44	
34	Harrah’s October 22, 2009 letter to Islam	
35	(ATL 0280, ATL 0283 and ATL 0283a).....	App. 4642-4645
36	Trial Exhibit 45	
37	Email from Tomelden 1/19/12 and from	
38	DeCarlo to Finn 1/20/12 and privileged emails	
39	(ATL 0281 – 0282).....	App. 4646-4648
40	Trial Exhibit 46	
41	Correspondence between Atlantis and counsel	
42	for Fitzgeralds related to Chau non-compete	
43	(ATL 0604-0625).....	App. 4649-4671

1	Trial Exhibit 47	
2	Harrah's Employment Agreement provided	
	to Atlantis by Sumona Islam	
3	(ATL 0628-0638).....	App. 4672-4683
4	Trial Exhibit 48	
	Emails between Shelly Hadley to Sumona Islam	
5	(GSR 01932 – 01934).....	App. 4684-4687
6	Trial Exhibit 49	
	GSR Free Play Adjustments and Comps	
7	GSR 1935 - 1981	App. 4688-4735
8	Trial Exhibit 50	
	Hadley emails	
9	GSR 2029 – 2033.....	App. 4736-4741
10	<u>VOLUME XXIII – FILED UNDER SEAL</u>	
11	This Volume is filed under seal pursuant to the Stipulated Protective Order	
12	entered on August 27, 2012 by the district court (2 App. 347-357) and by	
13	order of the district court during trial (19 App. 3948:12-13).	
14	Trial Exhibit 51	
15	Hadley emails	
16	GSR 1982 - 2028	App. 4742-4789
17	Trial Exhibit 52	
18	Grand Sierra Resort Employee Handbook	
19	(GSR 02034 – 2064).....	App. 4790-4821
20	Trial Exhibit 53	
21	Resume of Abraham Pearson	App. 4822-4824
22	Trial Exhibit 54	
23	Concierge Lounge Schedules	
24	(ATL 0137 – 0151).....	App. 4825-4840
25	Trial Exhibit 55	
26	March 12, 2010 memo re Host Internet Access Agreement	
27	(ATL 0153).....	App. 4841-4842
28	Trial Exhibit 56	
	Network Access Requests signed by Sumona Islam	
	(ATL 0154-0165).....	App. 4843-4855
	Trial Exhibit 57	
	Online System User Agreement signed by Sumona Islam	
	(ATL 0166 – 0169).....	App. 4856-4860
	Trial Exhibit 58	
	Grand Sierra Flyer	
	(ATL 0626 – 0627).....	App. 4861-4863
	Trial Exhibit 59	
	Plaintiff's Seventeenth Supplemental	
	NRCP 16.1 Disclosure.....	App. 4864-4899

1	Trial Exhibit 60	
2	Resume of Brandon C. McNeely	
3	(ATL 0992 – 0994)	App. 4900-4903
4	Trial Exhibit 61	
5	Atlantis Customer Lifetime Value calculations	
6	and Harvard Business Review case study	
7	(ATL 0973 – 0990)	App. 4904-4922
8	Trial Exhibit 62	
9	Black’s Law Dictionary and Webster’s	
10	Dictionary definition of “sabotage”	
11	(ATL 0995 – 1000)	App. 4923-4929
12	Trial Exhibit 63	
13	Guest contact list prepared by Frank DeCarlo	
14	at the direction of Debra Robinson	
15	(ATL 1609)	App. 4930-4931
16	Trial Exhibit 64	
17	Email string dated 4/5/12 regarding guest Arsenault	
18	(ATL 1617 – 1618)	App. 4932-4934
19	Trial Exhibit 65	
20	Email string dated 4/10/12 regarding guest Davidson	
21	(ATL 1619 – 1620)	App. 4935-4937
22	Trial Exhibit 66	
23	Email dated 4/17/12 regarding guest Scheider	
24	(ATL 1621)	App. 4938-4939
25	Trial Exhibit 67	
26	Portions of David Law’s personnel file,	
27	redacted as to Social Security number	
28	(ATL 1667 – 1681)	App. 4940-4955
29	Trial Exhibit 68	
30	Portions of Lilia Santos’ personnel file,	
31	redacted as to Social Security number	
32	(ATL 1682 – 1695)	App. 4956-4970
33	<u>VOLUME XXIV – FILED UNDER SEAL</u>	
34	This Volume is filed under seal pursuant to the Stipulated Protective Order	
35	entered on August 27, 2012 by the district court (2 App. 347-357) and by	
36	order of the district court during trial (19 App. 3948:12-13).	
37	Trial Exhibit 69	
38	Concierge Desk Schedules	
39	(ATL 1740 – 1766)	App. 4971-4998
40	Trial Exhibit 70	
41	Emails regarding Ramon Mondragon	
42	(ATL 1776 – 1785)	App. 4999-5009

///

1 Trial Exhibit 71
IT Help Desk Notes for Frank DeCarlo's email
(ATL 1786 – 1798).....App. 5010-5023

2 Trial Exhibit 72
3 Internet Authorization Form signed by Sumona Islam
(ATL 0152).....App. 5024-5025

4 Trial Exhibit 73
5 Transcript of May 3, 2012 GSR Investigatory Interview
Recording with Sumona Islam
6 (GSR02130 – GSR02133).....App. 5026-5030

7 Trial Exhibit 74
Demonstrative exhibit
8 List of emails prepared by Mark Wray
(Deposition Exhibit 53)App. 5031-5036

9 Trial Exhibit 75
10 Islam's Book of Trade produced to Atlantis
with notes from Atlantis
11 (ATL 0213 – 0265).....App. 5037-5090

12 Trial Exhibit 76
Sumona Islam's Hallmark cardApp. 5091-5092

13 Trial Exhibit 77
14 Compilation of GSR/Islam
Emails in chronological order.....App. 5093-5220

15 **VOLUME XXV – FILED UNDER SEAL**

16 **This Volume is filed under seal pursuant to the Stipulated Protective Order**
17 **entered on August 27, 2012 by the district court (2 App. 347-357) and by**
18 **order of the district court during trial (19 App. 3948:12-13).**

19 [Continued] Trial Exhibit 77
Compilation of GSR/Islam Emails
in chronological order.....App. 5221-5428

20 Trial Exhibit 78
21 Additional signature pages to Trade Secret
Agreement and Business Ethics policy
22 and Code of Conduct Agreement
(ATL 0100 - 0101, 0103, 0128 - 0130).....App. 5429-5435

23 Trial Exhibit 80
24 Full handwritten client list produced by Islam
(ISLAM 1- 276).....App. 5436-5470

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VOLUME XXVI – FILED UNDER SEAL

This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

[Continued] Trial Exhibit 80

Full handwritten client list produced by Islam
(ISLAM 1- 276).....App. 5471-5712

Trial Exhibit 81

Letter to Mark Wray, Esq. from
Angela Bader, Esq. dated 10/15/12App. 5713-5718

VOLUME XXVII – FILED UNDER SEAL

This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

Trial Exhibit 82

Email from Frank DeCarlo filed 2/22/11
and Declining Player Report as of 12/21/11.....App. 5719-5729

Trial Exhibit 83

Copy of handwritten client list
produced by Islam with notations
made during review on July 6-7, 2013App. 5730-5968

VOLUME XXVIII – FILED UNDER SEAL

This Volume is filed under seal pursuant to the Stipulated Protective Order entered on August 27, 2012 by the district court (2 App. 347-357) and by order of the district court during trial (19 App. 3948:12-13).

[Continued] Trial Exhibit 83

Copy of handwritten client list
produced by Islam with notations
made during review on July 6-7, 2013App. 5969-6020

Trial Exhibit 84

Defendant's Responses to Plaintiff's
First Set of Request for Admission to Defendant
Nav-Reno-GS, LLC dba Grand Sierra Resort.....App. 6021-6049

Trial Exhibit 85

Handwritten note of Lilia Santos.....App. 6050-6052

1 3370

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7 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
8 IN AND FOR THE COUNTY OF WASHOE
9

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

13 Plaintiff,

CASE NO.: CV12-01171

14 vs.

DEPT. NO.: B7

15 SUMONA ISLAM, an individual; NAV-RENO
16 GS, LLC, a Nevada limited liability
17 Company, d/b/a GRAND SIERRA RESORT,
18 et al.,

19 Defendants.
20

ORDER DIRECTING RANDOM REASSIGNMENT

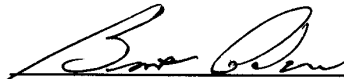
21 This matter was returned to the business court docket in Department Six by Order
22 of the Honorable Patrick Flanagan entered June 6, 2012.

23 The peremptory challenge of the undersigned by Defendant Sumona Islam was
24 timely filed.

25 If any judge of the business court docket is the subject of a peremptory challenge
26 pursuant to SCR 48.1, the clerk shall randomly reassign the case to another department of
27 the court. WDCR 2.1(a)(8).
28

1 Accordingly, the clerk of the court shall forthwith randomly reassign this action to
2 another department of the court.

3 Dated this 14th day of June, 2012.

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5 
6 District Judge

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CERTIFICATE OF SERVICE

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;
that on the 14th day of June, 2012, I electronically filed the foregoing with the Clerk of
the Court system which will send a notice of electronic filing to the following:

ROBERT DOTSON, ESQ.

H. JOHNSON, ESQ.

MARK WRAY, ESQ.

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



Judicial Assistant

CASE NO. CV12-01171

GOLDEN ROAD MOTOR INN, INC. vs. SUMONA ISLAM et al.

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

06/20/12

STATUS HEARING

HONORABLE
PATRICK
FLANAGAN
DEPT. NO. 7

Rob Dotson, Esq., was present in Court on behalf of the Plaintiff, with Debra Robinson, Esq., General Counsel for the Plaintiff, being present.
Mark Wray, Esq., was present in Court on behalf of Defendant Sumona Islam, who was not present.

K. Oates
(Clerk)
S. Koetting
(Reporter)

Stan Johnson, Esq., and Steve Cohen, Esq., were present in Court via Court Call, on behalf of Defendant GSR Enterprises, LLC, who was not present.
3:02 p.m. – Court convened with Court and counsel present.
The Court addressed and confirmed with the parties that a Temporary Restraining Order (“TRO”) had previously been entered by Department Six against Defendant Sumona Islam, and that the Temporary Restraining Order as to Defendant GSR Enterprises, LLC (“GSR”) remains outstanding.
Counsel Dotson addressed the Court and responded that the TRO as to Defendant Islam is “stale”, as the law provides that a TRO cannot exceed thirty days. Further, counsel advised that the parties can stipulate to extend the TRO or the Court can extend the TRO fifteen days. Further, counsel advised that the parties cannot come to terms as to the TRO against Defendant GSR. Counsel further advised that an investigation is being conducted by the Gaming Control Board as to Defendant Islam, however, the parties would like to proceed with the Preliminary Injunction. Further, counsel advised that the NRCP 16.1 Case Conference was conducted yesterday, and the parties are exchanging documentation.
Counsel Johnson addressed the Court and responded that he had provided counsel Dotson with a revised Stipulation and Order with respect to the GSR TRO, however, counsel Dotson disagreed with the proposed language. Further, counsel moved to have the parties submit the stipulations and orders to the Court for review and consideration. Further, counsel advised that no TRO currently exists against GSR, counsel prefers not to have a TRO entered against GSR, and proceed as Judge Adams previously instructed. Further, counsel argued that no bond was ever posted in this matter, and therefore a TRO would not be valid without the posting of a bond. Counsel further moved to extend the TRO with respect to Defendant Islam until the Preliminary Injunction.
Counsel Wray addressed the Court and responded that even though the TRO has expired with respect to Ms. Islam, she has still “honored” the TRO, even without the

CASE NO. CV12-01171

GOLDEN ROAD MOTOR INN, INC. vs. SUMONA ISLAM et al.

Page Two

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

06/20/12

STATUS HEARING

HONORABLE
PATRICK
FLANAGAN
DEPT. NO. 7
K. Oates
(Clerk)
S. Koetting
(Reporter)

posting of a bond or technical issues that may exist. Counsel Wray further argued that Ms. Islam does not want a TRO against GSR, and counsel further argued that Ms. Islam was never noticed of the TRO, and lost the opportunity to address relevant issues. Counsel further moved to file a Motion to Modify or Dissolve the TRO, combine the Preliminary Injunction and Trial on the merits, and further argued that this case is suitable for ADR. Counsel further advised that Ms. Islam is presently not working at GSR, having previously been suspended, has not been contacted by the Gaming Control Board to be interviewed, however, he, counsel Wray, contacted the Gaming Control Board on her behalf. Counsel further argued in support of the civil case proceeding, prior to any criminal matter, if applicable, and further, counsel advised that Defendant GSR reported Ms. Islam to the Gaming Control Board, and she would like to maintain status quo until the Preliminary Injunction is conducted.

Counsel Dotson responded and confirmed that Department Six did not order a bond with respect to Ms. Islam, and he would expect a bond to be posted with respect to GSR. Further, counsel expressed concerns about everyone participating "meaningfully" in ADR, had no objection to the Preliminary Injunction and Trial on the merits being combined, and further addressed the use of a Special Master with respect to the client lists. Counsel further advised that he had located a Special Master, but could not recall his name. Further, counsel stated his concerns as to the Preliminary Injunction going forward in thirty days, as it will take longer than thirty days to provide clients lists and obtain a report from the Special Master.

Counsel Johnson responded and stated his concern as to the discovery that would need to be conducted in this matter.

COURT ORDERED: The parties are ordered to submit changes to the TRO to the Court for review and consideration. As to the requirement of a bond, if there is going to be a stipulation, the Court does not see the necessity of a bond in light of the fact that Defendant Islam continues to abide by the TRO. Further, the Court will let the parties determine if ADR is appropriate, and further, it is the Court's opinion that the use of a Special Master is appropriate as to the client lists. Further, as to the Gaming Control Board investigation involving Defendant Islam, the Court is not going to restrict the conditions of Ms. Islam's participation in the civil matter or a waiver of her Fifth

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

06/20/12

STATUS HEARING

HONORABLE

Amendment privileges, however, the Court does not want large sums of money expended preparing for trial, only to have this matter continued.

PATRICK

Counsel Johnson responded and advised that he will provide the Court with his proposed stipulation and order.

FLANAGAN

DEPT. NO. 7

K. Oates

COURT ORDERED: The parties are ordered to provide the Court with their proposed Stipulations and Orders no later than Monday, July 2, 2012. Further, the TRO as to Defendant Islam will remain in place until the Preliminary Injunction and Trial, presently set for August 27, 2012 at 9:30 a.m. for Four days.

(Clerk)

Counsel Wray and Johnson responded and had no objection. Further, counsel Wray stated his preference to setting a trial on the merits, and further, counsel advised that the Gaming Control Board is investigating Defendant Islam for theft, and unlawful use of a computer. Further, counsel Wray advised that he has a trial in Department Eight on August 27th.

S. Koetting

(Reporter)

The Court advised counsel that D7 will assist coordinating trials with Department Eight. Counsel Dotson and Johnson responded in the affirmative as to the August 27, 2012 Trial date.

Counsel Cohen addressed the Court and moved to set Status Hearing as to the availability of the Report from the Special Master.

COURT ORDERED: The Court has no objection to setting a Status Hearing, but will not require the Report from the Special Master prior to the Preliminary Injunction/Trial on the merits. Further, a Status Hearing will be set for August 2, 2012 at 1:30 p.m. Counsel Johnson, Cohen and Dotson can appear via Court Call. It is further ordered that the Preliminary Injunction/Trial on the merits will proceed on August 27, 2012 at 9:30 a.m. for Four days.

3:48 p.m. – Court stood in recess.

1 **1835**
2 ROBERT A. DOTSON, ESQ.
3 Nevada State Bar No. 5285
4 rdotson@laxalt-nomura.com
5 ANGELA M. BADER, ESQ.
6 Nevada State Bar No. 5574
7 abader@laxalt-nomura.com
8 LAXALT & NOMURA, LTD.
9 9600 Gateway Drive
10 Reno, Nevada 89521
11 Tel: (775) 322-1170
12 Fax: (775) 322-1865
13 Attorneys for Plaintiff

14 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

15 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

19 Plaintiff,

20 vs.

21 SUMONA ISLAM, an individual; NAV-RENO-
22 GS, LLC, a Nevada limited liability company,
23 d/b/a GRAND SIERRA RESORT; ABC
24 CORPORATIONS; XYZ PARTNERSHIPS;
25 AND JOHN DOES I through X, inclusive.

26 Defendants.

27 **JOINT CASE CONFERENCE REPORT**

28
Discovery Planning/Dispute
Conference Requested:

YES ___ NO ✓

I.

PROCEEDINGS PRIOR TO CASE CONFERENCE REPORT

A. Date of Filing of Complaint: April 27, 2012
B. Date of Filing of Amended Complaint: May 7, 2012

- 1 C. Date of Filing of Answer by Each Defendant:
- 2 1. Nav-Reno-GS, LLC d/b/a Grand Sierra Resort ("GSR") May 31, 2012
- 3 2. Sumona Islam ("Islam") June 1, 2012
- 4 D. Date that Early Case Conference was Held and Who Attended: June 19, 2012
- 5 For Plaintiff:
- 6 Angela M. Bader
- 7 Laxalt & Nomura, Ltd.
- 8 9600 Gateway Drive
- 9 Reno, Nevada 89521
- 10 For Defendant GSR:
- 11 Stan Johnson
- 12 Cohen/Johnson
- 13 6293 Dean Martin Drive, Ste G
- 14 Las Vegas, NV 89118
- 15 For Defendant Islam:
- 16 Mark Wray, Esq.
- 17 Law Office of Mark Wray
- 18 608 Lander Street
- 19 Reno, NV 89509

20 **II.**

21 **A BRIEF DESCRIPTION OF THE NATURE OF THE ACTION AND EACH CLAIM**

22 **FOR RELIEF OR DEFENSE: [16.1(c)(1)]**

- 23 A. Description of the action: This is an action against a former Atlantis employee, Sumona
- 24 Islam, and her subsequent employer, GSR, stemming from misappropriation and conversion of
- 25 confidential, proprietary and trade secret information / data to the detriment of the Atlantis and
- 26 the benefit of Defendants.
- 27 B. Claims for relief: Breach of Contract, Conversion of Property, Tortious Interference with
- 28 Contractual Relations and Prospective Economic Advantage, Violation of Uniform Trade Secret
- Act, Declaratory Relief and Injunctive Relief.

///

///

1 C. Defenses for GSR:

2 1. Plaintiff has engaged in conduct which constitutes a waiver of rights under the
3 contracts alleged in the Verified Complaint. By reason of such waiver, Defendants are excused
4 from further performance of the obligations under the alleged contract and indemnification, if
5 any.

6 2. Plaintiff's causes of action are barred by the doctrines of laches and waiver.

7 3. The Amended Verified Complaint, and each and every alleged cause of action
8 contained therein, fails to state a cause of action.

9 4. Plaintiff has unclean hands and are not entitled to the relief requested herein.

10 5. Plaintiff has not exhausted all available remedies prior to filing this suit.

11 6. This answering Defendant is informed, believes and thereon alleges that any and
12 all contracts to which Plaintiffs and Defendants were parties were breached by Plaintiff and
13 therefore Defendants were excused from performance thereon.

14 7. This answering Defendant is informed, believes and thereon alleges that any
15 contract, obligation or agreement alleged in the Amended Verified Complaint as having been
16 entered into, that any duty of performance by Defendants is excused by reason of failure of
17 consideration, breach of condition precedent, and possibility of purpose or waiver by Plaintiff
18 and/or acceptance by Plaintiff.

19 8. This answering Defendant is informed, believes and thereon alleges that any
20 contract, obligation or agreement alleged in the Amended Verified Complaint is adhesive in
21 nature and against public policy and therefore void, voidable or enforceable.

22 9. Defendant incorporates by reference those affirmative defenses enumerated in
23 Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein. In the event further
24 investigation or discovery reveals the applicability of such defenses, Defendants reserve the right
25 to seek leave of Court to amend this answer to specifically assert any such defense. Such
26 defenses are herein incorporated by reference for the specific purpose of not waiving any such
27 defense.

28 ///

1 D. Defenses for Islam:

2 1. Each purported claim for relief fails to state a claim for which the Court may
3 grant relief.

4 2. Plaintiff committed the first material breach of its obligations owed to this
5 responding party and therefore each purported claim for relief is barred as a matter of law.

6 3. Each purported claim for relief is barred by the failure to satisfy express or
7 implied conditions.

8 4. Each purported claim for relief is barred by Plaintiff's failure, without
9 justification or excuse, to perform each alleged contract on which Plaintiff's alleged claims are
10 based.

11 5. Each purported claim for relief, including, but not limited to, Plaintiff's alleged
12 claims for equitable relief, is barred by Plaintiff's failure to act equitably.

13 6. Each purported claim for relief is barred by Plaintiff's unclean hands.

14 7. Each purported claim for relief is barred by estoppel.

15 8. Plaintiff's own acts and omissions are the direct and proximate cause of Plaintiff's
16 alleged injuries and damages, if any.

17 9. This responding party at all times acted in reliance on a good faith belief that her
18 conduct was justified or in accordance with applicable law.

19 10. Each purported claim for relief is barred by defenses to formation of a valid
20 contract, including, but not limited to, coercion, duress, invalid consideration or lack thereof,
21 illegality, unconscionability and adhesion.

22 11. Plaintiff failed to mitigate its alleged damages, if any.

23 12. Plaintiff's alleged damages, if any, were the direct and proximate cause of acts
24 and omissions by third parties other than this responding party.

25 13. This responding party is entitled to an offset against any sums allegedly due to
26 Plaintiff.

27 14. Each purported claim for relief is barred by Plaintiff's breach of the implied
28 covenant of good faith and fair dealing.

15. Each purported claim for relief is barred by Plaintiff's negligent misrepresentation.

16. Each of Plaintiff's claims fails in that Plaintiff has not proprietary or enforceable right in the data or information that is the subject of the alleged contracts.

17. Plaintiff's conduct constitutes a waiver and ratification of the alleged wrongful conduct, if any, alleged against this responding party.

18. Each purported claim for relief is barred to the extent it violates this responding party's rights under the Constitutions of the United States and State of Nevada.

19. Each purported claim for relief should be precluded as violating the public policy of the State of Nevada.

III.

LIST OF ALL DOCUMENTS, DATA COMPILATIONS AND TANGIBLE THINGS IN THE POSSESSION, CUSTODY OR CONTROL OF EACH PARTY WHICH WERE IDENTIFIED OR PROVIDED AT THE EARLY CASE CONFERENCE OR AS A RESULT THEREOF [16.1(a)(1)(B) AND 16.1(c)(4)]

A. Plaintiff: See Plaintiff's NRCP 16.1 Disclosure attached hereto as Exhibit "1".

B. Defendant GSR: Will be provided on or before July 3, 2012.

C. Defendant Islam: Will be provided on or before July 3, 2012.

IV.

**LIST OF PERSONS IDENTIFIED BY EACH PARTY AS LIKELY TO HAVE
INFORMATION DISCOVERABLE UNDER RULE 26(b), INCLUDING
IMPEACHMENT OR REBUTTAL WITNESSES [16.1(a)(1)(A) AND 16.1(c)(3)]**

A. Plaintiff: See Plaintiff's NRCP 16.1 Disclosure attached hereto as Exhibit "1".

B. Defendant GSR: Will be provided on or before July 3, 2012.

C. Defendant Islam: Will be provided on or before July 3, 2012.

V.

DISCOVERY PLAN [16.1(b)(2) AND 16.1(c)(2)]

A. What changes, if any, should be made in the timing, form or requirements for disclosures under 16.1(a): None

///

- 1 When disclosures under 16.1(a)(1) were made or will be made:
- 2 1. Plaintiff: June 19, 2012
- 3 2. Defendant GSR: by July 3, 2012
- 4 3. Defendant Islam: by July 3, 2012
- 5 B. Subjects on which discovery may be needed: Discovery will be conducted pursuant to
- 6 NRCp 26.
- 7 C. Discovery should not be conducted in phases or limited to or focused upon particular
- 8 issues.
- 9 D. No changes should be made in limitations on discovery imposed under these rules.
- 10 E. No other orders should be entered by court under Rule 26(c) or Rule 16(b) and (c).
- 11 F. Estimated time for trial: 4 days.

12 **VI.**

13 **DISCOVERY AND MOTION DATES [16.1(c)(5)-(8)]**

- 14 A. Dates agreed by the parties based upon the Preliminary Injunction:
- 15 1. Close of discovery: August 17, 2012
- 16 2. Final dates to file motions to amend pleadings July 13, 2012
- 17 or add parties (without a further court order):
- 18 3. Final dates for expert disclosures:
- 19 i. initial disclosures: July 27, 2012
- 20 ii. rebuttal disclosures: August 10, 2012
- 21 4. Final date to serve and file dispositive motions: July 24, 2012
- 22 5. Final date to serve, file and submit motions in August 20, 2012
- 23 limine:

24 It is understood and agreed that additional discovery dates will be set for further

25 discovery relating to the trial on the merits once a trial date has been set by the court.

26 **VII.**

27 **JURY DEMAND [16.1(c)(10)]**

28 No jury has been demanded.

VIII.

INITIAL DISCLOSURES/OBJECTIONS [16.1(a)(1)]

If a party objects during the Early Case Conference that initial disclosures are not appropriate in the circumstances of this case, those objections must be stated herein. The Court shall determine what disclosures, if any, are to be made and shall set the time for such disclosure.

This report is signed in accordance with Rule 26(g)(1) of the Nevada Rules of Civil Procedure. Each signature constitutes a certification that to the best of the signer's knowledge, information and belief, formed after a reasonable inquiry, the disclosures made by the signer are complete and correct as of this time.

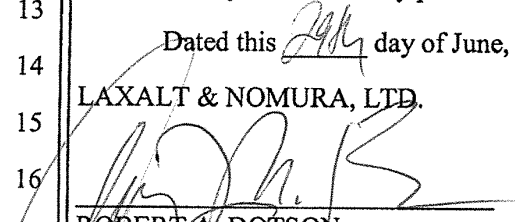
Affirmation Pursuant to NRS 239B.030

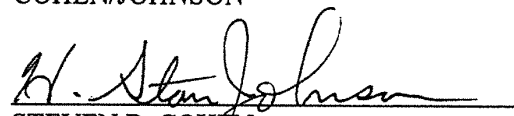
The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 29th day of June, 2012.

LAXALT & NOMURA, LTD.

COHEN/JOHNSON


ROBERT A. DOTSON


STEVEN B. COHEN

Nevada State Bar No. 5285

Nevada State Bar No. 2327

ANGELA M. BADER, ESQ.

STAN JOHNSON

Nevada State Bar No. 5574

Nevada State Bar No. 265

9600 Gateway Drive

6293 Dean Martin Drive, Ste G

Reno, Nevada 89521

Las Vegas, NV 89118

Attorneys for Plaintiff

Attorneys for Defendant

Nav-Reno-GS, LLC d/ba Grand Sierra Resort

LAW OFFICE OF MARK WRAY

MARK WRAY

Nevada State Bar No. 4425

608 Lander Street

Reno, NV 89509

Attorneys for Defendant

Sumona Islam

VIII.

INITIAL DISCLOSURES/OBJECTIONS [16.1(a)(1)]

If a party objects during the Early Case Conference that initial disclosures are not appropriate in the circumstances of this case, those objections must be stated herein. The Court shall determine what disclosures, if any, are to be made and shall set the time for such disclosure.

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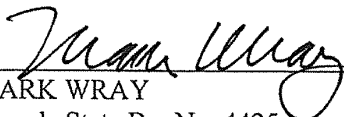
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ROBERT A. DOTSON
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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PAGES
1	Plaintiff's NRCP 16.1 Disclosures	8

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3053723

EXHIBIT 1

EXHIBIT 1

1 ROBERT A. DOTSON, ESQ.
2 Nevada State Bar No. 5285
3 rdotson@laxalt-nomura.com
4 ANGELA M. BADER, ESQ.
5 Nevada State Bar No. 5574
6 abader@laxalt-nomura.com
7 LAXALT & NOMURA, LTD.
8 9600 Gateway Drive
9 Reno, Nevada 89521
10 Tel: (775) 322-1170
11 Fax: (775) 322-1865
12 Attorneys for Plaintiff

13 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

14 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

18 Plaintiff,

19 vs.

20 SUMONA ISLAM, an individual; NAV-RENO-
21 GS, LLC, a Nevada limited liability company,
22 d/b/a GRAND SIERRA RESORT; ABC
23 CORPORATIONS; XYZ PARTNERSHIPS;
24 AND JOHN DOES I through X, inclusive.

25 Defendants.

26 **PLAINTIFF'S NRCP 16.1 DISCLOSURE**

27 Plaintiff, GOLDEN ROAD MOTOR INN, INC. d/b/a ATLANTIS CASINO RESORT
28 SPA, by and through its counsel, LAXALT & NOMURA Ltd., hereby produces the following
list of witnesses and documents, in accordance with NRCP 16.1:

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1 **A. NRCP 16.1(a)(1)(A) LIST OF WITNESSES**

- 2 1. Sumona Islam
3 c/o Mark Wray, Esq.
4 Law Office of Mark Wray
5 608 Lander Street
6 Reno, NV 89509
7 (775) 348-8877

8 Ms. Islam is expected to testify as to the facts and circumstances surrounding the
9 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 10 2. Tom Flaherty
11 Vice President of Casino Operations
12 Grand Sierra Resort
13 c/o Steven B. Cohen, Esq.
14 Cohen/Johnson
15 6293 Dean Martin Drive, Ste G
16 Las Vegas, Nevada 89118
17 (702) 823-3500

18 Mr. Flaherty is expected to testify as to the facts and circumstances surrounding the
19 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 20 3. Sterling Lungren
21 Human Resources Director
22 Grand Sierra Resort
23 c/o Steven B. Cohen, Esq.
24 Cohen/Johnson
25 6293 Dean Martin Drive, Ste G
26 Las Vegas, Nevada 89118
27 (702) 823-3500

28 Mr. Lungren is expected to testify as to the facts and circumstances surrounding the
29 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

- 30 4. Shelly Hadley
31 Executive Director Casino Marketing
32 Grand Sierra Resort
33 c/o Steven B. Cohen, Esq.
34 Cohen/Johnson
35 6293 Dean Martin Drive, Ste G
36 Las Vegas, Nevada 89118
37 (702) 823-3500

38 Ms. Hadley is expected to testify as to the facts and circumstances surrounding the
39 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

40 ///

1 5. Steve Ringkob
2 Director of Slot Operations
3 Atlantis Casino Resort Spa
4 c/o Robert A. Dotson, Esq.
5 Laxalt & Nomura
6 9600 Gateway Drive
7 Reno, NV 89521
8 (775) 322-1170

9 Mr. Ringkob is expected to testify as to the facts and circumstances surrounding the
10 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

11 6. Susan Moreno
12 Senior Executive Casino Host
13 Atlantis Casino Resort Spa
14 c/o Robert A. Dotson, Esq.
15 Laxalt & Nomura
16 9600 Gateway Drive
17 Reno, NV 89521
18 (775) 322-1170

19 Ms. Moreno is expected to testify as to the facts and circumstances surrounding the
20 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

21 7. Teresa Finn
22 Director of Human Resources
23 Atlantis Casino Resort Spa
24 c/o Robert A. Dotson, Esq.
25 Laxalt & Nomura
26 9600 Gateway Drive
27 Reno, NV 89521
28 (775) 322-1170

29 Ms. Finn is expected to testify as to the facts and circumstances surrounding the
30 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

31 8. Brandon McNeely
32 Database Coordinator – Sales & Marketing
33 Atlantis Casino Resort Spa
34 c/o Robert A. Dotson, Esq.
35 Laxalt & Nomura
36 9600 Gateway Drive
37 Reno, NV 89521
38 (775) 322-1170

39 Mr. McNeely is expected to testify as to the facts and circumstances surrounding the
40 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

41 ///

1 9. Abraham Pearson
2 Application Development Manager - IT
3 Atlantis Casino Resort Spa
4 c/o Robert A. Dotson, Esq.
5 Laxalt & Nomura
6 9600 Gateway Drive
7 Reno, NV 89521
8 (775) 322-1170

9 Mr. Pearson is expected to testify as to the facts and circumstances surrounding the
10 allegations contained in Plaintiff's Amended Verified Complaint For Damages.

11 10. Debra Robinson
12 General Counsel
13 Atlantis Casino Resort Spa
14 c/o Robert A. Dotson, Esq.
15 Laxalt & Nomura
16 9600 Gateway Drive
17 Reno, NV 89521
18 (775) 322-1170

19 Ms. Robinson, if called, is expected to testify as to the facts and circumstances
20 surrounding the allegations contained in Plaintiff's Amended Verified Complaint For Damages.

21 11. Any and all witnesses listed by the Defendants.

22 **B. NRCP 16.1(a)(1)(B) LIST OF DOCUMENTS, DATA, TANGIBLE THINGS:**

- 23 1. Online System User Agreement, bates stamped ATL 0001 - 0004.
24 2. Business Ethics Policy and Code of Conduct Acknowledgement and Conflicts of
25 Interest Statement, bates stamped ATL 0005 – 0018.
26 3. Company Policy regarding Company Property, Proprietary Information, and Trade
27 Secrets, bates stamped ATL 0019 – 0021.
28 4. Non-Compete/Non-Solicitation Agreement, bates stamped ATL 0022.
5. April 6, 2012 letters, bates stamped ATL 0023 – 0031.
6. April 18, 2012 letter, bates stamped ATL 0032 – 0034.
7. Affidavit of Steve Rinkob, bates stamped ATL 0035 – 0036.
8. Affidavit of Susan Moreno, bates stamped ATL 0037 – 0038.
9. Declaration of Teresa Finn, bates stamped ATL 0039 – 0040.

- 1 10. Summary of modifications to customer database by Sumona Islam in days leading
2 up to her resignation, bates stamped ATL 0041 – 0043.
3 11. Audit History, redacted to protect privacy and confidentiality of the modifications
4 made by Ms. Islam to the customer database, bates stamped ATL 0044 – 0048.
5 12. Example of GSR solicitations, bates stamped ATL 0049.
6 13. Example of GSR solicitations, bates stamped ATL 0050.
7 14. Example of GSR solicitations, bates stamped ATL 0051.
8 15. Example of GSR solicitations, bates stamped ATL 0052.

10 **C. NRCP 16.1(a)(1)(C) (computation of damages claimed by disclosing party):**

11 Notwithstanding that Plaintiff's damages are continuing, Plaintiff is in the process of
12 computing its damages and the partial computation will be provided when completed.

14 **D. NRCP 16.1(a)(1)(D) (insurance agreements):**

15 Not Applicable.

16 **E. NRCP 16.1(a)(2) (expert witnesses):**

17 Plaintiff will comply with NRCP 16.1(a)(2) at the time to be ordered or dictated by the
18 Court.

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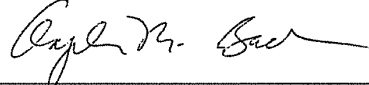
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Affirmation Pursuant to NRS 239B.030

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

DATED this 19th day of June, 2012.

LAXALT & NOMURA, LTD.



ROBERT A. DOTSON
Nevada State Bar No. 5285
ANGELA M. BADER, ESQ.
Nevada State Bar No. 5574
9600 Gateway Drive
Reno, Nevada 89521
(775) 322-1170
Fax: (75) 322-1865
Attorneys for Plaintiff

1 **CERTIFICATE OF SERVICE**

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

5
6 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
7 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
8 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
9 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.

10 ☐ 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.

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

13 ☐ (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.

14 ☐ Reno/Carson Messenger Service.

15 ☐ By email to the email addresses below.

16 addressed as follows:

17 Via Mail

18 Steven B. Cohen, Esq.
19 Cohen/Johnson
20 6293 Dean Martin Drive, Ste G
Las Vegas, NV 89118

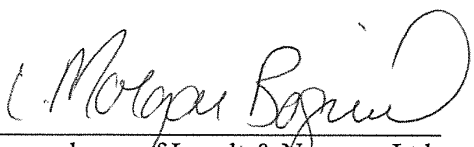
21 scohen@cohenjohnson.com

Via Personal Delivery

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, NV 89509

22 mwray@markwraylaw.com

23 DATED this 19th day of June, 2012.

24 
25 _____
26 An employee of Laxalt & Nomura, Ltd.
27
28

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

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-X,
inclusive,

Dept. No.: B7

Defendants.

PRETRIAL ORDER

IT IS HEREBY ORDERED:

A. A Preliminary Injunction Hearing and Trial have been set with the Court to
commence August 27, 2012.

I. PRETRIAL MOTIONS

A. Any motions which should be addressed prior to trial – including motions for
summary judgment – shall be served, filed and submitted for decision no later than thirty (30)
days before trial.

B. Motions in limine shall be served, filed and submitted for decision no later than
fifteen (15) days before trial. Except upon a showing of unforeseen extraordinary circumstances,

1 the Court will not entertain any pretrial motions filed or orally presented after these deadlines.

2 C. Legal memoranda submitted in support of any motion shall not exceed fifteen
3 (15) pages in length; opposition memoranda shall not exceed fifteen (15) pages in length; reply
4 memoranda shall not exceed five (5) pages in length. These limitations are exclusive of exhibits.
5 This limitation also applies to post-trial motions. The parties may request leave to exceed these
6 limits in extraordinary circumstances.

7 II. DISCOVERY

8 A. Prior to filing any discovery motion, the attorney for the moving party must
9 consult with opposing counsel about the disputed issues. Counsel for each side must present to
10 each other the merits of their respective positions with candor, specificity, and supporting
11 material.

12 B. Unless a discovery dispute is submitted directly to this Court pursuant to § IB(10),
13 supra, and if both sides desire a dispute resolution conference pursuant to NRCP 16.1(d), counsel
14 must contact the Discovery Commissioner's office at (775) 328-3293 to obtain a date and time
15 for the conference that is convenient to all parties and the Discovery Commissioner. If the
16 parties cannot agree upon the need for a conference, the party seeking the conference must file
17 and submit a motion in that regard.

18 C. A continuance of trial does not extend the deadline for completing discovery. A
19 request for an extension of the discovery deadline, if needed, must be included as part of any
20 motion for continuance.

21 D. A party objecting to a written discovery request must, in the original objection,
22 specifically detail the reasons that support the objection, and include affidavits or other evidence
23 for any factual assertions upon which an objection is based.

24 III. TRIAL STATEMENT

25 A. A trial statement on behalf of each party shall be hand delivered to opposing
26 counsel, filed herein and a copy delivered to chambers no later than 5:00 p.m. five (5) court days
27 prior to trial.

28 ///

1 B. In addition to the requirements of WDCR 5, the trial statement shall contain:

- 2 (1) Any practical matters which may be resolved before trial (e.g. suggestions
3 as to the order of witnesses, view of the premises, availability of audio or
4 visual equipment);
5 (2) A list of proposed general voir dire questions for the Court or counsel to
6 ask of the jury;
7 (3) A statement of any unusual evidentiary issues, with appropriate citations
8 to legal authorities on each issue; and
9 (4) Certification by trial counsel that, prior to the filing of the trial statement,
10 they have personally met and conferred in a good faith-effort to resolve
11 the case by settlement.

12 IV. JURY INSTRUCTIONS

13 A. The parties shall exchange all proposed jury instructions and verdict forms ten
14 (10) court days prior to trial.

15 B. All original instructions shall be accompanied by a separate copy of the
16 instruction containing a citation to the form instruction, statutory or case authority supporting
17 that instruction. All modifications made to instructions taken from statutory authority, Nevada
18 Pattern Jury Instructions, *Devitt and Blackmar*, CALJIC, BAJI or other form instructions shall be
19 specifically noted on the citation page.

20 C. The parties shall confer regarding the proposed jury instructions and
21 verdict forms and submit these instructions and verdict forms jointly to the Court five (5) court
22 days prior to trial. The parties shall indicate which instructions and verdict forms are jointly
23 agreed upon and which are disputed.

24 D. At the time Jury Instructions are settled, the Court will consider the disputed
25 instructions and any additional instructions which could not have been readily foreseen prior to
26 trial.

27 ///

28 ///

1 V. MISCELLANEOUS

2 A. The Court expects that all counsel will cooperate to try the case within the time
3 set. Trial counsel are ordered to meet and confer regarding the order of witnesses, stipulations
4 and exhibits and any other matters which will expedite trial of the case.

5 B. Jurors will be permitted to take notes during trial. Jurors will be permitted to ask
6 reasonable questions in writing during trial after the questions are screened by the Court and
7 counsel. Any party objecting to this procedure shall set forth this objection in the trial statement.

8 C. Counsel and/or the parties are ordered to specifically inform every witness that
9 they call about any orders in limine, or similar rulings, that restrict or limit testimony or evidence
10 and to further inform them that they may not offer, or mention, any evidence that is subject to
11 such an Order.

12 D. Trial counsel for all parties shall speak with the courtroom clerk, Ms. Kim Oates
13 (775) 328-3140 or Maureen Conway (775) 325-6593 no later than five (5) court days prior to
14 trial, to arrange a date and time to mark trial exhibits. All exhibits shall be marked in one
15 numbered series (Exhibit 1, 2, 3, etc.) and placed in binder(s) provided by counsel. Counsel
16 shall cooperate to insure that three identical sets of exhibits (one for the Court, one for the Clerk
17 and one for testifying witnesses) are provided to the Court. Once trial exhibits are marked by the
18 clerk, they shall remain in the custody of the clerk. When marking the exhibits with the clerk,
19 counsel should advise the clerk of all exhibits which may be admitted without objection and
20 those that may be admissible subject to reserved objections.

21 E. Any memorandum of costs and disbursements must comply with Bergman v.
22 Boyce, 109 Nev. 670, 856 P.2d 560 (1993) and Bobby Berosini v. PETA, 174 Nev. 1348, 971
23 P.2d 383 (1998).

24 F. All applications for attorney's fees shall state services rendered and fees incurred
25 for such services with sufficient specificity to enable an opposing party and the court to review
26 such application, and shall specifically address the factors set out in Schouweiler v. Yancy, 101
27 Nev. 827, 712 P.2d 786 (1985).

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VI. CIVILITY

The use of language which characterizes the conduct, arguments or ethics of another is strongly discouraged and is to be avoided. In the appropriate case, the Court will upon motion or sua sponte, consider sanctions, including monetary penalties and/or striking the pleading or document in which such improprieties appear, and may order any other suitable measure the Court deems to be justified. This section of this order applies to written material exchanged between counsel, briefs or other written materials submitted to the Court and conduct at depositions, hearings, trial or meetings with the Court.

Failure to comply with any provision of this Pretrial Order may result in the imposition of sanctions.

DATED this 2 day of ~~June~~^{July}, 2012.



PATRICK FLANAGAN
District Judge

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Robert Dotson, Esq. and Angela Bader, Esq. for Golden Road Motor Inn, et al;
H. Johnson, Esq. for GSR Enterprises, LLC; and
Mark Wray, Esq. for Sumona Islam

Kathryn Sims
Judicial Assistant

FILED

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Joey Orduna Hastings
Clerk of the Court
Transaction # 3061306

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4 abader@laxalt-nomura.com
LAXALT & NOMURA, LTD.
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Reno, Nevada 89521
6 Tel: (775) 322-1170
7 Fax: (775) 322-1865
Attorneys for Plaintiff

8
9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

11 GOLDEN ROAD MOTOR INN, INC., a Nevada
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12 RESORT SPA

Case No.: CV12-01171

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13 Plaintiff,

14 vs.

15 SUMONA ISLAM, an individual; NAV-RENO-
GS, LLC, a Nevada limited liability company,
16 d/b/a GRAND SIERRA RESORT; ABC
CORPORATIONS; XYZ PARTNERSHIPS;
17 AND JOHN DOES I through X, inclusive.

18 Defendants.

19
20 **ORDER GRANTING GOLDEN ROAD MOTOR INN, INC'S MOTION**
21 **FOR TEMPORARY RESTRAINING ORDER AGAINST DEFENDANT SUMONA**
ISLAM AND AGREEMENT BETWEEN DEFENDANT NAV-RENO-GS, LLC, d/b/a
GRAND SIERRA RESORT AND GOLDEN ROAD MOTOR INN, INC.

22 Laxalt & Nomura, Ltd., counsel for GOLDEN ROAD MOTOR INN, INC. d/b/a
23 ATLANTIS CASINO RESORT SPA ("PLAINTIFF" or "ATLANTIS"), has filed an *Ex-Parte*
24 *Motion For Temporary Restraining Order and Motion for Preliminary Injunction* asking this
25 Court to enjoin the defendants, SUMONA ISLAM ("ISLAM") and NAV-RENO-GS, LLC d/b/a
26 GRAND SIERRA RESORT ("GSR") from particular actions alleged to be in violation of several
27 agreements signed by ISLAM as a condition to her employment with ATLANTIS. This motion
28 for Temporary Restraining Order came on before the Court (Department 6) on Monday May 7,

1 2012, the honorable Brent Adams, District Judge, presiding, Plaintiff ATLANTIS appeared
2 through Robert Dotson of the law firm of Laxalt & Nomura, and Defendant GSR appeared
3 through Steven Cohen and Stan Johnson of the law firm Cohen Johnson. Sumona Islam did not
4 appear. Based upon review of the Verified Complaint, the Ex Parte Motion, the Verified
5 Amended Complaint and the affidavits attached thereto, and the arguments of counsel, the Court
6 granted the Motion as requested as to ISLAM and in a more narrowed scope as to GSR. An
7 Order was entered as to ISLAM on May 9, 2012. Shortly thereafter, the case was transferred
8 multiple times and has now been reassigned to this department. This Court convened a status
9 check on June 20, 2012.

10 This Court has reviewed all of the pleadings on file (including the Verified Complaint,
11 the Ex Parte Motion, the Verified Amended Complaint and the affidavits attached thereto, the
12 partial transcript from the May 7th hearing, and the Answers filed by each Defendant) considered
13 the arguments of counsel and has solicited and considered the proposed Orders from each party
14 and finds as follows:

15 1. ISLAM appears to have been, prior to the entry of the initial TRO, in violation of
16 at least some provisions of the various agreements regarding the use and dissemination or
17 proprietary information and trade secrets and of the non-compete agreement which were signed
18 as a condition of her employment with the ATLANTIS by having accepted employment with
19 GSR and soliciting customers of the ATLANTIS.

20 2. Based on the Affidavits of Steve Ringkob and Susan Moreno, it appears that
21 ISLAM is in possession of trade secrets and confidential information that ATLANTIS considers
22 valuable and proprietary, and that ISLAM has utilized or is likely to utilize that information in
23 her employment with GSR.

24 3. The letter from counsel for GSR indicates that GSR was in fact employing
25 ISLAM, despite having notice of the non-compete agreement.

26 4. The facts shown by affidavit and the Verified Complaint demonstrate that
27 immediate and irreparable injuries are likely to occur, or perhaps already have occurred, and that
28 the Defendants' actions must be enjoined in order to prevent further harm.

1 5. Plaintiff's counsel made reasonable efforts to notify all opposing parties of the Ex
2 Parte Motion, and Counsel for GSR did in fact receive notice and attended the May 7th hearing.
3 Since that time both Defendants have made appearances in the case and counsel for each has
4 attended the June 20th hearing, counsel for GSR by telephonic means.

5 6. Because of the likelihood that immediate and irreparable injury will occur absent
6 a temporary restraining order, and because it appears that Plaintiff is likely to succeed on the
7 merits, the Court previously granted the Motion for Temporary Restraining Order as to
8 Defendant SUMONA ISLAM and now extends the previously entered Order as to Defendant
9 Islam.

10 Accordingly, it is hereby

11 ORDERED, ADJUDGED AND DECREED that the Order entered on May 9, 2012 is
12 extended and will now, by stipulation of the Parties, expire at the conclusion of the bench trial
13 currently set to begin on August 27, 2012.

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant NAV-
15 RENO-GS, LLC dba GRAND SIERRA RESORT ("GSR") shall not directly or indirectly, or
16 through any third parties, knowingly receive any information of any nature which it has any
17 reason to believe was acquired by Defendant SUMONA ISLAM, directly or indirectly through
18 PLAINTIFF, or make use of any such information, or make use of any information which it
19 knows has been the product of information Defendant SUMONA ISLAM brought to GSR
20 through her employment;
21

22 1. Defendant NAV-RENO-GS, LLC dba GRAND SIERRA RESORT ("GSR")
23 agrees that it shall not directly or indirectly, knowingly receive any proprietary information
24 concerning any customer, customer activity, customer identity or address from Defendant
25 SUMONA ISLAM, which she obtained during her employment with the Atlantis or make use of
26 any proprietary information which it knows is proprietary information Defendant SUMONA
27 ISLAM brought to GSR through her employment;
28

2. Except in the normal course of this litigation, GSR will not cooperate with Defendant SUMONA ISLAM in any way or communicate with her concerning any confidential and proprietary trade secret information of the ATLANTIS; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that to the extent GSR has not already done so, it shall cease employing Defendant SUMONA ISLAM as a Casino Host.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff is required to post security for the Temporary Restraining Order in the amount of \$5,000 before this Order will be filed and effective.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Preliminary Injunction shall be set as a bench trial on the merits before this Court on August 27, 2012 at the hour of 9:30 a.m. A status check shall be set for August 2, 2012. The parties are to submit and exchange a list of proposed live witnesses and copies of any proposed exhibits and affidavits not previously attached to any of the motion papers by 5:00 p.m. on August 17, 2012. Any trial briefs, if any, shall be submitted to the Court no later than 5:00 p.m. on August 22, 2012.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to the stipulation of the parties at the June 20th hearing this Temporary Restraining Order shall remain in effect until the conclusion of the bench trial scheduled to proceed on August 27, 2012.

DATED this 5 day of July, 2012.

Patrick Flanagan
DISTRICT JUDGE

Respectfully submitted,
LAXALT & NOMURA, LTD



By:

ROBERT A. DOTSON (NSB # 5285)
ANGELA M. BADER, ESQ. (NSB #5574)

1 **2540**
2 ROBERT A. DOTSON, ESQ.
3 Nevada State Bar No. 5285
4 rdotson@laxalt-nomura.com
5 ANGELA M. BADER, ESQ.
6 Nevada State Bar No. 5574
7 abader@laxalt-nomura.com
8 LAXALT & NOMURA, LTD.
9 9600 Gateway Drive
10 Reno, Nevada 89521
11 Tel: (775) 322-1170
12 Fax: (775) 322-1865
13 Attorneys for Plaintiff

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **NOTICE OF ENTRY OF ORDER**

23 PLEASE TAKE NOTICE, that an Order Granting Golden Road Motor Inn, Inc.'s Motion
24 For Temporary Restraining Order Against Defendant Sumona Islam and Agreement Between
25 Defendant Nav-Reno-GS, LLC d/b/a Grand Sierra Resort and Golden Road Motor Inn, Inc., was
26 entered on July 5, 2012, a copy of which is attached hereto as Exhibit 1.

27 ///

28 ///

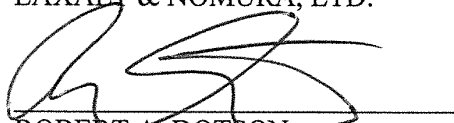
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Affirmation Pursuant to NRS 239B.030

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

Dated this 5 day of July, 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

1 **CERTIFICATE OF SERVICE**

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

- 5 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
6 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
7 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
8 area is given the correct amount of postage and is deposited that same date in the
9 ordinary course of business, in a United States mailbox in the City of Reno,
10 County of Washoe, Nevada.
11 ☒ By electronic service by filing the foregoing with the Clerk of Court using the E-
12 Flex system, which will electronically mail the filing to the following individuals.
13 ☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand
14 delivered this date to the address(es) at the address(es) set forth below, where
15 indicated.
16 ☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to
17 be telecopied to the number indicated after the address(es) noted below.
18 ☐ Reno/Carson Messenger Service.
19 ☒ By email to the email addresses below.

20 addressed as follows:

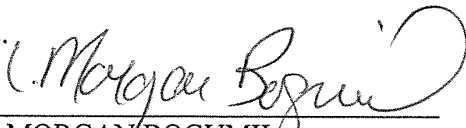
21 Steven B. Cohen, Esq.
22 Stan Johnson, Esq.
23 Cohen/Johnson
24 6293 Dean Martin Drive, Ste G
25 Las Vegas, NV 89118

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, NV 89509

mwray@markwraylaw.com

scohen@cohenjohnson.com
sjohnson@cohenjohnson.com

26 DATED this 5 day of July, 2012.

27 
28 L. MORGAN BOGUMIL

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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PAGES
1	Order Granting Golden Road Motor Inn, Inc.’s Motion For Temporary Restraining Order Against Defendant Sumona Islam and Agreement Between Defendant Nav-Reno-GS, LLC d/b/a Grand Sierra Resort and Golden Road Motor Inn, Inc.	5

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Joey Orduna Hastings

Clerk of the Court

Transaction # 3061625

EXHIBIT 1

EXHIBIT 1

FILED

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Joey Orduna Hastings
Clerk of the Court
Transaction # 3061306

1 ROBERT A. DOTSON, ESQ.
2 Nevada State Bar No. 5285
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4 ANGELA M. BADER, ESQ.
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7 LAXALT & NOMURA, LTD.
8 9600 Gateway Drive
9 Reno, Nevada 89521
10 Tel: (775) 322-1170
11 Fax: (775) 322-1865
12 Attorneys for Plaintiff

13 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

14 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

18 Plaintiff,

19 vs.

20 SUMONA ISLAM, an individual; NAV-RENO-
21 GS, LLC, a Nevada limited liability company,
22 d/b/a GRAND SIERRA RESORT; ABC
23 CORPORATIONS; XYZ PARTNERSHIPS;
24 AND JOHN DOES I through X, inclusive.

25 Defendants.

26 **ORDER GRANTING GOLDEN ROAD MOTOR INN, INC.'S MOTION**
27 **FOR TEMPORARY RESTRAINING ORDER AGAINST DEFENDANT SUMONA**
28 **ISLAM AND AGREEMENT BETWEEN DEFENDANT NAV-RENO-GS, LLC, d/b/a**
GRAND SIERRA RESORT AND GOLDEN ROAD MOTOR INN, INC.

29 Laxalt & Nomura, Ltd., counsel for GOLDEN ROAD MOTOR INN, INC. d/b/a
30 ATLANTIS CASINO RESORT SPA ("PLAINTIFF" or "ATLANTIS"), has filed an *Ex-Parte*
31 *Motion For Temporary Restraining Order and Motion for Preliminary Injunction* asking this
32 Court to enjoin the defendants, SUMONA ISLAM ("ISLAM") and NAV-RENO-GS, LLC d/b/a
33 GRAND SIERRA RESORT ("GSR") from particular actions alleged to be in violation of several
34 agreements signed by ISLAM as a condition to her employment with ATLANTIS. This motion
35 for Temporary Restraining Order came on before the Court (Department 6) on Monday May 7,

1 2012, the honorable Brent Adams, District Judge, presiding, Plaintiff ATLANTIS appeared
2 through Robert Dotson of the law firm of Laxalt & Nomura, and Defendant GSR appeared
3 through Steven Cohen and Stan Johnson of the law firm Cohen Johnson. Sumona Islam did not
4 appear. Based upon review of the Verified Complaint, the Ex Parte Motion, the Verified
5 Amended Complaint and the affidavits attached thereto, and the arguments of counsel, the Court
6 granted the Motion as requested as to ISLAM and in a more narrowed scope as to GSR. An
7 Order was entered as to ISLAM on May 9, 2012. Shortly thereafter, the case was transferred
8 multiple times and has now been reassigned to this department. This Court convened a status
9 check on June 20, 2012.

10 This Court has reviewed all of the pleadings on file (including the Verified Complaint,
11 the Ex Parte Motion, the Verified Amended Complaint and the affidavits attached thereto, the
12 partial transcript from the May 7th hearing, and the Answers filed by each Defendant) considered
13 the arguments of counsel and has solicited and considered the proposed Orders from each party
14 and finds as follows:

15 1. ISLAM appears to have been, prior to the entry of the initial TRO, in violation of
16 at least some provisions of the various agreements regarding the use and dissemination or
17 proprietary information and trade secrets and of the non-compete agreement which were signed
18 as a condition of her employment with the ATLANTIS by having accepted employment with
19 GSR and soliciting customers of the ATLANTIS.

20 2. Based on the Affidavits of Steve Ringkob and Susan Moreno, it appears that
21 ISLAM is in possession of trade secrets and confidential information that ATLANTIS considers
22 valuable and proprietary, and that ISLAM has utilized or is likely to utilize that information in
23 her employment with GSR.

24 3. The letter from counsel for GSR indicates that GSR was in fact employing
25 ISLAM, despite having notice of the non-compete agreement.

26 4. The facts shown by affidavit and the Verified Complaint demonstrate that
27 immediate and irreparable injuries are likely to occur, or perhaps already have occurred, and that
28 the Defendants' actions must be enjoined in order to prevent further harm.

1 5. Plaintiff's counsel made reasonable efforts to notify all opposing parties of the Ex
2 Parte Motion, and Counsel for GSR did in fact receive notice and attended the May 7th hearing.
3 Since that time both Defendants have made appearances in the case and counsel for each has
4 attended the June 20th hearing, counsel for GSR by telephonic means.

5 6. Because of the likelihood that immediate and irreparable injury will occur absent
6 a temporary restraining order, and because it appears that Plaintiff is likely to succeed on the
7 merits, the Court previously granted the Motion for Temporary Restraining Order as to
8 Defendant SUMONA ISLAM and now extends the previously entered Order as to Defendant
9 Islam.

10 Accordingly, it is hereby

11 ORDERED, ADJUDGED AND DECREED that the Order entered on May 9, 2012 is
12 extended and will now, by stipulation of the Parties, expire at the conclusion of the bench trial
13 currently set to begin on August 27, 2012.

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant NAV-
15 RENO-GS, LLC dba GRAND SIERRA RESORT ("GSR") shall not directly or indirectly, or
16 through any third parties, knowingly receive any information of any nature which it has any
17 reason to believe was acquired by Defendant SUMONA ISLAM, directly or indirectly through
18 PLAINTIFF, or make use of any such information, or make use of any information which it
19 knows has been the product of information Defendant SUMONA ISLAM brought to GSR
20 through her employment;
21

22 1. Defendant NAV-RENO-GS, LLC dba GRAND SIERRA RESORT ("GSR")
23 agrees that it shall not directly or indirectly, knowingly receive any proprietary information
24 concerning any customer, customer activity, customer identity or address from Defendant
25 SUMONA ISLAM, which she obtained during her employment with the Atlantis or make use of
26 any proprietary information which it knows is proprietary information Defendant SUMONA
27 ISLAM brought to GSR through her employment;
28

2. Except in the normal course of this litigation, GSR will not cooperate with Defendant SUMONA ISLAM in any way or communicate with her concerning any confidential and proprietary trade secret information of the ATLANTIS; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that to the extent GSR has not already done so, it shall cease employing Defendant SUMONA ISLAM as a Casino Host.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff is required to post security for the Temporary Restraining Order in the amount of \$5,000 before this Order will be filed and effective.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff's Motion for Preliminary Injunction shall be set as a bench trial on the merits before this Court on August 27, 2012 at the hour of 9:30 a.m. A status check shall be set for August 2, 2012. The parties are to submit and exchange a list of proposed live witnesses and copies of any proposed exhibits and affidavits not previously attached to any of the motion papers by 5:00 p.m. on August 17, 2012. Any trial briefs, if any, shall be submitted to the Court no later than 5:00 p.m. on August 22, 2012.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that pursuant to the stipulation of the parties at the June 20th hearing this Temporary Restraining Order shall remain in effect until the conclusion of the bench trial scheduled to proceed on August 27, 2012.

DATED this 5 day of July, 2012.

Patrick Flanagan
DISTRICT JUDGE

Respectfully submitted,
LAXALT & NOMURA, LTD

By:

ROBERT A. DOTSON (NSB # 5285)
ANGELA M. BADER, ESQ. (NSB #5574)

1 **2610**
2 ROBERT A. DOTSON, ESQ.
3 Nevada State Bar No. 5285
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6 Nevada State Bar No. 5574
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8 LAXALT & NOMURA, LTD.
9 9600 Gateway Drive
10 Reno, Nevada 89521
11 Tel: (775) 322-1170
12 Fax: (775) 322-1865
13 Attorneys for Plaintiff

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **NOTICE OF POSTING BOND**

23 PLEASE BE ADVISED that on July 6, 2012 Plaintiff, GOLDEN ROAD MOTOR
24 INN, INC. d/b/a ATLANTIS CASINO RESORT SPA ("Plaintiff") posted a bond with the
25 Court in the amount of \$5,000.00. A copy of the receipt confirming the posting of this bond is
26 attached hereto as Exhibit 1.

27 1. This bond is tendered on behalf of Plaintiff, GOLDEN ROAD MOTOR INN,
28 INC. d/b/a ATLANTIS CASINO RESORT SPA.

2. This bond is in the nature of the following: cash bond for issuance of Temporary
Restraining Order, pursuant to NRCP 65(c) and this Court's July 5, 2012 Order.

1 3. The name and address of the legal owner of the cash posted as a bond and to
2 whom a refund (if applicable) shall be made is: Golden Road Motor Inn, Inc. d/b/a Atlantis
3 Casino Resort Spa, 3800 South Virginia Street, Reno, Nevada 89502.

4 4. The name and address for counsel for the owner of the cash posted and to whom
5 notice should be sent is: Robert A. Dotson, Esq., Laxalt & Nomura, Ltd., 9600 Gateway Drive,
6 Reno, Nevada 89521.

7 **Affirmation Pursuant to NRS 239B.030**

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

10 Dated this 6 day of July, 2012.

11 LAXALT & NOMURA, LTD.

12 

13 _____
14 ROBERT A. DOTSON
15 Nevada State Bar No. 5285
16 ANGELA M. BADER, ESQ.
17 Nevada State Bar No. 5574
18 9600 Gateway Drive
19 Reno, Nevada 89521
20 (775) 322-1170
21 Attorneys for Plaintiff
22
23
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28

1 **CERTIFICATE OF SERVICE**

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

- 5 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
6 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
7 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
8 area is given the correct amount of postage and is deposited that same date in the
9 ordinary course of business, in a United States mailbox in the City of Reno,
10 County of Washoe, Nevada.
- 11 ☒ By electronic service by filing the foregoing with the Clerk of Court using the E-
12 Flex system, which will electronically mail the filing to the following individuals.
- 13 ☐ (BY PERSONAL DELIVERY) by causing a true copy thereof to be hand
14 delivered this date to the address(es) at the address(es) set forth below.
- 15 ☐ (BY FACSIMILE) on the parties in said action by causing a true copy thereof to
16 be telecopied to the number indicated after the address(es) noted below.
- 17 ☐ Reno/Carson Messenger Service.
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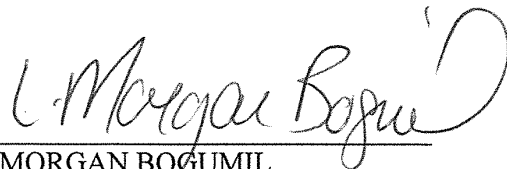
20 Steven B. Cohen, Esq.
21 Stan Johnson, Esq.
22 Cohen/Johnson
23 6293 Dean Martin Drive, Ste G
24 Las Vegas, NV 89118

Mark Wray, Esq.
Law Office of Mark Wray
608 Lander Street
Reno, NV 89509

mwray@markwraylaw.com

scohen@cohenjohnson.com
sjohnson@cohenjohnson.com

25 DATED this 6 day of July, 2012.

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27 L. MORGAN BOGUMIL
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INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PAGES
1	Receipt	2

EXHIBIT 1

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Joey Orduna Hastings
Clerk of the Court
Transaction # 3064935

EXHIBIT 1

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RECEIPT

Second Judicial District Court

Receipt Number: DCDC346790

Date: 06-JUL-2012

Cashier: LBARRAGA

Comment:

Payor: Robert A. Dotson, Esq.

Address: 50 W. Liberty Street, #700
Reno, NV 89501

Description	Amount
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Case: CV12-01171	
GOLDEN ROAD MOTOR VS. SUMONA	
ISLAM ETAL (B7)	

Party: SITE DEFINED TRUST DEPOSIT

TRD Cash Bond	5,000.00
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Total Fees:	0.00
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Total Payment:	5,000.00
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1 **1030**
2 ROBERT A. DOTSON, ESQ.
3 Nevada State Bar No. 5285
4 rdotson@laxalt-nomura.com
5 ANGELA M. BADER, ESQ.
6 Nevada State Bar No. 5574
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11 Tel: (775) 322-1170
12 Fax: (775) 322-1865
13 Attorneys for Plaintiff

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

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

Case No.: CV12-01171

Dept No.: B7

14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **AFFIDAVIT OF COUNSEL IN**
23 **SUPPORT OF PLAINTIFF'S MOTION**
24 **FOR PARTIAL SUMMARY JUDGMENT**

25 STATE OF NEVADA)
26) ss.
27 COUNTY OF WASHOE)

28 ANGELA M. BADER hereby affirms, under penalty of perjury, that the assertions
contained herein are true;

1. I am an attorney licensed to practice law in the State of Nevada and represent the
Plaintiff, Golden Road Motor Inn, Inc., a Nevada corporation d/b/a Atlantis Casino Resort Spa
("Plaintiff"), in this action.

1 2. Attached as Exhibit 1 to Plaintiff's Motion For Partial Summary Judgment is a
2 true and correct copy of the Deposition of Sumona Islam.

3 3. Attached as Exhibit 2 to Plaintiff's Motion For Partial Summary Judgment is a
4 true and correct copy of the Affidavit of Teresa Finn.

5 4. Attached as Exhibit 3 to Plaintiff's Motion For Partial Summary Judgment are
6 true and correct copies of Atlantis personnel file documents related to Sumona Islam.

7 5. Attached as Exhibit 4 to Plaintiff's Motion For Partial Summary Judgment is a
8 true and correct copy of Deposition Exhibit 1 (Atlantis' Online System User Agreement).

9 6. Attached as Exhibit 5 to Plaintiff's Motion For Partial Summary Judgment is a
10 true and correct copy of Deposition Exhibit 2 (Atlantis' Business Ethics Policy and Code of
11 Conduct Acknowledgement and Conflicts of Interest Statement).

12 7. Attached as Exhibit 6 to Plaintiff's Motion For Partial Summary Judgment is a
13 true and correct copy of Deposition Exhibit 3 (Atlantis' Company Policy regarding Company
14 Property, Proprietary Information, and Trade Secrets).

15 8. Attached as Exhibit 7 to Plaintiff's Motion For Partial Summary Judgment is a
16 true and correct copy of Deposition Exhibit 4 (Atlantis' Non-Compete/Non-Solicitation
17 Agreement).

18 9. Attached as Exhibit 8 to Plaintiff's Motion For Partial Summary Judgment is a
19 true and correct copy of Deposition Exhibit 16 (GSR's Initial List of Witnesses and Documents
20 Pursuant To NRCP 16.1).

21 10. Attached as Exhibit 9 to Plaintiff's Motion For Partial Summary Judgment is a
22 true and correct copy of the Deposition of Tom Flaherty.

23 11. Attached as Exhibit 10 to Plaintiff's Motion For Partial Summary Judgment is a
24 true and correct copy of the Affidavit of Steve Ringkob.

25 12. Attached as Exhibit 11 to Plaintiff's Motion For Partial Summary Judgment is a
26 true and correct copy of the Affidavit of Susan Moreno.

27 13. Attached as Exhibit 12 to Plaintiff's Motion For Partial Summary Judgment is a
28 true and correct copy of Deposition Exhibit 12 (Example of GSR solicitations).

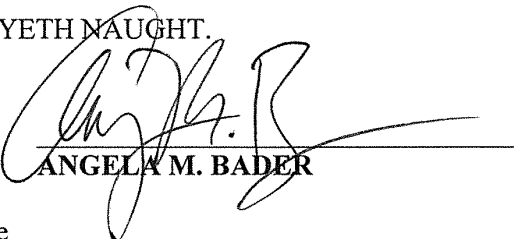
1 14. Attached as Exhibit 13 to Plaintiff's Motion For Partial Summary Judgment is a
2 true and correct copy of Deposition Exhibit 13 (Example of GSR solicitations).
3 15. Attached as Exhibit 14 to Plaintiff's Motion For Partial Summary Judgment is a
4 true and correct copy of Deposition Exhibit 14 (Example of GSR solicitations).
5 16. Attached as Exhibit 15 to Plaintiff's Motion For Partial Summary Judgment is a
6 true and correct copy of Deposition Exhibit 15 (Example of GSR solicitations).
7 17. Attached as Exhibit 16 to Plaintiff's Motion For Partial Summary Judgment is a
8 true and correct copy of Deposition Exhibit 10 (Atlantis' Summary of modifications to customer
9 database by Sumona Islam in days leading up to her resignation).
10 18. Attached as Exhibit 17 to Plaintiff's Motion For Partial Summary Judgment is a
11 true and correct copy of Deposition Exhibit 11 (Atlantis' Audit History, redacted to protect
12 privacy and confidentiality of the modifications made by Ms. Islam to the customer database).
13 19. Attached as Exhibit 18 to Plaintiff's Motion For Partial Summary Judgment is a
14 true and correct copy of Deposition Exhibit 5 (Atlantis' April 6, 2012 letter).
15 20. Attached as Exhibit 19 to Plaintiff's Motion For Partial Summary Judgment is a
16 true and correct copy of Deposition Exhibit 6 (GSR's April 18, 2012 letter).
17 21. Attached as Exhibit 20 to Plaintiff's Motion For Partial Summary Judgment is a
18 true and correct copy of Deposition Exhibit 7 (Defendant Islam's Answer To Plaintiff Golden
19 Road's Amended Verified Complaint For Damages).
20 22. Attached as Exhibit 21 to Plaintiff's Motion For Partial Summary Judgment is a
21 true and correct copy of the Atlantis' Amended Verified Complaint For Damages.
22 23. Attached as Exhibit 22 to Plaintiff's Motion For Partial Summary Judgment is a
23 true and correct copy of the Deposition of Sterling Lundgren.
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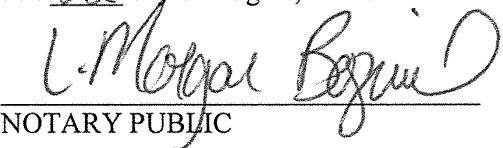
Affirmation Pursuant to NRS 239B.030

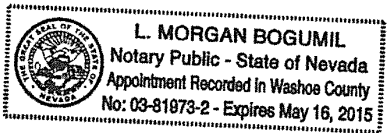
The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

FURTHER YOUR AFFIANT SAYETH NAUGHT.


ANGELA M. BADER

SUBSCRIBED and SWORN to before me
this 22 day of August, 2012.


NOTARY PUBLIC



1 **1020**
2 ROBERT A. DOTSON, ESQ.
3 Nevada State Bar No. 5285
4 rdotson@laxalt-nomura.com
5 ANGELA M. BADER, ESQ.
6 Nevada State Bar No. 5574
7 abader@laxalt-nomura.com
8 LAXALT & NOMURA, LTD.
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13 Attorneys for Plaintiff

9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

11 GOLDEN ROAD MOTOR INN, INC., a Nevada Corporation, d/b/a ATLANTIS CASINO
12 RESORT SPA
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Case No.: CV12-01171

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14 Plaintiff,

15 vs.

16 SUMONA ISLAM, an individual; NAV-RENO-
17 GS, LLC, a Nevada limited liability company,
18 d/b/a GRAND SIERRA RESORT; ABC
19 CORPORATIONS; XYZ PARTNERSHIPS;
20 AND JOHN DOES I through X, inclusive.

21 Defendants.

22 **ADDENDUM TO MOTION FOR PARTIAL SUMMARY JUDGMENT**

23 Plaintiff, GOLDEN ROAD MOTOR INN, INC., a Nevada corporation d/b/a ATLANTIS
24 CASINO RESORT SPA, by and through its counsel, LAXALT & NOMURA, LTD., hereby
25 files this Addendum to Motion For Partial Summary Judgment, filed August 22, 2012, to
26 included exhibits 18 – 22, which exceeded the EFlex size limits.

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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 22nd day of August, 2012.

LAXALT & NOMURA, LTD.



ROBERT A. DOTSON
Nevada State Bar No. 5285
ANGELA M. BADER
Nevada State Bar No. 5574
9600 Gateway Drive
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Attorneys for Plaintiff

1 **CERTIFICATE OF SERVICE**

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

5 ☒ (BY MAIL) on all parties in said action, by placing a true copy thereof enclosed
6 in a sealed envelope in a designated area for outgoing mail, addressed as set forth
7 below. At the Law Offices of Laxalt & Nomura, mail placed in that designated
8 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.

9 ☒ 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.

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

12 ☐ (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.

13 ☐ Reno/Carson Messenger Service.

14 ☒ By email to the email addresses below.

15 addressed as follows:

16 Steven B. Cohen, Esq.
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21 DATED this 22 day of August, 2012.

22 
23 L. MORGAN BOGUMIL

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INDEX OF EXHIBITS

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9 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

10 **IN AND FOR THE COUNTY OF WASHOE**

11 GOLDEN ROAD MOTOR INN, INC., a Nevada Corporation, d/b/a ATLANTIS CASINO
12 RESORT SPA
13 Case No.: CV12-01171
14 Dept No.: B7

13 Plaintiff,

14 vs.

15 SUMONA ISLAM, an individual; NAV-RENO-
16 GS, LLC, a Nevada limited liability company,
17 d/b/a GRAND SIERRA RESORT; ABC
18 CORPORATIONS; XYZ PARTNERSHIPS;
19 AND JOHN DOES I through X, inclusive.

19 Defendants.

20 **MOTION FOR PARTIAL SUMMARY JUDGMENT**

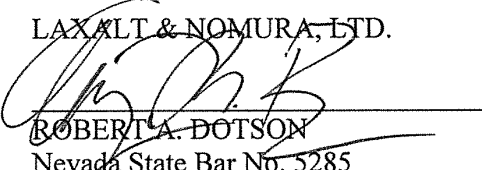
21 Plaintiff GOLDEN ROAD MOTOR INN, INC., a Nevada corporation d/b/a ATLANTIS
22 CASINO RESORT SPA ("ATLANTIS"), by and through its attorneys, Laxalt & Nomura, Ltd.,
23 moves this Court for partial summary judgment as to liability on its claims against Defendants
24 SUMONA ISLAM ("ISLAM") and NAV-RENO-GS, LLC d/b/a GRAND SIERRA RESORT
25 ("GSR").
26

27 This motion is made on the grounds that the undisputed testimony of Defendants
28 establishes that ISLAM and GSR, in violation of the contractual obligations of ISLAM and the

1 legal obligations of GSR, have misappropriated the information and trade secrets of the
2 ATLANTIS and that ISLAM, with the knowledge and encouragement of GSR, violated her non-
3 compete and other contracts with ATLANTIS. As such, no disputed issues of material fact are
4 present and partial summary judgment should be entered as a matter of law.

5 This motion is made and based on NRCP 56, NRS 600A.030, the pleadings on file and
6 incorporated herein, the attached Memorandum of Points and Authorities, Affidavit and Exhibits
7 thereto as well as the arguments and evidence to be made at any hearing convened to consider
8 these motion.
9

10 LAXALT & NOMURA, LTD.

11 
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19 Attorneys for Plaintiff

20 **MEMORANDUM POINTS AND AUTHORITIES**

21 **I.**

22 **STATEMENT OF FACTS**

23 The Court may find the following verified and undisputed facts to be of assistance to it in
24 considering this motion:

25 1. ATLANTIS hired ISLAM on or about April 16, 2008 as a Concierge Manager;
26 she was transferred to Executive Casino Host on October 2, 2008.¹

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

¹ See Exhibit 1 (Deposition of Islam at p. 31:6-32:4, 36:23-25); Exhibit 2 (Teresa Finn Affidavit); and Exhibit 3 (Atlantis personnel file documents).

1 Agreement").² Pursuant to the terms of the Online System User Agreement, ISLAM, among
2 other things, agreed that all information on ATLANTIS' online system, including but not limited
3 to, communications created, sent and received using ATLANTIS' online systems was the
4 property of ATLANTIS (ATL 0002), and agreed to maintain confidentiality of the proprietary
5 information / trade secrets of the ATLANTIS including, but not limited to, guests or perspective
6 guests of the ATLANTIS (ATL 0002-3).
7

8 3. On April 15, 2008, prior to commencing her employment with ATLANTIS,
9 ISLAM also executed an agreement with the ATLANTIS concerning its Business Ethics Policy
10 and Code of Conduct Acknowledgement and Conflicts of Interest Statement. This agreement
11 ("Business Ethics Policy and Code of Conduct Agreement"), including any updates, was again
12 signed by ISLAM on January 23, 2009, February 26, 2010 and January 19, 2011.³ Pursuant to
13 the terms of the Business Ethics Policy and Code of Conduct Agreement, ISLAM agreed not to
14 disclose confidential information including customer lists or customer information (such as
15 player tracking or club information) to any unauthorized persons, either during or after her
16 termination, and not to take any documents or records belonging to ATLANTIS after her
17 departure (ATL 0011). She also agreed not to profit from confidential information of the
18 ATLANTIS (ATL 0011).
19

20 4. On April 15, 2008, prior to commencing her employment with ATLANTIS,
21 ISLAM also executed the ATLANTIS Company Policy regarding Company Property,
22 Proprietary Information, and Trade Secrets (hereinafter referred to as "Trade Secret
23 Agreement"). This agreement, including any updates, was again signed by ISLAM on January
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27 ² See Exhibit 4 (Deposition Exhibit 1--for ease of reference, this motion will also refer to the exhibit numbers
28 referenced in the depositions which is how they appear in the joint deposition exhibit list) and Exhibit 1 (Islam
Deposition at p. 69:7-70:25).

³ See Exhibit 5 (Deposition Exhibit 2), Exhibit 1 (Islam Deposition at p. 89:9-90:14) and Exhibit 3.

1 23, 2009, February 26, 2010 and January 19, 2011.⁴ Pursuant to the terms of the Trade Secret
2 Agreement, ISLAM agreed, among other things, that all ATLANTIS property including
3 intellectual property such as hotel or casino customer/guest lists with facts about those
4 customers' preferences, histories and other personal or business information, was to remain with
5 the ATLANTIS both during and after her term of employment (ATL 0019-20). ISLAM also
6 agreed that any knowledge of ATLANTIS' intellectual property had by her must not be used or
7 disseminated to any other person or entity for any purpose (ATL 0019-20). Finally, ISLAM also
8 agreed not to use or disseminate any ATLANTIS property, tangible, intellectual or otherwise, in
9 any way that may potentially benefit any person or entity other than ATLANTIS (ATL 0020).
10

11 5. On February 26, 2010, ISLAM signed a Non-Compete/Non-Solicitation
12 Agreement with the ATLANTIS ("Non-Compete Agreement").⁵ Pursuant to the terms of the
13 Non-Compete Agreement, ISLAM agreed that she would not, without the prior written consent
14 of the ATLANTIS, be employed by, in any way affiliated with, or provide services to any
15 gaming business or enterprises located within 150 miles of ATLANTIS for a period of one year
16 after the date that the employment relationship between she and the ATLANTIS ended. ISLAM
17 understood these provisions and the ramifications of them when she elected to accept
18 employment in Reno.⁶ ISLAM also agreed that the Non-Compete Agreement was the minimum
19 necessary to protect the ATLANTIS in the use and enjoyment of the confidential information
20 and good will of the business of the ATLANTIS. ISLAM further agreed that damages cannot
21 fully and adequately compensate ATLANTIS in the event of a breach or violation and that,
22 without limiting the right of ATLANTIS to seek all other legal and equitable remedies available
23 to it, ATLANTIS shall be entitled to injunctive relief, including but not limited to a temporary
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28 ⁴ See Exhibit 6 (Deposition Exhibit 3), Exhibit 1 (Islam Deposition at p. 90:15-91:25) and Exhibit 3.

⁵ See Exhibit 7 (Deposition Exhibit 4) and Exhibit 1 (Islam Deposition at p. 75:4-8; 78:6-16).

⁶ See Exhibit 1 (Islam Deposition at p. 142:6-143:2)

1 restraining order, temporary injunction and permanent injunction to prevent any such violations
2 or any continuation of such violations.

3 6. ISLAM terminated her employment as an Executive Casino Host with the
4 ATLANTIS on January 19, 2012, accepted an offer with GSR as an Executive Casino Host on
5 the same day, and began work at GSR on or about January 31, 2012.⁷
6

7 7. GSR was aware of the Non-Compete Agreement between ISLAM and
8 ATLANTIS before GSR hired ISLAM.⁸ ATLANTIS did not consent to ISLAM'S employment
9 with GSR.⁹

10 8. Throughout ISLAM'S employment at ATLANTIS, she had access to and worked
11 with highly sensitive trade secrets and proprietary and confidential information of the
12 ATLANTIS, both online and offline, including but not limited to customer lists or customer
13 information or data (such as player tracking or club information), related to matters of
14 ATLANTIS' business.¹⁰ This information included not just the information for guests assigned
15 to her, but also personal information for guests assigned to other hosts.¹¹
16

17 9. ISLAM has admitted that she copied guest information by hand from the screen
18 of the ATLANTIS computer onto spiral note pads.¹² Further, she has admitted to knowing and
19 understanding that it was the policy of the ATLANTIS that she was not to copy information off
20 of the ATLANTIS computer.¹³ Additionally, she has admitted to using the information she
21 copied after she became employed at GSR by adding approximately 100-200 persons to the GSR
22

23
24 ⁷ See Exhibit 1 (Islam Deposition at p. 36:20-22; 97:20-22; 156:14-17, 153: 9-25; 157:7-9) and Exhibit 8
(Deposition Exhibit 16).

25 ⁸ See Exhibit 1 (Islam Deposition at p. 118:19-119:4; 122:1-19; 123:17-25; 124:1-4 and 22-25-125:2; 136:17-
137:15), Exhibit 9 (Deposition of Tom Flaherty at p. 16:2-18:3; 20:3-23) and Exhibit 2.

26 ⁹ See Exhibit 21 (Verified Amended Complaint at ¶ 31) and Exhibit 2.

27 ¹⁰ See Exhibit 21 (Verified Amended Complaint at ¶ 1), Exhibit 10 (Affidavit of Steve Ringkob), Exhibit 1 (Islam
Deposition at p. 92:13-96:6, 131:15-134:4, 175:20-176:20 and 219:23-220:23) and Exhibit 20 (Deposition Exhibit 7
at ¶ 3).

28 ¹¹ See Exhibit 1 (Islam Deposition at p. 132:8-134:1).

¹² See Exhibit 1 (Islam Deposition at p. 92:14-94:24).

¹³ See Exhibit 1 (Islam Deposition at p. 94:25-96:14).

1 data base.¹⁴ Further, she has admitted to adding some persons who were assigned guests of other
2 hosts from the ATLANTIS.¹⁵

3 10. In or about March, 2012, ATLANTIS began receiving communications from its
4 established guests that ISLAM had contacted them on behalf of GSR and extended offers for
5 them to play at GSR.¹⁶

6 11. In or about March, 2012, ATLANTIS discovered that ISLAM had modified,
7 destroyed, changed or sabotaged confidential, proprietary, trade secret information of
8 ATLANTIS, including but not limited to customer data belonging to the ATLANTIS on its
9 online system.¹⁷ This fact is acknowledged by ISLAM.¹⁸

10 12. ATLANTIS further learned that as a result of ISLAM's wrongful conversion of
11 ATLANTIS property, ATLANTIS customers and guests did not receive regular ATLANTIS
12 offers, and in some cases instead received offers of play from ISLAM and GSR.¹⁹ The fact that
13 some ATLANTIS customers received these direct communications from ISLAM and GSR is
14 known as they informed the ATLANTIS they had been solicited by ISLAM and GSR.²⁰ Further,
15 these solicitations are admitted by ISLAM.²¹

16 13. On April 6, 2012, ATLANTIS issued cease and desist letters to ISLAM and GSR
17 with respect to their use and potential use of the confidential, proprietary and trade secret
18 information of the ATLANTIS.²² ATLANTIS received a response on April 18, 2012 from
19 counsel for GSR and ISLAM wherein all allegations against ISLAM and GSR were denied.²³

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24 ¹⁴ See Exhibit 1 (Islam Deposition at p. 159:7 – 161:4).

25 ¹⁵ See Exhibit 1 (Islam Deposition at p. 161:5-162:9, 204:2-204:15).

26 ¹⁶ See Exhibit 11 (Affidavit of Susan Moreno) and Exhibits 12-15 (Deposition Exhibits 12-15).

27 ¹⁷ See Exhibit 21 (Verified Amended Complaint at ¶ 38), and Exhibit 16-17 (Deposition Exhibits 10-11).

28 ¹⁸ See Exhibit 1 (Islam Deposition at p. 92:13-96:6, 131:15-134:4, 175:20-176:20, 187:5-19, 189:24-191:3 and 219:23-220:23)

¹⁹ See Exhibit 21 (Verified Amended Complaint at ¶ 40) and Exhibit 11.

²⁰ See Exhibit 11 and Exhibits 12-15 (Deposition Exhibits 12-15).

²¹ See Exhibit 1 (Islam Deposition at p. 196:13-23).

²² See Exhibit 18 (Deposition Exhibit 5).

²³ See Exhibit 19 (Deposition Exhibit 6).

14. A Temporary Restraining Order was entered against ISLAM on May 9, 2012. This was extended by Order dated July 5, 2012 which also was entered against and applied to GSR.

II.

ARGUMENT

A. Legal standard

Plaintiff is entitled to summary judgment if, after a review of the pleadings and discovery on file viewed in the light most favorable to Defendants, there is no genuine issue of material fact. NRCp 56; *Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). Rule 56 should not be regarded as a “disfavored procedural shortcut,” but instead as an “integral part” of the rules as a whole, “which are designed to secure the just, speedy and inexpensive determination of every action.” *Id.* (citing *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986), applying similar federal rule). While the pleadings and proof offered are to be construed in the light most favorable to the non-moving party, “the non-moving party must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine issue for trial or have summary judgment entered against him.” *Posadas v. City of Reno*, 109 Nev. 448, 452, 851 P.2d 438, 442 (1993). “A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party.” *Wood*, 121 Nev. at 731, 121 P.3d at 1031. Where a motion for summary judgment is made and supported, the opposing party may not rest upon the mere allegations of his pleading, but must, by affidavit or otherwise, “set forth specific facts showing that there is a genuine issue for trial.” See NRCp 56(e); *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002). Defendants, as the nonmoving party, are “not entitled to build a case on the gossamer threads of whimsy, speculation and conjecture. *Id.*, citing *Posadas v. City of Reno*, 109 Nev. at 452, 851 P.2d at 442.

1 In the instant matter, Plaintiff meets its burden on summary judgment on the issues
2 discussed below by demonstrating that Defendants lack evidence to dispute one or more of the
3 *prima facie* elements of Plaintiff's claims. *NGA#2 Limited Liability Co. v. Rains*, 113 Nev.
4 1151, 1156, 946 P.2d 163 (1997), citing *Celotex*, 477 U.S. at 331. A party may do this by
5 presenting affirmative evidence negating an essential element of the opposing party's claims, or
6 by demonstrating that there is an absence of evidence to support the nonmoving party's case.
7 *Celotex*, 477 U.S. at 325. In response, the non-moving party cannot rely upon the allegations or
8 denial contained in its pleading to stave off summary judgment. *T.W. Electrical Service v.*
9 *Pacific Elec. Contractors Assoc.*, 809 F.2d 626, 630 (9th Cir. 1987) (party opposing summary
10 judgment may not rely upon allegations of pleadings).
11

12 Even construing all of the facts in the light most favorable to Defendants, the undisputed
13 facts of this case show that Defendants concede facts establishing liability on all five causes of
14 action against ISLAM and GSR.
15

16 **B. Summary judgment with regard to liability should be granted on Plaintiff's claim**
17 **for Breach of Contract—Confidentiality Agreements as to Islam**

18 In order to succeed on a breach of contract claim in Nevada, a plaintiff must show "(1)
19 the existence of a valid contract, (2) a breach by the defendant, and (3) damage as a result of the
20 breach." *Saini v. Int'l Game Tech.*, 434 F. Supp. 2d 913, 919-920 (D. Nev. 2006), citing
21 *Richardson v. Jones*, 1 Nev. 405, 405 (1865). Here, there are three valid confidentiality
22 agreements that existed between Plaintiff and ISLAM. Furthermore, there is no genuine issue of
23 material fact remaining as to whether ISLAM breached these agreements such that the only
24 remaining question is damages which is not addressed by this motion. Indeed, as discussed
25 herein, ISLAM has admitted actions which establish her breach of these agreements.
26

27 ///

28 ///

1 1. Online System User Agreement

2 Islam admits to signing this agreement prior to beginning her employment at the
3 Atlantis.²⁴ This is sufficient consideration to form a valid contract. From her testimony, she has
4 clearly breached the confidentiality provision by copying and taking online guest information but
5 maintains that she did not agree with what she signed as it was *she* who owned the information.²⁵
6
7 This is in direct contravention of the terms of the agreement--that all information on
8 ATLANTIS' online system, including but not limited to, communications created, sent and
9 received using ATLANTIS' online systems, was the property of ATLANTIS (ATL 0002)
10 including guests or perspective guests of the ATLANTIS (ATL 0002-3). As such, in
11 consideration for her employment, she agreed to be bound by the terms of this contract when she
12 signed it and she has admitted to breaching it.

13 2. Business Ethics Policy and Code of Conduct Agreement

14 Islam also signed this document prior to employment and yearly thereafter.²⁶ This is
15 sufficient consideration to form a valid contract. In this agreement, ISLAM agreed not to
16 disclose confidential information including customer lists or customer information (such as
17 player tracking or club information) to any unauthorized persons, either during or after her
18 termination and not to take any documents or records belonging to ATLANTIS after her
19 departure (ATL 0011); she also agreed not to profit from confidential information of the
20 ATLANTIS (ATL 0011). Her own testimony establishes that she did not comply with this as
21 even though she acknowledged that ATLANTIS deemed customer lists and information to be
22 confidential information of ATLANTIS, she felt that the information she took belonged to her.²⁷
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27 ²⁴ See Exhibit 20 (Deposition Exhibit 7 at ¶ 3).

28 ²⁵ See Exhibit 1 (Islam Deposition at 92:16-96:6 and 215:10-218:6).

²⁶ See Exhibit 20 (Deposition Exhibit 7 at ¶ 3); Exhibit 1 (Islam Deposition at p. 89:9-90:14).

²⁷ See Exhibit 1 (Islam Deposition at p. 219:23-220:23).

1 This strange interpretation belies the very language of the agreement(s) that she signed and
2 agreed to be bound by. As such, she is in clear breach.

3 3. Trade Secret Agreement

4 Islam also signed this document prior to employment and yearly thereafter.²⁸ Thus, there
5 is sufficient consideration—employment and continued employment – given in exchange for
6 ISLAM’s promises contained therein. Pursuant to the terms of the Trade Secret Agreement,
7 ISLAM agreed, among other things, that all ATLANTIS property including intellectual property
8 such as hotel or casino customer/guest lists with facts about those customers’ preferences,
9 histories and other personal or business information, was to remain with the ATLANTIS both
10 during and after her term of employment, that any knowledge of ATLANTIS’ intellectual
11 property had by her must not be used or disseminated to any other person or entity for any
12 purpose and that she would not use or disseminate any ATLANTIS property, tangible,
13 intellectual or otherwise, in any way that may potentially benefit any person or entity other than
14 ATLANTIS (ATL 0019-20). ISLAM’s testimony establishes that she has clearly breached this
15 agreement by copying and taking information relating to guest lists and/or data from the
16 ATLANTIS database and using it to her benefit and for the benefit of GSR while employed as a
17 Casino Host at GSR.²⁹ Again this is a clear breach and ISLAM’s testimony that the information
18 was hers belies the stated language and intent of all three confidentiality agreements as well as
19 the Non-Compete Agreement discussed below.
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28 ²⁸ See Exhibit 1 (Islam Deposition at p. 90:15-91:25).

²⁹ See Exhibit 1 (Islam Deposition at p. 92:16-96:6, 157:18-165:21, 207:2-11, 215:9-218:6 and 228:17-230:2).

1 C. Summary judgment should be granted on Plaintiff's claim for Breach of
2 Contract—Non-Compete Agreement as to Islam

3 The seminal case with respect to the covenants not to compete is *Hansen v. Edwards*, 83
4 Nev. 189, 426 P.2d 792 (1967). See *Jones v. Deeter*, 112 Nev. 291, 294, 913 P.2d 1272, 1274
5 (1996).

6 An agreement on the part of an employee not to compete with his employer after
7 termination of the employment is in restraint of trade and will not be enforced in
8 accordance with its terms unless the same are reasonable. Where the public
9 interest is not directly involved, the test usually stated for determining the validity
10 of the covenant as written is whether it imposes upon the employee any greater
11 restraint than is reasonably necessary to protect the business and good will of the
12 employer. A restraint of trade is unreasonable, in the absence of statutory
13 authorization or dominant social or economic justification, if it is greater than is
14 required for the protection of the person for whose benefit the restraint is imposed
15 or imposes undue hardship upon the person restricted. The period of time during
16 which the restraint is to last and the territory that is included are important factors
17 to be considered in determining the reasonableness of the agreement.

18 *Jones*, 112 Nev. at 294, 913 P.2d at 1274, citing *Hansen*, 83 Nev. at 191-92, 426 P.2d at 793. In
19 *Hansen*, the Court found that “[t]he substantial risk of losing patients to an employee is itself an
20 adequate basis for a reasonably designed restraint.” *Hansen*, 83 Nev. at 192, 426 P.2d at 793.
21 The Court in *Hansen* did find that the covenant was too restrictive, but modified the covenant so
22 that it was appropriate. *Id.* at 193.

23 In *Ellis v. McDaniel*, 95 Nev. 455, 596 P.2d 222 (1979), the Court considered the
24 reasonableness of a two-year restriction and a radius of up to five miles within the city of Elko,
25 Nevada. The Court found that the terms of the covenant were reasonable with respect to the
26 doctor’s practice of general medicine, but as there were no other orthopedic specialists on staff
27 with his old employer, it was not reasonable to prohibit his practice of orthopedic surgery, and
28 the covenant was modified in that regard while maintaining the time and space limitations. *Ellis*,
95 Nev. at 459-460, 595 P.2d at 225-226.

In *Camco, Inc. v. Baker*, 113 Nev. 512, 936 P.2d 829 (1997), the Nevada Supreme Court
did not object to the two-year restriction, but the territorial limitations were seen as overly

1 restraining, as they restricted competition within 50 miles of any store that was existing or under
2 construction, or “within 50 miles of any area which was the target of a corporate plan of
3 expansion.” *Camco*, 113 Nev. at 519-520, 936 P.2d at 832-833. In so holding, the Court found
4 that “to be reasonable, the territorial restriction should be limited to the territory in which [the
5 former employer] established customer contacts and good will.” *Id.* at 521, 936 P.2d at 834.
6

7 In the instant matter, the agreement has a radius of 150 miles from the Atlantis and
8 clearly the Atlantis has a customer base not only in Reno, Sparks, Lake Tahoe, and the
9 surrounding 150 miles, but far in excess of that. Moreover, GSR is literally just a few miles
10 from the Atlantis.³⁰ As such, the Non-Compete Agreement’s term of 1 year and territory of 150
11 miles are reasonable. Moreover, it is clear that ISLAM signed the Non-Compete in exchange for
12 continued employment, creating sufficient consideration, and clearly understood the terms of the
13 agreement.³¹ As such, ISLAM is in breach of this agreement by accepting employment with
14 GSR before January 19, 2013.³²
15

16 **D. Summary judgment should be granted on Plaintiff’s claim for Conversion of**
17 **Property as to Islam**

18 Conversion in Nevada is defined as “a distinct act of dominion wrongfully exerted over
19 another’s personal property in denial of, or inconsistent with his title or rights therein or in
20 derogation, exclusion, or defiance of such title or rights.” *M.C. Multi Family Development,*
21 *L.L.C. v. Crestdale Associates Ltd.*, 124 Nev. 901, 910, 196 P.3d 536 (2008) *citing Evans v.*
22 *Dean Witter Reynolds, Inc.*, 116 Nev. 598, 606, 5 P.3d 1043, 1048 (2000).³³ Conversion is
23
24
25

26 ³⁰ The Court can take judicial notice of this fact.

27 ³¹ See Exhibit 20 (Deposition Exhibit 7 at ¶ 3) and Exhibit 1 (Islam Deposition at p 75:4-76:16 and 85:25-86:3,
142:18-143:2).

28 ³² Moreover, ISLAM continues to be in breach of this agreement as she is still “employed by” by GSR albeit
suspended with pay. See Exhibit 1 (Islam Deposition at p. 204:24-25, 231:23-25).

³³ It is an act of general intent which does not require wrongful intent and is not excused by care, good faith or lack
of knowledge. *Id.*

1 applicable to intangible property such a contractor's license or internet website domain name.

2 *M.C. Multi Family Development, L.L.C. v. Crestdale Associates Ltd.*, 124 Nev. at 911-912.

3 ISLAM's own testimony establishes that she purposefully made false entries into the
4 ATLANTIS database for a wrongful purpose—(1) because she was upset with ATLANTIS and
5 (2) because she did not want other hosts to have access to her guests when she left the
6 employment of the ATLANTIS.³⁴ This is in direct contravention of the Business Ethics Policy
7 and Code of Conduct Agreement³⁵ wherein she agreed that ATLANTIS' online systems are
8 ATLANTIS' property, were provided to her for business purposes and her use to increase
9 production and effectiveness and that she was not to profit from confidential information of the
10 ATLANTIS and not to make false or artificial entries in the books and records of the company
11 for any reason. Thus, ISLAM has admitted to wrongful conversion of ATLANTIS property and
12 summary judgment should be granted on this claim as to liability.
13
14

15 **E. Summary judgment should be granted on Plaintiff's claims for Tortious**
16 **Interference with Contractual Relations and Prospective Economic Advantage as to**
17 **Islam and GSR**

18 To establish intentional interference with contractual relations, a plaintiff must show: (1)
19 a valid and existing contract; (2) the defendant's knowledge of the contract; (3) intentional acts
20 intended or designed to disrupt the contractual relationship; (4) actual disruption of the contract;
21 and (5) resulting damage. *Sutherland v. Gross*, 105 Nev. 192, 772 P.2d 1287, 1290 (1989). The
22 elements of the tort of wrongful interference with a prospective economic advantage are: (1) a
23 prospective contractual relationship between the plaintiff and a third party; (2) the defendant's
24 knowledge of this prospective relationship; (3) the intent to harm the plaintiff by preventing the
25 relationship; (4) the absence of a privilege or justification by the defendant; and, (5) actual harm
26

27 ³⁴ See Exhibit 1 (Islam Deposition at p. 175:20-176:20, 180:1-24, 182:21-22, 184:23-185:3, 189:24-190:16;
194:18-195:7; 293:22-294:6).

28 ³⁵ The stated purpose of this Agreement was to ensure use of ATLANTIS' online systems in a productive manner.
See Exhibit 5 (Deposition Exhibit 2).

1 to the plaintiff as a result of the defendant's conduct. *Leavitt v. Leisure Sports, Inc.*, 103 Nev.
2 81, 88, 734 P.2d 1221, 1225 (1987); *Las Vegas-Tonopah-Reno Stage v. Gray Line*, 106 Nev.
3 283, 792 P.2d 386, 388 (1990).

4 1. ISLAM's tortious interference

5 ISLAM has tortiously interfered with ATLANTIS' prospective economic advantage.
6 The deposition testimony of ISLAM establishes liability on this claim as a matter of law. First, a
7 prospective economic advantage naturally exists between ATLANTIS and its established guests
8 many of which are included in the ATLANTIS database.³⁶ Second, ISLAM is aware of this
9 prospective economic advantage by virtue of her employment as a casino host for approximately
10 seven years, nearly four years of which was with ATLANTIS, and from being employed in the
11 gaming industry for 16 years.³⁷ Third, ISLAM intended to harm the ATLANTIS by preventing
12 the relationship. This is established by ISLAM's conduct in inputting incorrect guest
13 information in the ATLANTIS database. These actions had the effect of these guests not
14 receiving ATLANTIS offers. ISLAM's violation and intent to harm is further proven by the fact
15 that she has sent at least some of these guests offers of free play from GSR in violation of her
16 contractual and legal obligations.³⁸ Finally, ISLAM had no justification or privilege for the
17 database changes. Her testimony that she made these changes, falsifying the contact
18 information, because she was angry at the ATLANTIS and wanted to prevent the remaining
19 ATLANTIS casino hosts from accessing her assigned guests after she left the ATLANTIS
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21
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23
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26 ³⁶ See Exhibit 10 and Exhibit 1 (Islam Deposition at p. 17:14-18:12 and 53:11-57:23).

27 ³⁷ See *Id.* and Exhibit 1 (Islam Deposition at p. 29:24-25, 31:3-12, 38:3-5).

28 ³⁸ See Exhibit 21 (Verified Amended Complaint at ¶ 38 and 40), Exhibits 16-17 (Deposition Exhibits 10-11),
Exhibit 11, Exhibits 12-15 (Deposition Exhibits 12-15) and Exhibit 1 (Islam Deposition at p. 175:20-176:20, 180:1-
24, 182:21-22, 184:23-185:3, 189:24-190:16; 194:18-195:7; 293:22-294:6).

1 demonstrates that her intent was wrongful and to interfere.³⁹ As such liability for this claim is
2 established as a matter of law and summary judgment is appropriate.

3 2. GSR's tortious interference

4 GSR has intentionally interfered with contractual relations of the ATLANTIS by
5 employing ISLAM despite having prior knowledge of and being in receipt of her Non-Compete
6 Agreement with the ATLANTIS before it hired her.⁴⁰ No genuine issues of material fact
7 therefore exist and ATLANTIS is entitled to summary judgment as to liability of this claim as a
8 matter of law.
9

10 GSR has also tortiously interfered with ATLANTIS' prospective economic advantage.
11 GSR, operating a gaming establishment itself, cannot dispute that a prospective economic
12 advantage naturally exists between ATLANTIS and its established guests many of which are
13 included in the ATLANTIS database. GSR further intended to harm the ATLANTIS by
14 preventing or interfering with this relationship. This is established by GSR's conduct in hiring
15 ISLAM despite being aware of the Non-compete Agreement⁴¹ and allowing ISLAM to utilize
16 confidential, proprietary, and trade secret information and data of ATLANTIS when working for
17 GSR to include inputting this information into GSR's database.⁴² Specifically, GSR never took
18 any efforts to ensure that trade secret information and data of ATLANTIS was not utilized by
19 ISLAM during GSR's employment of her.⁴³ In fact, this was the very reason that GSR hired
20 ISLAM, to derive economic benefit from her knowledge and information regarding established
21
22

23
24 ³⁹ See Exhibit 1 (Islam Deposition at p. 189:13-190:11; 194:18-195:7 and 293:22-294:6).

25 ⁴⁰ See Exhibit 1 (Islam Deposition at p. 118:19-119:4; 122:1-19; 123:17-25; 124:1-4 and 22-25-125:2; 136:17-137:15), Exhibit 9 (Flaherty Deposition at p. 16:2-18:3; 20:3-23) and Exhibit 2.

26 ⁴¹ The Non-compete Agreement, Exhibit 7 (Deposition Exhibit 4), continually references ATLANTIS' legitimate business interest in effectively competing in the marketplace and protecting its investment in employee capital and confidential information.

27 ⁴² See Exhibit 1 (Islam Deposition at p. 148:4-19).

28 ⁴³ See Exhibit 9 (Flaherty Deposition at p. 21:24-23:1, 24:5-25:11, 38:1-15, 41:20-25).

1 ATLANTIS guests.⁴⁴ Finally, GSR had no justification or privilege for its actions in failing to
2 prevent ISLAM from using trade secret information and data of ATLANTIS as it was on notice
3 that ISLAM was privy to such information by virtue of the language of her Non-Compete
4 Agreement. GSR, in fact, has its own Confidentiality and Nondisclosure Agreement that it
5 utilizes for its casino hosts which is standard in the gaming industry.⁴⁵ As such, liability for this
6 claim is established as a matter of law.
7

8 **F. Summary judgment should be granted on Plaintiff's claims for Violation of Uniform**
9 **Trade Secret Act, NRS 600A.010 et. seq. as to Islam and GSR**

10 To establish a misappropriation claim under NRS § 600A.010 *et. seq.*, the plaintiff must
11 show: (1) a valuable trade secret; (2) misappropriation⁴⁶ of the trade secret through use,
12 disclosure, or nondisclosure of the use of the trade secret; and (3) the requirement that the
13 misappropriation be wrongful because it was made in breach of an express or implied contract or
14 by a party with a duty not to disclosure. *Franz v. Johnson*, 116 Nev. 455, 466, 999 P.2d 351, 358
15 (2000) (footnotes omitted). The Act defines a trade secret as:

16 information, including, without limitation, a formula, pattern, compilation,
17 program, device, method, technique, product, system, process, design, prototype,
18 procedure, computer programming instruction or code that:

19
20 ⁴⁴ See Exhibit 9 (Flaherty Deposition at p. 28:11-30:7, 38:1-15, 40:7-25, 44:7-45:3).

21 ⁴⁵ See Exhibit 9 (Flaherty Deposition at p. 22:14-23:1, 51:21-52:11), Exhibit 8 (Deposition Exhibit 16) at
22 GSR00004 and Exhibits 2 and 10.

23 ⁴⁶ "Misappropriation" per NRS 600A.030(2) means:

- 24 (a) Acquisition of the trade secret of another by a person by improper means;
25 (b) Acquisition of a trade secret of another by a person who knows or has reason to know that the trade secret was
26 acquired by improper means; or
27 (c) Disclosure or use of a trade secret of another without express or implied consent by a person who:
28 (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.

- 1 (a) Derives independent economic value, actual or potential,
2 from not being generally known to, and not being readily ascertainable by
3 proper means by the public or any other persons who can obtain
4 commercial or economic value from its disclosure or use; and
(b) Is the subject of efforts that are reasonable under the
circumstances to maintain its secrecy.

5 NRS § 600A.030(5). Whether information is a trade secret generally is a question of for the fact-
6 finder. *Frantz*, 116 Nev. at 466, 999 P.2d at 358. Factors to consider include the extent to which
7 others outside the business know the information, the ease or difficulty with which others could
8 acquire the information properly, whether the information was confidential or secret, and the
9 measure the employer took to guard the information's secrecy. *Id.* at 467, 999 P.2d at 358-59.

10
11 1. ISLAM's misappropriation

12 ISLAM clearly misappropriated information of the ATLANTIS by wrongfully copying
13 down by hand guest information/data from the ATLANTIS database into spiral binders prior to
14 leaving the ATLANTIS and using that intellectual property to her benefit and the detriment of
15 the ATLANTIS while employed at GSR, in violation of the three confidentiality agreements that
16 she signed at the ATLANTIS. The real issue is whether this information/data is a trade secret of
17 the ATLANTIS.

18
19 The ATLANTIS guest information/data meets the definition of a trade secret as it is
20 information that derives economic value from not being generally known to the public.⁴⁷ This is
21 demonstrated by the very reason that GSR hired ISLAM--to derive economic benefit from her
22 knowledge and information regarding established ATLANTIS guests.⁴⁸ Furthermore, the
23 ATLANTIS takes extreme efforts to maintain its secrecy. First, the ATLANTIS has its casino
24 hosts sign four separate agreements concerning the confidentiality of certain information
25

26
27 ⁴⁷ See *Franz*, *supra*, 116 Nev. at 467, wherein the Court held that customer and pricing information for distributor
28 of plastic gaming cards were trade secrets. See also, *Finkel v. Cashman Professional, Inc.*, 128 Nev. ____ (Adv.
Opn. 6, March 1, 2012) (substantial evidence supported district court's conclusion that information allegedly
misappropriated would likely be confidential trade secrets including customer lists).

⁴⁸ See Exhibit 9 (Flaherty Deposition at p. 28:11-30:7, 38:1-15, 40:7-25, 44:7-45:3).

1 available to them.⁴⁹ One of these agreements, the Non-Compete Agreement, even restricts the
2 ability of the casino host to work within a 150 mile radius in any gaming establishment for one
3 year in order to preserve its investment in employee capital and confidential information.
4 Second, the ATLANTIS further maintains its secrecy by restricting the ability to copy the guest
5 information/data maintained on its database. For example, it does not provide casino hosts with
6 a USB port to download information, does not provide a printer to print out information and only
7 allows certain database access to casino hosts.⁵⁰ Finally, because the ATLANTIS agreements
8 define the customer/guest lists and data to be “confidential,” proprietary and trade secrets,
9 ATLANTIS is entitled to reasonable presumption that it took efforts to maintain its secrecy.
10 NRS 600A.032. As no genuine material facts exist, summary judgment on liability for this claim
11 is appropriate.
12

13
14 2. GSR’s misappropriation

15 GSR also misappropriated the trade secrets of the ATLANTIS as it knew or should have
16 known that ISLAM, on behalf of GSR, was wrongfully utilizing this information in her position
17 as a casino host for GSR.⁵¹ The testimony obtained thus far has demonstrated the GSR knew of
18 at least the obligations contained in the Non-Compete agreement before it even offered to hire
19 ISLAM yet it took no measures to ensure that ISLAM did not take information from the
20 ATLANTIS or that such information was not used or incorporated into the database of the
21 GSR.⁵² Indeed, this was true throughout ISLAM’s employment with GSR even after its
22 management had been contacted by ATLANTIS management and even after ATLANTIS put
23 GSR on more formal notice with a cease and desist letter to which GSR denied all allegations.⁵³
24 The GSR response is, in hindsight, of no surprise given the fact that it was on actual notice of
25

26
27 ⁴⁹ See Exhibit 10.

⁵⁰ See Exhibit 1 (Islam Deposition at p. 93:24-96:21, 131:15-134:9).

⁵¹ See NRS 600A.030(2) (b) and (c)

⁵² See Exhibit 9 (Flaherty Deposition at p. 20:3-21:23, 24:5-17, 38:6-15, 41:20-45:7, 55:5-57:4).

⁵³ See Exhibits 18 and 19 (Deposition Exhibits 5 and 6).

1 ISLAM's obligations before it even offered her a job. What is perhaps most shocking is the fact
2 that every member of GSR management thus far deposed has admitted that GSR considers this
3 information to be confidential when held by the GSR.⁵⁴ As it appears impossible to reconcile
4 how the same information held by the GSR is confidential to it and not confidential to
5 ATLANTIS, summary judgment appears appropriate on this claim as to liability.
6

7 **III.**

8 **CONCLUSION**

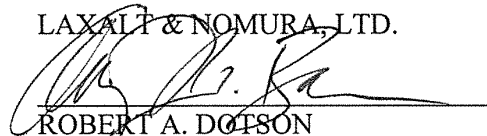
9 Based on the foregoing, ATLANTIS respectfully requests that this Court grant partial
10 summary judgment on ATLANTIS' five claims for relief against Defendants as to liability only.

11 **Affirmation Pursuant to NRS 239B.030**

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

14 Dated this 22nd day of August, 2012.

15 LAXALT & NOMURA, LTD.

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28 ⁵⁴ See Exhibit 9 (Flaherty Deposition at p. 52:8-11, 22:14-24:4) and Exhibit 22 (Lundgren Deposition at p. 42:12-15).