

IN THE SUPREME COURT OF THE STATE OF NEVADA

KAZUO OKADA,

Petitioner,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR CLARK
COUNTY; THE HONORABLE
ELIZABETH GONZALEZ,
DISTRICT JUDGE, DEPT. 11,

Respondent,

and

WYNN RESORTS, LIMITED,

Real Party in Interest.

Case No. 68310

Electronically Filed
Jul 22 2015 08:39 a.m.

Tracie K. Lindeman
Clerk of Supreme Court

**SUPPLEMENTAL APPENDIX
IN SUPPORT OF REAL
PARTY IN INTEREST
WYNN RESORTS, LIMITED'S
ANSWER TO PETITION FOR
WRIT OF PROHIBITION OR
MANDAMUS**

VOLUME I of VI

DATED this 21st day of July 2015.

PISANELLI BICE PLLC

By: /s/ James J. Pisanelli

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Wynn Resorts, Limited

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 21st day of July, 2015, I electronically filed and served a true and correct copy of the above and foregoing **SUPPLEMENTAL APPENDIX IN SUPPORT OF REAL PARTY IN INTEREST WYNN RESORTS, LIMITED'S ANSWER TO PETITION FOR WRIT OF PROHIBITION OR MANDAMUS** to the following:

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VIA HAND-DELIVERY

The Honorable Elizabeth Gonzalez
Eighth Judicial District court, Dept. XI
Regional Justice Center
200 Lewis Avenue
Las Vegas, Nevada 89155

/s/ Kimberly Peets
An employee of PISANELLI BICE PLLC

CIVIL COVER SHEET

Clark County, Nevada

Case No. _____
(Assigned by Clerk's Office)

XI

I. Party Information

Petitioner(s) (name/address/phone): KAZUO OKADA, an individual

Attorney (name/address/phone): Charles H. McCrea, Jr. (SBN 104),
LIONEL SAWYER & COLLINS, 300 S. 4th St., Ste. 1700, Las Vegas, NV 89101; 702-383-8888

Respondent(s) (name/address/phone): WYNN RESORTS, LIMITED, a Nevada corporation

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input checked="" type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

January 11, 2012
Date

Charles H. McCrea, Jr.
Signature of initiating party or representative

See other side for family-related case filings.

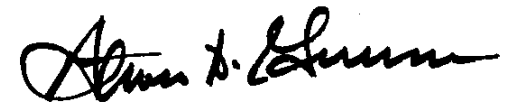
1 **0016**

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CLERK OF THE COURT

12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

14 KAZUO OKADA, an individual,

15 Petitioner,

16 -against-

17 WYNN RESORTS, LIMITED, a Nevada
18 corporation,

19 Respondent.

CASE NO. **A- 12- 654522- B**

DEPT. NO. **XI**

**PETITION FOR A WRIT
OF MANDAMUS**

**[ARBITRATION EXEMPTION
CLAIMED: PETITION SEEKS
INJUNCTIVE RELIEF]**

**[BUSINESS COURT REQUESTED: NRS
CHAPTER 78]**

22 COMES NOW Petitioner KAZUO OKADA ("Mr. Okada"), by and through his counsel
23 LIONEL SAWYER & COLLINS and ALSTON & BIRD LLP, against Respondent Wynn
24 Resorts, Limited ("Wynn Resorts" or the "Company"), and pursuant to Nev. Rev. Stat. § 34.150
25 *et seq.* respectfully petitions the Court for a writ of mandamus compelling Respondent to
26 produce certain books and records. This verified Petition is made and based on the facts set forth
27 below and the Affidavit of Charles H. McCrea, Jr. and Memorandum of Law filed herewith:
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1 of the \$30 million and the subsequent \$90 million invested by Aruze USA. Nevertheless, the
2 Company still denied access to any records showing how the funds were used. Thus, on
3 November 29, 2011, Mr. Okada sought inspection with regard to the full \$120 million invested
4 by Aruze USA in April 2002 (which was ostensibly to be used in relation to the Macau resort).
5 In response, Wynn Resorts has continued to deny Mr. Okada's requests to inspect its books and
6 records and there has been no explanation for how the \$120 million was actually spent.

7 6. This action seeks an order that Mr. Okada and his attorneys be permitted to
8 inspect the Company's books and records.

9 **PARTIES, JURISDICTION AND VENUE**

10 7. Petitioner Kazuo Okada is a resident of Hong Kong and citizen of Japan. In 1969,
11 Mr. Okada founded Universal Lease Co. Ltd., which is now known as Universal Entertainment
12 Corporation ("Universal"), and is its majority owner and Chairman. Mr. Okada is a Director,
13 President, Secretary, and Treasurer of Aruze USA, Inc., a wholly-owned subsidiary of Universal.
14 Aruze USA owns 24,549,222 shares of Wynn Resorts, or 19.66 percent of the outstanding shares
15 of the Company. Mr. Okada has been found suitable by the Nevada Gaming Commission as a
16 stockholder and as a controlling stockholder of Universal Entertainment Corporation.

17 8. Mr. Okada has served as a member of Wynn Resorts' Board of Directors since
18 October 2002. Mr. Okada also serves as a member of the Board of Directors of Wynn Macau,
19 Limited, a majority owned subsidiary of the Company.

20 9. Respondent Wynn Resorts, Limited is a publicly traded corporation organized and
21 existing under the laws of the State of Nevada with its principal place of business in Las Vegas,
22 Nevada. Wynn Resorts trades on NASDAQ under the ticker symbol "WYNN." Wynn Resorts,
23 together with its subsidiaries, develops, owns, and operates destination casinos and resorts. The
24 Company owns the Wynn Las Vegas casino resort in Las Vegas, Nevada, and the Wynn Macau
25 casino resort located in the Macau Special Administrative Region of the People's Republic of
26 China.

27 10. This Court has jurisdiction over this action pursuant to Nevada Constitution,
28 Article 6, § 6.

1 11. Venue is proper in this Court pursuant to Nev. Rev. Stat. § 13.040.

2 **GENERAL ALLEGATIONS**

3 12. Petitioner reasserts and realleges Paragraphs 1 through 11 above.

4 **A. Mr. Okada and Mr. Wynn Create Wynn Resorts**

5 13. Mr. Wynn had a track record of planning and opening casino and resort projects
6 such as the Golden Nugget, the Mirage, Treasure Island, and Bellagio. He lost control of these
7 ventures, however, to MGM. In 2000, Mr. Wynn purchased the former Desert Inn in Las Vegas
8 and tried to develop it. He was having trouble finding investors, until he met Mr. Okada.

9 14. Mr. Okada first came to know about Mr. Wynn through Universal. At the time,
10 Universal was a distributor of electronic gaming machines in Nevada, and Mr. Wynn was a
11 customer. Universal had developed the first computerized slot machine.

12 15. In October 2000, Aruze USA invested \$260 million for a 50 percent membership
13 interest in Valvino Lamore, LLC ("Valvino Lamore"), Mr. Wynn's venture to develop the Desert
14 Inn property. In connection with that investment, the parties entered into the Amended and
15 Restated Operating Agreement of Valvino Lamore, LLC (the "Valvino Lamore Operating
16 Agreement").

17 16. In 2002, in connection with the development of the Wynn Macau project, Mr.
18 Wynn first asked Mr. Okada for \$30 million, supposedly to finance "due diligence," and then an
19 additional \$90 million to fund other elements of the enterprise, for a total of \$120 million. Mr.
20 Okada provided this funding through Aruze USA. The document memorializing this investment
21 is the Third Amended and Restated Operating Agreement of Valvino Lamore, LLC (the "Third
22 Amended and Restated Operating Agreement of Valvino Lamore,") executed by Mr. Wynn,
23 Aruze USA, and Baron Asset Fund. Mr. Okada has never seen an accounting for how any of this
24 money was spent. The Third Amended and Restated Operating Agreement of Valvino Lamore
25 also provided that Mr. Wynn would receive a reimbursement for expenses incurred to develop a
26 property in Macau.

27 17. In light of recent developments, Mr. Okada has become concerned regarding how
28 Mr. Wynn caused these funds to be used. Mr. Okada's recent requests to inspect the books and

1 records in order to determine how these monies were used, and for substantiation of the
2 reimbursement to Mr. Wynn, have been repeatedly and summarily denied by the Company.

3 18. In September 2002, less than two years after Mr. Okada and Mr. Wynn joined
4 forces, the members of Valvino Lamore contributed 100% of their membership interests to
5 Wynn Resorts in exchange for common stock in Wynn Resorts. Valvino Lamore is now a
6 wholly-owned subsidiary of Wynn Resorts. Wynn Resorts now controls the books and records
7 of Valvino Lamore.

8 19. In conjunction with the transition of Valvino Lamore to Wynn Resorts, Aruze
9 USA, Mr. Wynn, and Baron Asset Fund entered into a stockholders agreement ("2002
10 Stockholders Agreement").

11 20. On October 25, 2002, Wynn Resorts went public on the NASDAQ at \$13 per
12 share. After the initial public offering, and other subsequent dilution, Mr. Okada and Mr. Wynn
13 each owned approximately twenty percent of the common stock.

14 **B. Mr. Wynn Loses A Significant Portion Of His Stake in Wynn Resorts**

15 21. In March 2009, Mr. Wynn and his wife filed for divorce in Las Vegas. In a
16 January 6, 2010 filing with the Securities and Exchange Commission, they reported that
17 11,076,708 shares previously held as community property were transferred to Ms. Wynn, leaving
18 Mr. Wynn with an equal number of shares. Meanwhile, Aruze USA held 24,549,222 shares, or
19 more than double what Mr. Wynn had.

20 22. As a result of this transfer to his ex-wife, Mr. Wynn owned approximately nine
21 percent of Wynn Resorts' outstanding common stock, compared to the almost twenty percent
22 owned by Aruze USA.

23 23. As Mr. Wynn was losing a significant portion of his shares to his ex-spouse, he
24 procured an amendment to the stockholders agreement ("2010 Amendment"), which, among
25 other things, purports to impose restrictions on the shares of Wynn Resorts owned by Azure
26 USA and Ms. Wynn and confirm the ability to Mr. Wynn to exercise certain rights in respect of
27 such shares.
28

1 **C. Mr. Okada Objects to HK\$1 Billion Donation to the University of Macau**

2 24. In May 2011, Wynn Macau pledged to donate HK\$1 billion (about \$135 million)
3 to the University of Macau Development Foundation. This contribution consists of a \$25 million
4 contribution made in May 2011, and a commitment for additional donations of \$10 million each
5 year for the calendar years 2012 through 2022 inclusive, for a total of \$135 million. Wynn
6 Macau's gaming concession expires in June 2022. Mr. Okada objected to this donation, which
7 appears to be unprecedented in the annals of that University. Mr. Okada noted in this regard that
8 the University sits on land owned by the government, and there was no discussion regarding
9 whether such a large gift, over such a long period, is an appropriate use of corporate funds.

10 25. Mr. Okada's recent requests to inspect the Company's books and records
11 regarding this donation have been denied by the Company.

12 **D. Wynn Rebuffs Mr. Okada's Efforts To Review The Company's Books and**
13 **Records**

14 26. On November 2, 2011, Mr. Okada formally requested to inspect Wynn Resorts'
15 books and records for the purpose of determining the manner in which the \$30 million obtained
16 from Aruze USA, on or about April 22, 2002, was spent.

17 27. Mr. Okada also sought to inspect the books and records of Wynn Resorts for the
18 purpose of determining the details of the HK\$1 billion pledge (and partial donation) by Wynn
19 Resorts or its affiliates to the University of Macau, which was made over Mr. Okada's objection.
20 In this regard, he seeks all electronic and hard copy records referring or relating to the
21 University.

22 28. Mr. Okada further sought to inspect the books and records of Wynn Resorts for
23 all evidence regarding the negotiation, drafting, and execution of the 2010 Amendment.

24 29. On November 3, 2011, the Company summarily rejected Mr. Okada's requests for
25 access to the Company's books and records.

26 30. On November 9, the Company sent a letter indicating that it could not locate the
27 \$30 million transferred to it by Aruze USA in April 2002. As a result, on November 17, 2011,
28 Mr. Okada wrote to Wynn Resorts, enclosing a bank statement showing the \$30 million

1 withdrawal, and again seeking inspection. On November 28, 2011, Wynn Resorts indicated that
2 they had indeed located the money, and the other \$90 million invested in April 2002 by Aruze
3 USA, but refused to provide any accounting or records for how it was spent.

4 31. On November 29, 2011, Mr. Okada formally asked for inspection regarding how
5 the full \$120 million was spent, as well as all books and records regarding the Macau
6 Reimbursement Amount, as that term is used in the Third Amended and Restated Operating
7 Agreement of Valvino Lamore.

8 32. On December 12, 2011, Mr. Okada formally requested inspection of books and
9 records of Wynn Resorts and its predecessor entities for the years 2000-2002. On December 15,
10 2011, Wynn Resorts rejected the requested inspection.

11 33. Mr. Okada's right as a Director to inspect the books and records of the Company
12 is unqualified. Nevertheless, the Company has steadfastly refused to allow Mr. Okada to review
13 any documents or other records on the matters he has raised, even though he is a Director of the
14 Company, and the indirect owner of 19.66 percent of its shares.

15 **FIRST CLAIM FOR RELIEF**

16 **Inspection of the Wynn Resorts Books and Records**

17 **(Against Wynn Resorts)**

18 34. Petitioner reasserts and realleges Paragraphs 1 through 33 above as if set forth in
19 full below.

20 35. Mr. Okada is a Director of Wynn Resorts, and has been so continuously since
21 October 2002.

22 36. By letters dated November 2, November 17, November 29, and December 12,
23 2011, Mr. Okada requested inspection of specific categories of the books and records of Wynn
24 Resorts, and other matters which are not the subject of this Petition. The records requested for
25 inspection include:

26 a. All books and records related to how the manner in which the \$120 million
27 invested by Aruze USA in April 2002 was spent;

28 b. All books and records related to a HK\$1 billion pledge (and partial donation)

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- by the Company or its affiliates to the University of Macau;
- c. All books and records regarding the Macau Reimbursement Amount, as that term is used in the Third Amended and Restated Operating Agreement of Valvino Lamore;
- d. Books and records of Wynn Resorts and its predecessor entities for the years 2000 through 2002; and
- e. All evidence regarding negotiation, drafting, and execution of the Amended and Restated Stockholders Agreement dated January 6, 2010 between Mr. Wynn, Ms. Wynn, and Aruze USA, Inc.

37. The November 2, 2011 requests have been summarily denied. The November 17 and November 29, 2011 requests have been met by silence. The December 12, 2011 request has been summarily denied.

WHEREFORE, Petitioner prays for judgment as follows:

- A. A writ of mandamus requiring Wynn Resorts to permit Mr. Okada and his counsel to inspect and make copies of the books and records of the Company;
- B. That Petitioner be awarded his costs and expenses, including reasonable attorneys' fees incurred herein; and
- C. Any and all such other and further relief as this Court deems just and proper.

Dated: January 11th, 2012

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8 *Attorneys for Petitioner*
9 **KAZUO OKADA**

10 **VERIFICATION**

11 I, Kazuo Okada, being duly sworn, deposes and says:

12 I am the Petitioner in the foregoing Petition for a Writ of Mandamus (the "Petition"). I
13 have read a certified Japanese translation of the Petition and know its contents. The Petition is
14 true to my knowledge. The basis of my knowledge is my personal involvement in the matters
15 described, review of documents, discussions with employees of Universal Entertainment Corp.
16 and Aruze USA, and the investigation of my counsel.

17 /s/Kazuo Okada*
18 **KAZUO OKADA**

19 Sworn to me this ____
20 day of January, 2012

21 /s/*
22 Notary Public

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25
26
27 * Mr. Okada is not fluent in English. Accordingly, this Petition, including the Verification, was
28 translated into Japanese. A certified copy of the translation, including the signed and notarized
Verification, is attached hereto.

チャールズH. マックリア Jr. (Charles H. McCrea, Jr.) (SBN 104)
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 岡田和夫 (KAZUO OKADA)

ネバダ州クラーク郡地方裁判所

<p>申立人:</p> <p>個人岡田和夫 (KAZUO OKADA)</p> <p>-対-</p> <p>相手方:</p> <p>ネバダ州法人ウィンリゾート社 (WYNN RESORTS, LIMITED)</p>	<p>訴訟番号</p> <p>部局番号</p> <p>職務執行令状を求める申立て</p> <p>[仲裁適用除外の主張: 強制命令の請求]</p> <p>[商事裁判所による判断を求める: NRS 第 78 章]</p>
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ここに、申立人岡田和夫（「岡田氏」）は、その訴訟代理人であるライオネル・ソイヤー&コリンズおよびオールストン&バード法律事務所を通じて、ウィンリゾート社（「ウィンリゾート社」または「同社」）を相手方として、NRS 第 34 章に従い、裁判所に対し、特定の帳簿および記録の提出を相手方に命じる職務執行令状の申立てを致します。本申立ては、以下に記載した事実および添付の法律意見書に基づいて行うものです。

申立書, 1 /

本申立ての性質

1. 本申立ては、ウィンリゾート社が、岡田氏による同社の帳簿および記録の閲覧を拒否したことに起因します。ウィンリゾート社の取締役として（事実、同社の株式の19.66パーセントを間接的に保有する者として）、岡田氏は、同社の帳簿および記録を調査する権利を明らかに有しています。しかし、数回にわたって書面で要求したにも関わらず、ウィンリゾート社は、同社の帳簿および記録を同社の取締役に調査させないよう頑なに隠匿し続けています。本申立ては、岡田氏およびその弁護士に同社の帳簿および記録の閲覧を許可せよ、との命令を求めるものです。

2. 2000年10月、岡田氏は、同氏が間接的に支配するネバダ州の会社であるアルゼUSA社（「アルゼUSA」）をして、ネバダ州ラスベガスにあったウィンリゾート社の前身である会社に\$260,000,000を投資させました。

3. 2002年4月、アルゼUSAは、ウィンリゾート社の会長兼CEOのステイブ・A・ウィン（「ウィン氏」）の要請を受けて、さらに\$120,000,000をウィンリゾート社の前身である会社に投資しました。この投資には、中華人民共和国のマカオ特別行政区におけるカジノ企画の開発を進展させるためにウィンリゾート社に対する援助が必要であるとウィン氏が言ったために投資した\$30,000,000も含まれていました。

4. ウィンリゾート社の取締役として、同社の全株主の利益に沿うべく同社の適切な経営を確保するため、岡田氏には同社の事業について知る権利と義務があります。2011年7月に同社が行ったマカオ開発基金大学への10億香港ドル（135,000,000米ドル）の寄付（この寄付に対し岡田氏は正式に反対を表明しました）を含む、近時に起きたいくつかの出来事は、岡田氏をして、同社の帳簿および記録を調査する取締役としての権利を行使するよう促すものでした。特に、11月2日、岡田氏は、(a) 同社が行った10億香港ドル（135,000,000米ドル）のマカオ大学に対する寄付、(b) 2002年4月にアルゼUSAがウィンリゾート社に投資した\$30,000,000の使途、(c) 岡田氏、ウィン氏およびイレイン・ウィン（ウィン氏の前妻）間で締結された株主間契約に関する2010年の修正合意に関する情報を求めました。

5. 岡田氏の要求は拒否されました。要求は即座に拒否されただけでなく、驚くべきことに、ウィンリゾート社は、\$30,000,000の送金が行われたことについてさえ証拠を提出す

るよう求めたのです。アルゼ USA は直ちにその証拠を提供し、これを受けて同社は \$30,000,000 およびこれに引き続いてアルゼ USA が投資した \$90,000,000 を受領したことを認めました。にもかかわらず、同社は、上記資金の用途を示すあらゆる記録の閲覧を依然として拒否しました。こうして、11月29日、岡田氏は、アルゼ USA が2002年4月に投資した合計 \$120,000,000（これは、表向きはマカオリゾートに関して使われることになっていました）に関する記録の閲覧を求めました。これに対して、ウィンリゾート社は、同社の帳簿および記録の閲覧を求める岡田氏の要求を拒否し続けており、\$120,000,000 の実際の用途についてはこれまで何らの説明もされていません。

6. 本申立ては、岡田氏およびその弁護士に同社の帳簿および記録の閲覧を許可せよ、との命令を求めるものです。

当事者、管轄、裁判地

7. 申立人岡田和夫は香港に居住する日本人です。1969年、岡田氏はユニバーサル・リース株式会社を設立し、同社は現在はユニバーサル・エンターテイメント社（「ユニバーサル」）として知られており、岡田氏はその過半数株主兼会長です。岡田氏は、ユニバーサルの完全子会社であるアルゼ USA の取締役、社長、参事、財務役員です。アルゼ USA はウィンリゾート社の 24,549,222 株を保有し、同社の発行済株式の 19.66 パーセントを保有しています。岡田氏はネバダ州賭博委員会によりユニバーサル・エンターテイメント社の株主および支配株主として適格と認められてきました。

8. 岡田氏は、2002年10月以来、ウィンリゾート社取締役会のメンバーを務めています。また、岡田氏は、同社が株式の過半数を保有する子会社ウィンマカオの取締役会のメンバーも務めています。

9. 相手方ウィンリゾート社は上場企業で、ネバダ州法に基づいて組織されて存在し、事業本拠地はネバダ州ラスベガスです。ウィンリゾート社は NASDAQ で株式銘柄コード「WYNN」で取引されています。ウィンリゾート社はその子会社と共に、観光地のカジノやリゾートの開発、所有、運営をしています。同社はネバダ州ラスベガスのウィンラスベガス・カジノリゾートと中華人民共和国マカオ特別行政区にあるウィンマカオ・カジノリゾートを所有

しています。

10. 当裁判所はネバダ州憲法第六条 6 節に従い本申立てに対して管轄権を持ちます。
11. ネバダ州改訂法令 13.040.に従い、当裁判所は適切な裁判地です。

一般的な主張

12. 申立人は前記 1 項から 11 項までを改めて主張します。

A. 岡田氏とウィン氏によるウィンリゾート社の設立

13. ウィン氏はゴールデンサゲット、ミラージ、トレジャーアイランド、ベラージオなどのカジノやリゾート事業の企画や運営の実績がありました。しかし、ウィン氏はこれらのベンチャー事業の支配権を MGM に失いました。2000 年、ウィン氏はラスベガスで前デザートインを購入しその開発を試みました。ウィン氏は、投資家を見つけるのに苦労している時に岡田氏と出会いました。

14. 岡田氏は当初、岡田氏の会社であるユニバーサルを通じてウィン氏を知りました。当時、ユニバーサルはネバダ州にある電子賭博機械の販売業者で、ウィン氏は顧客でした。ユニバーサルは最初のコンピュータスロットマシンを開発しました。

15. 2000 年 10 月、アルゼ USA は、デザートインの土地を開発するウィン氏のベンチャー事業であるバルビノ・ラモレ有限会社（「バルビノ・ラモレ」）に対し、50 パーセントの持分を得るのと引き換えに、\$260,000,000 を投資しました。この投資に関連して、両当事者はバルビノ・ラモレ有限会社の修正運営契約（「バルビノ・ラモレ運営契約」）を締結しました。

16. 2002 年、ウィン・マカオ企画開発に関連して、ウィン氏は岡田氏に、デューデリジェンスの資金として \$30,000,000、その後更に事業の他の部分へ資金を供給するために \$90,000,000、合計 \$120,000,000 を要求しました。岡田氏はこの資金をアルゼ USA を通じて提供しました。この投資を記録化した文書が、ウィン氏、アルゼ USA およびバロンアセットファンドによって締結されたバルビノ・ラモレ有限会社の第三次修正運営契約（「バルビノ・ラモレ第三次修正運営契約」）です。岡田氏はこの資金がどの様に使われたのか、その会計を一度も見ることがありません。また、バルビノ・ラモレ第三次修正運営契約には、マカオの土地開発に

要した費用についてウィン氏は償還を受けることが定められていました。

17. 最近の開発を踏まえると、岡田氏は、ウィン氏がこれらの資金をどのように使ったのかについて懸念を抱くようになりました。これらの資金がどのように使われたのかについて明らかにするために同社の帳簿および記録の閲覧を、またウィン氏へ償還された費用の裏付け資料を求める岡田氏の近時の要求は、繰り返しかつ即座に、同社によって拒否されてきました。

18. 岡田氏とウィン氏が協働するようになってから2年足らずの2002年9月、バルビノ・ラモレのメンバーがウィンリゾート社の普通株式と引き換えに彼らの持分を100パーセントウィンリゾート社に提供しました。現在、バルビノ・ラモレはウィンリゾート社の完全子会社です。現在、ウィンリゾート社はバルビノ・ラモレの帳簿および記録を管理しています。

19. バルビノ・ラモレのウィンリゾート社への遷移と同時に、アルゼ USA、ウィン氏およびバロンアセットファンドは株主間契約を締結しました（「2002年株主間契約」）。

20. 2002年10月25日、ウィンリゾート社がNASDAQに1株13ドルで上場しました。初回株式公開とその後の希釈化の後に、岡田氏とウィン氏はそれぞれ普通株式を約20パーセントずつ保有しました。

B. ウィン氏がウィンリゾート社に対する相当部分の利権を失ったこと

21. 2009年3月、ウィン氏と彼の妻はラスベガスで離婚しました。2010年1月6日の証券取引委員会への提出書類において、二人は、共有財産として持っていた11,076,708株がウィン夫人に移転し、ウィン氏の手元に同数の株式が残ったと報告しました。一方、アルゼ USA は24,549,222株を保有し、ウィン氏の二倍以上の株式を保有していました。

22. ウィン氏の前妻への株式の移転の結果、アルゼ USA がほぼ20パーセントを保有しているのに対して、ウィン氏はウィンリゾート社の発行済普通株式の約9パーセントを保有することになりました。

23. ウィン氏がその持株の大部分を前妻に対する譲渡により失う過程において、彼は株主間契約の修正（「2010年修正合意」）を取り付けました。この修正は、その他の内容とともに、アルゼ USA およびウィン夫人が保有するウィンリゾート社の株式に対して制限を課し、

これらの株式に関してウィン氏がある種の権利を行使する権限を認めるものです。

C. マカオ大学に対する 10 億香港ドルの寄付に対する岡田氏の反対

24. 2011 年 5 月に、ウィン・マカオが、マカオ大学開発基金に 10 億香港ドル（約 135,000,000 米ドル）の寄付を約束しました。この寄付は、2011 年 5 月になされた 25,000,000 米ドルと 2012 年から 2022 年までの毎年 10,000,000 米ドルの追加寄付とで、合計で 135,000,000 米ドルを渡すというものでした。ウィン・マカオの賭博特権は 2022 年 6 月に失効します。当該大学の歴史において前例のないこの寄付に、岡田氏は反対しました。このことに関して、岡田氏は、同大学が政府所有の敷地にあること、またこのような巨額かつ長期間に及ぶ贈与が会社資金の適切な使用といえるのかについて何らの議論もなされていないことを指摘しました。

25. この寄付に関してウィンリゾート社の帳簿および記録の閲覧を求める岡田氏の最近の要求は、同社によって拒否されました。

D. ウィンリゾート社の帳簿および記録を調査しようとする岡田氏の努力をウィン氏が妨害したこと

26. 2011 年 11 月 2 日、岡田氏は、2002 年 4 月 22 日またはその前後にアルゼ USA から得た \$30,000,000 の使途を明らかにするために、ウィンリゾート社の帳簿および記録の閲覧を正式に要求しました。

27. また、岡田氏は、岡田氏が異議を述べたにもかかわらず行われたウィンリゾート社またはその関連会社によるマカオ大学に対する 10 億香港ドルの寄付の約束（およびその一部の寄付）の詳細を明らかにすることを目的として、ウィンリゾート社の帳簿および記録の閲覧を求めました。この点に関して、岡田氏は、同大学に言及したまたは同大学に関連したすべての電子的記録およびハードコピーによる記録の提供を求めています。

28. 岡田氏はさらに、2010 年修正合意の交渉、草案および締結に関するすべての証拠について、ウィンリゾート社の帳簿および記録の閲覧を求めました。

29. 2011 年 11 月 3 日、ウィンリゾート社は岡田氏による同社の帳簿および記録の閲覧要求を即座に拒否しました。

30. 11月9日、ウィンリゾート社は、2002年4月にアルゼ USA から同社に送金された\$30,000,000を確認することができない旨を述べた書状を送付しました。その結果、2011年11月17日、岡田氏はウィンリゾート社に書状を送り、\$30,000,000が引き出されたことを示す銀行の明細書を同封し、再度閲覧を求めました。2011年11月28日、ウィンリゾート社は、上記資金、さらに2002年4月にアルゼ USA から出資を受けた別の\$90,000,000について、これらを確認したことを明らかにしていますが、それらの使途に関する説明および記録の提出は拒否しました。

31. 2011年11月29日、岡田氏は、上記\$120,000,000の使途に関する調査ならびに第三次修正ヴァルヴィーノ・ラモーレ運営契約において定義されている用語である「マカオ償還額」に関連するすべての帳簿および記録の閲覧を正式に求めました。

32. 2011年12月12日、岡田氏は、2000年から2002年までのウィンリゾート社およびその前身である法人の帳簿および記録の閲覧を正式に要求しました。2011年12月15日、ウィンリゾート社はこの閲覧要求を拒否しました。

33. ウィンリゾート社の帳簿および記録を閲覧する取締役としての岡田氏の権利は無条件のものです。にもかかわらず、同社は、岡田氏が同社の取締役でありかつ19.66パーセントの株式の間接的な保有者であるにもかかわらず、岡田氏が指摘した事項について同氏がいかなる文書および記録を調査することも断固として拒否し続けています。

救済に関する請求
ウィンリゾート社の帳簿および記録の閲覧
(ウィンリゾート社に対して)

34. 申立人は、上記1項から33項について、その全文が以下に記載されたかのごとく、改めてこれらを主張します。

35. 岡田氏はウィンリゾート社の取締役であり、2002年10月から継続的に取締役を務めていました。

36. 2011年11月2日、11月17日、11月29日および12月12日付の書状により、岡田氏は、ウィンリゾート社の特定の帳簿および記録の閲覧ならびに本申立てに含まれないその他の事項について要求を行ってきました。閲覧を求めた記録には以下のものが含まれます。

申立書, 71

- a. 2002年4月にアルゼ USA が投資した\$120,000,000の使途に関するすべての帳簿および記録。
- b. ウィンリゾート社またはその関連会社がマカオ大学に対して行った10億香港ドルの寄付の約束（およびその一部の寄付）に関する全ての帳簿および記録。
- c. バルビノ・ラモレ第三次修正運営契約で用いられている用語である「マカオ償還額」に関するすべての帳簿および記録。
- d. 2000年から2002年までのウィンリゾート社およびその前身の法人の帳簿および記録。
- e. ウィン氏、ウィン夫人およびアルゼ USA の間で締結された株主間契約の2010年1月6日付修正合意の交渉、草案および締結に関するすべての証拠。

37. 2011年11月2日の要求は即座に拒否されました。2011年11月17日および11月29日の要求については返答がありませんでした。2011年12月12日の要求は即座に拒否されました。

よって、申立人は次のとおりの判決を求めます。

- A. 岡田氏およびその弁護士がウィンリゾート社の帳簿および記録を閲覧および謄写することを許すよう、ウィンリゾート社に命じる職務執行令状。
- B. 申立人は、本件において生じた合理的な弁護士費用を含む費用および支出について賠償が認められること。
- C. 本裁判所が正当かつ適切であると考え他のあらゆる追加の救済。

日付: 2012年1月 日

ライオネル・ソイヤー&コリンズ

サイン: _____
Charles H. McCrea, Jr. (SBN #104)
1700 Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101
Telephone: 702-383-8888
Fax: 702-383-8845

オールストン&バード LLP
Gidon M. Caine (Pro Hac Vice Pending)
275 Middlefield Road

申立書, 8/

秘匿特権対象文書・部外秘: オールストーン&バード: 2012年1月2日

Suite 150
Menlo Park, California 94025
Telephone: 650-838-2000
Facsimile: 650-838-2001

下記申立人代理人弁護士

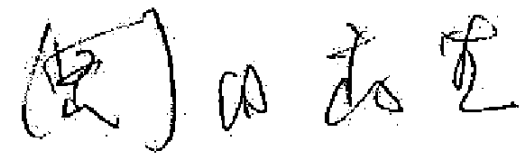
カズオ・オカダ

証 明

私、岡田和夫は、正式に宣誓を行った上で、次のとおり証言し、申し述べます。

私は、前記の職務執行令状を求める申立て（「本件申立て」）の申立人です。私は本件申立の正式な翻訳を読んで、その内容を承知しています。本件申立てには、私の認識に照らして真実が記載されています。私の認識は、記載されている事柄に対する私自身の直接の関与、文書の調査、ユニバーサルエンターテインメント社及びアルゼ USA 社の従業員との協議並びに私の弁護士による調査に基づいています。

岡 田 和 夫



2012 年 1 月 日、私に対して宣誓が行われました。

公 証 人



TRANSPERFECT

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ZURICH

CERTIFICATION OF TRANSLATION

I, Ann Marie Hovey, hereby certify that the attached English to Japanese translation has been verified to be an accurate and complete rendering of the content of the original document, to the best of our ability by a qualified translator competent in both languages.

The following document is included in this certification:

Kazuo Okada v. Wynn Resorts, Limited, Petition for a Writ of Mandamus.

Signature

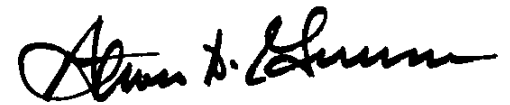
Sworn to before me this

January 9, 2012

Signature, Notary Public

SARAH E MULLEN
Notary Public - State of New York
No. 01MU6245919
Qualified in New York County
Commission Expires Aug. 08, 2015

Stamp, Notary Public



CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

KAZUO OKADA, an individual,

Petitioner,

V.

WYNN RESORTS, LIMITED, a
Nevada corporation,

Respondent.

Case No.: A-12-654522-B

Dept. No.: XI

**RESPONDENT'S OPPOSITION TO PETITION
FOR A WRIT OF MANDAMUS**

Date: February 9, 2012

Time: 9:00 a.m.

Respondent Wynn Resorts, Limited ("Wynn"), by and through its counsel, the law firms of Glaser Weil Fink Jacobs Howard Avchen & Shapiro, LLP and Brownstein Hyatt Farber Schreck, LLP, hereby opposes Petitioner Kazuo Okada's ("Okada") Petition for a Writ of

1 Mandamus and Memorandum of Law in support of the same filed on January 11, 2012 (the
2 "Petition"). This Opposition is made and based on the following Memorandum of Points and
3 Authorities, the attached exhibits, the pleadings and papers on file herein, and the argument of
4 counsel at the hearing on the Petition.

5 DATED this 27th day of January, 2012.

6
7 By: 

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23 *Wynn Resorts, Limited*

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Rather than raise his "concerns" over how Wynn or Wynn Macau, Limited ("Wynn Macau") has spent funds or his alleged need to scrutinize additional books and records of Wynn with Wynn's Board of Directors or Wynn's Compliance Committee, Okada opted instead to publicly air his purported grievances through his Petition, utilizing innuendo, hyperbole, half-truths, and sweeping generalizations. In the Petition, Okada seeks books and records concerning the following: (1) how Wynn spent money invested by Aruze USA, Inc. ("Aruze") in a different company ten to twelve years ago; (2) the stockholders agreement between private non-parties, Aruze, Mr. Wynn and Elaine Wynn; and (3) the donation of HK\$1 billion (\$135 million) by Wynn Macau, also a non-party, to the University of Macau over a term of ten years, a matter approved by a 11-1 vote of the Wynn Board after receiving information about the donation and discussing the donation, including Okada's dissenting views.

Putting aside the key fact that Okada has received countless Wynn documents over the last ten or so years, the rather obvious truth is that, even if the Court gives Okada every benefit of the doubt, his requests are nothing more than stockholder inspection requests on behalf of Aruze. Aruze is a wholly-owned subsidiary of Universal Entertainment Corporation ("Universal"), of which Okada is the majority owner. Both Okada and Aruze know, however, that stockholders of Wynn do not have inspection rights under NRS 78.257, as the Nevada Legislature does not afford those rights to stockholders of public companies that are timely with their SEC filings (as Wynn is). Thus, if Aruze were transparent and filed this Petition for its own account, rather than styling it as a director demand by Okada, the Court would deny the Petition out of hand. As a result, Okada has, figuratively speaking, taken off his "Aruze stockholder" hat and put on his "Wynn director" hat for the Petition, in an attempt to falsely cloak the stockholder inspection requests by Aruze with the gloss of a request from a director. In doing so, Okada is promoting form over substance, as is evident from the nature of the information requested to be inspected. This maneuver should be flatly rejected by the Court.

1 What is more, Okada fails to allege, much less establish, that the alleged lack of any of the
2 documents in his requests now precludes or inhibits the proper performance of his responsibilities
3 as a Director. Okada does concede, as he must, that there is no statute or reported case law in
4 Nevada that creates or recognizes, either expressly or indirectly, a director's "unfettered,"
5 "absolute," and "without restriction" right to inspection. For this reason alone, Okada cannot
6 overcome the threshold hurdle of establishing that he has a clear right to the drastic relief he
7 seeks. Indeed, Okada does not (because he cannot) cite to one single case from Nevada wherein a
8 court entered an extraordinary writ of mandamus requiring a corporation to provide a director
9 with such inspection rights. Though ancient in its origins and potent in its effect, writs of
10 mandamus are rarely used and, even then, only in extraordinary situations. Yet, that is precisely
11 what Okada is asking the Court to employ here.

12 In sum, Wynn does not ask the Court to reject the notion that the board of directors of a
13 Nevada corporation must act on an informed basis; in fact, NRS 78.138(3) presumes that
14 directors have informed themselves when deciding business matters. Nevertheless, Nevada law
15 does not afford Okada or any other individual director the right to do an end run around the
16 express statutory limitations on stockholder inspection rights or to play detective, while
17 unnecessarily distracting and burdening Wynn's management with the endless task of satisfying
18 his unfounded and unarticulated "concerns." To accept Okada's Petition, and thereby adopt his
19 conclusions, the Court would be sanctioning a fishing expedition every time a director of a
20 Nevada corporation happens to disagree with a business decision made by the corporation's board
21 of directors. Nothing about Okada's Petition warrants such an unworkable and inequitable result.
22 For any or all of the reasons set forth herein, Okada's Petition should be denied.

23 **II. BRIEF FACTUAL BACKGROUND**

24 **A. Wynn's Formation, Ownership And Leadership.**

25 The Court's analysis of Okada's Petition necessarily begins with an understanding of the
26 formation, ownership and leadership of Wynn. Approximately twelve years ago, in April of
27 2000, Stephen A. Wynn ("Mr. Wynn") formed and invested in Valvino Lamore, LLC
28 ("Valvino"). (*See* Nevada Secretary of State, "Valvino Lamore, LLC," attached hereto as Exhibit

1 A.) In October, 2000, Aruze invested in Valvino and became a member thereof. The purpose of
2 Valvino was to develop the property formerly known as the Desert Inn into a world-class resort-
3 casino. In April, 2002, the members of Valvino each made additional capital contributions, with
4 Aruze contributing \$120 million to Valvino. Wynn was incorporated under the laws of the State
5 of Nevada on June 3, 2002. (See Nevada Secretary of State, "Wynn Resorts, Limited," attached
6 hereto as Exhibit B.) In September of 2002, Valvino's members contributed 100% of their
7 members' interests in Valvino in exchange for common stock in Wynn. Valvino remains a
8 wholly-owned subsidiary of Wynn.

9 Wynn is a world-class developer and operator of destination resort-casinos. (See
10 generally Wynn's Form 10-k, filed with the Securities and Exchange Commission (the "SEC") on
11 Mar. 1, 2011, attached hereto as Exhibit C.) More specifically, Wynn owns and operates resort-
12 casinos through its subsidiaries, Wynn Las Vegas, LLC ("Wynn Las Vegas") and Wynn Macau.
13 (*Id.*) Wynn Las Vegas, a Nevada limited liability company that is wholly-owned and managed by
14 Wynn, operates the Wynn Las Vegas and Encore resort-casinos in Las Vegas, Nevada. (*Id.*)
15 Wynn Macau, a Cayman Islands company that is publicly-traded on the Hong Kong Stock
16 Exchange, and of which Wynn owns a majority share, through its wholly-owned subsidiary,
17 Wynn Resorts (Macau) SA, operates the Wynn Macau and Encore at Wynn Macau resort-casinos
18 in Macau. (*Id.*)

19 Wynn itself is publicly-traded on NASDAQ, and has issued approximately 124,620,408
20 outstanding shares. (*Id.*) Of Wynn's outstanding shares, approximately 19.7% are held by Aruze.
21 With holdings valued at approximately \$2.9 billion, Aruze is one of Wynn's largest shareholders.
22 (See Wynn's Schedule 14A, filed with the SEC on April 7, 2011, attached hereto as Exhibit D.)

23 Wynn is governed by a 12-member Board of Directors, comprised of Mr. Wynn
24 (Chairman of the Board and Chief Executive Officer), Okada, Russell Goldsmith, Linda Chen,
25 Dr. Ray R. Irani, former Nevada Governor Robert J. Miller, John A. Moran, Alvin V. Shoemaker,
26 D. Boone Wayson, Elaine P. Wynn ("Ms. Wynn"), Allan Zeman, and Marc D. Schorr
27 (collectively, and where appropriate, the "Wynn Directors" or the "Wynn Board"). (See Ex. C.)
28 Notably, Okada became a Wynn Director in 2002, and has signed every Wynn SEC Form 10-K

1 filing (which includes audited financial statements) since the 2003 fiscal year. (*See* Wynn's Form
2 10-Ks from 2003 to present, attached hereto as Exhibit E.) Okada is also a non-executive director
3 of the Board of Directors of Wynn Macau (the "Wynn Macau Board"). (*See* Wynn Macau 2010
4 Annual Report, attached hereto as Exhibit F.) Also playing a crucial role in the governance of
5 Wynn is a Compliance Committee (the "Wynn Compliance Committee"), comprised of Robert J.
6 Miller, Marc D. Schorr, and John Strzemp. (*See* Ex. D.) The Wynn Compliance Committee,
7 required of all Nevada gaming licensees, is tasked with investigating and ensuring Wynn's
8 compliance with all rules and regulations governing the company. (*See id.*)

9 **B. Wynn's Board Approves Charitable Donation To The University Of Macau.**

10 Nearly eight months ago, on April 18, 2011, the Wynn Board attended a joint meeting
11 with the Wynn Macau Board, which happens periodically for convenience given the fact that
12 Wynn is the majority owner of Wynn Macau.¹ At the joint meeting, the Wynn Macau Board
13 considered, among other things, whether to make a charitable donation to the University of
14 Macau in the amount of approximately \$135 million over ten years. Notably, the directors of
15 both the Wynn Macau Board and the Wynn Board, including Okada, received information about
16 the potential donation prior to the joint meeting. Okada does not assert otherwise in his Petition.
17 Following a detailed discussion, the Wynn Macau Board and the Wynn Board each held votes on
18 whether Wynn Macau should make the donation. Okada, who participated in the joint meeting
19 via telephone and with the use of a translator, was the lone naysayer in both votes.

20 With approval from both the Wynn Macau Board and the Wynn Board, on April 18,
21 2011,² Wynn Macau went forward with the donation. Indeed, Okada himself traveled to the
22 ceremony recognizing the donation to higher education in Macau, and was thanked and
23 welcomed in the speech by the head (rector) of the University of Macau, Wei Zhao. (*See* Zhao
24 Ceremony Speech, attached hereto as Exhibit G.) Okada even placed himself in a photograph,

25 ¹ The Minutes of this meeting consist of confidential and proprietary information
26 belonging to Wynn and Wynn Macau. Wynn's counsel sought an agreement from Okada's
27 counsel that such minutes and any other confidential or proprietary documents and information be
28 filed under seal with the Court; however, an agreement could not be reached. As such, Wynn
files contemporaneously herewith a motion for an order to file these documents under seal. If and
when the Court grants that motion, Wynn will submit these Minutes to the Court for its review.

² The date was April 19, 2011 Macau local time.

1 along with Mr. Wynn and others, accepting the accolades and gratitude of the rector on behalf of
2 the people of Macau for the donation. (See Ceremony Photograph, attached hereto as Exhibit H.)
3 It is safe to say that any reservations Okada had with respect to the donation were quickly cast
4 aside.

5 C. Okada Demands That Wynn Produce Its Books And Records, And Then Files
6 A Petition For A Writ Of Mandamus.

7 Months later, however, on October 24, 2011, Okada demanded that Wynn produce all
8 books and records related to various aspects of Wynn's (and its related companies') business over
9 the past twelve years. Specifically, Okada asserted that his status as a Wynn Director entitled him
10 to review all of Wynn's books and records, irrespective of purpose or relevance. Given the
11 impropriety and unduly burdensome nature of Okada's demand, Wynn provided Okada with
12 certain documents but notified Okada that it would not allow a carte blanche inspection.

13 Following, on January 11, 2012, Okada filed the Petition against Wynn. In the Petition,
14 Okada asks the Court to issue a Writ of Mandamus requiring Wynn to produce the following:

- 15 • All books and records related to how [*sic*] the manner in which the \$120
16 million invested by Aruze in April 2002 was spent;
- 17 • All books and records related to a HK \$1 billion pledge (and partial donation)
18 by Wynn and its affiliates to the University of Macau;
- 19 • All books and records regarding the Macau Reimbursement Amount, as that
20 term is used in the Third Amended and Restated Operating Agreement [*sic*] of
21 Valvino;
- 22 • Books and records of Wynn and its predecessor entities for the years 2000
23 through 2002; and
- 24 • All evidence regarding negotiation, drafting, and execution of the Amended
25 and Restated Stockholders Agreement dated January 6, 2010 between Mr.
26 Wynn, Ms. Wynn and Aruze.

27 (See Petition ¶ 36 (a)–(e), on file with the Court.) In the Petition, as in his original demand to
28 Wynn, Okada asserts that he is entitled to scrutinize Wynn's books and records for no other
reason than his status as a Wynn Director.

Contrary to the implication in Okada's Petition that he does not have and has never seen
pertinent Wynn books and records, Okada has already received scores of documents from Wynn

1 over the last ten or, so years, including *the same documents that every other director of Wynn*
2 *has received in their capacities as Wynn Directors*, SEC Form 10-K filings, and books and
3 records received in connection with Aruze's inspections of Wynn's financial records.³ Since it
4 was formed, Wynn has been transparent to Okada, to Wynn's other Directors, and to its
5 shareholders, including Aruze. At no time before October 2011 has Okada or Aruze ever raised
6 the issue of not having received sufficient information about any event or transaction affecting
7 Wynn or one or more of its affiliates. Okada offers nothing to the contrary in the Petition.

8 Moreover, while Okada states that the Petition reflects his desire to properly exercise his
9 fiduciary obligations as a Director of Wynn, his actions suggest otherwise. That is to say, if
10 fulfilling his responsibilities as a Director was the goal, Okada could and would have first raised
11 his alleged "concerns" about how certain Wynn funds have been used and his need for further
12 information and documentation with the Wynn Board and/or the Wynn Compliance Committee.
13 He did neither. Equally revealing, Okada has hired a well-known financial PR firm, which
14 specializes in contentious boardroom situations, to publicize the Petition and stir up media
15 attention. This is not consistent with a director seeking information to enable his performance of
16 his duties.

17 Given that Okada's Petition is devoid of any cognizable purpose, Wynn is left to speculate
18 as to the objective of Okada's strategy of requesting additional, though still undefined, books and
19 records, and as to how they relate to Okada's responsibilities as a Director.⁴ The reason why is
20 that Okada has already received everything that could relate to his duties as a Director of Wynn.
21 To the extent, however, that Okada hopes that upon reading his Petition, this Court and, more
22 importantly to Okada, the court of public opinion will leap to the conclusion that Wynn is

23
24 ³ More specifically, Aruze and/or Universal conducted reviews of Wynn's financial books
25 and records. (See Declaration of Wes Allison ¶ 3, attached hereto as Exhibit I.) These reviews
26 were conducted to, among other things, ensure that Aruze's and/or Universal's financial records
27 were consistent with Japanese GAAP.

28 ⁴ Whether a product of indecision or an intentional sandbag, Okada may attempt to offer
new reasons for filing his Petition and provide details concerning those books and records that he
has (allegedly) not previously received, but now seeks through his Petition. If that occurs, Wynn
should be given an opportunity to respond to any such arguments by filing a surreply, or,
alternatively, the Court should disregard any new "facts" or arguments contained in Okada's
Reply brief in their entirety.

1 concealing evidence of wrongdoing, one thing should be made perfectly clear: Wynn has nothing
2 to hide and Okada knows it.

3 III. DISCUSSION

4 A. Legal Standard For Writ Of Mandamus.

5 Pursuant to NRS 34.160, a court may issue a writ of mandamus to "compel the
6 performance of an act which the law especially enjoins as a duty resulting from an office, trust or
7 station...." In other words, a writ of mandamus enjoins a party to affirmatively act in a manner
8 which the law already compels it to act. *See State v. Second Judicial Dist. Court ex rel Cnty. of*
9 *Clark*, 118 Nev. 609, 614, 55 P.3d 420, 423 (2002). Importantly, however, "[m]andamus is an
10 *extraordinary* remedy" and should only be employed in limited circumstances. *Poulos v. Eighth*
11 *Judicial Dist. Court*, 98 Nev. 453, 455, 652 P.2d 1177, 1178 (1982); *see also Allied Chemical*
12 *Corp. v. Daiflon, Inc.*, 449 U.S. 33, 34 (1980) (stating that "the remedy of mandamus is a drastic
13 one, to be invoked only in extraordinary situations").

14 For these reasons, mandamus entreaties are subject to a pair of prophylactic rules. In
15 order to receive the remedy of mandamus, a petitioner must satisfy the "heavy" burden of
16 establishing that: (1) the petitioner has a clear right to the relief requested, meaning a "direct and
17 substantial interest that falls within the zone of interests to be protected by the legal duty
18 asserted;" and (2) the ordinary remedies must have failed to provide a plain, speedy, and adequate
19 remedy. *Mesagate Homeowners' Ass'n v. City of Fernley*, 124 Nev. 1092, 1097, 194 P.3d 1248,
20 1251-52 (2008); *see Sims v. Eighth Judicial Dist. Court ex rel Cnty. of Clark*, 125 Nev. 126, 206
21 P.3d 980, 982 (2009). Ultimately, whether to issue mandamus is within the Court's sole
22 discretion. *Poulos*, 98 Nev. at 455, 652 P.2d at 1178.

23 Viewing Okada's Petition through these guiding principles, it is undeniable that Okada has
24 fallen woefully short of meeting his "heavy" burden of establishing either a clear right to the
25 relief requested or that ordinary remedies have failed to provide a plain, speedy, and adequate
26 remedy. Put differently, the exceptional circumstances necessary to trigger mandamus relief are
27 utterly lacking in this instance. Okada's Petition should, therefore, be denied.

1 **B. Okada's Thinly-Veiled Stockholder Requests Must Fail.**

2 As a starting point, most—if not all—of Okada's requests stem from Okada's status as a
3 beneficial stockholder of Wynn. Okada's requests are only relevant to Aruze's investment in
4 Wynn; they have no bearing on Okada's ability to faithfully discharge his responsibilities as a
5 Wynn Director. Okada offers nothing to the contrary in his Petition.

6 In fact, Okada's own words and actions speak louder than anything Wynn can argue. On
7 the same day that Okada filed the Petition with the Court, and before serving Wynn with the
8 Petition, Okada, Universal and Aruze filed a copy of the Petition in a 13D Disclosure with the
9 SEC.⁵ (See Okada, Universal, Aruze 13D Disclosure, attached hereto as Exhibit J.) Tellingly,
10 Okada, Universal and Aruze also stated in this filing that they are evaluating the Petition (which
11 Okada himself filed), and "*will take whatever action that they deem necessary and appropriate*
12 *to protect the value of their investment in [Wynn's] common stock.*" (See *id.*) In other words,
13 Okada acknowledged in a (very public) SEC filing that he intends to use the books and records
14 sought in the Petition to evaluate his beneficial ownership through Aruze of Wynn stock. Based
15 on this filing alone, there can be no debate that the centerpiece of Okada's Petition is Aruze's
16 stock ownership interest in Wynn, not Okada's responsibilities as a Director.

17 If that were not enough, four of the requests, on their face, concern Aruze's investment in
18 Valvino and Wynn. Okada broadly requests: (1) "All books and records related to how the
19 manner in which [*sic*] the \$120 million **invested by Aruze USA** in April 2002 was spent[;]" (2)
20 "All books and records regarding the Macau Reimbursement Amount, as that term is used in the
21 Third Amended [*sic*] and Restated Operating Agreement of **Valvino Lamore[;]**" and (3) "Books
22 and records of **Wynn Resorts and its predecessor entities** for the years 2000 through 2002."
23 (See Petition ¶ 36(a), (c), (d) (emphasis added).) Even worse, Okada's requests concern books
24 and records dating back almost twelve years ago from Valvino, although Okada's (or, more aptly,
25

26

27 ⁵ Under Section 13(d) of the Securities Act of 1934, generally, any person who acquires
28 beneficial ownership of more than five percent of a registered class of shares must disclose the
 information required by Schedule 13D within ten calendar days and amendments must be filed
 "promptly" – not immediately before advising the defendant corporation.

1 Aruze's) entire member's interest in Valvino was exchanged for common stock in Wynn. Okada's
2 requests epitomize unjustified fishing expeditions.

3 In a similar fashion, and without explanation, Okada requests that Wynn make available
4 "[a]ll evidence regarding negotiation, drafting, and execution of the Amended and Restated
5 Stockholders Agreement dated January 6, 2010 between Mr. Wynn, Ms. Wynn and Aruze USA,
6 Inc." (See Petition ¶ 36 (e).) However, Mr. Wynn, Ms. Wynn and Aruze are neither parties to
7 this action nor under the control of Wynn. As such, the "Amended [*sic*] and Restated
8 Stockholders Agreement dated January 6, 2010" between those parties is extraneous and
9 completely outside of the realm of even an (inappropriate) stockholder request upon Wynn.
10 Nevertheless, at the very minimum, Okada's request for books and records related to this
11 stockholders agreement is grounded in his beneficial ownership of Aruze, and Aruze's ownership
12 interest in Wynn.

13 Because Okada made the requests in Paragraphs 36(a), (c), (d) and (e) of the Petition as a
14 beneficial Wynn stockholder, any "rights" Okada may have to Wynn's books and records must
15 come from NRS 78.257, Nevada's stockholder "books and records" statute.⁶ Under that statute,
16 and in general:

17 Any person who has been a stockholder of record of any corporation and
18 owns not less than 15 percent of all of the issued and outstanding shares of
19 the stock of such corporation . . . , upon at least 5 days' written demand, is
20 entitled to inspect in person or by agent or attorney, during normal
21 business hours, the books of account and all financial records of the
22 corporation, to make copies of records, and to conduct an audit of such
23 records.

24 NRS 78.257(1). However, NRS 78.257 further provides that the so-called "stockholder right of
25 inspection" does *not* apply "to any corporation that furnishes to its stockholders a detailed, annual
26 financial statement or any corporation that has filed during the preceding 12 months all reports

27 ⁶ Even if the Court disagrees and considers the requests in Paragraphs 36(a), (c), (d) and
28 (e) of the Petition as "Director requests," those requests are still improper for the reasons
identified in Section III(C), *infra*, which are incorporated herein. In fact, given that the records
date back approximately twelve years ago and even before Okada became a Director of Wynn,
these requests are even more tangential to Okada's responsibilities as a Director than the records
concerning the University of Macau donation.

1 required to be filed pursuant to section 13 or section 15(d) of the Securities Exchange Act of
2 1934." NRS 78.257(6). Stated another way, if a corporation provides stockholders with detailed,
3 annual financial statements, *or* makes Section 13 and Section 15(d) filings to the SEC,
4 stockholders do not have a right to inspect the books and records of the corporation. *See id.*

5 Here, Wynn does both; Wynn provides stockholders with detailed, annual financial
6 statements, *and* makes Section 13 and Section 15(d) filings to the SEC. As a result, NRS
7 78.257(1) is inapplicable to Wynn and Wynn stockholders do not have the right to inspect Wynn's
8 books and records. Furthermore, the fact that Okada, through his majority ownership of
9 Universal, which owns Aruze, owns approximately 19.7% of Wynn's outstanding shares does not
10 alter the express provisions NRS 78.257(6). Put bluntly, Okada does not have a stockholder's
11 right to inspect Wynn's books and records and, in turn, Wynn has no legal obligation to permit
12 Okada to inspect Wynn's books and records. Which is why, perhaps, Okada's Petition couches
13 his thinly-veiled stockholder requests as requests from a Wynn Director. Nevertheless, a
14 stockholder request is a stockholder request, no matter what title Okada gives it. Okada's Petition
15 should be denied.

16 C. Okada's Status As A Director Of Wynn Does Not Entitle Him To Scrutinize
17 Wynn's Books And Records.

18 Of the five requests for books and records that Okada lists in the Petition, only one can
19 conceivably be characterized as a Director request—Okada's request for "[a]ll books and records
20 related to a HK \$1 billion pledge (and partial donation) by the Company or its affiliates to the
21 University of Macau." (*See* Petition ¶ 36(b).) As an initial matter, it should be pointed out that
22 Okada's request concerns books and records related to a "pledge (and partial donation)" made by
23 Wynn Macau, not Wynn. Yet, Wynn Macau is not a party to this case. For this singular reason,
24 Okada has failed to demonstrate a "clear right" to obtain extraordinary relief from this Court on
25 this request. In any case, even in his capacity as a Wynn Director, the law does not entitle Okada
26 to examine Wynn's books and records under these or any other circumstances.

1 **1. Nevada Law Does Not Entitle Okada To Probe Wynn's Books And**
2 **Records.**

3 At the outset, Nevada's guidance for statutory interpretation bears repeating. "In
4 examining a statute, a court will look first to the statute's plain language." *Sims*, 125 Nev. at 130,
5 206 P.3d at 982. "Where the language of a statute is plain and unambiguous, and its meaning is
6 clear and unmistakable, there is no room for construction, and the *courts are not permitted to*
7 *search for its meaning beyond the statute itself.*" *Del Papa v. Bd. of Regents*, 114 Nev. 388,
8 392, 956 P.2d 770, 774 (1998) (quoting *State v. Jepsen*, 46 Nev. 193, 196, 209 P. 501, 503
9 (1922)) (emphasis added). If, on the other hand, "the plain language of the statute is ambiguous,
10 or if the plain meaning of the statute was clearly not intended by the Legislature, this court will
11 then turn to legislative intent for guidance." *Sims*, 125 Nev. at 130; 206 P.3d at 982; *State v. State*
12 *Employees Assoc.*, 102 Nev. 287, 289–90, 720 P.2d 697, 699 (1986) (holding that "plain and
13 unambiguous" language within a statute "must be given effect" unless from the language of the
14 statute "it clearly appears that such an interpretation was not so intended"))).

15 As explained above, NRS 78.257, Nevada's only "books and records" statute,⁷ establishes
16 a right for shareholders owning at least 15% of a corporation to inspect the corporation's books
17 and records, but only when the corporation does not produce financial reports or make SEC
18 filings. Noticeably, that statute creates no express right for directors to inspect a corporation's
19 books and records. *See* NRS 78.257. Indeed, the plain language of the statute only provides a
20 right of inspection to shareholders owning at least 15% of a corporation's issued shares, not to
21 directors. *See id.* More importantly, the statute's omission of directors does not create ambiguity
22 or room for construction in that statute. *See Connecticut Nat'l Bank v. Germain*, 503 U.S. 249,
23 253–54 (1992) ("[C]ourts must presume that a legislature says in a statute what it means and
24 means in a statute what it says there.") Whereas, the plain language of NRS 78.257 is clear and
25

26 ⁷ Although NRS 78.105 and NRS 78.107 allow a stockholder owning at least 5% of a
27 corporation's shares to review the corporation's articles of incorporation, bylaws, and stock
28 ledger, Okada's requests do not fit into those categories of corporate records. Furthermore, and
 just like NRS 78.257, neither NRS 78.105 nor NRS 78.107 grant the right of inspection to the
 corporation's directors.

1 unmistakable and, therefore, the Court should not "search for its meaning beyond the statute
2 itself." *See Del Papa*, 114 Nev. at 392, 956 P.2d at 774.

3 Along those lines, the actions of the Nevada Legislature demonstrate that it purposefully
4 chose to omit directors from Nevada's "books and records" statute. It is well-known that Nevada
5 is influenced by Delaware Corporate Law when enacting its own corporate framework. *See*
6 *Brown v. Kinross Gold U.S.A., Inc.*, 531 F. Supp. 2d 1234, 1245 (D. Nev. 2008) (noting that the
7 Nevada Supreme Court often looks to Delaware on questions of corporate law). When updating
8 and amending NRS 78.257, the Legislature chose not to follow Delaware's "books and records"
9 statute, Del. Code Ann. tit. 8 § 220(d), which was adopted in 1981 and gives directors the right to
10 inspect books and records "for a purpose reasonably related to the director's position as a
11 director." *Compare* NRS 78.257 (lacking a right), *with* Del. Code Ann. tit. 8 § 220(d).⁸

12 To be sure, the fact that Delaware's code gives directors the right—albeit limited—to
13 inspect a corporation's books and records, while the Nevada Legislature chose otherwise
14 demonstrates the Legislature's intent to keep directors out of NRS 78.257. *See City of Boulder*
15 *City v. General Sales Drivers*, 101 Nev. 117, 118–19, 694 P.2d 498, 500 (1985) ("It is presumed
16 that in enacting a statute the legislature acts with full knowledge of existing statutes relating to the
17 same subject."); *Nev. Atty. for Injured Workers v. Nev. Self-Insurers Ass'n*, 126 Nev. Adv. Op. 7,
18 225 P.3d 1265, 1271 (Nev. 2010) ("We presume that the Legislature enacted the statute 'with full
19 knowledge of existing statutes relating to the same subject.'"). To that end, and as Okada
20 concedes, "[t]here is no statute or reported case law in this State that clearly describes the proper
21 scope of a current director's right to inspection" (*see* Okada's Memo. in support of Petition at 5:4–
22 5, on file with the Court), under NRS 78.257 or otherwise.

23 ⁸ Since Delaware first adopted Del. Code Ann. tit. 8 § 220(d), the Nevada Legislature has
24 amended NRS 78.257 four times (1997, 2001, 2001 and 2003). Yet, the Nevada Legislature
25 chose not to create director inspection rights. In fact, the Nevada Secretary of State's website,
26 whynevada.com, encourages businesses to incorporate in Nevada by extolling the differences
27 between Nevada and Delaware corporate law. Among other things and relying on Lionel Sawyer
28 & Collins, Okada's counsel, as its source, the website promotes the fact that "Nevada provides
greater privacy for corporate records than Delaware." (*See* Nevada Secretary of State, "Why
Nevada," attached hereto as Exhibit K.) It goes on to acknowledge that "[u]nder Nevada law,
only a stockholder of record who owns at least 15% of the corporation's outstanding shares, or
has been authorized in writing by holders of at least 15% of the outstanding shares, is entitled to
inspect and make copies of the corporation's financial records." (*Id.*)

1 In short, the Court's analysis of NRS 78.257 begins, and ends, with the statute's plain
2 language. Okada, as a Wynn Director, does not have a right to inspect Wynn's books and
3 records—let alone the "unfettered," "absolute," and "without restriction" right that Okada asserts
4 in his Memorandum in support of the Petition. (*See id.* at 5:11 (citations omitted).) As such,
5 Okada failed to satisfy the very first requirement for a writ of mandamus, that he have a "clear
6 right to the relief requested." The Court's analysis can and should end there. The Petition must
7 be denied.

8 **2. Even If The Court Applies Delaware Law, Okada Is Still Not Entitled**
9 **To Wynn's Books And Records.**

10 Even if the Court is not persuaded that NRS 78.257 steers this debate, Okada's request still
11 fails. If the Court were inclined to look to another state's statutes on this issue (which it should
12 not), the Court should look to the law of Delaware, specifically, Del. Code Ann. tit. 8 § 220(d),
13 and those cases from Delaware that interpret this provision. *See Brown*, 531 F. Supp. 2d at 1245
14 ("Where there is no Nevada precedent on point[,] the Nevada Supreme Court frequently looks to
15 the Delaware Supreme Court and the Delaware Courts of Chancery as persuasive authorities on
16 questions of corporate law...").⁹

17 Under the Delaware corporation statute, "[a]ny director ... shall have the right to examine
18 the corporation's stock ledger, a list of its stockholders and its other books and records for a
19 purpose reasonably related to the director's position as a director." *Kortum v. Webasto Sunroofs,*
20 *Inc.*, 769 A.2d 113, 118 (Del. Ch. 2000) (quoting Del. Code Ann. tit. 8 § 220(d)). Nevertheless,
21 as a prerequisite to a director's right to inspect a corporation's books and records, the director
22 must explain to the corporation the purpose for his or her request. *See id.*¹⁰ Indeed, once the

23 ⁹ Okada provides snapshots of case law from New York, New Jersey and California, none
24 of which shed any light on the current debate. Unlike Nevada, California enacted a statute that
25 expressly creates "absolute" director inspection rights. Moreover, the law is clear that Nevada
courts generally look, if anywhere, to the decisional law of courts in Delaware, not New York or
New Jersey, on questions of corporate law.

26 ¹⁰ It is true that under Delaware law, a stockholder bears the burden of proving that the
27 stockholder inspection request is for a proper purpose; however, a corporation bears the burden of
28 proving a director inspection request is for an improper purpose. *See* Del. Code Ann. tit. 8 §
220(d). Nevertheless, if the Court is inclined to use Delaware law for guidance, a natural and
sensible reading of that provision is that a director must state the purpose(s) for the request before
the burden ever shifts to the corporation to establish that the purpose is improper. Otherwise, the

1 director explains his or her purpose for requesting the books and records, the corporation must
2 decide if the stated purpose is "proper." *See* Del. Code Ann. tit. 8 § 220(d); *Holdgreiwe v.*
3 *Nostalgia Network, Inc.*, 1993 Del. Ch. LEXIS 71 at *8 (Del. Ch. April 27, 1993) (directors rights
4 of inspection not absolute and inspection will be denied where the corporation carries burden of
5 proving that director does not have proper purpose for the requested inspection). If the director's
6 purposes are "improper, or ... are in derogation to the interest of the corporation, then his right to
7 inspect ceases to exist." *State ex rel. Farber v. Seiberling Rubber Co.*, 168 A.2d 310, 312 (Del.
8 Ch. 1961).

9 Section 220(d)'s requirement that the director state his or her purpose, and that the purpose
10 be "reasonably related to the director's position as a director" is not to be taken lightly. As the
11 court in *West Coast Management & Capital, LLC v. Carrier Access Corp.*, 914 A.2d 636,
12 646 (Del. Ch. 2006) succinctly explained:

13 Delaware law does not permit section 220 actions based on an ephemeral purpose,
14 nor will this court impute a purpose absent the plaintiff stating one. Simply put,
15 [the requesting party] must do more than state, in a conclusory manner, a
16 generally accepted proper purpose. *The plaintiff must state a reason for the
purpose, i.e., what it will do with the information, or an end to which that
investigation may lead.*

17 (Emphasis added.) In other words, Section 220 does not authorize a fishing expedition of a
18 corporation's books and records. *See id.* In this way, "[i]nspection under § 220 is not automatic
19 upon a statement of a proper purpose. [The corporation] may defeat demand by proving that
20 while stating a proper purpose, [the requesting party's] true or primary purpose is improper."
21 *Pershing Square, L.P.*, 923 A.2d at 818.

22 Along those lines, there are additional limitations on a director's right to inspect books and
23 records under Delaware law. First, and most importantly, directors are only entitled to a
24 corporation's books and records where "actually deprived of information to which they are
25 entitled . . . [or] hindered in the performance of their directorial duties." *Haseotes v. Bentas*, No.
26 19155 NC, 2002 Del. Ch. Lexis 106, at *23-24 (Del. Ch. Sept. 3, 2002); *see also Hall v. Search*
27
28 corporation would be left to guesswork and ever shifting targets. The point here is that Okada
does not provide any purpose whatsoever for his inspection requests.

1 *Capital Group, Inc.*, No. 15264, 1996 Del. Ch. LEXIS 139, at *4 (Del. Ch. Nov. 15, 1996)
2 ("Absent a governance agreement to the contrary, each director is entitled to receive the same
3 information furnished to his or her fellow board members.").

4 Next, and borrowing from Delaware's analysis of whether a director's stated purpose is
5 "proper," the director should establish a "credible basis" to find probable wrongdoing, including
6 claims of corporate mismanagement, waste or wrongdoing. *See Pershing Square, L.P.*, 923 A.2d
7 at 818 (stating that "a plaintiff who states a proper purpose must also present some evidence to
8 establish a credible basis from which the Court of Chancery could infer there are legitimate
9 concerns...."). In other words, a director should do more than state the purpose for his request, he
10 or she "must present 'some evidence' to suggest a 'credible basis' from which a court can infer that
11 mismanagement, waste or wrongdoing may have occurred." *See Seinfeld v. Verizon*
12 *Communications, Inc.*, 909 A.2d 117, 118 (Del. 2006) (reaffirming "the well-established law of
13 Delaware that stockholders seeking inspection under section 220 must present 'some evidence' to
14 suggest a 'credible basis' from which a court can infer that mismanagement, waste or wrongdoing
15 may have occurred"); *see, e.g., Sahagen Satellite Technology Group, LLC v. Ellipso, Inc.*, 791
16 A.2d 794 (Del. Ch. 2000) (request for "all of [the company's] financial records" denied as
17 overbroad because no credible basis existed suggesting broad pattern of wrongdoing on the part
18 of corporate management).

19 Even if the Court elected to apply Delaware law in this case – and to create an inherent
20 legal right in the absence of a Nevada statute – Okada's request for Wynn's books and records still
21 falls short. Not only does Okada request the very documents that he, along with all of the other
22 Directors of the Wynn Board and Wynn Macau Board, already received and reviewed when
23 voting on whether to make the donation, he also fails to state any purpose or justification for
24 making the request. In fact, from his Petition, it would appear that Okada's sole reason for
25 requesting "[a]ll books and records related to a HK \$1 billion pledge (and partial donation) by the
26 Company or its affiliates to the University of Macau" is his status as a Wynn Director. Stated
27 differently, Okada has no concerns of wrongdoing, he simply wants to flex his muscles—just
28 because he thinks he can. Unfortunately for Okada, neither Nevada nor Delaware law permit him

1 to do so. Without a stated and fitting purpose, Okada is precluded from imposing such a burden
2 on Wynn and the Wynn Board.

3 This dovetails into the last, but not least, point. It should not be lost on the Court that both
4 the Wynn Board and the Wynn Macau Board voted to approve the donation to the University of
5 Macau. Okada was the lone dissenting voter. However, Okada's unhappiness with being
6 outvoted is legally irrelevant. In this regard, Okada's Petition fails to explain how he will
7 overcome the burden of rebutting the well-settled and well-reasoned business judgment rule that
8 "directors and officers [of corporations] in deciding upon matters of business, are *presumed* to act
9 in good faith, on an informed basis and with a view to the interests of the corporation."
10 NRS 78.138(3) (emphasis added); *see also Shoen v. AMERCO*, 885 F. Supp. 1332, 1340 (D. Nev.
11 1994) (stating that "'if directors' actions can arguably be taken to have been done for the benefit of
12 the corporation, then the directors are presumed to have been exercising their sound business
13 judgment' rather than acting in their own self-interest, and '[t]he burden of showing bad faith rests
14 upon the plaintiff.'") (citing *Horwitz v. S.W. Forest Indus., Inc.*, 604 F. Supp. 1130, 1134 (D. Nev.
15 1985)).

16 As explained herein, Okada has not alleged any proper purpose for inspecting these
17 records and the Court should not infer one, even if the Court were to create an inherent director's
18 inspection right where the Nevada Legislature has not done so. This is particularly important in
19 light of the fact that the other Directors of the Wynn Board and the Wynn Macau Board received
20 the same information Okada received and are presumed to have acted in good faith. Under all
21 circumstances, Okada failed to meet his burden of establishing a "clear right" to inspect Wynn's
22 books and records.

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 IV. CONCLUSION

2 It is not just the law but also the facts that establish that an extraordinary writ of
3 mandamus is entirely inappropriate in this case. For any or all of the reasons set forth above,
4 Wynn respectfully requests that the Court deny Okada's Petition.

5 DATED this 27th day of January, 2012.

6
7 By: 

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Pro Hac Vice (Pending)

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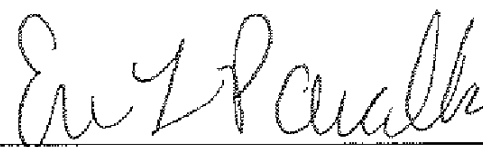
23 *Wynn Resorts, Limited*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 27th day of January, 2012, I caused to be served a true and correct copy of the foregoing **RESPONDENT'S OPPOSITION TO PETITION FOR A WRIT OF MANDAMUS** via the Court's electronic filing system and electronic mail, addressed to the following individuals:

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Charles H. McCrea, Esq.
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Attorneys for Petitioner Kazuo Okada



Employee of Brownstein Hyatt Farber Schreck, LLP

DECLARATION OF TAMARA BEATTY PETERSON

I, Tamara Beatty Peterson, hereby declare as follows:

1. I am a shareholder with the law firm of Brownstein Hyatt Farber Schreck, LLP, attorneys of record for Respondent Wynn Resorts, Limited ("Wynn"). I make the following Declaration in support of Wynn's Opposition to Petitioner Kazuo Okada's ("Okada") Petition for a Writ of Mandamus and Memorandum of Law in support of the same filed on January 11, 2012 (the "Opposition"). I have personal knowledge of all of the facts stated herein, and if called to testify as a witness, I could and would competently testify thereto.

2. Attached to the Opposition as Exhibit A is a true and correct copy of the entity details for "Valvino Lamore, LLC," obtained from the Nevada Secretary of State's website, <http://nvsos.gov>.

3. Attached to the Opposition as Exhibit B is a true and correct copy of the entity details for "Wynn Resorts, Limited," obtained from the Nevada Secretary of State's website, <http://nvsos.gov>.

4. Attached to the Opposition as Exhibit C is a true and correct copy of excerpts of Wynn's Form 10-K, filed with the Securities and Exchange Commission (the "SEC") on March 1, 2011, obtained from EDGAR-Online.

5. Attached to the Opposition as Exhibit D is a true and correct copy of excerpts of Wynn's Schedule 14A, filed with the SEC on April 7, 2011, obtained from EDGAR-Online.

6. Attached to the Opposition as Exhibit E is a true and correct copy of excerpts of Wynn's Form 10-Ks from 2003 to the present, obtained from EDGAR-Online.

7. Attached to the Opposition as Exhibit F is a true and correct copy of excerpts of Wynn Macau, Limited's 2010 Annual Report, obtained from Wynn Macau, Limited's corporate website, <http://wynnmacaulimited.com>.

8. Attached to the Opposition as Exhibit G is a true and correct copy of the text of a speech delivered by the Rector of the University of Macau, Wei Zhao, at the ceremony marking the donation by Wynn Resorts (Macau) S.A., obtained from the University of Macau's website, http://www.umac.mo/rectors_office.



Tamara Beatty Peterson

EXHIBIT A

EXHIBIT A

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Business Entity Information

Status:	Active	File Date:	4/21/2000
Type:	Domestic Limited-Liability Company	Entity Number:	LLC3830-2000
Qualifying State:	NV	List of Officers Due:	4/30/2012
Managed By:	Managing Members	Expiration Date:	4/21/2500
NV Business ID:	NV20001039589	Business License Exp:	4/30/2012

Additional Information

Central Index Key:	
--------------------	--

Registered Agent Information

Name:	KIMMARIE SINATRA	Address 1:	3131 LAS VEGAS BLVD SO.
Address 2:		City:	LAS VEGAS
State:	NV	Zip Code:	89109
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		

[View all business entities under this registered agent](#)

Financial Information

No Par Share Count:	0	Capital Amount:	\$ 0
---------------------	---	-----------------	------

No stock records found for this company

Officers

☐ Include Inactive Officers

Managing Member - WYNN RESORTS LIMITED

Address 1:	3131 LAS VEGAS BLVD SOUTH	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89109	Country:	
Status:	Active	Email:	

Actions\Amendments

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EXHIBIT B

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Status:	Active	File Date:	6/03/2002
Type:	Domestic Corporation	Entity Number:	C14059-2002
Qualifying State:	NV	List of Officers Due:	6/30/2012
Managed By:		Expiration Date:	
NV Business ID:	NV20021333673	Business License Exp:	6/30/2012

Additional Information

Central Index Key:	0001174922
--------------------	------------

Registered Agent Information

Name:	KIMMARIE SINATRA	Address 1:	3131 LAS VEGAS BLVD SO.
Address 2:		City:	LAS VEGAS
State:	NV	Zip Code:	89109
Phone:		Fax:	
Mailing Address 1:		Mailing Address 2:	
Mailing City:		Mailing State:	
Mailing Zip Code:			
Agent Type:	Noncommercial Registered Agent		

[View all business entities under this registered agent](#)**Financial Information**

No Par Share Count:	0	Capital Amount:	\$ 4,400,000.00
Par Share Count:	440,000,000.00	Par Share Value:	\$ 0.01

Officers☐ Include Inactive Officers**Treasurer - MATT MADDOX**

Address 1:	3131 LAS VEGAS BLVD S	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89109	Country:	
Status:	Active	Email:	

Secretary - KIMMARIE SINATRA			
Address 1:	3131 LAS VEGAS BLVD S	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89109	Country:	
Status:	Active	Email:	
Director - STEPHEN A WYNN			
Address 1:	3131 LAS VEGAS BLVD S	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89109	Country:	
Status:	Active	Email:	
President - STEPHEN A WYNN			
Address 1:	3131 LAS VEGAS BLVD S	Address 2:	
City:	LAS VEGAS	State:	NV
Zip Code:	89109	Country:	
Status:	Active	Email:	

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EXHIBIT C

EXHIBIT C

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
 Washington, D.C. 20549
FORM 10-K

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2010

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period to

Commission File No. 000-50028

WYNN RESORTS, LIMITED

(Exact name of registrant as specified in its charter)

NEVADA
 (State or other jurisdiction of
 incorporation or organization)

46-0484987
 (I.R.S. Employer
 Identification Number)

3131 Las Vegas Boulevard South - Las Vegas, Nevada 89109
 (Address of principal executive offices) (Zip Code)

(702) 770-7555
 (Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of Each Class</u>	<u>Name of Each Exchange on Which Registered</u>
Common Stock, \$.01 par value	Nasdaq Global Select Market

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the registrant's voting and non-voting common stock held by non-affiliates based on the closing price as reported on the NASDAQ Global Select Market on June 30, 2010 was approximately \$5.8 billion.

As of February 15, 2011, 124,620,408 shares of the registrant's Common Stock, \$.01 par value, were outstanding.

Portions of the registrant's Proxy Statement for its 2011 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this report are incorporated by reference into Part III of this Form 10-K.

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PART I

ITEM 1. BUSINESS

Overview

Wynn Resorts, Limited, a Nevada corporation, was formed in June 2002, is led by Chairman and Chief Executive Officer, Stephen A. Wynn, and is a leading developer, owner and operator of destination casino resorts. We own and operate two destination casino resorts. In Las Vegas, Nevada, we own and operate "Wynn Las Vegas," on the "Strip" and "Encore at Wynn Las Vegas" which is located adjacent to Wynn Las Vegas. In the Macau Special Administrative Region of the People's Republic of China ("Macau") we own and operate "Wynn Macau" and "Encore at Wynn Macau." We present our results based on the following two segments: Wynn Las Vegas (which includes Encore at Wynn Las Vegas) and Wynn Macau (which includes Encore at Wynn Macau). For more information on the financial results for our segments, see Item 8 "Financial Statements", Note 17 "Segment Information."

Unless the context otherwise requires, all references herein to "Wynn Resorts," the "Company," "we," "us" or "our," or similar terms, refer to Wynn Resorts, Limited and its consolidated subsidiaries.

Wynn Resorts files annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and amendments of such reports with the Securities and Exchange Commission ("SEC"). Any document Wynn Resorts files may be inspected, without charge, at the SEC's public reference room at 100 F Street, N.E. Washington, D.C. 20549 or at the SEC's internet site address at <http://www.sec.gov>. Information related to the operation of the SEC's public reference room may be obtained by calling the SEC at 1-800-SEC-0330. In addition, through our own internet address at www.wynnresorts.com, Wynn Resorts provides a hyperlink to a third-party SEC filing website which posts these filings as soon as reasonably practicable, where they can be reviewed without charge. The information found on our website is not a part of this Annual Report on Form 10-K or any other report we file or furnish to the SEC.

Our Resorts

Wynn Las Vegas

Wynn Las Vegas opened on April 28, 2005. We believe that our resort offers exceptional accommodations, amenities and service with 2,716 rooms and suites, including 36 fairway villas and 6 private-entry villas for our premium guests. For the fifth year in a row, The Tower Suites at Wynn Las Vegas has received both the Forbes five-star and AAA five-diamond distinctions for 2011. The Spa at Wynn Las Vegas earned five-star recognition from Forbes for the third year in a row. The Spa at Wynn Las Vegas and the Spa at Encore are two of the only three spas in Las Vegas to be recognized with the Forbes five-star award.

The approximately 110,000 square foot casino features 147 table games, a baccarat salon, private VIP gaming rooms, a poker room, 1,842 slot machines, and a race and sports book. The resort's 22 food and beverage outlets feature five fine dining restaurants, including restaurants helmed by award winning chefs. Wynn Las Vegas also offers two nightclubs, a spa and salon, a Ferrari and Maserati automobile dealership, wedding chapels, an 18-hole golf course, approximately 223,000 square feet of meeting space and an approximately 74,000 square foot retail promenade featuring boutiques from Alexander McQueen, Brioni, Cartier, Chanel, Dior, Graff, Louis Vuitton, Manolo Blahnik, Oscar de la Renta and Vertu. Wynn Las Vegas also has a showroom which features "Le R  ve," a water-based theatrical production. We believe that the unique experience of Wynn Las Vegas drives the significant visitation experienced since opening.

Encore at Wynn Las Vegas

Encore at Wynn Las Vegas opened on December 22, 2008. This resort is located immediately adjacent to and is connected to Wynn Las Vegas and features a 2,034 all-suite hotel as well as an approximately 76,000 square foot casino with 95 table games, a sky casino, a baccarat salon, private VIP gaming rooms and 778 slot

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machines. For the second year in a row, The Encore Tower Suites has received both the Forbes five-star and AAA five-diamond awards for 2011. The Spa at Encore also earned five-star recognition from Forbes. The resort's 13 food and beverage outlets include five restaurants, many of which feature award winning chefs. Encore at Wynn Las Vegas also offers a beach club, two nightclubs, a spa and salon, approximately 60,000 square feet of meeting space and approximately 27,000 square feet of upscale retail outlets featuring boutiques from Hermes, Chanel and others. Encore at Wynn Las Vegas also has a showroom which features Garth Brooks and other headliner entertainment acts.

Wynn Macau

Wynn Macau opened on September 6, 2006. Wynn Macau currently features approximately 595 hotel rooms and suites, 410 table games, 935 slot machines and a poker room in approximately 222,000 square feet of casino gaming space, including a sky casino, six restaurants, a spa and salon, lounges, meeting facilities and approximately 48,000 square feet of retail space featuring boutiques from Bvlgari, Chanel, Dior, Dunhill, Fendi, Ferrari, Giorgio Armani, Gucci, Hermes, Hugo Boss, Louis Vuitton, Miu Miu, Piaget, Prada, Rolex, Tiffany, Tudor, Van Cleef & Arpels, Versace, Vertu, Zegna and others. For the third year in a row, Wynn Macau and The Spa at Wynn Macau received the Forbes five-star distinction. Wynn Macau includes a show in its rotunda featuring a Chinese zodiac-inspired ceiling and interchangeable gold "prosperity tree" and "dragon of fortune" attractions.

Encore at Wynn Macau

Encore at Wynn Macau opened on April 21, 2010. This resort is located immediately adjacent to and is connected with Wynn Macau and features 410 luxury suites and four villas, as well as approximately 34,000 square feet of casino gaming space, including a sky casino, containing 60 table games and 80 slot machines, two restaurants, a luxury spa and additional retail space featuring Chanel, Piaget and Cartier.

See Item 7 of Part II, "Management's Discussion and Analysis of Financial Condition and Results of Operations—Results of Operations" for information about our net revenues.

Construction and Development Opportunities

In July 2010, we commenced a project to refurbish and upgrade the rooms and suites at Wynn Las Vegas. The total project budget is approximately \$83 million. The room remodel was completed in January 2011 and the suite remodel is expected to be completed early in the second quarter of 2011. As a part of this project, we are temporarily removing floors from service at Wynn Las Vegas which reduces our total number of rooms available during the construction period.

In the ordinary course of our business, in response to market developments and customer preferences, we have made and continue to make certain enhancements and refinements to our resort complexes.

Approximately 142 acres of land adjacent to Wynn Las Vegas and Encore at Wynn Las Vegas is currently improved with a golf course. While we may develop this property in the future, due to the current economic environment and certain restrictions in our credit facilities, we have no immediate plans to do so.

We have applied to the government of Macau for a land concession for approximately 52 acres on Cotai and are awaiting final governmental approval of this concession. No construction timeline or budget has yet been developed.

We continually seek out new opportunities for additional gaming or related businesses, in Las Vegas, other markets in the United States, and worldwide.

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Our Strategy

We believe that Steve Wynn is the preeminent designer, developer and operator of destination casino resorts and has developed brand name status. Mr. Wynn's involvement with our casino resorts provides a distinct advantage over other gaming enterprises. We integrate luxurious surroundings, distinctive entertainment and superior amenities, including fine dining and premium retail offerings, to create resorts that appeal to a variety of customers.

Our resorts were designed and built to provide a premium experience. Wynn Las Vegas, Encore at Wynn Las Vegas, Wynn Macau and Encore at Wynn Macau are positioned as full-service luxury resorts and casinos in the leisure, convention and tour and travel industries. We market these resorts directly to gaming customers using database marketing techniques, as well as traditional incentives, including reduced room rates and complimentary meals and suites. Our rewards system offers discounted and complimentary meals, lodging and entertainment for our guests. We also create general market awareness for our resorts through various media channels, including television, radio, newspapers, magazines, the internet, direct mail and billboards.

Mr. Wynn and his team bring significant experience in designing, developing and operating casino resorts. The senior executive team has an average of approximately 25 years of experience in the hotel and gaming industries. We also have an approximately 90-person design, development and construction subsidiary, the senior management of which has significant experience in all major construction disciplines.

Market and Competition

Las Vegas

Las Vegas is the largest gaming market in the United States. The casino/hotel industry in Las Vegas is highly competitive and, prior to the recent economic conditions and interruption in projects under development, had undergone a period of exceptional growth, particularly with the addition of projects targeting the premium customer. Wynn Las Vegas and Encore at Wynn Las Vegas are located on the Las Vegas Strip and compete with other high-quality resorts and hotel casinos on the Strip, those in downtown Las Vegas, as well as a large number of hotels in and near Las Vegas. Many competing properties draw a significant number of visitors and directly compete with our operations. We seek to differentiate Wynn Las Vegas and Encore at Wynn Las Vegas from other major Las Vegas resorts by concentrating on our fundamental elements of design, atmosphere, personal service and luxury.

Wynn Las Vegas and Encore at Wynn Las Vegas also compete, to some extent, with other hotel/casino facilities in Nevada and Atlantic City, riverboat gaming facilities in other states, casino facilities on Native American lands, casino resorts throughout Asia, and elsewhere in the world, as well as state lotteries and other forms of gaming. In addition, the legalization of casino gaming in or near metropolitan areas from which we attract customers could have a negative effect on our business. New or renovated casinos in Asia, including two new resorts in Singapore and our resort in Macau, could draw Asian gaming customers away from Las Vegas.

Macau

Macau, which was a Portuguese colony for approximately 450 years, was transferred from Portuguese to Chinese political control in December 1999. Macau is governed as a special administrative region of China and is located approximately 37 miles southwest of, and less than one hour away via ferry from, Hong Kong. Macau, which has been a casino destination for more than 40 years, consists principally of a peninsula on mainland China, and two neighboring islands, Taipa and Coloane. We believe that Macau is located in one of the world's largest concentrations of potential gaming customers. According to Macau Statistical Information, casinos in Macau generated approximately \$23.5 billion in gaming revenue in 2010, an approximately 58% increase over the approximately \$15 billion generated in 2009, making Macau the largest gaming market in the world.

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Macau's gaming market is primarily dependent on tourists. The Macau market has experienced tremendous growth in capacity in the last few years. As of December 31, 2010, there were 20,091 hotel rooms and 4,791 table games in Macau, compared to 12,978 hotel rooms and 2,762 table games as of December 31, 2006.

Gaming customers traveling to Macau have typically come from nearby destinations in Asia including Hong Kong, mainland China, Taiwan, South Korea and Japan. According to the Macau Statistics and Census Service Monthly Bulletin of Statistics, approximately 88% of the tourists who visited Macau in 2010 came from mainland China, Hong Kong and Taiwan. Macau completed construction of an international airport in 1995, which accommodates large commercial aircraft and provides direct air service to major cities in Asia, including Beijing, Shanghai, Jakarta, Taipei, Manila, Singapore and Bangkok. Travel to Macau by citizens of mainland China requires a visa. Government officials have, on occasion, exercised their authority to adjust the visa policy and may do so in the future.

Prior to 2002, gaming in Macau was permitted as a government-sanctioned monopoly concession awarded to a single concessionaire. However, the government of Macau liberalized the gaming industry in 2002 by granting concessions to operate casinos to three concessionaires (including Wynn Macau), who in turn were permitted, subject to the approval of the government of Macau, to each grant one sub-concession to other gaming operators. There is no limit to the number of casinos each concessionaire is permitted to operate, but each facility is subject to government approval. Currently, there are 33 operating casinos in Macau.

In 2002, the other two concessions were granted to Sociedade de Jogos de Macau ("SJM") and Galaxy Entertainment Group Limited ("Galaxy"). SJM, which is controlled by the family of Stanley Ho, operates 20 of the 33 existing casinos, including the Hotel Lisboa and The Grand Lisboa. SJM is a Hong Kong Stock Exchange listed company. In September 2009, SJM opened L' Arc Macau Casino/Hotel which is adjacent to Wynn Macau. In December 2009, SJM opened the Casino Oceanus which is adjacent to the Macau ferry terminal. In addition, an affiliate of SJM owns one of three water ferry services and the helicopter shuttle service that links Macau to Hong Kong.

Galaxy, a Hong Kong Stock Exchange listed company, was also awarded a casino concession in June 2002. Galaxy opened the Waldo Hotel/Casino on the Macau peninsula in 2004, the Grand Waldo Cotai in the summer of 2006, and Galaxy Star World hotel casino immediately adjacent to Wynn Macau in October 2006. In addition, Galaxy is currently constructing a resort on Cotai, which is expected to open in 2011.

Las Vegas Sands Corp., the owner and operator of The Venetian and The Palazzo resorts in Las Vegas and a former partner of Galaxy, entered into a sub-concession agreement with Galaxy in 2002 which allows it to independently develop and operate casinos in Macau. The Sands Macao opened in 2004. The Venetian Macao Resort Hotel, the largest casino resort in Macau, opened in August 2007. In August 2008, an affiliate of Las Vegas Sands Corp. opened the Four Seasons Hotel Macau which includes serviced apartment units, adjacent to the Venetian Macao. In addition, an affiliate of Las Vegas Sands Corp. has also proposed a masterplan for other large developments in Cotai, some of which are scheduled to open in 2011, that would include additional hotel properties as well as serviced apartment units and additional retail and related space. In late 2009, Las Vegas Sands Corp. completed the initial public offering of Sands China, Ltd. on the Hong Kong Stock Exchange.

A joint venture consisting of Melco, a Hong Kong Stock Exchange listed company, and Crown, Ltd., an Australian company, is currently operating the Altira, which opened in May 2007, and the City of Dreams, a large resort in Cotai, which opened in June 2009. This joint venture operates its properties under a subconcession purchased from us in 2006.

In December 2007, a joint venture of MGM MIRAGE and Pansy Ho Chiu-king (Stanley Ho's daughter) opened the MGM Grand Macau, a resort on the Macau peninsula adjacent to Wynn Macau. The MGM Grand Macau is operated pursuant to a subconcession granted to the joint venture by SJM.

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Our casino concession agreement allows the government to grant additional concessions for the operation of casinos commencing April 1, 2009. If the government of Macau awards additional concessions or permits additional sub-concessionaires, Wynn Macau will face increased competition from casino operators in Macau.

Wynn Macau also faces competition from casinos located in other areas of Asia, such as Genting Highlands Resort, a major gaming and resort destination located outside of Kuala Lumpur, Malaysia, and casinos in Singapore and the Philippines. Wynn Macau also encounters competition from other major gaming centers located around the world, including Australia and Las Vegas, cruise ships in Asia that offer gaming and other casinos throughout Asia.

Geographic Data

Geographic data are reported in Note 17 to the consolidated financial statements. Additional financial data about our geographic operations is provided in Item 7 "Management's Discussion of Analysis of Financial Condition and Results of Operations."

Regulation and Licensing

The gaming industry is highly regulated. Gaming registrations, licenses and approvals, once obtained, can be suspended or revoked for a variety of reasons. We cannot assure you that we will obtain all required registrations, licenses and approvals on a timely basis or at all, or that, once obtained, the registrations, findings of suitability, licenses and approvals will not be suspended, conditioned, limited or revoked. If we are ever prohibited from operating one of our gaming facilities, we would, to the extent permitted by law, seek to recover our investment by selling the property affected, but we cannot assure you that we could recover full value.

Nevada

Introduction. The ownership and operation of casino gaming facilities in the State of Nevada are subject to the Nevada Gaming Control Act and the regulations made under the Act, as well as to various local ordinances. Wynn Las Vegas' operations are subject to the licensing and regulatory control of the Nevada Gaming Commission, the Nevada State Gaming Control Board and the Clark County Liquor and Gaming Licensing Board, which we refer to herein collectively as the "Nevada Gaming Authorities."

Policy Concerns of Gaming Laws. The laws, regulations and supervisory procedures of the Nevada Gaming Authorities are based upon declarations of public policy. Such public policy concerns include, among other things:

- preventing unsavory or unsuitable persons from being directly or indirectly involved with gaming at any time or in any capacity;
- establishing and maintaining responsible accounting practices and procedures;
- maintaining effective controls over the financial practices of licensees, including establishing minimum procedures for internal fiscal affairs and safeguarding assets and revenue, providing reliable recordkeeping and requiring the filing of periodic reports with the Nevada Gaming Authorities;
- preventing cheating and fraudulent practices; and
- providing a source of state and local revenue through taxation and licensing fees.

Changes in applicable laws, regulations and procedures could have significant negative effects on our Las Vegas gaming operations and our financial condition and results of operations.

Owner and Operator Licensing Requirements. Our subsidiary, Wynn Las Vegas, LLC, as the owner and operator of Wynn Las Vegas and Encore at Wynn Las Vegas, has been approved by the Nevada Gaming

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Authorities as a limited liability company licensee, referred to as a company licensee, which includes approval to conduct casino gaming operations, including a race book and sports pool and pari-mutuel wagering. These gaming licenses are not transferable.

Company Registration Requirements. Wynn Resorts was found suitable by the Nevada Gaming Commission to own the equity interests of Wynn Resorts Holdings, LLC ("Wynn Resorts Holdings"), a wholly-owned subsidiary of Wynn Resorts, and to be registered by the Nevada Gaming Commission as a publicly traded corporation, referred to as a registered company, for the purposes of the Nevada Gaming Control Act. Wynn Resorts Holdings was found suitable by the Nevada Gaming Commission to own the equity interests of Wynn Las Vegas, LLC and to be registered by the Nevada Gaming Commission as an intermediary company. In addition to being licensed, Wynn Las Vegas, LLC, as an issuer of First Mortgage Notes registered with the SEC, also qualified as a registered company. Wynn Las Vegas Capital Corp., a co-issuer of the First Mortgage Notes, was not required to be registered or licensed, but may be required to be found suitable as a lender or financing source.

Periodically, we are required to submit detailed financial and operating reports to the Nevada Gaming Commission and provide any other information that the Nevada Gaming Commission may require. Substantially all of our material loans, leases, sales of securities and similar financing transactions must be reported to, and/or approved by, the Nevada Gaming Commission.

Individual Licensing Requirements. No person may become a stockholder or member of, or receive any percentage of the profits of, an intermediary company or company licensee without first obtaining licenses and approvals from the Nevada Gaming Authorities. The Nevada Gaming Authorities may investigate any individual who has a material relationship to or material involvement with us to determine whether the individual is suitable or should be licensed as a business associate of a gaming licensee. Certain of our officers, directors and key employees have been or may be required to file applications with the Nevada Gaming Authorities and are or may be required to be licensed or found suitable by the Nevada Gaming Authorities. All applications required as of the date of this report have been filed. However, the Nevada Gaming Authorities may require additional applications and may also deny an application for licensing for any reason, which they deem appropriate. A finding of suitability is comparable to licensing, and both require submission of detailed personal and financial information followed by a thorough investigation. An applicant for licensing or an applicant for a finding of suitability must pay or must cause to be paid all the costs of the investigation. Changes in licensed positions must be reported to the Nevada Gaming Authorities and, in addition to their authority to deny an application for a finding of suitability or licensing, the Nevada Gaming Authorities have the jurisdiction to disapprove a change in a corporate position.

If the Nevada Gaming Authorities were to find an officer, director or key employee unsuitable for licensing or unsuitable to continue having a relationship with us, we would have to sever all relationships with that person. In addition, the Nevada Gaming Commission may require us to terminate the employment of any person who refuses to file appropriate applications. Determinations of suitability or questions pertaining to licensing are not subject to judicial review in Nevada.

Redemption of Securities Owned By an Unsuitable Person. Wynn Resorts' articles of incorporation provide that, to the extent a gaming authority makes a determination of unsuitability or to the extent deemed necessary or advisable by the board of directors, Wynn Resorts may redeem shares of its capital stock that are owned or controlled by an unsuitable person or its affiliates. The redemption price will be the amount, if any, required by the gaming authority or, if the gaming authority does not determine the price, the sum deemed by the board of directors to be the fair value of the securities to be redeemed. If Wynn Resorts determines the redemption price, the redemption price will be capped at the closing price of the shares on the principal national securities exchange on which the shares are listed on the trading day before the redemption notice is given. If the shares are not listed on a national securities exchange, the redemption price will be capped at the closing sale price of the shares as quoted on The NASDAQ Global Select Market or if the closing price is not reported, the mean between the bid and asked prices, as quoted by any other generally recognized reporting system. Wynn

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Resorts' right of redemption is not exclusive of any other rights that it may have or later acquire under any agreement, its bylaws or otherwise. The redemption price may be paid in cash, by promissory note, or both, as required, and pursuant to the terms established by, the applicable Gaming Authority and, if not, as Wynn Resorts elects.

Consequences of Violating Gaming Laws. If the Nevada Gaming Commission determines that we have violated the Nevada Gaming Control Act or any of its regulations, it could limit, condition, suspend or revoke our registrations and gaming license. In addition, we and the persons involved could be subject to substantial fines for each separate violation of the Nevada Gaming Control Act, or of the regulations of the Nevada Gaming Commission, at the discretion of the Nevada Gaming Commission. Further, the Nevada Gaming Commission could appoint a supervisor to operate Wynn Las Vegas and Encore at Wynn Las Vegas and, under specified circumstances, earnings generated during the supervisor's appointment (except for the reasonable rental value of the premises) could be forfeited to the State of Nevada. Limitation, conditioning or suspension of any of our gaming licenses and the appointment of a supervisor could, and revocation of any gaming license would, have a significant negative effect on our gaming operations.

Requirements for Voting or Nonvoting Securities Holders. Regardless of the number of shares held, any beneficial owner of Wynn Resorts' voting or nonvoting securities may be required to file an application, be investigated and have that person's suitability as a beneficial owner of voting securities determined if the Nevada Gaming Commission has reason to believe that the ownership would be inconsistent with the declared policies of the State of Nevada. If the beneficial owner of the voting or nonvoting securities of Wynn Resorts who must be found suitable is a corporation, partnership, limited partnership, limited liability company or trust, it must submit detailed business and financial information including a list of its beneficial owners. The applicant must pay all costs of the investigation incurred by the Nevada Gaming Authorities in conducting any investigation.

The Nevada Gaming Control Act requires any person who acquires more than 5% of the voting securities of a registered company to report the acquisition to the Nevada Gaming Commission. The Nevada Gaming Control Act requires beneficial owners of more than 10% of a registered company's voting securities to apply to the Nevada Gaming Commission for a finding of suitability within 30 days after the Chairman of the Nevada State Gaming Control Board mails the written notice requiring such filing. However, an "institutional investor," as defined in the Nevada Gaming Control Act, which beneficially owns more than 10% but not more than 11% of a registered company's voting securities as a result of a stock repurchase by the registered company may not be required to file such an application. Further, an institutional investor which acquires more than 10%, but not more than 25%, of a registered company's voting securities may apply to the Nevada Gaming Commission for a waiver of a finding of suitability if the institutional investor holds the voting securities for investment purposes only. An institutional investor that has obtained a waiver may hold more than 25% but not more than 29% of a registered company's voting securities and maintain its waiver where the additional ownership results from a stock repurchase by the registered company. An institutional investor will not be deemed to hold voting securities for investment purposes unless the voting securities were acquired and are held in the ordinary course of business as an institutional investor and not for the purpose of causing, directly or indirectly, the election of a majority of the members of the board of directors of the registered company, a change in the corporate charter, bylaws, management, policies or operations of the registered company, or any of its gaming affiliates, or any other action which the Nevada Gaming Commission finds to be inconsistent with holding the registered company's voting securities for investment purposes only. Activities which are not deemed to be inconsistent with holding voting securities for investment purposes only include:

- voting on all matters voted on by stockholders or interest holders;
- making financial and other inquiries of management of the type normally made by securities analysts for informational purposes and not to cause a change in management, policies or operations; and,
- other activities that the Nevada Gaming Commission may determine to be consistent with such investment intent.

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The articles of incorporation of Wynn Resorts include provisions intended to assist its implementation of the above restrictions.

Wynn Resorts is required to maintain a current stock ledger in Nevada which may be examined by the Nevada Gaming Authorities at any time. If any securities are held in trust by an agent or by a nominee, the record holder may be required to disclose the identity of the beneficial owner to the Nevada Gaming Authorities. A failure to make the disclosure may be grounds for finding the record holder unsuitable. We are required to provide maximum assistance in determining the identity of the beneficial owner of any of Wynn Resorts' voting securities. The Nevada Gaming Commission has the power to require the stock certificates of any registered company to bear a legend indicating that the securities are subject to the Nevada Gaming Control Act. The certificates representing shares of Wynn Resorts' common stock note that the shares are subject to a right of redemption and other restrictions set forth in Wynn Resorts' articles of incorporation and bylaws and that the shares are, or may become, subject to restrictions imposed by applicable gaming laws.

Consequences of Being Found Unsuitable. Any person who fails or refuses to apply for a finding of suitability or a license within 30 days after being ordered to do so by the Nevada Gaming Commission or by the Chairman of the Nevada State Gaming Control Board, or who refuses or fails to pay the investigative costs incurred by the Nevada Gaming Authorities in connection with the investigation of its application, may be found unsuitable. The same restrictions apply to a record owner if the record owner, after request, fails to identify the beneficial owner. Any person found unsuitable and who holds, directly or indirectly, any beneficial ownership of any voting security or debt security of a registered company beyond the period of time as may be prescribed by the Nevada Gaming Commission may be guilty of a criminal offense. We will be subject to disciplinary action if, after we receive notice that a person is unsuitable to hold an equity interest or to have any other relationship with us, we:

- pay that person any dividend or interest upon any voting securities;
- allow that person to exercise, directly or indirectly, any voting right held by that person relating to Wynn Resorts;
- pay remuneration in any form to that person for services rendered or otherwise; or,
- fail to pursue all lawful efforts to require the unsuitable person to relinquish such person's voting securities including, if necessary, the immediate purchase of the voting securities for cash at fair market value.

Gaming Laws Relating to Debt Securities Ownership. The Nevada Gaming Commission may, in its discretion, require the owner of any debt or similar securities of a registered company, to file applications, be investigated and be found suitable to own the debt or other security of the registered company if the Nevada Gaming Commission has reason to believe that such ownership would otherwise be inconsistent with the declared policies of the State of Nevada. If the Nevada Gaming Commission decides that a person is unsuitable to own the security, then under the Nevada Gaming Control Act, the registered company can be sanctioned, including the loss of its approvals if, without the prior approval of the Nevada Gaming Commission, it:

- pays to the unsuitable person any dividend, interest or any distribution whatsoever;
- recognizes any voting right by the unsuitable person in connection with the securities;
- pays the unsuitable person remuneration in any form; or,
- makes any payment to the unsuitable person by way of principal, redemption, conversion, exchange, liquidation or similar transaction.

Approval of Public Offerings. We may not make a public offering without the prior approval of the Nevada Gaming Commission if the proceeds from the offering are intended to be used to construct, acquire or finance gaming facilities in Nevada, or to retire or extend obligations incurred for those purposes or for similar

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transactions. On March 19, 2009, the Nevada Gaming Commission granted us and Wynn Las Vegas, LLC prior approval, subject to certain conditions, to make public offerings for a period of two years (the "Shelf Approval"). The Shelf Approval also applies to any affiliated company wholly owned by us which is a publicly traded corporation or would thereby become a publicly traded corporation pursuant to a public offering. The Shelf Approval may be rescinded for good cause without prior notice upon the issuance of an interlocutory stop order by the Chairman of the Nevada State Gaming Control Board. The Shelf Approval does not constitute a finding, recommendation or approval by any of the Nevada Gaming Authorities as to the accuracy or adequacy of the offering memorandum or the investment merits of the securities. Any representation to the contrary is unlawful.

Approval of Changes in Control. A registered company must obtain the prior approval of the Nevada Gaming Commission with respect to a change in control through merger; consolidation; stock or asset acquisitions; management or consulting agreements; or any act or conduct by a person by which the person obtains control of the registered company.

Entities seeking to acquire control of a registered company must satisfy the Nevada State Gaming Control Board and Nevada Gaming Commission with respect to a variety of stringent standards before assuming control of the registered company. The Nevada Gaming Commission may also require controlling stockholders, officers, directors and other persons having a material relationship or involvement with the entity proposing to acquire control to be investigated and licensed as part of the approval process relating to the transaction.

Approval of Defensive Tactics. The Nevada legislature has declared that some corporate acquisitions opposed by management, repurchases of voting securities and corporate defense tactics affecting Nevada corporate gaming licensees or affecting registered companies that are affiliated with the operations of Nevada gaming licensees may be harmful to stable and productive corporate gaming. The Nevada Gaming Commission has established a regulatory scheme to reduce the potential adverse effects of these business practices upon Nevada's gaming industry and to further Nevada's policy in order to:

- assure the financial stability of corporate gaming licensees and their affiliated companies;
- preserve the beneficial aspects of conducting business in the corporate form; and,
- promote a neutral environment for the orderly governance of corporate affairs.

Approvals may be required from the Nevada Gaming Commission before a registered company can make exceptional repurchases of voting securities above its current market price and before a corporate acquisition opposed by management can be consummated. The Nevada Gaming Control Act also requires prior approval of a plan of recapitalization proposed by a registered company's board of directors in response to a tender offer made directly to its stockholders for the purpose of acquiring control.

Fees and Taxes. License fees and taxes, computed in various ways depending on the type of gaming or activity involved, are payable to the State of Nevada and to the counties and cities in which the licensed subsidiaries' respective operations are conducted. Depending upon the particular fee or tax involved, these fees and taxes are payable monthly, quarterly or annually and are based upon:

- a percentage of the gross revenue received;
- the number of gaming devices operated; or,
- the number of table games operated.

A live entertainment tax also is imposed on admission charges and sales of food, beverages and merchandise where live entertainment is furnished.

Foreign Gaming Investigations. Any person who is licensed, required to be licensed, registered, required to be registered in Nevada, or is under common control with such persons (collectively, "licensees"), and who

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proposes to become involved in a gaming venture outside of Nevada, is required to deposit with the Nevada State Gaming Control Board, and thereafter maintain, a revolving fund in the amount of \$10,000 to pay the expenses of investigation of the Nevada State Gaming Control Board of the licensee's or registrant's participation in such foreign gaming. The revolving fund is subject to increase or decrease at the discretion of the Nevada Gaming Commission. Licensees and registrants are required to comply with the foreign gaming reporting requirements imposed by the Nevada Gaming Control Act. A licensee or registrant is also subject to disciplinary action by the Nevada Gaming Commission if it:

- knowingly violates any laws of the foreign jurisdiction pertaining to the foreign gaming operation;
- fails to conduct the foreign gaming operation in accordance with the standards of honesty and integrity required of Nevada gaming operations;
- engages in any activity or enters into any association that is unsuitable because it poses an unreasonable threat to the control of gaming in Nevada, reflects or tends to reflect, discredit or disrepute upon the State of Nevada or gaming in Nevada, or is contrary to the gaming policies of Nevada;
- engages in activities or enters into associations that are harmful to the State of Nevada or its ability to collect gaming taxes and fees; or,
- employs, contracts with or associates with a person in the foreign operation who has been denied a license or finding of suitability in Nevada on the ground of unsuitability.

Licenses for Conduct of Gaming and Sale of Alcoholic Beverages. The conduct of gaming activities and the service and sale of alcoholic beverages at Wynn Las Vegas and Encore at Wynn Las Vegas are subject to licensing, control and regulation by the Clark County Liquor and Gaming Licensing Board, which has granted Wynn Las Vegas, LLC licenses for such purposes. In addition to approving Wynn Las Vegas, LLC the Clark County Liquor and Gaming Licensing Board has the authority to approve all persons owning or controlling the stock of any corporation controlling a gaming license. Clark County gaming and liquor licenses are not transferable. The County has full power to limit, condition, suspend or revoke any license. Any disciplinary action could, and revocation would, have a substantial negative impact upon our operations.

Macau

General. As a casino concessionaire, Wynn Macau, S.A. is subject to the regulatory control of the Government of Macau. The government has adopted Laws and Administrative Regulations governing the operation of casinos in Macau. Only concessionaires or subconcessionaires are permitted to operate casinos. Subconcessions may be awarded subject to the approval of the Macau government and, each concessionaire has issued one subconcession. Each concessionaire was required to enter into a concession agreement with the Macau government which, together with the Laws and Administrative Regulations, forms the framework for the regulation of the activities of the concessionaire.

Under the Laws and Administrative Regulations, concessionaires are subject to suitability requirements relating to background, associations and reputation, as are stockholders of 5% or more of a concessionaire's equity securities, officers, directors and key employees. The same requirements apply to any entity engaged by a concessionaire to manage casino operations. Concessionaires are required to satisfy minimum capitalization requirements, demonstrate and maintain adequate financial capacity to operate the concession and submit to continuous monitoring of their casino operations by the Macau government. Concessionaires also are subject to periodic financial reporting requirements and reporting obligations with respect to, among other things, certain contracts, financing activities and transactions with directors, financiers and key employees. Transfers or the encumbering of interests in concessionaires must be reported to the Macau government and are ineffective without government approval.

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Each concessionaire is required to engage an executive director who must be a permanent resident of Macau and the holder of at least 10% of the capital stock of the concessionaire. The appointment of the executive director and of any successor is ineffective without the approval of the Macau government. All contracts placing the management of a concessionaire's casino operations with a third party also are ineffective without the approval of the Macau government.

Concessionaires are subject to a special gaming tax of 35% of gross gaming revenue, and must also make an annual contribution of up to 4% of gross gaming revenue for the promotion of public interests, social security, infrastructure and tourism. Concessionaires are obligated to withhold, according to the rate in effect as set by the government, from any commissions paid to games promoters. Such withholding rate may be adjusted from time to time.

A games promoter, also known as a junket representative, is a person who, for the purpose of promoting casino gaming activity, arranges customer transportation and accommodations, and provides credit in their sole discretion, food and beverage services and entertainment in exchange for commissions or other compensation from a concessionaire. Macau law provides that games promoters must be licensed by the Macau government in order to do business with and receive compensation from concessionaires. For a license to be obtained, direct and indirect owners of 5% or more of a games promoter (regardless of its corporate form or sole proprietor status), its directors and its key employees must be found suitable. Applicants are required to pay the cost of license investigations, and are required to maintain suitability standards during the period of licensure. The term of a games promoters license is one calendar year, and licenses can be renewed for additional periods upon the submission of renewal applications. Natural person junket representative licensees are subject to a suitability verification process every three years and business entity licensees are subject to the same requirement every six years. The DICJ has recently implemented certain instructions, which have the force of law, relating to commissions paid to and by games promoters. Such instructions also impose certain financial reporting and audit requirements on games promoters.

Under Macau law, licensed games promoters must identify outside contractors who assist them in their promotion activities. These contractors are subject to approval of the Macau government. Changes in the management structure of business entity games promoters licensees must be reported to the Macau government and any transfer or the encumbering of interests in such licensees is ineffective without prior government approval. To conduct gaming promotion activities licensees must be registered with one or more concessionaires and must have written contracts with such concessionaires, copies of which must be submitted to the Macau government.

Macau law further provides that concessionaires are jointly responsible with their games promoters for the activities of such representatives and their directors and contractors in the concessionaires' casinos, and for their compliance with applicable laws and regulations. Concessionaires must submit annual lists of their games promoters for the following year, and must update such lists on a quarterly basis. The Macau government may designate a maximum number of games promoters and specify the number of games promoters a concessionaire is permitted to engage. Concessionaires are subject to periodic reporting requirements with respect to commissions paid to their games promoters representatives and are required to oversee their activities and report instances of unlawful activity.

The government of Macau may assume temporary custody and control over the operation of a concession in certain circumstances. During any such period, the costs of operations must be borne by the concessionaire. The government of Macau also may redeem a concession starting at an established date after the entering into effect of a concession. The government of Macau also may terminate a concession for cause, including, without limitation, failure of the concessionaire to fulfill its obligations under law or the concession contract.

Concession Agreement. The concession agreement between Wynn Macau S.A. and the Macau government required Wynn Macau, S.A. to construct and operate one or more casino gaming properties in Macau, including,

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at a minimum, one full-service casino resort by the end of December 2006, and to invest not less than a total of 4 billion patacas (approximately US\$500 million) in Macau-related projects by June 2009. This obligation was satisfied upon the opening of Wynn Macau in 2006.

Wynn Macau, S.A. was also obligated to obtain, and did obtain, a 700 million pataca (approximately US\$87 million) bank guarantee from Banco Nacional Ultramarino, S.A. ("BNU") that was effective until March 31, 2007. The amount of this guarantee was reduced to 300 million patacas (approximately US\$37 million) for the period from April 1, 2007 until 180 days after the end of the term of the concession agreement. This guarantee, which is for the benefit of the Macau government, assures Wynn Macau, S.A.'s performance under the casino concession agreement, including the payment of premiums, fines and indemnity for any material failure to perform the concession agreement. Wynn Macau, S.A. is obligated, upon demand by BNU, to promptly repay any claim made on the guarantee by the Macau government. BNU is currently paid an annual fee by Wynn Macau, S.A. for the guarantee not to exceed 5.2 million patacas (approximately US\$0.7 million).

The government of Macau may redeem the concession beginning on June 24, 2017, and in such event Wynn Macau, S.A. will be entitled to fair compensation or indemnity. The amount of such compensation or indemnity will be determined based on the amount of revenue generated during the tax year prior to the redemption multiplied for the remaining years under the concession.

The government of Macau may unilaterally rescind the concession if Wynn Macau, S.A. fails to fulfill its fundamental obligations under the concession agreement. The concession agreement expressly provides that the government of Macau may unilaterally rescind the concession agreement if Wynn Macau, S.A.:

- conducts unauthorized games or activities that are excluded from its corporate purpose;
- abandons or suspends gaming operations in Macau for more than seven consecutive days (or more than 14 days in a civil year) without justification;
- defaults in payment of taxes, premiums, contributions or other required amounts;
- does not comply with government inspections or supervision;
- systematically fails to observe its obligations under the concession system;
- fails to maintain bank guarantees or bonds satisfactory to the government;
- is the subject of bankruptcy proceedings or becomes insolvent;
- engages in serious fraudulent activity, damaging to the public interest; or,
- repeatedly and seriously violates applicable gaming laws.

If the government of Macau unilaterally rescinds the concession agreement for one of the reasons stated above, Wynn Macau, S.A. will be required to compensate the government in accordance with applicable law, and the areas defined as casino under Macau law and all of the gaming equipment pertaining to the gaming operations of Wynn Macau will be transferred to the government without compensation. In addition, the government of Macau may, in the public interest, unilaterally terminate the concession at any time, in which case Wynn Macau, S.A. would be entitled to reasonable compensation.

Seasonality

We may experience fluctuations in revenues and cash flows from month to month, however, we do not believe that our business is materially impacted by seasonality.

Employees

As of December 31, 2010, we had a total of 16,405 full-time equivalent employees (including 9,405 in Las Vegas and 7,000 in Macau).

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During 2006, we entered into a ten year collective bargaining agreement with the Culinary and Bartenders Union local that covers approximately 5,600 employees at Wynn Las Vegas and Encore at Wynn Las Vegas. We also entered into a ten year collective bargaining agreement with the Transportation Workers Union in November 2010, which covers the table games dealers at Wynn Las Vegas. Certain other unions may seek to organize the workers at Wynn Las Vegas and Encore at Wynn Las Vegas. Unionization, pressure to unionize or other forms of collective bargaining could increase our labor costs.

The success of our operations in Macau will be affected by our success in retaining our employees. Wynn Macau and Encore at Wynn Macau compete with the large number of casino resort developments in Macau for limited qualified employees. We seek employees from other countries to adequately staff our Macau resorts and policies announced publicly by the Macau government have affected our ability to import labor in certain job classifications. We are coordinating with the Macau labor and immigration authorities to ensure our labor demand is satisfied, but cannot be certain that we will be able to recruit and retain a sufficient number of qualified employees for our Macau operations or that we will be able to obtain required work permits for those employees.

Intellectual Property

Among our most important marks are our trademarks and service marks that use the name "WYNN." Wynn Resorts has filed applications with the U.S. Patent and Trademark Office ("PTO") to register a variety of the WYNN-related trademarks and service marks in connection with a variety of goods and services. These marks include "WYNN RESORTS," "WYNN DESIGN AND DEVELOPMENT," "WYNN LAS VEGAS," "ENCORE" and "WYNN MACAU." Some of the applications are based upon ongoing use and others are based upon a bona fide intent to use the marks.

A common element of most of these marks is the use of the surname, "WYNN." As a general rule, a surname (or the portion of a mark primarily constituting a surname) is not eligible for registration unless the surname has acquired "secondary meaning." To date, Wynn Resorts has been successful in demonstrating to the PTO such secondary meaning for the Wynn name in certain of the applications based upon factors including Mr. Wynn's prominence as a resort developer.

Federal registrations are not completely dispositive of the right to such marks. Third parties who claim prior rights with respect to similar marks may nonetheless challenge our right to obtain registrations or our use of the marks and seek to overcome the presumptions afforded by such registrations.

We have also filed applications with various foreign patent and trademark registries, including in Macau, China, Singapore, Hong Kong, Taiwan, Japan, certain European countries and various other jurisdictions throughout the world to register a variety of WYNN-related trademarks and service marks in connection with a variety of goods and services. These marks include many of the same marks filed with the United States Patent and Trademark Office and include "WYNN MACAU," "WYNN LAS VEGAS" and "ENCORE." Some of the applications are based upon ongoing use and others are based upon a bona fide intent to use the marks.

We recognize that our intellectual property assets, including the word and logo version of "WYNN," are among our most valuable assets. As a result, and in connection with expansion of our resorts and gaming activities outside the United States, we have undertaken a program to register our trademarks and other intellectual property rights in relevant jurisdictions. We have retained counsel and intend to take all steps necessary to protect our intellectual property rights against unauthorized use throughout the world.

On August 6, 2004, we entered into agreements with Mr. Wynn that confirm and clarify our rights to use the "Wynn" name and Mr. Wynn's persona in connection with our casino resorts. Under a Surname Rights Agreement, Mr. Wynn has acknowledged our exclusive, fully paid-up, perpetual, worldwide right to use, and to own and register trademarks and service marks incorporating, the "Wynn" name for casino resorts and related businesses, together with the right to sublicense the name and marks to our affiliates. Under a Rights of Publicity License, Mr. Wynn has granted us the exclusive, royalty-free, worldwide right to use his full name, persona and related rights of publicity for casino resorts and related businesses, together with the ability to sublicense the persona and publicity rights to our affiliates, until October 24, 2017.

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We have also registered various domain names including, but not limited to, www.wynnlasvegas.com, www.wynnmacau.com, www.wynnmacaulimited.com, www.encorelasvegas.com and www.wynnresorts.com, with various domain registrars around the world depending on the domain. Our domain registrations extend to various foreign countries such as “.com.cn” and “.com.hk.” We pursue domain related infringement on a case by case basis depending on the infringing domain in question. The information found on these websites is not a part of this Annual Report on Form 10-K or any other report we file or furnish to the SEC.

Forward-Looking Statements

The Private Securities Litigation Reform Act of 1995 provides a “safe harbor” for forward-looking statements. Certain information included in this Annual Report on Form 10-K contains statements that are forward-looking, including, but not limited to, statements relating to our business strategy and development activities as well as other capital spending, financing sources, the effects of regulation (including gaming and tax regulations), expectations concerning future operations, profitability and competition. Any statements contained in this report that are not statements of historical fact may be deemed to be forward-looking statements. Without limiting the generality of the foregoing, in some cases you can identify forward-looking statements by terminology such as “may,” “will,” “should,” “would,” “could,” “believe,” “expect,” “anticipate,” “estimate,” “intend,” “plan,” “continue” or the negative of these terms or other comparable terminology. Such forward-looking information involves important risks and uncertainties that could significantly affect anticipated results in the future and, accordingly, such results may differ from those expressed in any forward-looking statements made by us. These risks and uncertainties include, but are not limited to those set forth in Item 1A (“Risk Factors”) as well as the following:

- adverse tourism and trends reflecting current domestic and international economic conditions;
- volatility and weakness in world-wide credit and financial markets globally and from governmental intervention in the financial markets;
- general global macroeconomic conditions;
- decreases in levels of travel, leisure and consumer spending;
- continued high unemployment;
- fluctuations in occupancy rates and average daily room rates;
- conditions precedent to funding under the agreements governing the disbursement of the proceeds of borrowings under our credit facilities;
- continued compliance with all provisions in our credit agreements;
- competition in the casino/hotel and resort industries and actions taken by our competitors in reaction to adverse economic conditions;
- doing business in foreign locations such as Macau (including the risks associated with developing gaming regulatory frameworks);
- restrictions or conditions on visitation by citizens of mainland China to Macau;
- new development and construction activities of competitors;
- our dependence on Stephen A. Wynn and existing management;
- our dependence on a limited number of resorts and locations for all of our cash flow;
- leverage and debt service (including sensitivity to fluctuations in interest rates);
- changes in federal or state tax laws or the administration of such laws;
- changes in state law regarding water rights;
- changes in U.S. laws regarding healthcare;

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- changes in gaming laws or regulations (including the legalization of gaming in certain jurisdictions);
- approvals under applicable jurisdictional laws and regulations (including gaming laws and regulations);
- the impact that an outbreak of an infectious disease or the impact of a natural disaster may have on the travel and leisure industry;
- the consequences of the wars in Iraq and Afghanistan and other military conflicts in the Middle East and any future security alerts and/or terrorist attacks; and
- pending or future legal proceedings.

Further information on potential factors that could affect our financial condition, results of operations and business are included in this report and our other filings with the SEC. You should not place undue reliance on any forward-looking statements, which are based only on information currently available to us. We undertake no obligation to publicly release any revisions to such forward-looking statements to reflect events or circumstances after the date of this report.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

WYNN RESORTS, LIMITED

Dated: February 28, 2011

By /s/ S TEPHEN A. W YNN
 Stephen A. Wynn
 Chairman of the Board and Chief Executive Officer
 (Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ S TEPHEN A. W YNN</u> Stephen A. Wynn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	February 28, 2011
<u>/s/ K AZUO O KADA</u> Kazuo Okada	Vice Chairman of the Board	February 28, 2011
<u>/s/ L INDA C HEN</u> Linda Chen	President, Wynn International Marketing and Director	February 28, 2011
<u>/s/ R USSELL G OLDSMITH</u> Russell Goldsmith	Director	February 28, 2011
<u>Dr. Ray R. Irani</u>	Director	
<u>/s/ R OBERT J. M ILLER</u> Robert J. Miller	Director	February 28, 2011
<u>/s/ J OHN A. M ORAN</u> John A. Moran	Director	February 28, 2011
<u>/s/ M ARC S CHORR</u> Marc Schorr	Chief Operating Officer and Director	February 28, 2011
<u>/s/ A LVIN S HOEMAKER</u> Alvin V. Shoemaker	Director	February 28, 2011
<u>/s/ D. B OONE W AYSON</u> D. Boone Wayson	Director	February 28, 2011

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<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ E LAINE P. W YNN</u> Elaine P. Wynn	Director	February 28, 2011
<u>/s/ A LLAN Z EMAN</u> Allan Zeman	Director	February 28, 2011
<u>/s/ M ATT M ADDOX</u> Matt Maddox	Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)	February 28, 2011

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EXHIBIT D

EXHIBIT D

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 14A

**Proxy Statement Pursuant to Section 14(a) of
the Securities Exchange Act of 1934**

Filed by the Registrant ☒

Filed by a Party other than the Registrant ☐

Check the appropriate box:

- | | |
|--|--|
| <input type="checkbox"/> Preliminary Proxy Statement | <input type="checkbox"/> Confidential, for Use of the Commission |
| <input checked="" type="checkbox"/> Definitive Proxy Statement | Only (as permitted by Rule 14a-6(c)(2)) |
| <input type="checkbox"/> Definitive Additional Materials | |
| <input type="checkbox"/> Soliciting Material Pursuant to §240.14a-11(c) or §240.14a-12 | |

WYNN RESORTS, LIMITED

(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- ☒ No fee required.
- ☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

(1) Title of each class of securities to which transaction applies:

(2) Aggregate number of securities to which transaction applies:

(3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

- ☐ Fee paid previously with preliminary materials.
- ☐ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

(1) Amount Previously Paid:

(2) Form, Schedule or Registration Statement No.:

(3) Filing Party:

(4) Date Filed:

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WYNN RESORTS, LIMITED
3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
(702) 770-7000

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
To Be Held On Tuesday, May 17, 2011

To Our Stockholders:

Notice is hereby given that the Annual Meeting of Stockholders (the "Annual Meeting") of Wynn Resorts, Limited, a Nevada corporation (the "Company"), will be held at Wynn Macau, Rua Cidade de Sintra, NAPE, Macau SAR, on May 17, 2011, at 3:30 p.m. (local time), for the following purposes (which are more fully described in the proxy statement, which is attached and made a part of this Notice):

1. To elect the four directors named in the proxy statement, each to serve until the 2014 Annual Meeting of Stockholders and until his successor is elected and qualified;
2. To approve the advisory resolution on executive compensation;
3. To vote on the frequency of future advisory votes on executive compensation;
4. To approve an amendment to our 2002 Stock Incentive Plan;
5. To ratify the Audit Committee's appointment of Ernst & Young LLP as the independent auditors for the Company and all of its subsidiaries for 2011;
6. To consider a stockholder proposal regarding a director election majority vote standard, if properly presented at the Annual Meeting; and
7. To consider and transact such other business as may properly come before the Annual Meeting or any adjournment or postponement thereof.

Stockholders of record at the close of business on March 25, 2011, the record date fixed by the Board of Directors, are entitled to notice of and to vote at the Annual Meeting. A complete list of these stockholders will be available for inspection ten days prior to the Annual Meeting at the Company's executive offices, located at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109. On or about April 7, 2011, we mailed to our stockholders a notice containing instructions on how to access the proxy statement for our 2011 Annual Meeting, our 2010 annual report and to vote online. The notice also contains instructions on how you can receive a paper copy of your annual meeting materials, including this Notice, proxy statement and proxy card, should you wish.

All stockholders are cordially invited to attend the Annual Meeting in person. Stockholders of record as of the record date will be admitted to the Annual Meeting upon presentation of identification. Stockholders who own shares of the Company's common stock beneficially through a bank, broker or other nominee will be admitted to the Annual Meeting upon presentation of identification and proof of ownership or a valid proxy signed by the record holder. A recent brokerage statement or a letter from a bank or broker are examples of proof of ownership. Any other persons will be admitted at the discretion of the Company, as seating is limited.

Whether or not you plan to attend the Annual Meeting, you are encouraged to read the proxy statement and then cast your vote as promptly as possible in accordance with the instructions in the notice you received. Even if you have given your proxy, you may still vote in person if you attend the Annual Meeting.

Unless you provide voting instruction to any bank, broker or other nominee that holds your shares, your shares may not be voted on most matters being considered at the Annual Meeting. Therefore, if your shares are held in the name of your broker, bank or other nominee, your vote is especially important this year.

By Order of the Board of Directors

Kim Sinatra
Secretary

Las Vegas, Nevada
April 7, 2011

**IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIAL FOR THE ANNUAL MEETING OF STOCKHOLDERS TO
BE HELD ON MAY 17, 2011**

This proxy statement and our 2010 annual report on Form 10-K are available at <http://www.wynnresorts.com> under company information/annual meeting and related materials

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EXECUTIVE OFFICERS

The following table sets forth the executive officers and certain key management personnel of the Company and certain of its subsidiaries as of March 1, 2011. Executive officers are appointed by the Board of Directors and serve at the discretion of the Board of Directors, subject to applicable employment agreements.

<u>Name</u>	<u>Age</u>	<u>Position</u>
Stephen A. Wynn	69	Chairman of the Board and Chief Executive Officer
Linda Chen	44	President, Wynn International Marketing, Ltd. and Director
Marc D. Schorr	63	Chief Operating Officer and Director
John Strzemp	59	Executive Vice President-Chief Administrative Officer
Matt Maddox	35	Chief Financial Officer and Treasurer
Kim Sinatra	50	General Counsel and Secretary
Ian M. Coughlan	51	President, Wynn Macau
Marilyn Spiegel	58	President, Wynn Las Vegas, LLC
Scott Peterson	44	Senior Vice President and Chief Financial Officer, Wynn Las Vegas, LLC
Robert Gansmo	41	Vice President and Chief Financial Officer, Wynn Resorts (Macau), S.A.

Set forth below is certain information regarding the non-director executive officers and certain key management personnel of the Company.

Executive Officers and Key Management

John Strzemp. Mr. Strzemp serves as Executive Vice President and Chief Administrative Officer of the Company. Prior to his promotion in March 2008, Mr. Strzemp served as Executive Vice President and Chief Financial Officer of the Company, positions he held since September 2002. Mr. Strzemp served as the Company's Treasurer from March 2003 to March 2006.

Matt Maddox. Mr. Maddox serves as the Company's Chief Financial Officer and Treasurer. Prior to his promotion in March 2008, Mr. Maddox served as the Company's Senior Vice President of Business Development and Treasurer, positions he held since January 2007 and May 2006, respectively. From June 2005 to December 31, 2006, Mr. Maddox served as the Senior Vice President of Business Development for Wynn Las Vegas, LLC. From March 2003 to June 2005, Mr. Maddox was the Chief Financial Officer of Wynn Resorts (Macau), S.A. From May 2002 through March 2003, Mr. Maddox was the Company's Treasurer and Vice President—Investor Relations. Mr. Maddox also serves as an officer of several of the Company's subsidiaries.

Kim Sinatra. Ms. Sinatra is the General Counsel and Secretary of the Company, a position she has held since March 2006. Ms. Sinatra is also the Senior Vice President and General Counsel of Worldwide Wynn, LLC, a position she has held since January 2004. She also serves as an officer of several of the Company's subsidiaries.

Ian Michael Coughlan. Mr. Coughlan is an Executive Director of Wynn Macau, Limited and serves as the President of Wynn Resorts (Macau) S.A., a position he has held since July 2007. Prior to becoming President of Wynn Macau, Mr. Coughlan was Director of Hotel Operations—Worldwide for Wynn Resorts, Limited. Mr. Coughlan has over 30 years of hospitality experience with leading hotels across Asia, Europe and the United States. Before joining Wynn Resorts, Limited, he spent 10 years with The Peninsula Group, including posts as General Manager of The Peninsula Hong Kong from September 2004 to January 2007, and General Manager of The Peninsula Bangkok from September 1999 to August 2004.

Marilyn Spiegel. Mrs. Spiegel is the President of Wynn Las Vegas, LLC, owner and operator of Wynn Las Vegas and Encore Las Vegas. She assumed this position on December 1, 2010. Between January 2004 and

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November 2010, she was the General Manager and Regional President of five Caesars Entertainment (formerly Harrah's Entertainment) Las Vegas properties, including most recently, Regional President of Bally's, Paris Las Vegas, and Planet Hollywood. Between 1999 and 2003, Mrs. Spiegel was the Senior Vice President of Human Resources for Harrah's Entertainment. She has over 20 years of experience in the casino industry, working in a variety of positions, including General Manager of Harrah's Shreveport Casino and director of Slots at Harrah's Las Vegas.

Scott Peterson. Mr. Peterson is the Senior Vice President and Chief Financial Officer of Wynn Las Vegas, LLC, a position he has held since April 2009. From June 2005 to April 2009, Mr. Peterson was the Vice President and Chief Financial Officer for Wynn Resorts (Macau), S.A. From September 2002 to June 2005, Mr. Peterson was the Vice President—Finance of Wynn Las Vegas, LLC and from April 2001 to September 2002, Mr. Peterson was Assistant Vice President—Finance of Wynn Resorts Holdings, LLC.

Robert Gansmo. Mr. Gansmo is the Vice President and Chief Financial Officer of Wynn Resorts (Macau), S.A., a position he has held since April 2009. Prior to taking this position, from January 2007 to April 2009, Mr. Gansmo was the Director—Finance of Wynn Resorts (Macau), S.A. and from November 2002 to January 2007, he was the Director of Financial Reporting for the Company.

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SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of March 1, 2011, (unless otherwise indicated), certain information regarding the shares of the Company's common stock beneficially owned by: (i) each director and nominee for director; (ii) each stockholder who is known by the Company to beneficially own in excess of 5% of the outstanding shares of the Company's common stock based on information reported on Form 13D or 13G filed with the SEC; (iii) each of the executive officers named in the Summary Compensation Table; and (iv) all executive officers, directors and director nominees as a group. There were 124,856,408 shares outstanding as of March 1, 2011.

Name and Address of Beneficial Owner(2)	Beneficial Ownership Of Shares(1)	
	Number	Percentage
Stephen A. Wynn(3)	10,026,708	8.03%
Elaine P. Wynn(3)	9,832,370	7.87%
Kazuo Okada/Aruze USA, Inc.(3)(4) 745 Grier Drive Las Vegas, NV 89119	24,549,222	19.66%
Waddell & Reed Financial, Inc.(5) 6300 Lamar Avenue Overland Park, KS 66202	18,265,453	14.63%
Linda Chen(6)	235,000	*
Russell Goldsmith(7)	38,000	*
Ray R. Irani(8)	16,000	*
Robert J. Miller(9)	18,500	*
John A. Moran(10)(12)	188,500	*
Marc D. Schorr(13)	250,000	*
Alvin V. Shoemaker(10)	43,500	*
D. Boone Wayson(10)	88,500	*
Allan Zeman(11)	28,500	*
Matt Maddox(14)	60,000	*
John Strzemp(15)	250,500	*
Kim Sinatra (16)	50,000	*
All Directors, Director Nominees, and Executive Officers as a Group (15 persons)(17)	45,675,300	36.58%

* Less than one percent

- (1) This table is based upon information supplied by officers, directors, nominees for director, principal stockholders and the Company's transfer agent, and contained in Schedules 13D and 13G filed with the SEC. Unless otherwise indicated in the footnotes to this table and subject to community property laws, where applicable, the Company believes each of the stockholders named in this table has sole voting and investment power with respect to the shares indicated as beneficially owned. Executives and directors have voting power over shares of Restricted Stock, but cannot transfer such shares unless and until they vest.
- (2) Unless otherwise indicated, the address of each of the named parties in this table is: c/o Wynn Resorts, Limited, 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109.
- (3) Does not include shares that may be deemed to be beneficially owned by virtue of the Amended and Restated Stockholders Agreement, dated as of January 6, 2010 (the "Stockholders Agreement"), by and among Mr. Wynn, Elaine P. Wynn and Aruze USA, Inc. Mr. Wynn, Elaine P. Wynn and Aruze USA have shared voting and dispositive power with respect to shares subject to the Stockholders Agreement. Each disclaims beneficial ownership of shares held by the other parties to the Stockholders Agreement.
- (4) Aruze USA, Inc. is a wholly owned subsidiary of Universal Entertainment Corporation of which Mr. Kazuo Okada owns a controlling interest and is the Chairman. The subject securities were acquired and are owned

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by Aruze USA, Inc. but Universal and Mr. Okada may also be considered beneficial owners of the shares because Aruze USA, Universal and Mr. Okada may be deemed to have shared voting and dispositive power over the shares. The information provided is based upon a Schedule 13D/A filed on December 20, 2010.

- (5) Waddell & Reed Financial, Inc. ("Waddell") has beneficial ownership of these shares as of December 31, 2010. The information provided is based upon a Schedule 13G/A filed on February 8, 2011, filed by Waddell. Waddell has sole voting and dispositive power as to 18,265,453 shares. Waddell & Reed Financial Services, Inc. a subsidiary of Waddell, has sole voting and dispositive power as to 4,934,723 shares. Waddell & Reed, Inc., a subsidiary of Waddell & Reed Financial Services, Inc. has sole voting and dispositive power as to 4,934,723 shares. Waddell & Reed Investment Management Company, a subsidiary of Waddell & Reed, Inc., has sole voting and dispositive power as to 4,934,723 shares. Ivy Investment Management Company, a subsidiary of Waddell, has sole voting and dispositive power as to 13,330,730 shares.
- (6) Includes: (i) 100,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on July 31, 2012; (ii) 100,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016 and (iii) 25,000 shares subject to an immediately exercisable option to purchase Wynn Resorts common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan.
- (7) Includes: (i) 10,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; (ii) 2,500 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan; and (iii) 1,000 shares owned by family members through trusts and companies for which Mr. Goldsmith disclaims beneficial ownership of 1,500 shares.
- (8) Includes: (i) 11,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.
- (9) Includes: (i) 11,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 7,500 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.
- (10) Includes: (i) 31,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 7,500 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.
- (11) Includes: (i) 21,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 7,500 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.
- (12) Includes: 150,000 shares of the Company's common stock held by John A. Moran, as Trustee.
- (13) Includes: 250,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016.
- (14) Includes: (i) 50,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Purchase Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016; and (ii) 10,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Purchase Plan and subject to a Restricted Stock Agreement which provides such grant will vest on May 7, 2012.
- (15) Includes: (i) 500 shares of the Company's common stock held by Mr. Strzemp's mother, for which Mr. Strzemp disclaims beneficial ownership; and (ii) 55,000 shares subject to immediately exercisable options to purchase Wynn Resorts Common Stock pursuant to Wynn Resorts' 2002 Stock Incentive Plan.
- (16) Includes: (i) 25,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016; and (ii) 25,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on July 31, 2011.
- (17) Includes 226,000 shares subject to immediately exercisable stock options.

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FURTHER INFORMATION CONCERNING THE BOARD OF DIRECTORS CORPORATE GOVERNANCE

The Board of Directors has adopted Corporate Governance Guidelines that provide a framework for the governance of the Company. The Nominating and Corporate Governance Committee reviews the Guidelines annually and recommends changes as appropriate to the Board of Directors for approval. The Board of Directors has also adopted written charters for its three standing committees (Audit, Compensation, and Nominating and Corporate Governance), as well as a Code of Business Conduct and Ethics applicable to all directors, officers and employees and a Code of Ethics for the Chief Executive Officer, President and Senior Financial Officers. The Corporate Governance Guidelines, Board committee charters and codes of ethics are available under the heading "Corporate Governance" on the Company Information page of the Company's website at <http://www.wynnresorts.com>.

Director Independence

Seven of the twelve members of the Company's Board of Directors are independent under the listing standards of The NASDAQ Stock Market LLC ("NASDAQ"). In addition, the Company's Corporate Governance Guidelines require all independent directors to meet additional, heightened independence criteria that apply to audit committee members under the NASDAQ listing standards.

The Board of Directors has determined that the following directors are independent under the NASDAQ listing standards and that they also meet the additional, heightened independence criteria applicable to audit committee members under the NASDAQ listing standards: Messrs. Goldsmith, Irani, Miller, Moran, Shoemaker, Wayson and Zeman. Based upon information requested from each director concerning his or her background, employment and affiliations, the Board of Directors has affirmatively determined that none of the independent directors has a material relationship with the Company. In assessing independence, the Board of Directors considered all relevant facts and circumstances, including any direct or indirect relationship between the Company and the director or his or her immediate family member. None of the independent directors has any economic relationship with the Company other than receipt of his director's compensation. Additionally, all related party transactions are considered under the Company's related party policy (described in additional detail below). None of the independent directors is engaged in any related party transaction with the Company. Mr. Wynn, Mr. Okada, Ms. Wynn, Mr. Schorr and Ms. Chen have been determined not to be independent.

Meetings of the Board of Directors

The Board of Directors met seven times during 2010. During 2010, none of the members of the Board of Directors attended fewer than 75% of the total number of meetings of the Board of Directors and meetings of the committees on which they served, except for Mr. Okada. Mr. Okada missed two telephonic board meetings that were called upon relatively short notice. In addition, the independent directors met in executive session, without management present, at each regular meeting of the Board of Directors. Mr. Miller acts as the Presiding Director and communicates necessary matters from the executive sessions to management.

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Committees

The Board of Directors currently has three standing committees; the Audit Committee, the Compensation Committee, and the Nominating and Corporate Governance Committee. Each of these committees consists entirely of directors whom the Board of Directors has determined to be independent under the NASDAQ listing standards for audit committee members. The current membership and functions of each of the Board of Directors' committees are listed below.

<u>Director</u>	<u>Audit</u>	<u>Compensation</u>	<u>Nominating and Corporate Governance Committee</u>
Russell Goldsmith	X	X	
Dr. Ray R. Irani		Chair	X
Robert J. Miller			Chair
John A. Moran		X	X
Alvin V. Shoemaker	X	X	
D. Boone Wayson	Chair	X	
Allan Zeman	X		X
Number of meetings during 2010	Eight	Six	Four

In addition, Governor Miller serves as Chairman of the Company's Gaming Compliance Committee and as the Company's Compliance Director. The Gaming Compliance Committee is a committee comprised of Messrs. Miller, Schorr and Strzemp, and its purpose is to assist the Company in maintaining the highest level of regulatory compliance.

The Audit Committee

The Board of Directors, after review of each individual's employment experience and other relevant factors, has determined that Messrs. Wayson, Goldsmith, Shoemaker and Zeman are qualified as audit committee financial experts within the meaning of SEC regulations.

At each of its regular meetings, the Audit Committee meets with the Company's independent auditors, internal audit staff, management and legal counsel to discuss accounting principles, financial and accounting controls, the scope of the annual audit, internal controls, regulatory compliance and other matters. In addition to responsibilities discussed elsewhere in this proxy statement, the functions of the Audit Committee also include the following:

- appointing, approving the compensation of, and oversight of the independent auditors;
- reviewing and discussing with the independent auditors and management the Company's earnings releases and quarterly and annual reports as filed with the SEC;
- reviewing the scope and results of the Company's internal auditing procedures and practices;
- overseeing the Company's compliance program with respect to legal and regulatory compliance, and the Company's policies and procedures for monitoring compliance; and
- meeting periodically with management to review the Company's major risk exposures and the steps management has taken to monitor and control such exposures.

The independent auditors have complete access to the Audit Committee without management present to discuss the results of their audits and their opinions on the adequacy of internal controls, quality of financial reporting and other accounting and auditing matters.

EXHIBIT E

EXHIBIT E

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2003

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period to

Commission File No. 000-50028

WYNN RESORTS, LIMITED

(Exact name of Registrant as specified in its charter)

NEVADA
(State or other jurisdiction of
incorporation or organization)

46-0484987
(I.R.S. Employer
Identification Number)

3131 Las Vegas Boulevard South—Las Vegas, Nevada 89109

(Address of principal executive office) (Zip Code)

(702) 770-7555

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to Section 12(g) of the Act:

Common Stock, \$0.01 Par Value

(Title of Class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days: Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K: ☐

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act). Yes ☒ No ☐

The aggregate market value of the registrant's Common Stock held by non-affiliates of the registrant based on the closing price as reported on the Nasdaq Stock Market on June 30, 2003 was \$540,536,948.

As of March 5, 2004, 82,168,484 shares of the registrant's Common Stock, \$.01 par value, were outstanding.

Portions of the registrant's Proxy Statement for its 2004 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this report are incorporated by reference into Part III of this Form 10-K.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: March 12, 2004	WYNN RESORTS, LIMITED By: _____	/s/ STEPHEN A. WYNN _____ Stephen A. Wynn Chairman of the Board and Chief Executive Officer (Principal Executive Officer)
Dated: March 12, 2004	By: _____	/s/ JOHN STRZEMP _____ John Strzemp Executive Vice President, Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ STEPHEN A. WYNN _____ Stephen A. Wynn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	March 12, 2004
/s/ KAZUO OKADA _____ Kazuo Okada	Vice Chairman of the Board	March 12, 2004
/s/ RONALD J. KRAMER _____ Ronald J. Kramer	President and Director	March 12, 2004
/s/ ROBERT J. MILLER _____ Robert J. Miller	Director	March 12, 2004
/s/ JOHN A. MORAN _____ John A. Moran	Director	March 12, 2004
/s/ ALVIN SHOEMAKER _____ Alvin Shoemaker	Director	March 12, 2004
/s/ D. BOONE WAYSON _____ D. Boone Wayson	Director	March 12, 2004
/s/ ELAINE P. WYNN _____ Elaine P. Wynn	Director	March 12, 2004
/s/ STANLEY R. ZAX _____ Stanley R. Zax	Director	March 12, 2004
/s/ ALLEN ZEMAN _____ Allen Zeman	Director	March 12, 2004
/s/ JOHN STRZEMP _____ John Strzemp	Executive Vice President, Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)	March 12, 2004

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2004

OR

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For the transition period to

Commission File No. 000-50028

WYNN RESORTS, LIMITED

(Exact name of Registrant as specified in its charter)

NEVADA
(State or other jurisdiction of
incorporation or organization)

46-0484987
(I.R.S. Employer
Identification Number)

3131 Las Vegas Boulevard South—Las Vegas, Nevada 89109
(Address of principal executive office) (Zip Code)

(702) 770-7555
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to Section 12(g) of the Act:

Common Stock, \$0.01 Par Value
(Title of Class)

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days: Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K: ☒

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Act). Yes ☒ No ☐

The aggregate market value of the registrant's Common Stock held by non-affiliates of the registrant based on the closing price as reported on the Nasdaq Stock Market on June 30, 2004 was \$1,443,032,883.

As of February 28, 2005, 99,198,067 shares of the registrant's Common Stock, \$0.01 par value, were outstanding.

Portions of the registrant's Proxy Statement for its 2005 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this report are incorporated by reference into Part III of this Form 10-K.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: March 15, 2005 WYNN RESORTS, LIMITED
By: /s/ STEPHEN A. WYNN
Stephen A. Wynn
Chairman of the Board and Chief Executive Officer (Principal Executive Officer)
Dated: March 15, 2005 By: /s/ JOHN STRZEMP
John Strzemp
Executive Vice President, Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ STEPHEN A. WYNN</u>	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	March 15, 2005
Stephen A. Wynn		
<u>/s/ KAZUO OKADA</u>	Vice Chairman of the Board	March 15, 2005
Kazuo Okada		
<u>/s/ RONALD J. KRAMER</u>	President and Director	March 15, 2005
Ronald J. Kramer		
<u>/s/ ROBERT J. MILLER</u>	Director	March 15, 2005
Robert J. Miller		
<u>/s/ JOHN A. MORAN</u>	Director	March 15, 2005
John A. Moran		
<u>/s/ ALVIN V. SHOEMAKER</u>	Director	March 15, 2005
Alvin V. Shoemaker		
<u>/s/ KIRIL SOKOLOFF</u>	Director	March 15, 2005
Kiril Sokoloff		
<u>/s/ D. BOONE WAYSON</u>	Director	March 15, 2005
D. Boone Wayson		
<u>/s/ ELAINE P. WYNN</u>	Director	March 15, 2005
Elaine P. Wynn		
<u>/s/ STANLEY R. ZAX</u>	Director	March 15, 2005
Stanley R. Zax		

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
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FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2005

OR

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For the transition period to

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WYNN RESORTS, LIMITED

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3131 Las Vegas Boulevard South—Las Vegas, Nevada 89109
(Address of principal executive offices) (Zip Code)

(702) 770-7555
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

None

Securities registered pursuant to Section 12(g) of the Act:

Common Stock, \$0.01 Par Value
(Title of Class)

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒

Accelerated filer ☐

Non-accelerated filer ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the registrant's voting and non-voting common stock held by non-affiliates based on the closing price as reported on the Nasdaq Stock Market on June 30, 2005 was \$2,246,308,311.

As of March 10, 2006, 99,754,014 shares of the registrant's Common Stock, \$0.01 par value, were outstanding.

Portions of the registrant's Proxy Statement for its 2006 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this report are incorporated by reference into Part III of this Form 10-K.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: March 16, 2006

By: /s/ STEPHEN A. WYNN
Stephen A. Wynn
Chairman of the Board and Chief Executive
Officer (Principal Executive Officer)

Dated: March 16, 2006

By: /s/ JOHN STRZEMP
John Strzemp
Executive Vice President, Chief Financial Officer and
Treasurer (Principal Financial and Accounting Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ STEPHEN A. WYNN Stephen A. Wynn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	March 16, 2006
/s/ KAZUO OKADA Kazuo Okada	Vice Chairman of the Board	March 16, 2006
/s/ RONALD J. KRAMER Ronald J. Kramer	President and Director	March 16, 2006
/s/ ROBERT J. MILLER Robert J. Miller	Director	March 16, 2006
/s/ JOHN A. MORAN John A. Moran	Director	March 16, 2006
/s/ ALVIN V. SHOEMAKER Alvin V. Shoemaker	Director	March 16, 2006
/s/ D. BOONE WAYSON D. Boone Wayson	Director	March 16, 2006
/s/ ELAINE P. WYNN Elaine P. Wynn	Director	March 16, 2006
/s/ STANLEY R. ZAX Stanley R. Zax	Director	March 16, 2006

**UNITED STATES
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For the fiscal year ended December 31, 2006

OR

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For the transition period to

Commission File No. 000-50028

WYNN RESORTS, LIMITED

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(Address of principal executive offices) (Zip Code)

(702) 770-7555

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Common Stock, \$0.01 Par Value

(Title of Class)

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☒

Accelerated filer ☐

Non-accelerated filer ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the registrant's voting and non-voting common stock held by non-affiliates based on the closing price as reported on the Nasdaq Stock Market on June 30, 2006 was approximately \$3.7 billion.

As of February 16, 2007, 101,893,781 shares of the registrant's Common Stock, \$.01 par value, were outstanding.

Portions of the registrant's Proxy Statement for its 2007 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this report are incorporated by reference into Part III of this Form 10-K.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: March 1, 2007

By

WYNN RESORTS, LIMITED

/s/ STEPHEN A. WYNN

STEPHEN A. WYNN

Chairman of the Board and Chief Executive

Officer (Principal Executive Officer)

/s/ JOHN STRZEMP

John Strzemp

Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)

Dated: March 1, 2007

By

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ STEPHEN A. WYNN Stephen A. Wynn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	March 1, 2007
/s/ KAZUO OKADA Kazuo Okada	Vice Chairman of the Board	March 1, 2007
/s/ RONALD J. KRAMER Ronald J. Kramer	President and Director	March 1, 2007
/s/ ROBERT J. MILLER Robert J. Miller	Director	March 1, 2007
/s/ JOHN A. MORAN John A. Moran	Director	March 1, 2007
/s/ ALVIN V. SHOEMAKER Alvin V. Shoemaker	Director	March 1, 2007
/s/ D. BOONE WAYSON D. Boone Wayson	Director	March 1, 2007
/s/ ELAINE P. WYNN Elaine P. Wynn	Director	March 1, 2007
/s/ STANLEY R. ZAX Stanley R. Zax	Director	March 1, 2007

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
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FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2007

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period to

Commission File No. 000-50028

WYNN RESORTS, LIMITED

(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction of
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46-0484987
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3131 Las Vegas Boulevard South—Las Vegas, Nevada 89109
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(702) 770-7555

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Common Stock, \$0.01 Par Value

(Title of Class)

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

☒ Large accelerated filer

☐ Accelerated filer

☐ Non-accelerated filer

☐ Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the registrant's voting and non-voting common stock held by non-affiliates based on the closing price as reported on the Nasdaq Stock Market on June 29, 2007 was approximately \$4.6 billion

As of February 15, 2008, 112,958,183 shares of the registrant's Common Stock, \$.01 par value, were outstanding.

Portions of the registrant's Proxy Statement for its 2008 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this report are incorporated by reference into Part III of this Form 10-K.

Table of Contents

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: February 22, 2008	By	<u>WYNN RESORTS, LIMITED</u> <u>/s/ STEPHEN A. WYNN</u> STEPHEN A. WYNN Chairman of the Board and Chief Executive Officer (Principal Executive Officer)
Dated: February 22, 2008	By	<u>/s/ JOHN STRZEMP</u> John Strzemp Executive Vice President and Chief Financial Officer (Principal Financial and Accounting Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
<u>/s/ STEPHEN A. WYNN</u> Stephen A. Wynn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	February 22, 2008
<u>/s/ KAZUO OKADA</u> Kazuo Okada	Vice Chairman of the Board	February 22, 2008
<u>/s/ RONALD J. KRAMER</u> Ronald J. Kramer	President and Director	February 22, 2008
<u>/s/ LINDA CHEN</u> Linda Chen	President, Wynn International Marketing and Director	February 22, 2008
<u>/s/ RAY R. IRANI</u> Dr. Ray R. Irani	Director	February 22, 2008
<u>/s/ ROBERT J. MILLER</u> Robert J. Miller	Director	February 22, 2008
<u>/s/ JOHN A. MORAN</u> John A. Moran	Director	February 22, 2008
<u>/s/ ALVIN SHOEMAKER</u> Alvin V. Shoemaker	Director	February 22, 2008
<u>/s/ D. BOONE WAYSON</u> D. Boone Wayson	Director	February 22, 2008

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**

Washington, D.C. 20549

FORM 10-K

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2008

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period to

Commission File No. 000-50028

WYNN RESORTS, LIMITED

(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction of
incorporation or organization)

46-0484987
(I.R.S. Employer
Identification Number)

3131 Las Vegas Boulevard South—Las Vegas, Nevada 89109
(Address of principal executive offices) (Zip Code)

(702) 770-7555
(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Common Stock, \$0.01 Par Value
(Title of Class)

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer. See definition of "accelerated filer and large accelerated filer" in Rule 12b-2 of the Exchange Act.

☒ Large accelerated filer

☐ Accelerated filer

☐ Non-accelerated filer

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the registrant's voting and non-voting common stock held by non-affiliates based on the closing price as reported on the NASDAQ Global Select Market on June 30, 2008 was approximately \$4.7 billion.

As of February 17, 2009, 112,014,290 shares of the registrant's Common Stock, \$.01 par value, were outstanding.

Portions of the registrant's Proxy Statement for its 2009 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this report are incorporated by reference into Part III of this Form 10-K.

Table of Contents

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

WYNN RESORTS, LIMITED

Dated: February 27, 2009

By /s/ STEPHEN A. WYNN
Stephen A. Wynn
Chairman of the Board and Chief Executive
Officer (Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ STEPHEN A. WYNN</u> Stephen A. Wynn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	February 27, 2009
<u>/s/ KAZUO OKADA</u> Kazuo Okada	Vice Chairman of the Board	February 27, 2009
<u>/s/ LINDA CHEN</u> Linda Chen	President, Wynn International Marketing and Director	February 27, 2009
<u>/s/ RUSSELL GOLDSMITH</u> Russell Goldsmith	Director	February 27, 2009
<u>/s/ RAY R. IRANI</u> Dr. Ray R. Irani	Director	February 27, 2009
<u>/s/ ROBERT J. MILLER</u> Robert J. Miller	Director	February 27, 2009
<u>/s/ JOHN A. MORAN</u> John A. Moran	Director	February 27, 2009
<u>/s/ ALVIN SHOEMAKER</u> Alvin V. Shoemaker	Director	February 27, 2009
<u>/s/ D. BOONE WAYSON</u> D. Boone Wayson	Director	February 27, 2009
<u>/s/ ELAINE P. WYNN</u> Elaine P. Wynn	Director	February 27, 2009
<u>/s/ ALLAN ZEMAN</u> Allan Zeman	Director	February 27, 2009
<u>/s/ MATT MADDOX</u> Matt Maddox	Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)	February 27, 2009

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

FORM 10-K

☒ ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 2009

OR

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File No. 000-50028

WYNN RESORTS, LIMITED

(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction
of incorporation or organization)

46-0484987
(I.R.S. Employer
Identification Number)

3131 Las Vegas Boulevard South—Las Vegas, Nevada 89109

(Address of principal executive offices) (Zip Code)

(702) 770-7555

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class
Common Stock, \$.01 par value

Name of Each Exchange on Which Registered
Nasdaq Global Select Market

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the registrant's voting and non-voting common stock held by non-affiliates based on the closing price as reported on the NASDAQ Global Select Market on June 30, 2009 was approximately \$2.6 billion.

As of February 17, 2010, 123,296,373 shares of the registrant's Common Stock, \$.01 par value, were outstanding.

Portions of the registrant's Proxy Statement for its 2010 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this report are incorporated by reference into Part III of this Form 10-K.

Table of Contents

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: February 26, 2010

WYNN RESORTS, LIMITED

By /s/ STEPHEN A. WYNN

Stephen A. Wynn
Chairman of the Board and Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ STEPHEN A. WYNN</u> Stephen A. Wynn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	February 26, 2010
<u>/s/ KAZUO OKADA</u> Kazuo Okada	Vice Chairman of the Board	February 26, 2010
<u>/s/ LINDA CHEN</u> Linda Chen	President, Wynn International Marketing and Director	February 26, 2010
<u>/s/ RUSSELL GOLDSMITH</u> Russell Goldsmith	Director	February 26, 2010
<u>/s/ RAY R. IRANI</u> Dr. Ray R. Irani	Director	February 26, 2010
<u>/s/ ROBERT J. MILLER</u> Robert J. Miller	Director	February 26, 2010
<u>/s/ JOHN A. MORAN</u> John A. Moran	Director	February 26, 2010
<u>/s/ ALVIN SHOEMAKER</u> Alvin V. Shoemaker	Director	February 26, 2010
<u>/s/ D. BOONE WAYSON</u> D. Boone Wayson	Director	February 26, 2010
<u>/s/ ELAINE P. WYNN</u> Elaine P. Wynn	Director	February 26, 2010
<u>/s/ ALLAN ZEMAN</u> Allan Zeman	Director	February 26, 2010
<u>/s/ MATT MADDOX</u> Matt Maddox	Chief Financial Officer and Treasurer (Principal Financial and Accounting Officer)	February 26, 2010

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549
FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2010

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period to

Commission File No. 000-50028

WYNN RESORTS, LIMITED

(Exact name of registrant as specified in its charter)

NEVADA
(State or other jurisdiction of
incorporation or organization)

46-0484987
(I.R.S. Employer
Identification Number)

3131 Las Vegas Boulevard South - Las Vegas, Nevada 89109

(Address of principal executive offices) (Zip Code)

(702) 770-7555

(Registrant's telephone number, including area code)

Securities registered pursuant to Section 12(b) of the Act:

Title of Each Class
Common Stock, \$.01 par value

Name of Each Exchange on Which Registered
Nasdaq Global Select Market

Securities registered pursuant to Section 12(g) of the Act:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes ☐ No ☒

Indicate by check mark whether the registrant: (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	<input checked="" type="checkbox"/>	Accelerated filer	<input type="checkbox"/>
Non-accelerated filer	<input type="checkbox"/>	Smaller reporting company	<input type="checkbox"/>

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

The aggregate market value of the registrant's voting and non-voting common stock held by non-affiliates based on the closing price as reported on the NASDAQ Global Select Market on June 30, 2010 was approximately \$5.8 billion.

As of February 15, 2011, 124,620,408 shares of the registrant's Common Stock, \$.01 par value, were outstanding.

Portions of the registrant's Proxy Statement for its 2011 Annual Meeting of Stockholders to be filed not later than 120 days after the end of the fiscal year covered by this report are incorporated by reference into Part III of this Form 10-K.

Table of Contents

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Dated: February 28, 2011

WYNN RESORTS, LIMITED

By

/s/ STEPHEN A. WYNN

Stephen A. Wynn
Chairman of the Board and Chief Executive Officer
(Principal Executive Officer)

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ STEPHEN A. WYNN Stephen A. Wynn	Chairman of the Board and Chief Executive Officer (Principal Executive Officer)	February 28, 2011
/s/ KAZUO OKADA Kazuo Okada	Vice Chairman of the Board	February 28, 2011
/s/ LINDA CHEN Linda Chen	President, Wynn International Marketing and Director	February 28, 2011
/s/ RUSSELL GOLDSMITH Russell Goldsmith	Director	February 28, 2011
Dr. Ray R. Irani	Director	
/s/ ROBERT J. MILLER Robert J. Miller	Director	February 28, 2011
/s/ JOHN A. MORAN John A. Moran	Director	February 28, 2011
/s/ MARC SCHORR Marc Schorr	Chief Operating Officer and Director	February 28, 2011
/s/ ALVIN SHOEMAKER Alvin V. Shoemaker	Director	February 28, 2011
/s/ D. BOONE WAYSON D. Boone Wayson	Director	February 28, 2011

EXHIBIT F

EXHIBIT F



2010 Annual Report 年度報告

Wynn Macau, Limited 永利澳門有限公司*
(Incorporated in the Cayman Islands with limited liability) (於開曼群島註冊成立的有限公司)

Stock Code 股份代號: 1128

* for identification purposes only 資料識別

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Corporate Information

BOARD OF DIRECTORS

Executive Directors

Mr. Stephen A. Wynn (*Chairman of the Board*)
Mr. Ian Michael Coughlan
Ms. Linda Chen

Non-Executive Directors

Mr. Kazuo Okada
Dr. Allan Zeman, GBS, JP
(*Vice-Chairman of the Board*)
Mr. Marc D. Schorr

Independent Non-Executive Directors

Mr. Nicholas Sallnow-Smith
Mr. Bruce Rockowitz
Mr. Jeffrey Kin-fung Lam, SBS, JP

AUDIT COMMITTEE

Mr. Nicholas Sallnow-Smith (*Chairman*)
Dr. Allan Zeman, GBS, JP
Mr. Bruce Rockowitz

REMUNERATION COMMITTEE

Mr. Nicholas Sallnow-Smith (*Chairman*)
Mr. Marc D. Schorr
Mr. Bruce Rockowitz
Mr. Jeffrey Kin-fung Lam, SBS, JP

NOMINATION AND CORPORATE GOVERNANCE COMMITTEE

Mr. Jeffrey Kin-fung Lam, SBS, JP (*Chairman*)
Dr. Allan Zeman, GBS, JP
Mr. Nicholas Sallnow-Smith

COMPANY SECRETARY

Ms. Kwok Yu Ching, ACIS, ACS

AUTHORIZED REPRESENTATIVES

Dr. Allan Zeman, GBS, JP
Ms. Kwok Yu Ching
(Mrs. Seng Sze Ka Mee, Natalia as alternate)

AUDITORS

Ernst & Young
Certified Public Accountants

LEGAL ADVISORS

As to Hong Kong and U.S. laws:
Skadden, Arps, Slate, Meagher & Flom

As to Macau law:
Alexandre Correia de Silva

As to Cayman Islands law:
Maples and Calder

PRINCIPAL BANKERS

Banco Nacional Ultramarino, S.A. (Macau)

Corporate Information

REGISTERED OFFICE

P.O. Box 309
Ugland House
Grand Cayman
KY1-1104
Cayman Islands

HEADQUARTERS IN MACAU

Rua Cidade de Sintra
NAPE, Macau SAR

PRINCIPAL PLACE OF BUSINESS IN HONG KONG

Level 28, Three Pacific Place
1 Queen's Road East
Hong Kong

PRINCIPAL SHARE REGISTRAR AND TRANSFER OFFICE

Appleby Trust (Cayman) Limited

HONG KONG SHARE REGISTRAR

Computershare Hong Kong Investor
Services Limited

COMPLIANCE ADVISOR

Anglo Chinese Corporate Finance, Limited

STOCK CODE

1128

COMPANY WEBSITE

www.wynnmacaulimited.com



Wynn Macau, Limited
Rua Cidade de Sintra, NAPE, Macau
(853) 2888-9966
www.wynnmacau.com

EXHIBIT G

EXHIBIT G

About the University	Academic Units	Administrative Units	Research	Campus & Facilities	UM Home
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[Rector's Message](#)[Biography](#)[Speeches & Messages](#)[Senior Management Team](#)[Organizational Chart for Senior Management \(Intranet Only\)](#)[Open-door Session \(Intranet Only\)](#)[Contact Information](#)

Speeches & Messages

中文版

Donation Ceremony of Wynn Resorts (Macau) S.A

Dear Distinguished Guests, Colleagues and Students,

Good morning. On behalf of the University of Macau, I would like to extend a warm welcome to all of you for joining this ceremony to commemorate a very significant donation to the university's development foundation, and by extension, to the people of Macao. We particularly welcome our guests: Our distinguished donor, Mr. Stephen Alan Wynn, the Chairman of Wynn Resorts (Macau) S.A., his wife, Mrs. Andrea Wynn, his associates, Mr. Kazuo Okada, Vice Chairman of Wynn Resorts Limited, Mr. Allan Zeman, Vice Chairman of Wynn Resorts (Macau) S.A., Mr. Ian Michael Coughlan, the President of Wynn Resorts (Macau) S.A., and Ms. Linda Chen, the Chief Operating Officer of Wynn Resorts (Macau) S.A. Also, we are honored to be joined by Mr. Edmund Ho, the Vice Chairman of the Chinese People's Political Consultative Conference and Former Macao Chief Executive.

Ladies and gentlemen, it is a great honor for the University of Macau Development Foundation to receive this generous support from Mr. Stephen Wynn. An initial donation of MOP200 million will be made today, and for each of the next 11 years, Mr. Wynn will contribute an additional MOP80 million. Mr. Wynn is known all over the world as a successful businessman, an industry leader, and a patron of the arts. At the same time, Mr. Wynn has been a long-time advocate of social development and generous supporter of education and community concerns. In 2006, in recognition of his accomplishments, President George W. Bush appointed Mr. Wynn to the Board of Trustees for the world-famous John F. Kennedy Center for the Performing Arts. In addition, Mr. Wynn has been awarded honorary doctorate degrees from institutions around the world, including his own alma mater, the University of Pennsylvania, and the University of Nevada, and many others. These accolades led *TIME Magazine* to declare Mr. Wynn as one of the "World's 100 Most Influential People". His donation today, once again, demonstrates his significant contributions and generous support to our University, to the Macao community and beyond.

Mr. Wynn's unprecedented donation comes at a critical time in Macao's development. Emerging economies across the Asia-Pacific region have recently enjoyed rapid economic growth. For example, the GDP of China has grown at a rate of 9.3% per year over the past 10 years. However, at the same time, the region is also facing many challenges and opportunities, such as the globalization of business enterprise, the diversification of regional economies, the increased mobility of citizens and workers, and the general shrinking of a world characterized by the technologies of instantaneous communication. The University of Macau believes that it is its responsibility to carry out innovative, in-depth academic research and to deliver timely, high-quality intellectual services in the area of economics and management studies that will address the specific challenges emerging today in the Asia-Pacific region.

As such, I am very pleased to announce that after more than one year of preparation by our colleagues in the economics and management areas, our University Council has recently approved the creation of a university-level Academy for Asia-Pacific economics and management studies. The significant contribution made by Mr. Wynn today will help us to accelerate our progress in developing this Academy and enable us to provide better research, education, and service in this important area of Asia-Pacific economics and management studies. Due to Macao's central geographic location and its dynamic and growing economy, we feel that the city is an ideal site for this Academy from which we have a perfect vantage point to observe and study the transformation of this region and its vibrant business environment. Thank you Steve! We are so appreciative of your generous support!

Generally speaking, for a university, such donations are important as they not only provide needed financial support but they also demonstrate the high level of trust and expectation from the community. As such, donations have become an indicator of the universities' advancement and reputation. Hence, we are particularly

thankful to Mr. Stephen Wynn. Thank you for the tremendous trust you put on us! We pledge our on-going commitment and promise to pursue academic excellence and develop this University into a world-class institution that has been encouraged by our Central and SAR Governments and expected by our generous donors.

Thank you again!

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EXHIBIT H

EXHIBIT H



EXHIBIT I

EXHIBIT I

DECLARATION OF WES ALLISON

I, Wes Allison, hereby declare as follows:

1. I make the following Declaration in support of Respondent Wynn Resorts, Limited's ("Wynn") Opposition to Petitioner Kazuo Okada's ("Okada") Petition for a Writ of Mandamus and Memorandum of Law in support of the same filed on January 11, 2012.

2. I am the Chief Accounting Officer of Wynn. I have personal knowledge of all of the facts stated herein, and if called to testify as a witness, I could and would competently testify thereto.

3. During my tenure at Wynn, Okada, through his indirectly owned company Aruze USA, Inc. ("Aruze"), has requested to review the books and records of Wynn for the fiscal years ending December 31, 2009 and December 31, 2010. These reviews were conducted by BA Tokyo & Co. and BDO, respectively, at Wynn's offices and at the offices of Wynn's auditors, Ernst & Young. At no time during or after those reviews were completed did Okada, anyone at Aruze, or anyone at BA Tokyo & Co. or BDO ever inform me (or to my knowledge, any member of my staff or anyone at Ernst & Young) that they had not received every document they wanted to conduct their reviews.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Executed this 27 day of January, 2012, at Las Vegas, Nevada.

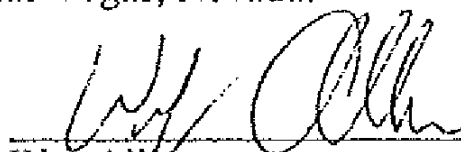

Wes Allison

EXHIBIT J

EXHIBIT J

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934
(Amendment No. 8)*

WYNN RESORTS, LIMITED
(Name of issuer)

Common Stock
(Title of class of securities)

983134 10 7
(CUSIP number)

Dennis O. Garris
Alston & Bird LLP
950 F Street NW
Washington, DC 20004-1404
(202) 239-3452

(Name, address and telephone number of person authorized to receive notices and communications)

January 18, 2012
(Date of event which requires filing of this statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. ☐

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

SCHEDULE 13D

CUSIP No. 983134 10 7

Page 2 of 6 Pages

(1)	Names of reporting persons ARUZE USA, INC.	
(2)	Check the appropriate box if a member of a group (see instructions) (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>	
(3)	SEC use only	
(4)	Source of funds (see instructions) AF	
(5)	Check if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
(6)	Citizenship or place of organization Nevada, U.S.A.	
Number of shares beneficially owned by each reporting person with:	(7)	Sole voting power 0
	(8)	Shared voting power 44,408,300*
	(9)	Sole dispositive power 0
	(10)	Shared dispositive power 24,549,222*
(11)	Aggregate amount beneficially owned by each reporting person 44,408,300*	
(12)	Check if the aggregate amount in Row (11) excludes certain shares (see instructions) <input type="checkbox"/>	
(13)	Percent of class represented by amount in Row (11) 35.5%**	
(14)	Type of reporting person (see instructions) CO	

*Includes 10,026,708 shares (the "SAW Shares") held by Stephen A. Wynn ("Mr. Wynn") and 9,832,370 shares (the "EW Shares") held by Elaine P. Wynn ("Ms. Wynn") that may be deemed to be beneficially owned by the Reporting Persons as a result of that certain amended and restated stockholders agreement, dated as of January 6, 2010 (the "Stockholder Agreement"), among Mr. Wynn, Ms. Wynn and Aruze USA, Inc. The Reporting Persons disclaim beneficial ownership of the SAW Shares and the EW Shares. See Item 4.

**Based on 124,957,158 shares of common stock outstanding as of November 1, 2011, according to the Issuer's Form 10-Q filed with the Securities and Exchange Commission on November 9, 2011.

SCHEDULE 13D

CUSIP No. 983134 10 7

Page 3 of 6 Pages

(1)	Names of reporting persons	
	UNIVERSAL ENTERTAINMENT CORPORATION	
(2)	Check the appropriate box if a member of a group (see instructions) (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>	
(3)	SEC use only	
(4)	Source of funds (see instructions) OO	
(5)	Check if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
(6)	Citizenship or place of organization Japan	
Number of shares beneficially owned by each reporting person with:	(7)	Sole voting power 0
	(8)	Shared voting power 44,408,300*
	(9)	Sole dispositive power 0
	(10)	Shared dispositive power 24,549,222*
(11)	Aggregate amount beneficially owned by each reporting person 44,408,300*	
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**Based on 124,957,158 shares of common stock outstanding as of November 1, 2011, according to the Issuer's Form 10-Q filed with the Securities and Exchange Commission on November 9, 2011.

SCHEDULE 13D

CUSIP No. 983134 10 7

Page 4 of 6 Pages

(1)	Names of reporting persons KAZUO OKADA	
(2)	Check the appropriate box if a member of a group (see instructions) (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>	
(3)	SEC use only	
(4)	Source of funds (see instructions) PF	
(5)	Check if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
(6)	Citizenship or place of organization Japan	
Number of shares beneficially owned by each reporting person with:	(7)	Sole voting power 0
	(8)	Shared voting power 44,408,300*
	(9)	Sole dispositive power 0*
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**Based on 124,957,158 shares of common stock outstanding as of November 1, 2011, according to the Issuer's Form 10-Q filed with the Securities and Exchange Commission on November 9, 2011.

SCHEDULE 13D

CUSIP No. 983134 10 7

Page 5 of 6 Pages

This Amendment No. 8 to Schedule 13D ("Amendment No. 8") amends and supplements the statement on Schedule 13D initially filed with the Securities and Exchange Commission (the "SEC") on November 13, 2002 (the "Original Filing"), as amended by Amendment No. 1 filed on November 14, 2006, by Amendment No. 2 filed on August 3, 2009, by Amendment No. 3 filed on August 18, 2009, by Amendment No. 4 filed on January 6, 2010, by Amendment No. 5 filed on December 3, 2010, by Amendment No. 6 filed on December 20, 2010, and by Amendment No. 7 filed on January 11, 2012 by Aruze, USA, Inc., Universal Entertainment Corporation and Kazuo Okada (collectively the "Reporting Persons"). Information reported in the Original Filing, as amended, remains in effect except to the extent that it is expressly amended, restated or superseded by information contained in this Amendment No. 8. Capitalized terms used and not defined in this Amendment No. 8 have the meanings set forth in the Original Filing, as amended.

This Amendment No. 8 is being filed jointly pursuant to Rule 13d-1(k)(1) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), by the Reporting Persons.

Item 4. Purpose of Transaction

Item 4 is hereby amended as follows:

On January 18, 2011, Aruze USA, Inc., submitted nominees to the Nominating and Corporate Governance Committee of the Company (the "Committee") to be considered for nomination by the Committee for election as Class I directors of the Company and included in the Company's proxy statement relating to the Company's 2012 annual meeting of the stockholders (the "2012 Annual Meeting"). Aruze submitted its candidates to the Committee pursuant to the Company's corporate governance policies and the Committee's procedures set forth in the Company's proxy statement for its 2011 annual meeting of the stockholders. Aruze is submitting these candidates for nomination to the Company's Board of Directors in order to strengthen the Board and to provide strong, independent directors to enhance the Company's corporate governance and help lead the Company in its future success.

Aruze is party to the Amended and Restated Stockholders Agreement, dated January 6, 2010 among Aruze, Stephen A. Wynn ("Mr. Wynn") and Elaine P. Wynn ("Ms. Wynn") (the "Stockholders Agreement"). Pursuant to Section 2(a) of the Stockholders Agreement, Mr. Wynn is required to endorse and vote his shares and Ms. Wynn's shares in favor of nominees designated by Aruze that represent a minority of the Board. The Stockholders Agreement is filed as an exhibit to Amendment No. 4 to the Reporting Persons' Schedule 13D.

There are four Class I directors whose terms expire this year. Aruze is designating three candidates to be considered for nomination by the Company as Class I directors for election at the 2012 Annual Meeting. Ms. Wynn is currently a Class I director. Pursuant to the Stockholders Agreement, Mr. Wynn is required to endorse Ms. Wynn as a nominee, subject to limited exceptions. In the event Ms. Wynn decides not to stand for reelection, Aruze has designated a fourth nominee in its slate of directors. Each of the Aruze nominees are independent of the Company, Aruze and its affiliates (including the Company founder and board member, Mr. Kazuo Okada) and each would qualify as independent under Rule 5605 of the Nasdaq listing standards.

Item 6. Contracts, Arrangements, Understandings or Relationships with Respect to Securities of the Issuer

Information from Item 4 is incorporated by reference into Item 6.

Item 7. Material to Be Filed as Exhibits

Exhibit 1 Joint Filing Agreement, dated January 11, 2012 among Aruze USA, Inc., Universal Entertainment Corporation and Kazuo Okada, which was included as Exhibit 2 to Amendment 7 and filed with the SEC on January 11, 2012.

SCHEDULE 13D

CUSIP No. 983134 10 7

Page 6 of 6 Pages

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this amended statement is true, complete and correct.

Date: January 18, 2012

ARUZE USA, INC.

/s/ Kazuo Okada

By: Kazuo Okada

Its: President

UNIVERSAL ENTERTAINMENT CORPORATION

/s/ Kazuo Okada

By: Kazuo Okada

Its: Chairman and Director

/s/ Kazuo Okada

Kazuo Okada, Individually

EXHIBIT INDEX

<u>Exhibit No.</u>	<u>Description</u>
--------------------	--------------------

1	Joint Filing Agreement, dated January 11, 2012 among Aruze USA, Inc., Universal Entertainment Corporation and Kazuo Okada, which was included as Exhibit 2 to Amendment 7 and filed with the SEC on January 11, 2012.
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**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION**
Washington, D.C. 20549

SCHEDULE 13D

Under the Securities Exchange Act of 1934
(Amendment No. 7)*

WYNN RESORTS, LIMITED
(Name of issuer)

Common Stock
(Title of class of securities)

983134 10 7
(CUSIP number)

Dennis O. Garris
Alston & Bird LLP
950 F Street NW
Washington, DC 20004-1404
(202) 239-3452

(Name, address and telephone number of person authorized to receive notices and communications)

January 11, 2011
(Date of event which requires filing of this statement)

If the filing person has previously filed a statement on Schedule 13G to report the acquisition that is the subject of this Schedule 13D, and is filing this schedule because of §§240.13d-1(e), 240.13d-1(f) or 240.13d-1(g), check the following box. ☐

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See Rule 13d-7 for other parties to whom copies are to be sent.

* The remainder of this cover page shall be filled out for a reporting person's initial filing on this form with respect to the subject class of securities, and for any subsequent amendment containing information which would alter disclosures provided in a prior cover page.

The information required on the remainder of this cover page shall not be deemed to be "filed" for the purpose of Section 18 of the Securities Exchange Act of 1934 ("Act") or otherwise subject to the liabilities of that section of the Act but shall be subject to all other provisions of the Act (however, see the Notes).

SCHEDULE 13D

CUSIP No. 983134 10 7

Page 2 of 7 Pages

(1)	Names of reporting persons	
	ARUZE USA, INC.	
(2)	Check the appropriate box if a member of a group (see instructions) (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>	
(3)	SEC use only	
(4)	Source of funds (see instructions) AF	
(5)	Check if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
(6)	Citizenship or place of organization Nevada, U.S.A.	
Number of shares beneficially owned by each reporting person with:	(7)	Sole voting power 0
	(8)	Shared voting power 44,408,300*
	(9)	Sole dispositive power 0
	(10)	Shared dispositive power 24,549,222*
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(13)	Percent of class represented by amount in Row (11) 35.5%**	
(14)	Type of reporting person (see instructions) CO	

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SCHEDULE 13D

CUSIP No. 983134 10 7

Page 3 of 7 Pages

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	UNIVERSAL ENTERTAINMENT CORPORATION	
(2)	Check the appropriate box if a member of a group (see instructions) (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>	
(3)	SEC use only	
(4)	Source of funds (see instructions) OO	
(5)	Check if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
(6)	Citizenship or place of organization Japan	
Number of shares beneficially owned by each reporting person with:	(7)	Sole voting power 0
	(8)	Shared voting power 44,408,300*
	(9)	Sole dispositive power 0
	(10)	Shared dispositive power 24,549,222*
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SCHEDULE 13D

CUSIP No. 983134 10 7

Page 4 of 7 Pages

(1)	Names of reporting persons KAZUO OKADA	
(2)	Check the appropriate box if a member of a group (see instructions) (a) <input checked="" type="checkbox"/> (b) <input type="checkbox"/>	
(3)	SEC use only	
(4)	Source of funds (see instructions) PF	
(5)	Check if disclosure of legal proceedings is required pursuant to Items 2(d) or 2(e) <input type="checkbox"/>	
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Number of shares beneficially owned by each reporting person with:	(7)	Sole voting power 0
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SCHEDULE 13D

CUSIP No. 983134 10 7

Page 5 of 7 Pages

This Amendment No. 7 to Schedule 13D ("Amendment No. 7") amends and supplements the statement on Schedule 13D initially filed with the Securities and Exchange Commission (the "SEC") on November 13, 2002 (the "Original Filing"), as amended by Amendment No. 1 filed on November 14, 2006, by Amendment No. 2 filed on August 3, 2009, by Amendment No. 3 filed on August 18, 2009, by Amendment No. 4 filed on January 6, 2010, by Amendment No. 5 filed on December 3, 2010 and by Amendment No. 6 filed on December 20, 2010 by Aruze, USA, Inc., Universal Entertainment Corporation and Kazuo Okada (collectively the "Reporting Persons"). Information reported in the Original Filing, as amended, remains in effect except to the extent that it is expressly amended, restated or superseded by information contained in this Amendment No. 7. Capitalized terms used and not defined in this Amendment No. 7 have the meanings set forth in the Original Filing, as amended.

This Amendment No. 7 is being filed jointly pursuant to Rule 13d-1(k)(1) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), by the Reporting Persons.

Item 4. Purpose of Transaction

Item 4 is hereby amended as follows:

On January 11, 2011, Mr. Okada filed a Petition for Writ of Mandamus (the "Petition") in the District Court of Clark County, Nevada against the Issuer to compel the Issuer to produce certain of its books and records. Mr. Okada filed the Petition due to certain actions of the Issuer described in the Petition. A copy of the Petition is attached as Exhibit 1 to this Amendment No. 7 and is hereby incorporated by reference.

The Reporting Persons are evaluating recent events and will take whatever action that they deem necessary and appropriate to protect the value of their investment in the Issuer's common stock, which may relate to or could result in the transactions or changes contemplated by Items 4 (a) through 4(j) of Schedule 13D. In addition to the actions described in this Item 4, Reporting Persons reserve the right to review their investment in the Issuer on a continuing basis, to formulate or amend plans and/or make proposals and to pursue any number of additional actions with respect to their investment in the Issuer's common stock, including: (i) communicating with the Issuer, its board of directors, other shareholders or third parties regarding the Issuer's board of directors or any other transactions or changes contemplated by Items 4(a)-(j) of Schedule 13D, (ii) proposing nominees to the board of directors, (iii) acquire beneficial ownership of additional securities in the open market, in privately negotiated transactions or otherwise, (iv) taking any other actions which could involve one or more types of transactions or have one or more of the results described in Items 4(a)-(j) of Schedule 13D, (v) dispose of all or part of its holdings of securities, or (vi) changing their intention with respect to any or all matters referred to in this Item 4. The factors the Reporting Persons may consider in reviewing their investment include, without limitation, a continuing analysis of the Issuer's business, financial condition, operations and prospects, board composition and, actions, management structure, general market and economic conditions, the relative attractiveness of alternative business and investment opportunities, and other future developments.

Item 7. Material to Be Filed as Exhibits

- | | |
|-----------|--|
| Exhibit 1 | Petition for a Writ of Mandamus filed on January 11, 2012 by the Kazuo Okada against Wynn Resorts, Limited in the District Court of Clark County Nevada. |
| Exhibit 2 | Joint Filing Agreement, dated January 11, 2012 among Aruze USA, Inc., Universal Entertainment Corporation and Kazuo Okada. |

SCHEDULE 13D

CUSIP No. 983134 10 7

Page 6 of 7 Pages

SIGNATURE

After reasonable inquiry and to the best of my knowledge and belief, I certify that the information set forth in this amended statement is true, complete and correct.

Date: January 11, 2012

ARUZE USA, INC.

/s/ Kazuo Okada

By: Kazuo Okada

Its: President

UNIVERSAL ENTERTAINMENT CORPORATION

/s/ Kazuo Okada

By: Kazuo Okada

Its: Chairman and Director

/s/ Kazuo Okada

Kazuo Okada, Individually

EXHIBIT INDEX

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2	Joint Filing Agreement, dated January 11, 2012 among Aruze USA, Inc., Universal Entertainment Corporation and Kazuo Okada.

0016

Paul R. Hejmanowski (SBN #94)
Charles H. McCrea, Jr. (SBN #104)
LIONEL SAWYER & COLLINS
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275 Middlefield Road, Suite 150
Menlo Park, California 94025
Telephone: 650-838-2000
Facsimile: 650-838-2001

Attorneys for Petitioner
KAZUO OKADA

DISTRICT COURT
CLARK COUNTY, NEVADA

KAZUO OKADA, an individual,

CASE NO.

Petitioner,

DEPT. NO.

-against-

PETITION FOR A WRIT
OF MANDAMUS

WYNN RESORTS, LIMITED, a Nevada corporation,

[ARBITRATION EXEMPTION CLAIMED; PETITION SEEKS
INJUNCTIVE RELIEF]

Respondent.

[BUSINESS COURT REQUESTED; NRS CHAPTER 78]

COMES NOW Petitioner KAZUO OKADA ("Mr. Okada"), by and through his counsel LIONEL SAWYER & COLLINS and ALSTON & BIRD LLP, against Respondent Wynn Resorts, Limited ("Wynn Resorts" or the "Company"), and pursuant to Nev. Rev. Stat. § 34.150 *et seq.* respectfully petitions the Court for a writ of mandamus compelling Respondent to produce certain books and records. This verified Petition is made and based on the facts set forth below and the Affidavit of Charles H. McCrea, Jr. and Memorandum of Law filed herewith:

PETITION FOR WRIT OF MANDAMUS, Page 1 of 9

NATURE OF THE ACTION

1. This action arises because Wynn Resorts has refused Mr. Okada access to the books and records of the Company. As a Director of Wynn Resorts (indeed, one who indirectly owns 19.66 percent of the Company), Mr. Okada has an irrefutable right to review the books and records of the Company. Yet, despite several written demands, Wynn Resorts insists on keeping its books and records hidden from its Director's scrutiny. This action seeks an order that Mr. Okada and his attorneys be permitted to inspect the Company's books and records.

2. In October 2000, Mr. Okada caused Aruze USA, Inc. ("Aruze USA"), a Nevada company he indirectly controls, to invest \$260 million in the predecessor organization to Wynn Resorts in Las Vegas, Nevada.

3. In April 2002, Aruze USA invested a further \$120 million in the predecessor organization to Wynn Resorts at the request of Stephen A. Wynn, the Company's Chairman and Chief Executive Officer ("Mr. Wynn"), including \$30 million because Mr. Wynn said that the Company needed help to advance the Company's development of a casino project in the Macau Special Administrative Region of the People's Republic of China.

4. As a Director of the Company, Mr. Okada has the right and obligation to be informed concerning the Company's business so that he may ensure that it is being managed properly for the benefit of all of its shareholders. Recent events, including the Company's July 2011 pledge of HK\$1 billion to the University of Macau Development Foundation (to which Mr. Okada formally objected), have led Mr. Okada to seek to exercise his right as a Director to review the books and records of the Company. In particular, on November 2, Mr. Okada sought information regarding: (a) the Company's HK\$1 billion (\$135 million) donation to the University of Macau, (b) the use of the \$30 million Aruze USA invested in Wynn Resorts in April 2002, and (c) the 2010 Amendment to the Stockholders Agreement among Mr. Okada, Mr. Wynn, and Elaine Wynn (Mr. Wynn's ex-wife).

5. Mr. Okada's request was denied. Not only was the request summarily denied but, shockingly, Wynn Resorts asked for evidence that the \$30 million investment had even occurred. Aruze USA immediately provided such evidence, and the Company then

PETITION FOR WRIT OF MANDAMUS, Page 2 of 9

acknowledged receipt of the \$30 million and the subsequent \$90 million invested by Aruze USA. Nevertheless, the Company still denied access to any records showing how the funds were used. Thus, on November 29, 2011, Mr. Okada sought inspection with regard to the full \$120 million invested by Aruze USA in April 2002 (which was ostensibly to be used in relation to the Macau resort). In response, Wynn Resorts has continued to deny Mr. Okada's requests to inspect its books and records and there has been no explanation for how the \$120 million was actually spent.

6. This action seeks an order that Mr. Okada and his attorneys be permitted to inspect the Company's books and records.

PARTIES, JURISDICTION AND VENUE

7. Petitioner Kazuo Okada is a resident of Hong Kong and citizen of Japan. In 1969, Mr. Okada founded Universal Lease Co. Ltd., which is now known as Universal Entertainment Corporation ("Universal"), and is its majority owner and Chairman. Mr. Okada is a Director, President, Secretary, and Treasurer of Aruze USA, Inc., a wholly-owned subsidiary of Universal. Aruze USA owns 24,549,222 shares of Wynn Resorts, or 19.66 percent of the outstanding shares of the Company. Mr. Okada has been found suitable by the Nevada Gaming Commission as a stockholder and as a controlling stockholder of Universal Entertainment Corporation.

8. Mr. Okada has served as a member of Wynn Resorts' Board of Directors since October 2002. Mr. Okada also serves as a member of the Board of Directors of Wynn Macau, Limited, a majority owned subsidiary of the Company.

9. Respondent Wynn Resorts, Limited is a publicly traded corporation organized and existing under the laws of the State of Nevada with its principal place of business in Las Vegas, Nevada. Wynn Resorts trades on NASDAQ under the ticker symbol "WYNN." Wynn Resorts, together with its subsidiaries, develops, owns, and operates destination casinos and resorts. The Company owns the Wynn Las Vegas casino resort in Las Vegas, Nevada, and the Wynn Macau casino resort located in the Macau Special Administrative Region of the People's Republic of China.

10. This Court has jurisdiction over this action pursuant to Nevada Constitution, Article 6, § 6.

PETITION FOR WRIT OF MANDAMUS, Page 3 of 9

11. Venue is proper in this Court pursuant to Nev. Rev. Stat. § 13.040.

GENERAL ALLEGATIONS

12. Petitioner reasserts and realleges Paragraphs 1 through 11 above.

A. Mr. Okada and Mr. Wynn Create Wynn Resorts

13. Mr. Wynn had a track record of planning and opening casino and resort projects such as the Golden Nugget, the Mirage, Treasure Island, and Bellagio. He lost control of these ventures, however, to MGM. In 2000, Mr. Wynn purchased the former Desert Inn in Las Vegas and tried to develop it. He was having trouble finding investors, until he met Mr. Okada.

14. Mr. Okada first came to know about Mr. Wynn through Universal. At the time, Universal was a distributor of electronic gaming machines in Nevada, and Mr. Wynn was a customer. Universal had developed the first computerized slot machine.

15. In October 2000, Aruze USA invested \$260 million for a 50 percent membership interest in Valvino Lamore, LLC ("Valvino Lamore"), Mr. Wynn's venture to develop the Desert Inn property. In connection with that investment, the parties entered into the Amended and Restated Operating Agreement of Valvino Lamore, LLC (the "Valvino Lamore Operating Agreement").

16. In 2002, in connection with the development of the Wynn Macau project, Mr. Wynn first asked Mr. Okada for \$30 million, supposedly to finance "due diligence," and then an additional \$90 million to fund other elements of the enterprise, for a total of \$120 million. Mr. Okada provided this funding through Aruze USA. The document memorializing this investment is the Third Amended and Restated Operating Agreement of Valvino Lamore, LLC (the "Third Amended and Restated Operating Agreement of Valvino Lamore,") executed by Mr. Wynn, Aruze USA, and Baron Asset Fund. Mr. Okada has never seen an accounting for how any of this money was spent. The Third Amended and Restated Operating Agreement of Valvino Lamore also provided that Mr. Wynn would receive a reimbursement for expenses incurred to develop a property in Macau.

17. In light of recent developments, Mr. Okada has become concerned regarding how Mr. Wynn caused these funds to be used. Mr. Okada's recent requests to inspect the books and records in order to determine how these monies were used, and for substantiation of the reimbursement to Mr. Wynn, have been repeatedly and summarily denied by the Company.

18. In September 2002, less than two years after Mr. Okada and Mr. Wynn joined forces, the members of Valvino Lamore contributed 100% of their membership interests to Wynn Resorts in exchange for common stock in Wynn Resorts. Valvino Lamore is now a wholly-owned subsidiary of Wynn Resorts. Wynn Resorts now controls the books and records of Valvino Lamore.

19. In conjunction with the transition of Valvino Lamore to Wynn Resorts, Aruze USA, Mr. Wynn, and Baron Asset Fund entered into a stockholders agreement ("2002 Stockholders Agreement").

20. On October 25, 2002, Wynn Resorts went public on the NASDAQ at \$13 per share. After the initial public offering, and other subsequent dilution, Mr. Okada and Mr. Wynn each owned approximately twenty percent of the common stock.

B. Mr. Wynn Loses A Significant Portion Of His Stake in Wynn Resorts

21. In March 2009, Mr. Wynn and his wife filed for divorce in Las Vegas. In a January 6, 2010 filing with the Securities and Exchange Commission, they reported that 11,076,708 shares previously held as community property were transferred to Ms. Wynn, leaving Mr. Wynn with an equal number of shares. Meanwhile, Aruze USA held 24,549,222 shares, or more than double what Mr. Wynn had.

22. As a result of this transfer to his ex-wife, Mr. Wynn owned approximately nine percent of Wynn Resorts' outstanding common stock, compared to the almost twenty percent owned by Aruze USA.

23. As Mr. Wynn was losing a significant portion of his shares to his ex-spouse, he procured an amendment to the stockholders agreement ("2010 Amendment"), which, among other things, purports to impose restrictions on the shares of Wynn Resorts owned by Azure USA and Ms. Wynn and confirm the ability to Mr. Wynn to exercise certain rights in respect of such shares.

C. Mr. Okada Objects to HK\$1 Billion Donation to the University of Macau

24. In May 2011, Wynn Macau pledged to donate HK\$1 billion (about \$135 million) to the University of Macau Development Foundation. This contribution consists of a \$25 million contribution made in May 2011, and a commitment for additional donations of \$10 million each year for the calendar years 2012 through 2022 inclusive, for a total of \$135 million. Wynn Macau's gaming concession expires in June 2022. Mr. Okada objected to this donation, which appears to be unprecedented in the annals of that University. Mr. Okada noted in this regard that the University sits on land owned by the government, and there was no discussion regarding whether such a large gift, over such a long period, is an appropriate use of corporate funds.

25. Mr. Okada's recent requests to inspect the Company's books and records regarding this donation have been denied by the Company.

D. Wynn Rebuffs Mr. Okada's Efforts To Review The Company's Books and Records

26. On November 2, 2011, Mr. Okada formally requested to inspect Wynn Resorts' books and records for the purpose of determining the manner in which the \$30 million obtained from Aruze USA, on or about April 22, 2002, was spent.

27. Mr. Okada also sought to inspect the books and records of Wynn Resorts for the purpose of determining the details of the HK\$1 billion pledge (and partial donation) by Wynn Resorts or its affiliates to the University of Macau, which was made over Mr. Okada's objection. In this regard, he seeks all electronic and hard copy records referring or relating to the University.

28. Mr. Okada further sought to inspect the books and records of Wynn Resorts for all evidence regarding the negotiation, drafting, and execution of the 2010 Amendment.

29. On November 3, 2011, the Company summarily rejected Mr. Okada's requests for access to the Company's books and records.

30. On November 9, the Company sent a letter indicating that it could not locate the \$30 million transferred to it by Aruze USA in April 2002. As a result, on November 17, 2011, Mr. Okada wrote to Wynn Resorts, enclosing a bank statement showing the \$30

million withdrawal, and again seeking inspection. On November 28, 2011, Wynn Resorts indicated that they had indeed located the money, and the other \$90 million invested in April 2002 by Aruze USA, but refused to provide any accounting or records for how it was spent.

31. On November 29, 2011, Mr. Okada formally asked for inspection regarding how the full \$120 million was spent, as well as all books and records regarding the Macau Reimbursement Amount, as that term is used in the Third Amended and Restated Operating Agreement of Valvino Lamore.

32. On December 12, 2011, Mr. Okada formally requested inspection of books and records of Wynn Resorts and its predecessor entities for the years 2000-2002. On December 15, 2011, Wynn Resorts rejected the requested inspection.

33. Mr. Okada's right as a Director to inspect the books and records of the Company is unqualified. Nevertheless, the Company has steadfastly refused to allow Mr. Okada to review any documents or other records on the matters he has raised, even though he is a Director of the Company, and the indirect owner of 19.66 percent of its shares.

FIRST CLAIM FOR RELIEF

Inspection of the Wynn Resorts Books and Records

(Against Wynn Resorts)

34. Petitioner reasserts and realleges Paragraphs 1 through 33 above as if set forth in full below.

35. Mr. Okada is a Director of Wynn Resorts, and has been so continuously since October 2002.

36. By letters dated November 2, November 17, November 29, and December 12, 2011, Mr. Okada requested inspection of specific categories of the books and records of Wynn Resorts, and other matters which are not the subject of this Petition. The records requested for inspection include:

- a. All books and records related to how the manner in which the \$120 million invested by Aruze USA in April 2002 was spent;
- b. All books and records related to a HK\$1 billion pledge (and partial donation) by the Company or its affiliates to the University of Macau;

-
- c. All books and records regarding the Macau Reimbursement Amount, as that term is used in the Third Amended and Restated Operating Agreement of Valvino Lamore;
 - d. Books and records of Wynn Resorts and its predecessor entities for the years 2000 through 2002; and
 - e. All evidence regarding negotiation, drafting, and execution of the Amended and Restated Stockholders Agreement dated January 6, 2010 between Mr. Wynn, Ms. Wynn, and Aruze USA, Inc.

37. The November 2, 2011 requests have been summarily denied. The November 17 and November 29, 2011 requests have been met by silence. The December 12, 2011 request has been summarily denied.

WHEREFORE, Petitioner prays for judgment as follows:

- A. A writ of mandamus requiring Wynn Resorts to permit Mr. Okada and his counsel to inspect and make copies of the books and records of the Company;
- B. That Petitioner be awarded his costs and expenses, including reasonable attorneys' fees incurred herein; and
- C. Any and all such other and further relief as this Court deems just and proper.

Dated: January 11th, 2012

LIONEL SAWYER & COLLINS

By: /s/ Charles H. McCrea, Jr.

Paul R. Hejmanowski (SBN #94)
Charles H. McCrea, Jr. (SBN #104)
1700 Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101
Telephone: 702-383-8888
Fax: 702-383-8845

PETITION FOR WRIT OF MANDAMUS, Page 8 of 9

ALSTON & BIRD, LLP
Gidon M. Caine (Pro Hac Vice Pending)
275 Middlefield Road
Suite 150
Menlo Park, California 94025
Telephone: 650-838-2000
Facsimile: 650-838-2001

Attorneys for Petitioner
KAZUO OKADA

VERIFICATION

I, Kazuo Okada, being duly sworn, deposes and says:

I am the Petitioner in the foregoing Petition for a Writ of Mandamus (the "Petition"). I have read a certified Japanese translation of the Petition and know its contents. The Petition is true to my knowledge. The basis of my knowledge is my personal involvement in the matters described, review of documents, discussions with employees of Universal Entertainment Corp. and Aruze USA, and the investigation of my counsel.

/s/ Kazuo Okada*
KAZUO OKADA

Sworn to me this
day of January, 2012

/s/ *
Notary Public

* Mr. Okada is not fluent in English. Accordingly, this Petition, including the Verification, was translated into Japanese. A certified copy of the translation, including the signed and notarized Verification, is attached hereto.

PETITION FOR WRIT OF MANDAMUS, Page 9 of 9

JOINT FILING AGREEMENT

The undersigned hereby agree that the Statement on Schedule 13D, dated January 11, 2012, with respect to the common stock, par value \$0.01 per share, of Wynn Resorts, Limited is, and any amendments thereto executed by each of us shall be, filed on behalf of each of us pursuant to and in accordance with the provisions of Rule 13d-1(k)(1) under the Securities Exchange Act of 1934, as amended, and that this Agreement shall be included as an Exhibit to the Schedule 13D and each such amendment. Each of the undersigned agrees to be responsible for the timely filing of the Schedule 13D and any amendments thereto, and for the completeness and accuracy of the information concerning itself contained therein. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

ARUZE USA, INC.

/s/ Kazuo Okada

By: Kazuo Okada

Its: President

UNIVERSAL ENTERTAINMENT CORPORATION

/s/ Kazuo Okada

By: Kazuo Okada

Its: Chairman and Director

/s/ Kazuo Okada

Kazuo Okada, Individually

EXHIBIT K

EXHIBIT K



WHYNEVADA.COM

LEGAL ADVANTAGES: A COMPARISON WITH DELAWARE

Source: Lionel Sawyer & Collins Law Firm

The summary below is a general guide to certain Nevada laws that apply to Nevada corporations as of September 1, 2008. The information contained in this guide is for general reference only and is not intended to provide legal advice. You should contact a Nevada attorney to advise you prior to conducting business in Nevada.

A. Nevada Provides Stronger Personal Liability Protection To Officers And Directors

While statutes in Nevada and Delaware have codified the business judgment rule and some of the general fiduciary duties owed to a corporation by its directors and officers, senior management in Nevada corporations may enjoy a higher level of protection against personal liability due to Nevada's business-friendly corporate laws.

1. Fiduciary Duty and Business Judgment

Nevada, like most jurisdictions, requires that directors and officers of Nevada corporations exercise their powers in good faith and with a view to the interests of the corporation. NEV. REV. STAT. § 78.138(1). As a matter of law, directors and officers are presumed to act in good faith, on an informed basis, and with a view to the interests of the corporation in making business decisions. NEV. REV. STAT. § 78.138(3). In performing such duties, directors and officers may exercise their business judgment through reliance on information, opinions, reports, financial statements, and other financial data prepared or presented by corporate directors, officers, or employees who are reasonably believed to be reliable and competent. NEV. REV. STAT. § 78.138(2). Professional reliance may also be extended to legal counsel, public accountants, advisers, bankers, or other persons reasonably believed to be competent, and to the work of a committee (on which the particular director or officer does not serve) if the committee was established and empowered by the corporation's board of directors, and if the committee's work was within its designated authority and was about matters on which the committee was reasonably believed to merit confidence. NEV. REV. STAT. §§ 78.138(2), 78.125. However, directors and officers may not rely on such information, opinions, reports, books of account, or similar statements if they have knowledge concerning the matter in question that would make such reliance unwarranted. NEV. REV. STAT. § 78.138(2).

In Delaware, directors and members of any committee designated by the board are similarly entitled to rely in good faith upon the records of the corporation and upon such

rights are available for the shares of any class or series of stock that, at the record date for the meeting held to approve such transaction, were either (1) listed on a national securities exchange or designated as a national market system security on an interdealer quotation system by the NASD or (2) held of record by more than 2,000 stockholders. DEL. CODE ANN. tit. viii, § 262(b)(1). Even if the shares of any class or series of stock meet the requirements of subsections (1) or (2) above, appraisal rights are available for such class or series if the holders thereof receive in the merger or consolidation anything except cash, shares of stock as described in DEL. CODE ANN. tit. viii, § 262(b)(2), or a combination thereof.

Recent amendments to Delaware stockholders' appraisal rights allow beneficial owners of shares to file a petition for appraisal without the need to name a nominee as a nominal plaintiff and to make it easier to withdraw from the appraisal process and accept the terms offered in the merger or consolidation. See DEL. CODE ANN. tit. viii, § 262(e) and (k). No appraisal rights are available to stockholders of the surviving corporation if the merger did not require their approval. DEL. CODE ANN. tit. viii, § 262(b)(1).

13. Stockholder Inspection Rights

Nevada provides greater privacy for corporate records than Delaware. Under Nevada law, only a stockholder of record who owns at least 15% of the corporation's outstanding shares, or has been authorized in writing by holders of at least 15% of the outstanding shares, is entitled to inspect and make copies of the corporation's financial records. NEV. REV. STAT. § 78.257(1). Only a person who has been a stockholder of record for at least six months, or who owns at least 5% of the corporation's outstanding shares or has been authorized in writing by holders of at least 5% of the outstanding shares, is entitled to inspect and make copies of the corporation's stock ledger, articles of incorporation, and bylaws. NEV. REV. STAT. § 78.105(3).

Delaware law generally grants any stockholder of record the right to inspect and to copy for any proper purpose the corporation's stock ledger, a list of its stockholders, and its other records. A proper purpose is one reasonably related to such person's interest as a stockholder. DEL. CODE ANN. tit. viii, § 220(b). Directors also have the right to examine the corporation's stock ledger, a list of its stockholders and its other records for a purpose reasonably related to their positions as directors. DEL. CODE ANN. tit. viii, § 220(d).

14. Derivative Suits

Under both Nevada and Delaware law, a stockholder may bring a derivative action on behalf of the corporation only if the stockholder was a stockholder of the corporation at the time of the transaction in question or the stockholder acquired the stock thereafter by operation of law. Nev. R. Civ. P. 23.1; DEL. CODE ANN. tit. viii, § 327.

15. Special Meetings of Stockholders

Nevada law permits the entire board of directors, any two directors, or the president to call special meetings of the stockholders and directors, unless the articles of incorporation or

CIVIL COVER SHEET A - 1 2 - 6 5 6 7 1 0 - B

Clark County, Nevada

X I

Case No. _____
(Assigned by Clerk's Office)**I. Party Information**

Plaintiff(s) (name/address/phone):

WYNN RESORTS, LIMITED

Attorney (name/address/phone):

James J. Pisanelli, Esq., Bar No. 4027

Pisanelli Bice, PLLC, 3883 Howard Hughes Parkway, Suite
800, Las Vegas, Nevada 89169; (702) 214-2100

Defendant(s) (name/address/phone):

KAZUO OKADA, ARUZE USA, INC., and UNIVERSAL
ENTERTAINMENT CORP.

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and
applicable subcategory, if appropriate)☐ **Arbitration Requested****Civil Cases**

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

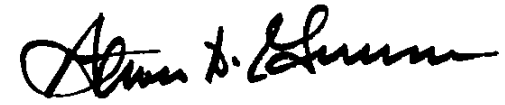
- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

February 18, 2012

Date

/s/ James J. Pisanelli, Esq.

Signature of initiating party or representative



CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

21 **WYNN RESORTS, LIMITED, , a Nevada**
22 **Corporation,**
23 **Plaintiff,**
24 **vs.**
25 **KAZUO OKADA, an individual, ARUZE**
USA, INC., a Nevada corporation,
26 **UNIVERSAL ENTERTAINMENT CORP.,**
a Japanese corporation,
27 **Defendants.**

Case No.: A - 1 2 - 6 5 6 7 1 0 - B

Dept. No.: X I

COMPLAINT

**(Request for Business Court Assignment
Pursuant to EDCR 1.61(a))**

**(Exempt from Arbitration – Declaratory
Relief Requested)**

1 Plaintiff WYNN RESORTS, LIMITED ("Wynn Resorts"), by and through its undersigned
2 counsel, hereby files the above-captioned Complaint:

3 **NATURE OF THE ACTION**

4 This is an action for breach of fiduciary duty and related offenses committed against
5 Wynn Resorts at the hands of one of its directors, Kazuo Okada ("Okada") and his affiliates.
6 Wynn Resorts' Compliance Committee commissioned former Director of the Federal Bureau of
7 Investigation, Louis J. Freeh, to examine Okada's domestic and foreign activities impacting
8 Wynn Resorts. Based upon a multi-month investigation – which culminated with a personal
9 interview that Okada long evaded – Freeh uncovered substantial evidence of gross improprieties
10 by Okada and his agents, as explained in Freeh's report, attached as Exhibit 1. In particular, Freeh
11 presented Wynn Resorts' Board with evidence that Okada had made unlawful payments to foreign
12 gaming regulators who could advance Okada's business interests. Okada surreptitiously undertook
13 these acts despite admonishments that all Directors closely adhere to Company policy, scrupulous
14 business practices/ethics, and the law, both foreign and domestic. The public's confidence in
15 gaming's integrity depends upon strict observance of these principles. Okada's conduct poses a
16 direct assault upon, and a present threat to, Wynn Resorts' reputation for probity, which is central
17 to maintaining its stature in the gaming industry as well as its current and future licensing.

18 **PARTIES AND RELATED PERSONS/ENTITIES**

19 1. Plaintiff WYNN RESORTS is and was at all times relevant hereto a corporation
20 organized and existing under the laws of the State of Nevada, with its principal place of business
21 in the State of Nevada. Wynn Resorts is publicly traded on NASDAQ.

22 2. Wynn Resorts is a world class developer of destination resort casinos.
23 Wynn Resorts owns resort casinos through its wholly owned subsidiary,
24 WYNN LAS VEGAS, LLC ("Wynn Las Vegas") and through WYNN MACAU, LIMITED
25 ("Wynn Macau").

26 3. Wynn Las Vegas operates the Wynn Las Vegas and Encore resort casinos in
27 Las Vegas, Nevada.

1 4. Wynn Macau is a Cayman Islands company, publicly traded on the Hong Kong
2 Stock Exchange (of which Wynn Resorts owns a majority interest). Through its wholly owned
3 subsidiary, WYNN RESORTS (MACAU), S.A., a company organized and existing under the
4 laws of Macau Special Administrative Region of the Peoples Republic of China, Wynn Macau
5 operates the Wynn Macau and Encore at Wynn Macau resort-casinos in Macau.

6 5. Defendant OKADA is and was at all times relevant hereto a citizen of Japan, and a
7 director of Wynn Resorts. Okada serves multiple roles with Wynn Resorts and its affiliated
8 companies (the "Wynn Companies"). He is a member of the Board of Directors for both
9 Wynn Resorts and Wynn Macau and, until February 18, 2012, through UNIVERSAL
10 ENTERTAINMENT CORPORATION ("Universal") and ARUZE USA, controlled a shareholder
11 that had owned approximately 19.66% of Wynn Resorts. From October 2002 up to and until
12 October 2011, Okada also served as Vice Chairman of Wynn Resorts. In these capacities, Okada
13 owed, and continues to owe, fiduciary duties of care, loyalty, and good faith to the
14 Wynn Companies.

15 6. Defendant ARUZE USA, INC. ("ARUZE USA") is and was at all times relevant
16 hereto a corporation organized and existing under the laws of the State of Nevada, and a wholly
17 owned subsidiary of Universal ("Universal"). Until February 18, 2012, ARUZE USA was a
18 19.66% shareholder in Wynn Resorts. Okada serves as director, President, Secretary, and
19 Treasurer of ARUZE USA.

20 7. Defendant UNIVERSAL is a public corporation organized under the laws of
21 Japan, and formerly known as ARUZE Corporation until a November 2009 name change.
22 Universal manufactures and sells pachislot and pachinko machines, and other similar gaming
23 equipment. Universal does business in the State of Nevada, has been issued a manufacturer's
24 license by the Nevada Gaming Commission, and was deemed suitable by the Nevada Gaming
25 Commission as a 100% shareholder in ARUZE USA. Okada is Director, Chairman of the Board
26 and, together with his family members, a 67.9% shareholder in Universal.

27 8. The Wynn Resorts' Board of Directors consists of 12 members, comprised of
28 Stephen A. Wynn ("Mr. Wynn") as Chairman, Okada, Russell Goldsmith, Linda Chen,

1 Dr. Ray R. Irani, former Nevada Governor Robert J. Miller, John A. Moran, Alvin V. Shoemaker,
2 D. Boone Wayson, Elaine P. Wynn, Allan Zeman, and Marc D. Schorr (collectively "Wynn
3 Directors" and/or "Wynn Board").

4 9. Wynn Resorts' Gaming Compliance Committee ("Compliance Committee") is an
5 internal committee chaired by Director Miller and comprised of two additional members, Schorr
6 (director and COO) and John Strzemp (Wynn Resorts' Executive Vice President and Chief
7 Administrative Officer). The Compliance Committee is charged with assuring Wynn Resorts'
8 compliance with all laws and regulations, particularly on gaming laws, regulations, and policies.

9 10. The Honorable Louis J. Freeh, Esq., is a former director of the Federal Bureau of
10 Investigation ("FBI"), having led that agency with distinction from 1993 to 2001. Prior to serving
11 as FBI Director, Freeh was a United States District Court Judge. Today, Freeh is a partner in
12 Freeh Sporkin & Sullivan, LLP – a law firm he founded with two other former federal judges –
13 which specializes in domestic and foreign corporate investigations and compliance.

14 JURISDICTION

15 11. Defendants Universal, ARUZE USA, and Okada have each individually and in
16 concert with one another, caused the acts and events alleged herein within the State of Nevada
17 and all are subject to the jurisdiction of this Court. Venue is also proper in this Court.

18 12. This matter is properly designated as a business court matter and assigned to the
19 Business Docket under EDCR 1.61(a) as the claims alleged herein arise from business torts.

20 GENERAL ALLEGATIONS

21 13. A Nevada gaming license is a privilege. Nevada law imposes comprehensive
22 regulatory requirements upon gaming licensees, including obligations that those associated with
23 the licensee possess the necessary character, qualifications, and integrity to be suitable to hold
24 that privilege so as to not pose a threat to the public interest or the integrity of the regulation and
25 control of gaming. As a Director of Wynn Resorts, Okada is subject to these demanding
26 standards.

27 14. Additionally, all of Wynn Resorts' Directors agreed to be, were, and are subject to
28 Wynn Resorts' Code of Business Conduct and Ethics (the "Code of Conduct"). The Code of

1 Conduct reinforces and enhances Wynn Resorts' commitment to doing business in an ethical
2 manner. The Code of Conduct reflects Wynn Resorts' values, demonstrates ethical leadership,
3 and promotes an environment that upholds its longstanding reputation for integrity, ethical
4 conduct, and trust.

5 15. Forsaking his obligations to maintain the integrity required of a gaming licensee,
6 the Company's Code of Conduct and his other fiduciary duties, Okada committed improper acts
7 that included making payments for the benefit of foreign gaming officials who could advance his
8 personal business interests. He has furthermore elected to compete against Wynn Resorts,
9 undertaking a campaign to convert Wynn Resorts' assets for his own benefit, and that of his
10 affiliates. Wynn Resorts has been compelled to defend against Okada's acts of aggression by,
11 among other things, the initiation of remedial and defensive Board actions and the prosecution of
12 this action.

13 *Okada Enters the Philippine Market*

14 16. By all measures, Okada's abandonment of his duty of loyalty to Wynn Resorts
15 commenced with his plan to develop gaming operations in the Philippines.

16 17. Upon learning of opportunities in the Philippines, Okada approached Mr. Wynn
17 with an idea of creating a casino resort in Manila Bay. Neither Mr. Wynn nor the Board of
18 Directors was willing to pursue such opportunities in the Philippines.

19 18. Undeterred, Okada pressed on with his personal agenda without full disclosure to
20 Mr. Wynn or the Board. In furtherance of his personal scheme, Okada asked that a city ledger
21 account at Wynn Resorts be opened in the name of his company, Universal ("Universal City
22 Ledger"). Upon information and belief, and unbeknownst to Wynn Resorts, Okada sought the
23 city ledger account, in part, to facilitate his pursuit of his personal business interests in the
24 Philippines and to promote the false appearance of an affiliation with Wynn Resorts to his
25 Philippine business contacts.

26 19. Upon information and belief, many doors opened for Okada in the Philippines due
27 to his well-publicized relationship with Mr. Wynn and Wynn Resorts. Wynn Resorts is informed
28 and believes that Okada touted his relationship and affiliation with Wynn Resorts so as to

1 convince others that Wynn Resorts was and/or is somehow affiliated with Universal's desired
2 presence in Manila. All such representations were and are false.

3 20. In 2008, the Philippine Amusement and Gaming Corporation ("PAGCOR"), a
4 100% government-owned and controlled corporation that operates under the direct supervision of
5 the Office of the President of the Philippines and is charged with "[r]egulat[ing], authoriz[ing] and
6 licens[ing] games of chance, games of cards and games of numbers, particularly casino gaming,
7 in the Philippines," awarded four provisional gaming licenses without public bidding. PAGCOR
8 issued one such license to a newly-formed entity that is owned 99% by ARUZE USA, known as
9 Tiger Resort, Leisure and Entertainment Inc. Okada's pursuit and development of that license
10 expressly contradicts Wynn Resorts' requests to Okada not to pursue business in the Philippines.
11 Moreover, Okada's actions to obtain and exploit that license involved violations of his duties to
12 Wynn Resorts.

13 *Initial Examination of Okada's Activities*

14 21. In or around the fall of 2010, Wynn Resorts heard that Okada was continuing to
15 represent to multiple people that he (and/or Universal) and Wynn Resorts were involved in a joint
16 venture together in the Philippines and were pursuing, also as joint venturers, potential
17 opportunities in Japan. Such representations were again false.

18 22. Questioning Okada's actions, in or around January 2011, Wynn Resorts, through
19 its Compliance Committee, commissioned an independent investigation and risk assessment of
20 investing in the gaming industry in the Philippines, which found:

- 21 a. Official corruption in the Philippine gaming industry is "deeply ingrained";
- 22 b. Doubts that newly-elected President Aquino's stated plans for reform would
23 eliminate corruption from the gaming industry;
- 24 c. The country's legal/regulatory frameworks were not closely aligned with
25 American compliance and transparency standards; and
- 26 d. Despite a general refusal by witnesses to discuss Okada's role in the
27 Philippines (many refused to comment), other information created
28

1 reasonable suspicion that persons acting on Okada's behalf had engaged in
2 improprieties.

3 23. Notwithstanding the issues identified by the investigation/assessment, Okada was
4 unrelenting in his appeal to Wynn Resorts. In February 2011, he repeated his oft-uttered request
5 that Mr. Wynn travel to the Philippines to explore investing in Universal's Manila Bay project.

6 24. During the February 24, 2011 meeting of the Board of Directors, following
7 discussion of the Foreign Corrupt Practices Act ("FCPA"), the findings from the independent
8 investigation were relayed to the Board. Mr. Wynn advised the Board that he had been invited by
9 Okada to meet Philippine President Aquino. Okada was present for the Board's discussions. The
10 independent directors (Goldsmith, Irani, Miller, Moran, Shoemaker, Wayson, and Zeman)
11 unanimously advised Wynn Resorts management that involvement in the Philippines was
12 inadvisable and that the meeting should be cancelled. In plain terms, the Board informed Okada
13 that Wynn Resorts would not invest in Universal's Manila Bay project.

14 25. Okada, who had scheduled on his own initiative a meeting between Mr. Wynn and
15 Philippine President Aquino, was embarrassed and angry in having to cancel the arrangements.
16 Again, however, Okada remained undeterred.

17 26. Finally recognizing that Wynn Resorts was not going to provide Okada and
18 Universal with funds or know-how for his Philippine project, Okada nonetheless moved forward
19 with his secret plans to compete against Wynn Resorts by false claims of affiliation and
20 endorsement, among other things.

21 27. Despite knowing the Board's opposition to his plans in the Philippines, Okada
22 proceeded to announce that he and Universal planned to lure high-limit, VIP gamblers from China
23 to its Manila Bay resort-casino, the same customer base as Wynn Macau. In short, Okada was
24 creating a new casino in direct competition with Wynn Macau.

25 28. Universal purportedly intends to construct two casinos and three hotels in Manila
26 by December 2013, intends to open those facilities in early 2014, intends to spend \$2.3 billion on
27 the project, and hopes to turn \$2 billion in sales in its first year of operation. Okada has publicly
28

1 stated his intent to open more casinos in Asia in 2015. On or about January 26, 2012, Universal
2 broke ground on construction of the Manila Bay casino resort.

3 29. To promote his own interests, Okada launched a campaign to misappropriate
4 Wynn Resorts' assets and secrets for his and his affiliates' use. Among other things, Okada
5 arranged to have several people serve as interns at the Wynn Macau property so that Wynn Macau
6 "know how" could be learned and siphoned from Wynn Resorts.

7 *Wynn Resorts Expects Compliance*

8 30. During a July 28, 2011 executive session, the independent directors again
9 discussed Okada's ongoing involvement in the Philippines and expressed concern about probity
10 issues attendant to Okada's involvement and the effect that Okada's actions in the Philippines
11 could have on Wynn Resorts. Of notable concern were Okada's comments at prior Board
12 meetings. Specifically, Okada had relayed his familiarity with local business practices that
13 involved having third parties make payments to government officials rather than someone doing
14 so directly (acts prohibited not only under the Foreign Corrupt Practices Act, but also by Wynn
15 Resorts' Code of Conduct and other policies).

16 31. Following Okada's comments, Wynn Resorts took several steps to reiterate and to
17 ensure awareness of the boundaries of corporate policies and legal restrictions on payments to
18 government officials (among other things). These include the following:

- 19 a. To ensure that all directors, especially Okada, were kept informed about the
20 Foreign Corrupt Practices Act, on August 4, 2011, a notice to the Board
21 was issued for a training on the Foreign Corrupt Practices Act to be held on
22 October 31, 2011, followed by a Board meeting on November 1, 2011.
- 23 b. To further protect Wynn Resorts, on August 5, 2011, all members of the
24 Board of Directors were asked to review: (1) the Code of Business Ethics;
25 and (2) the Policy Regarding Payments to Government Officials, and
26 execute an acknowledgement that they read, understood, and
27 acknowledged the policies. All members of the Board have signed the
28

1 acknowledgement but for one. Despite multiple attempts to follow-up,
2 Okada has still failed to sign.

- 3 c. Attached to the Directors' & Officers' Questionnaire sent to all members of
4 the Board on January 12, 2012 was an acknowledgement form that required
5 the Directors to sign in two places: (1) Page 26 of the questionnaire; and
6 (2) Page 50 on the separate Code of Business Conduct and Ethics
7 Acknowledgement Form that was part of the questionnaire packet. Okada
8 signed and returned the former on the January 27, 2012 deadline but failed
9 to return a signed Code of Business Conduct and Ethics Acknowledgement
10 Form. Okada has still not returned the acknowledgement despite a
11 follow-up request to do so.

12 32. On September 15, 2011, Okada, through his assistant, sent an RSVP that he would
13 attend both the Foreign Corrupt Practices Act training on October 31 and the Board meeting
14 noticed for November 1, 2011. But Okada never attended the training.

15 33. To follow up on issues raised during the July 28, 2011 Board meeting, in early
16 August, Wynn Resorts' Board of Directors also commissioned a second independent investigation
17 into the regulatory and compliance climate in the Philippines. This investigation identified
18 anomalies and improprieties related to Universal's/Okada's dealings in the Philippines.

19 34. On September 27, 2011, the Compliance Committee held a special meeting to
20 discuss the findings of the second independent investigation. Those findings identified a number
21 of concerns regarding Okada's activities, including that he may be: (a) engaging in acts that
22 would render him unsuitable under Nevada gaming regulations, and (b) breaching the fiduciary
23 duties he owed to Wynn Resorts.

24 35. At the direction of the Compliance Committee, Wynn Resorts approached Okada's
25 counsel to discuss the Committee's concerns relative to Okada's conduct and business in the
26 Philippines, and its effect on Wynn Resorts and Okada's duties and responsibilities as a member
27 of Wynn Resorts' Board of Directors. Wynn Resorts' concerns were ill-received.

28

1 36. Over the next month, counsel for Wynn Resorts and Okada engaged in discussions
2 about Wynn Resorts' concerns that Okada's involvement in the Philippines was placing
3 Wynn Resorts and its shareholders at substantial risk.

4 37. Okada designed and executed a strategy to divert attention away from his own
5 misconduct. Okada claimed to need access to certain books and records (*e.g.*, records related to
6 an amendment to a shareholder's agreement between Mr. Wynn, Elaine Wynn, and Okada).
7 Okada's diversionary tactics underscored his need to change the topic from the real issue – his
8 misconduct in the Philippines.

9 38. Okada's game playing continued. On October 25, 2011, days before the
10 long-scheduled Foreign Corrupt Practices Act training, he requested that the training materials be
11 translated into Japanese (despite his previous, long-term practice of translating all materials on his
12 own) and that the date of the training be moved (despite that it had been planned around his
13 previous confirmation). His refusal to attend the training, an event attended by all other Board
14 members, demonstrated a cavalier disregard for his obligations as director of a company in a
15 highly regulated gaming industry. In the end, Okada was the sole Board member who failed to
16 attend the training, with all other directors appearing in person or telephonically.

17 ***Former FBI Director Freeh Investigates***

18 39. On or about October 29, 2011, Wynn Resorts, on behalf of its Compliance
19 Committee, retained Freeh to conduct an independent investigation into Okada and his activities,
20 with a focus on three main areas: (1) whether Okada breached the fiduciary duties owed to
21 Wynn Resorts; (2) whether Okada engaged in conduct that could jeopardize Wynn Resorts'
22 gaming licenses; and (3) whether Okada engaged in any conduct that could violate Wynn Resorts'
23 compliance policy.

24 40. As part of that investigation, Freeh conducted dozens of interviews (including of
25 all independent members of Wynn Resorts' Board of Directors), and reviewed thousands of pages
26 of documents and emails. As of January 1, 2012, there remained only one outstanding item on
27 Freeh's to-do list: interview Okada. Yet, Okada refused to schedule the interview despite Freeh's
28

1 stated willingness to travel on short notice to conduct the interview anywhere in the world to
2 accommodate Okada's schedule.

3 41. With only Okada's interview outstanding, on February 6, 2012, Freeh briefed
4 Wynn Resorts' Compliance Committee.

5 42. Okada finally sat for his interview with Freeh in Tokyo, Japan, on February 15,
6 2012, where Okada was accompanied by United States counsel.

7 43. Freeh announced that he would report his findings to the Board of Directors on
8 February 18, 2012.

9 44. At the February 18, 2012 Board meeting, Freeh made a detailed presentation and
10 provided the Board with copies of his final report, outlining the following improprieties, among
11 others:

12 a. The Universal City Ledger account established by Okada revealed
13 36 separate instances, from May 2008 to through June 2011 where Okada
14 or his associates/affiliates made payments exceeding US \$110,000 that
15 directly benefitted senior PAGCOR officials. This included payment for
16 luxury lodging, extravagant dinners, shopping, and cash to spend for,
17 among others, former PAGCOR Chairman Genuino and his family and
18 friends and current PAGCOR Chairman, Cristino Naguiat ("Naguiat").

19 b. The Freeh report noted that Okada's conduct constituted *prima facie*
20 evidence of violations of the Foreign Corrupt Practices Act. On one
21 particular occasion, Okada arranged for PAGCOR Chairman Naguiat, his
22 wife, his three children, their nanny, other senior PAGCOR officials, one of
23 whom also brought his family to stay at Wynn Macau. Okada and his
24 associates refused to provide Wynn Macau management with the name of
25 Chairman Naguiat and tried to conceal his identity. At Okada's associates'
26 request and Okada's direction, Chairman Naguiat and his entourage were
27 provided with the most expensive accommodation, food, and star
28 treatment. In addition, Okada's associates asked that each guest be

1 provided a \$5,000 cash advance during their stay. Following the stay,
2 Okada's associates requested Wynn Macau reduce the excessive charges
3 because they feared an investigation and did not want Universal to get in
4 trouble. Wynn Macau refused.

5 c. There is substantial evidence that Okada, his associates and companies may
6 have arranged and manipulated ownership and management of legal
7 entities in the Philippines under his control, in a manner that may have
8 enabled the evasion of Philippine constitutional and statutory requirements.

9 d. Moreover, close associates and consultants of the former PAGCOR
10 administration attained positions as corporate officers, directors and/or
11 nominal shareholders of entities controlled by Okada and, in some cases,
12 served as links between Okada and the former PAGCOR chair.

13 e. There is substantial evidence that the ownership structure of
14 Okada-affiliated, ARUZE USA-owned entities may subject Okada to civil
15 and criminal penalties under Philippine law.

16 f. Despite being repeatedly advised of the strict anti-bribery laws and
17 Wynn Resorts' policies, Okada insists and strongly believes that, when
18 doing business in Asia, he is permitted to provide gifts and things of value
19 to government officials, whether directly or indirectly.

20 g. His conduct is not accidental or based upon a misunderstanding of the law
21 or the policies. Rather, Okada stated his personal rejection of anti-bribery
22 laws and Wynn Resorts' related policies to fellow Wynn Resorts Board
23 members.

24 45. Following Freeh's presentation, the Board deliberated at length and unanimously
25 adopted resolutions finding the Defendants to be Unsuitable Persons under Wynn Resorts' Second
26 Amended and Restated Articles of Incorporation ("Articles of Incorporation" and/or "Articles"),
27 and redeemed ARUZE USA's shares in Wynn Resorts in accordance with the provisions of the
28 Articles

(Wynn Resorts against Okada)

51. The Code of Conduct provides a non-exclusive list of potential conflict scenarios. Included in this list is an express prohibition on financial interests in other businesses: "You may not own a significant interest in any company that competes with [Wynn Resorts]." The Code of Conduct provides that "it is not typically" a conflict if the competing entity "is a publicly traded company *and* you and your family members' only relationship with any such entity is to have an

1 interest of *less than 2%* of the outstanding shares of the [competing] company." (Emphasis
2 added).

3 52. Further, the Code of Conduct precludes outside employment or activities with a
4 competitor. Specifically, "[s]imultaneous employment with or serving as a director of a
5 competitor of [Wynn Resorts] is prohibited, as is any activity that is intended to or that you
6 should reasonably expect to advance a competitor's interests. You may not market products or
7 services in competition with [Wynn Resorts'] current or potential business activities. . . ."

8 53. In addition, the Code of Conduct expressly states that "*[y]ou may not use*
9 *corporate property or information or your position at [Wynn Resorts] for improper personal*
10 *gain, and you may not compete with [Wynn Resorts].*" (Emphasis added.)

11 54. The Code of Conduct also provides as follows:

12 a. With respect to offering gifts and entertainment,

13 i. "Special rules apply in the context of dealing with government
14 officials and employees. See 'Interacting with Government –
15 Prohibition on Gifts to Government Officials and Employees'
16 below."

17 ii. "Giving or receiving any payment or gift in the nature of a bribe or
18 a kickback is absolutely prohibited."

19 iii. "You are prohibited from providing gifts, meals or anything of
20 value to government officials or employees or members of their
21 families in connection with Company business without prior written
22 approval from the Compliance Officer."

23 iv. "The Company's Policy Regarding Payments to Foreign Officials,
24 the U.S. Foreign Corrupt Practices Act (the "FCPA"), and the laws
25 of many other countries prohibit the Company and its officers,
26 employees and agents or other third parties from giving or offering
27 to give money or anything of value, directly or through an
28 intermediary, to a foreign officials, employees of a state-owned

1 company, a foreign political party, a party official or a candidate for
2 political office in order to attempt to influence officials acts or
3 decisions of that person or entity, to obtain or retain business, or to
4 secure any improper advantage."

5 b. With respect to company information and intellectual property:

6 i. "Company assets, including Company time, equipment, materials,
7 resources and proprietary information, must be used for business
8 purposes only."

9 ii. "The Intellectual Property must not be used or reproduced without
10 the consent of the Company and for authorized use in connection
11 with the Company's business. Every effort must be undertaken to
12 protect the Intellectual Property from illegal copying or misuse."

13 55. As a Wynn Resorts director, Okada was bound by the Code of Conduct.

14 56. Further, as a Director, Okada stands as a fiduciary to Wynn Resorts and, therefore,
15 owes a high duty to the Company, including the duty of care, the duty of loyalty, and that he at all
16 times discharged those duties in good faith and with a view to the interests of Wynn Resorts.

17 57. The fiduciary duty of loyalty that Okada owed as a Director required him to
18 maintain, in good faith, the corporation's and its shareholders' best interests over the interests of
19 anyone else, including his own.

20 58. Okada breached his fiduciary duties by engaging in unlawful activities, many of
21 which occurred on Wynn Resorts' properties, and all of which undermine Wynn Resorts'
22 reputation as well as its business and gaming licenses.

23 59. Okada further breached his fiduciary duty of loyalty by, among other things,
24 self-dealing, placing his own interests above those of Wynn Resorts, and using Wynn Resorts'
25 confidential information, trade secrets, and related trademarks for his own benefit and to
26 Wynn Resorts' detriment. Specifically, and among other things, the website of Universal (of
27 which Okada holds a significant interest and serves as Chairman of the Board) states that
28 Universal obtained its purported experience and "know how" in operating top quality facilities

1 and providing services to the high end market through Okada's experience with Wynn Resorts.
2 Universal's website also states that it intends to use its know-how acquired by Okada from his
3 relationship with Wynn Resorts in Universal's Manila Bay casino-resort operation. Universal and
4 Okada expressly admit (and those in the industry indisputably recognize) that a Manila Bay
5 casino-resort will compete with Wynn Macau (in which Wynn Resorts has a significant
6 ownership interest) for gaming customers and resort clientele.

7 60. Okada's acts and/or failures to act constituted breaches of his fiduciary duties.
8 Okada's breaches of duty involved intentional misconduct and knowing violations of the law.

9 61. As a direct and proximate result of Okada's acts and omissions, Wynn Resorts has
10 suffered and will continue to suffer direct, incidental and consequential damages in an amount to
11 be proven at trial, but in any event, in excess of \$10,000, plus prejudgment interest.

12 62. In committing the acts herein above alleged, Okada is guilty of oppression, fraud,
13 and malice toward Wynn Resorts. As such, Wynn Resorts is entitled to recover punitive damages
14 from Okada for the purpose of deterring him and others similarly situated from engaging in like
15 conduct.

16 63. As a result of the acts and omissions of Okada, Wynn Resorts has been compelled
17 to hire the services of an attorney for the protection of its interests.

18 **SECOND CAUSE OF ACTION**

19 **(Aiding & Abetting Breach of Fiduciary Duty)**

20 **(Wynn Resorts against ARUZE USA & Universal)**

21 64. Wynn Resorts repeats and realleges the allegations set forth in Paragraphs 1
22 through 63 above as though fully set forth herein.

23 65. As a director, Okada owed Wynn Resorts a fiduciary duty of loyalty which, as
24 alleged herein, he breached.

25 66. ARUZE USA and Universal knowingly participated in Okada's breach by
26 facilitating the self-dealing and misappropriation of Wynn Resorts' confidential information, trade
27 secrets, and trademarks, and committing unlawful acts that undermine Wynn Resorts' good
28 reputation as well as its business and gaming licenses.

1 67. As a direct and proximate result of ARUZE USA's and Universal's acts and
2 omissions in aiding and abetting Okada's breach of duty, Wynn Resorts has suffered and will
3 continue to suffer direct, incidental and consequential damages in an amount to be proven at trial,
4 but in any event, in excess of \$10,000, plus prejudgment interest.

5 68. In committing the acts herein above alleged, ARUZE USA and Universal are
6 guilty of oppression, fraud, and malice toward Wynn Resorts. As such, Wynn Resorts is entitled
7 to recover punitive damages from ARUZE USA and Universal for the purpose of deterring them
8 and others similarly situated from engaging in like conduct.

9 69. As a result of the acts and omissions of ARUZE USA and Universal, Wynn
10 Resorts has been compelled to hire the services of an attorney for the protection of its interests.

11 **THIRD CAUSE OF ACTION**

12 **(Declaratory Relief – NRS Chapter 30)**

13 **(Wynn Resorts against Okada, ARUZE USA & Universal)**

14 70. Wynn Resorts repeats and realleges the allegations set forth in Paragraphs 1
15 through 69 above as though fully set forth herein.

16 71. To be deemed "suitable" under Nevada gaming law, the applicant must be: (a) a
17 person of good character, honesty and integrity; (b) a person whose prior activities, criminal
18 record, if any, reputation, habits and associations do not pose a threat to the public interest of the
19 State of Nevada or to the effective regulation and control of gaming, and (c) must have adequate
20 business probity, competence and experience, in gaming or generally.

21 72. Section 3.090 of the Nevada Gaming Regulations provides that a license,
22 registration, and suitability finding requires, among other things, a person of "good character,
23 honesty, and integrity" and one "whose background, reputation and associations will not result in
24 adverse publicity for the State of Nevada and its gaming industry"

25 73. Even after a suitability finding, Regulation 3.080 provides that "[t]he commission
26 may deny, revoke, suspend, limit condition or restrict any registration or finding of suitability or
27 application therefor upon the same grounds as it may take such action with respect to licenses,
28 licensees and licensing; without exclusion of any other grounds."

1 74. In recognition of the central importance of its gaming license, Wynn Resorts'
2 Articles of Incorporation afford the Board of Directors the "sole discretion" to take certain action
3 to protect the gaming licenses and approvals of Wynn Resorts and its affiliates. Under the
4 Articles of Incorporation, an "'Unsuitable Person' shall mean a Person who . . . in the sole
5 discretion of the board of directors of the Corporation, is deemed likely to jeopardize the
6 Corporation's or any Affiliated Company's application for, receipt of approval for, right to the use
7 of, or entitlement to, any Gaming License." In addition, the Amended and Restated Gaming and
8 Compliance Program defines an "Unsuitable Person" as, among other things, one "that the
9 Company determines is unqualified as a business associate of the Company or its Affiliates based
10 on, without limitation, that person's antecedents, financial practices, financial condition or
11 business probity."

12 75. Following a determination of unsuitability, the Articles of Incorporation provide
13 that "[t]he Securities Owned or Controlled by an Unsuitable Person or an Affiliate of an
14 Unsuitable Person shall be subject to redemption by the Corporation, out of funds legally
15 available therefor, by action of the board of directors, to the extent . . . deemed necessary or
16 advisable by the board of directors. If . . . the board of directors deems it necessary or advisable,
17 to redeem any such Securities, the Corporation shall give a redemption Notice to the Unsuitable
18 Person or its Affiliate and shall purchase on the Redemption Date the number of shares of the
19 Securities specified in the Redemption Notice for the price set forth in the Redemption
20 Notice"

21 76. On February 18, 2012, following Freeh's presentation, the Board of Directors
22 deliberated at length and thereafter adopted resolutions that: (1) determined that ARUZE USA,
23 and Universal were likely to jeopardize Wynn Resorts' and its affiliated companies' gaming
24 licenses; (2) deemed Okada, ARUZE USA, and Universal to be unsuitable persons under
25 Wynn Resorts' Articles of Incorporation; and (3) redeemed ARUZE USA's shares in
26 Wynn Resorts for approximately US \$1.936 billion via a promissory note, in accordance with
27 Article VII of the Articles of Incorporation.

28

1 77. Aware of the magnitude of his improprieties and what any reasonable Board of
2 Directors of a Nevada gaming company would have to do, Okada attempted, in advance of the
3 February 18, 2012 Board meeting, to set up a defense by disputing the Board's authority to act
4 upon Freeh's report.

5 78. Accordingly, a justiciable controversy has arisen between the parties whose
6 interests are adverse, and the dispute is ripe for adjudication. Wynn Resorts acted lawfully and in
7 full compliance with its Articles of Incorporation, Bylaws, and other governing documents and is
8 entitled to a declaration from this Court to that effect.

9 79. As a result of the acts and omissions of Defendants, Wynn Resorts has been
10 compelled to hire the services of an attorney for the protection of its interests.

11 WHEREFORE, Wynn Resorts prays for judgment as follows:

12 1. For compensatory and special damages, including attorneys' fees, against
13 Defendants in an amount to be determined at trial;

14 2. For a declaration that Wynn Resorts acted lawfully and in full compliance with its
15 Articles of Incorporation, Bylaws, and other governing documents as set forth herein;

16 3. Disgorgement of profits;

17 4. Punitive damages;


18 5. For an award of reasonable costs and attorneys' fees;

19 6. For prejudgment and post-judgment interest on the foregoing sums at the highest
20 rate permitted by law; and

1 7. Any additional relief this Court deems just and proper on the evidence presented at
2 trial.

3 DATED this 18th day of February, 2012.

4 PISANELLI BICE PLLC

5
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EXHIBIT 1

REPORT
Attorney – Client / Work Product / Privileged and Confidential

I. Introduction

Wynn Resorts, Limited (“Wynn Resorts”), a publicly traded company incorporated in the State of Nevada, on behalf of its Compliance Committee, retained Freeh Sporkin & Sullivan, LLP (“FSS”) on November 2, 2011 to conduct an independent investigation. That independent investigation has been conducted under the sole direction of the Compliance Committee. The purpose of the investigation was to determine whether there is evidence that Mr. Kazuo Okada, a member of the Wynn Resorts Board of Directors, may have: (i) breached his fiduciary duties to Wynn Resorts; (ii) engaged in conduct that potentially could jeopardize the gaming licenses of Wynn Resorts; and/or, (iii) violated the Wynn Resorts compliance policy. Specifically, FSS has been asked to examine Mr. Okada’s efforts in connection with the creation of a gaming establishment in the Republic of the Philippines.

This is the Report to the Compliance Committee Chairman on the results of FSS’ investigation. As set forth with greater detail in the attached appendix, FSS has performed its investigation by interviewing dozens of individuals and by reviewing thousands of documents, electronic emails, corporate and public records.

II. Summary

The investigation has produced substantial evidence that:

1. Despite being advised by the Wynn Resorts Board of Directors and Wynn Resorts attorneys on the strict US anti-bribery laws which govern Wynn Resorts and its board, Mr. Okada strongly believes and asserts that when doing business in Asia, he should be able to provide gifts and things of value to foreign government officials, whether directly or by the use of third party intermediaries or consultants.
2. Mr. Okada, his associates and companies have arranged and designed his corporate gaming business and operations in the Philippines in a manner which appears to contravene Philippine Constitutional provisions and statutes that require 60% ownership by Philippine nationals, as well as a Philippine criminal statute.
3. Mr. Okada, his associates and companies appear to have engaged in a longstanding practice of making payments and gifts to his two (2) chief gaming regulators at the Philippines Amusement and Gaming Corporation (“PAGCOR”), who directly oversee and regulate Mr. Okada’s Provisional Licensing Agreement to operate in that country. Since 2008, Mr. Okada and his associates have made multiple payments to and on behalf of these chief regulators, former PAGCOR Chairman Efraim Genuino and Chairman Cristino Naguiat (his current chief regulator), their families and PAGCOR associates, in an amount exceeding US 110,000. At times, Mr. Okada, his

REPORT
Attorney – Client / Work Product / Privileged and Confidential

associates and companies have consciously taken active measures to conceal both the nature and amount of these payments, which appear to be prima facie violations of the United States Foreign Corrupt Practices Act (“FCPA”). In one such instance in September 2010, Mr. Okada, his associates and companies, paid the expenses for a luxury stay at Wynn Macau by Chairman Naguiat, Chairman Naguiat’s wife, their three children and nanny, along with other senior PAGCOR officials, one of whom also brought his family. Mr. Okada and his staff intentionally attempted to disguise this particular visit by Chairman Naguiat by keeping his identity “Incognito” and attempting to get Wynn Resorts to pay for the excessive costs of the chief regulator’s stay, fearing an investigation. Wynn Resorts rejected the request by Mr. Okada and his associates to disguise and to conceal the actual expenditures made on behalf of Chairman Naguiat.

4. Additionally, Mr. Okada, his associates and companies appear to have engaged in a pattern of such prima facie violations of the FCPA. For example, in 2010 it also is possible that Mr. Okada, his associates and companies made similar payments to a Korean government official who oversees Mr. Okada’s initial gaming investment in that country. Additional investigation is needed to develop and confirm these possible FCPA violations.
5. The prima facie FCPA violations by Mr. Okada, his associates and companies constitute a substantial, ongoing risk to Wynn Resorts and to its Board of Directors, creating regulatory risk, conflicts of interest and potential violations of his fiduciary duty to Wynn Resorts. Finally, Mr. Okada’s documented refusal to receive Wynn Resorts requisite FCPA training provided to other Directors, as well as his failure to sign an acknowledgment of understanding of Wynn Resorts Code of Conduct, increase this risk going forward.
6. Mr. Okada insisted in his interview that all of his gaming efforts in the Philippines prior to the change of the presidential administration in the summer of 2010 were undertaken on behalf of and for the benefit of Steve Wynn and Wynn Resorts. This assertion is contradicted by press releases dating back to 2007 on his website, which announce an independent effort by Universal; his real estate investments; and the ownership of his corporations in the Philippines.
7. (7) Mr. Okada has stated that Universal paid expenses related to then-PAGCOR Chairman Genuino’s trip to Beijing during the 2008 Olympics.

REPORT
Attorney – Client / Work Product / Privileged and Confidential

III. Kazuo Okada's Relevant Corporate Affiliations

A. Wynn Resorts

After an initial public offering which closed in October 2002, Aruze USA, Inc., controlled by Mr. Okada, became a 24.5% shareholder of Wynn Resorts. Mr. Okada's current ownership of Wynn Resorts through his control of Aruze USA, Inc. is 19.66%.

Mr. Okada became a member of the Wynn Resorts Board of Directors on October 21, 2002, and remains on the Board of Directors as of the date of this Report. In the past, Mr. Okada has used the title of Vice Chairman of Wynn Resorts. In October 2011, the Wynn Resorts Board of Directors eliminated the position of Vice Chairman.

As a Director of Wynn Resorts, Mr. Okada is entitled to receive the courtesy of what is called a "City Ledger Account." Such accounts were originally instituted as a result of Sarbanes Oxley's prohibition of extensions of credit, in the form of a personal loan from an issuer to an officer or director. The accounts were funded by deposits from the director or his company. Such an account exists for billing conveniences related to charges incurred at various Wynn Resorts locales. Mr. Okada has availed himself of this courtesy and established such a City Ledger Account.¹ Within Wynn Resorts, this Okada City Ledger Account is referred to either as the "Universal City Ledger Account" or as the "Aruze City Ledger Account." Accordingly, the phrases Universal City Ledger Account and Aruze City Ledger Account will be referred to interchangeably within this report despite the fact that Aruze Corp.'s name was changed to Universal Entertainment Corporation in November of 2009.

Mr. Okada has been found to be suitable by the Nevada Gaming Commission.²

B. Universal Entertainment Corporation of Japan

Mr. Okada currently serves as Director and Chairman of the Board of Universal Entertainment Corporation ("Universal Entertainment"), registered in Tokyo, Japan. Universal Entertainment Corporation is the current trade name of a company which was incorporated in 1969 as Universal Lease Co. Ltd. and which became Aruze Corp. in 1998. Aruze changed its

¹ The initial wire to establish the Aruze Corp. City Ledger Account was dated February 15, 2008.

² Mr. Okada was originally found to be suitable as a shareholder of Aruze Corp. as part of *An Order of Registration* issued jointly by the State Gaming Control Board and the Nevada Gaming Commission on June 4, 2004. On June 5, 2005, in a similar order, the Nevada Commission and the State Gaming Control Board found Aruze Corp. to be (1) suitable as a controlling shareholder of Wynn Resorts, Limited, (2) suitable as the sole shareholder of Aruze USA, Inc., (3) that Aruze USA, Inc. is registered as an intermediary company and is found suitable as a shareholder of Wynn Resorts, Limited, and (4) that Mr. Okada is suitable as a shareholder and controlling shareholder of Aruze Corp. [See Appendix]

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name to Universal Entertainment Corporation in November 2009. Universal is listed on the JASDAQ stock exchange and is engaged in the manufacture and sale of pachinko and gaming machines and related business activities. As of September 2011, Okada Holdings Godokaisha was Universal Entertainment's major shareholder, with 67.90% of the issued shares.

The Nevada Gaming Commission has approved Universal Entertainment's suitability as the 100% shareholder for a subsidiary, Aruze USA, Inc.

C. Aruze USA, Inc.

Aruze USA, Inc. ("Aruze USA") is a wholly owned subsidiary of Universal Entertainment. Aruze USA is a US company and was incorporated in the State of Nevada on June 9, 1999. Mr. Okada is a Director of Aruze USA and serves as its President, Secretary, and Treasurer.

Aruze USA has been found suitable by the Nevada Gaming Commission as a major shareholder of Wynn Resorts.

D. Aruze Gaming America, Inc.

Aruze Gaming America, Inc. is a private company that is 100% personally owned by Mr. Okada. He currently serves as a Director, Secretary, and Treasurer of the company. Aruze Gaming America, Inc. is a US company and was incorporated on February 7, 1983. The company changed its name from Universal Distributing of Nevada, Inc. to Aruze Gaming America, Inc. on January 6, 2006. Aruze Gaming America, Inc. shares a common business address with Aruze USA, Inc. in Las Vegas, Nevada.

E. Business Interests in the Republic of the Philippines

Since 2008, Mr. Okada has been involved with a variety of corporate entities and with various business associates in the creation of a gaming establishment in an area of the Philippines known as Entertainment City Manila.³ In furtherance of this endeavor, Mr. Okada and his associates have procured land and a provisional gaming license in the Philippines. A more detailed review of Mr. Okada's corporate entities and business associates in the Philippines is set forth in Section V(2)(A) below.

F. Business Interests in the Republic of Korea

Mr. Okada has recently pursued development of a casino resort complex in the Incheon Free Economic Zone in the Republic of Korea. A more detailed review of Mr. Okada's activities in Korea is set forth in Section V(4) below.

³ On the Universal Entertainment website (viewed January 30, 2012) this project is referenced as "Manila Bay Resorts." [See Appendix]

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IV. Relevant Legal and Policy Standards

A. FCPA

The United States Foreign Corrupt Practices Act (“FCPA”) contains two primary categories of violations: (i) a books and records provision, and (ii) a bribery provision. Based upon available information, it seems clear that Aruze USA fits the definition of domestic concern⁴ and United States person⁵ provided in the FCPA, and that the FCPA applies both to Aruze USA and to Mr. Okada personally, in his capacity as an officer and director of Aruze USA.

Under the definitions of domestic concern and United States person, the statute applies to a corporation, partnership, unincorporated organization and other enumerated entities that have their principal place of business in the United States or which are organized under the laws of a State of the United States. It also applies to officers and directors of such concerns.⁶

In 1998, the FCPA was amended and added an alternative basis to interstate commerce for jurisdiction. As the United States District Court for the Southern District of New York wrote: “. . . . The amendments expanded FCPA coverage to ‘any person’ -- not just ‘issuers’ or ‘domestic concerns’ [A]ny United States person or entity violating the Act outside of the United States is subject to prosecution, regardless of whether any means of interstate commerce were used. Citing 15 USC 78dd-1, 78dd-2. . . . (Emphasis added.)⁷

Under this definition, Aruze USA is a covered party under the FCPA.

The FCPA provides that “[i]t shall be unlawful for any domestic concern, other than an issuer which is subject to section 78dd-1 of this title, or for any officer, director, employee, or agent of such domestic concern or any stockholder thereof acting on behalf of such domestic concern, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

(1) any foreign official for purposes of—

(A)

⁴ 15 U.S.C. 78 dd – 2(a),(h).

⁵ 15 U.S.C. 78 dd – 2(i).

⁶ 15 U.S.C. 78 dd – 2(g).

⁷ *In re Grand Jury Subpoena*, 218 F. Supp. 2d 544, 550 (S.D.N.Y. 2002).

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- (i) influencing any act or decision of such foreign official in his official capacity,
 - (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or
 - (iii) securing any improper advantage; or
- (B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality, in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person; . . .”⁸

The head of PAGCOR fits within the definition of foreign official as used in the FCPA.

According to PAGCOR’s website, it “is a 100 percent government-owned and controlled corporation that runs under the direct supervision of the Office of the President of the Republic of the Philippines.”⁹ In addition to prescribing mandates to generate revenue for certain government programs and promote tourism in the Philippines, PAGCOR’s charter states that the entity will “...[r]egulate, authorize and license games of chance, games of cards and games of numbers, *particularly casino gaming*, in the Philippines...”¹⁰ (Emphasis added.)

As set forth above, there is still the interstate commerce basis for jurisdiction, but there is also an alternative. The alternative would require the same elements for an offense, but a showing of interstate commerce would not be required. If the interstate commerce basis for jurisdiction were used, the analysis set forth below would be of significance.

With regard to means or instrumentality of interstate commerce, some of the facts referred to in this report pertain to Mr. Okada utilizing the Universal City Ledger Account to confer financial benefits upon Philippine gambling regulators who could affect the business interests of Aruze USA, Inc. in the Philippines. Some of those benefits were conferred at Wynn Macau. The following facts concerning the Universal City Ledger Account, which bear upon use of means or instrumentalities of interstate commerce, were established during the investigation:

- The account is maintained at the corporate offices of Wynn Resorts, Limited in Las Vegas, Nevada where periodic deposits are made from Universal into the Wynn Resorts, Limited operating account at Bank of America in Las Vegas, Nevada to ensure that the amount on deposit remains at or about US 100,000. Bank documents reflect that the deposits are received from a Universal Entertainment account located in Japan.¹¹

⁸ 15 U.S.C. Section 78dd – 2(a).

⁹ <http://www.pagcor.ph/pagcor-faqs-profile.php>, viewed January 18, 2012. [See Appendix]

¹⁰ Ibid., viewed January 18, 2012. [See Appendix]

¹¹ See, e.g. wire transfer documents from Sumitomo Mitsumi Bank to Bank of America. [See Appendix]

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- When charges are incurred at Wynn Macau, Wynn Macau tracks all charges for the Universal City Ledger Account on its books, and then the accounting department transfers the charges to accounting at Wynn Resorts, Limited in Las Vegas via a journal entry. Wynn Macau sends a pdf file to a staff accountant at Wynn Resorts, Limited in Las Vegas with all the backup documentation. Invoices issued by Wynn Resorts, Limited are periodically sent to a Universal Entertainment email address.¹²

B. Nevada Gaming Regulations and Wynn Resorts Policies

The question of whether or not a gaming licensee or licensee applicant is deemed “suitable” in Nevada is answered by reviewing the Nevada Revised Statutes (“NRS”) in conjunction with the regulations promulgated by the Nevada Gaming Commission (“NGC”), which is empowered by the NRS.¹³

1. Legislative Authority

The standard for determining suitability is found in Section 463.170 of the NRS. Paragraph (2) of the NRS 463.170, entitled *Qualifications for license, finding of suitability or approval; regulations*, provides that the person seeking a license or a suitability determination is subject to the following considerations: “[a]n application to receive a license or be found suitable must not be granted unless the Commission is satisfied that the applicant is: (a) A person of good character, honesty and integrity; (b) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this State or to the effective regulation and control of gaming. . . .” In addition, paragraph (3) provides in pertinent part “[a] license to operate a gaming establishment or an inter-casino linked system must not be granted unless the applicant has satisfied the Commission that: (a) [t]he applicant has adequate business probity, competence and experience, in gaming or generally. . . .”

The Nevada Gaming Commission Regulations (“Nevada Gaming Regulations”) are also relevant to the conditions placed upon suitability. According to Section 3.080 of the Nevada Gaming Regulations, entitled *Unsuitable affiliates*, “[t]he commission may deny, revoke, suspend, limit, condition or restrict any registration or finding of suitability or application therefor upon the same grounds as it may take such action with respect to licenses, licensees and licensing; without exclusion of any other grounds.” Paragraph (1) of Section 3.090, entitled

¹² In a Wynn Resorts Memorandum to File from the Corporate Accounting department, dated January 10, 2012, the “invoice[s] and all support documentation are emailed to kimiko.okamura@hq.universal-777.com, takashi.usami@hq.universal-777.com and iwayama.hidetsugu@hq.universal-777.com on the 5th of each month for the prior month [sic] activity.” [See Appendix]

¹³ For further advice regarding suitability, please consult directly with David Arraji, Esq. and/or see Memo dated December 9, 2011 from Kate Lowenhar-Fisher, Esq. and Jamie L. Thalgott, Esq. to David Arraji, Esq. re Associations and the Suitability Analysis. [See Appendix]

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Standards for commission action, provides in pertinent part that “[n]o license, registration, finding of suitability, or approval shall be granted unless and until the applicant has satisfied the commission that the applicant: (a) Is a person of good character, honesty, and integrity; (b) Is a person whose background, reputation and associations will not result in adverse publicity for the State of Nevada and its gaming industry; and (c) Has adequate business competence and experience for the role or position for which application is made.”

2. Underlying Corporate Documents of Wynn Resorts

The Second Amended and Restated Articles of Incorporation of Wynn Resorts, Limited (filed September 16, 2002) also provide for standards that seek to define an “Unsuitable Person.” As set forth on page 8 of the Articles of Incorporation, the phrase Unsuitable Person “shall mean a Person who . . . in the sole discretion of the board of directors of the Corporation, is deemed likely to jeopardize the Corporation’s or any Affiliated Company’s application for, receipt of approval for, right to the use of, or entitlement to, any Gaming License.” (Emphasis added.)

Finally, the Amended and Restated Gaming and Compliance Program of Wynn Resorts, Limited (adopted as of July 29, 2010) defines an *Unsuitable person* as a “[p]erson (i) who has been denied licensing or other related approvals by a Gaming Authority on the grounds of unsuitability or who has been determined to be unsuitable to be associated with a gaming enterprise by a Gaming Authority; or (ii) that the Company determines is unqualified as a business associate of the Company or its Affiliates based on, without limitation, that Person’s antecedents, associations, financial practices, financial condition or business probity.”

In the event of a finding of unsuitability, there are provisions within the aforementioned corporate documents that provide for a resolution post determination. Specifically, on page 6 of the Second Amended and Restated Articles of Incorporation of Wynn Resorts, Limited, the Articles state in pertinent part, “[t]he Securities Owned or Controlled by an Unsuitable Person or an Affiliate of an Unsuitable Person shall be subject to redemption by the Corporation, out of funds legally available therefor, by action of the board of directors, to the extent required by the Gaming Authority making the determination of unsuitability or to the extent deemed necessary or advisable by the board of directors. If a Gaming Authority requires the Corporation, or the board of directors deems it necessary or advisable, to redeem any such Securities, the Corporation shall give a Redemption Notice to the Unsuitable Person or its Affiliate and shall purchase on the Redemption Date the number of shares of the Securities specified in the Redemption Notice for the Price set forth in the Redemption Notice. . . .” The Articles provide further guidance as to the terms of the redemption.

In addition, according to Section 3.6 of the Fourth Amended and Restated Bylaws, effective as of November 13, 2006, the removal of a director is premised upon “. . . the

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affirmative vote of the holders of not less than two-thirds (2/3) of the voting power of the issued and outstanding stock of the Corporation entitled to vote generally in the election of directors (voting as a single class). . . .” Resignation is also listed as an option “upon giving written notice, unless the notice specifies a later time for effectiveness of such resignation, to the chairman of the board, if any, the president or secretary, or in the absence of all of them, any other officer.”

C. Wynn Resorts Code of Business Ethics

Wynn Resorts first adopted a Code of Business Conduct and Ethics on May 4, 2004. The document defines itself as “a statement of policies for the individual and business conduct of the Company’s employees and Directors”¹⁴ There are two sections of the Code that are relevant to this investigation: (i) conflict of interest and (ii) interaction with government officials. The sections are included below for reference purposes.

1. Conflict of Interest:

“A Conflict of interest occurs when your private interests interfere, or even appear to interfere, with the interests of the Company. A conflict situation can arise when you take actions or have interests that make it difficult for you to perform your Company work objectively and effectively. Your obligation to conduct the Company's business in an honest and ethical manner includes the ethical handling of actual, apparent and potential conflicts of interest between personal and business relationships. This includes full disclosure of any actual, apparent or potential conflicts of interest as set forth below.

Special rules apply to executive officers and Directors who engage in conduct that creates an actual, apparent or potential conflict of interest. Before engaging in any such conduct, executive officers and Directors must make full disclosure of all facts and circumstances to the Corporate Secretary, who shall inform and seek the prior approval of the Audit Committee of the Board of Directors.”

2. Interacting with Government:

Prohibition on Gifts to Government Officials and Employees

“Different governments have different laws restricting gifts, including meals, entertainment, transportation and lodging, that may be provided to government officials and government employees. You are prohibited from providing gifts, meals or anything of value to government officials or employees or members of their families in connection with Company business without prior written approval from the Compliance Officer.”

¹⁴ Wynn Resorts Code of Business Conduct and Ethics dated May 4, 2004, page 7. [See Appendix]

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Bribery of Government Officials

"The Company's Policy Regarding Payments to Foreign Officials, the U.S. Foreign Corrupt Practices Act (the "FCPA"), and the laws of many other countries prohibit the Company and its officers, employees and agents from giving or offering to give money or anything of value to a foreign official, a foreign political party, a party official or a candidate for political office in order to influence official acts or decisions of that person or entity, to obtain or retain business, or to secure any improper advantage. Please refer to the Company's Policy Regarding Payments to Foreign Officials for more details regarding prohibited payments to foreign government officials."

Discipline for Violations:

"The Company intends to use every reasonable effort to prevent the occurrence of conduct not in compliance with its Code and to halt any such conduct that may occur as soon as reasonably possible after its discovery. Subject to applicable laws and agreements, Company personnel who violate this Code and other Company policies and procedures may be subject to disciplinary action, up to and including discharge." (Emphasis added.)

The Code has since been revised twice, once in 2009 and then again on November 1, 2011. Although the above sections have been expanded in these later editions, for the purpose of this investigation and the dates in question the substance has remained basically the same and the FCPA has continued to be a point of emphasis.

V. Report of Investigation

1. Mr. Okada's Attitude Toward Wynn Resorts Compliance Requirements

Mr. Okada's prima facie violations of FCPA, involving both his government regulators in the Philippines and possibly in Korea, do not appear to be accidental or based upon a misunderstanding of anti-bribery laws. Conversely, despite being advised by fellow Wynn Resorts Board members and Wynn Resorts counsel that payments and gifts to foreign government officials are strictly prohibited, Mr. Okada has insisted that there is nothing wrong with this practice in Asian countries. Mr. Okada has stated his personal rejection of Wynn Resorts anti-bribery rules and regulations, as well as legal prohibitions against making such payments to government officials, to fellow Wynn Resorts Board members.

In a February 24, 2011 Wynn Resorts Board of Directors ("Board") meeting at which Mr. Okada was present, after a lengthy discussion by the Board of the FCPA,¹⁵ including specifically the Universal project in the Philippines and potential Wynn Resorts' involvement, "[t]he

¹⁵ In an email from Kim Sinatra to Michiaki Tanaka, dated February 26, 2011, Ms. Sinatra referenced a meeting with Mr. Okada in which she furnished FCPA policy and training materials and reiterated the importance of strict compliance with the FCPA. [See Appendix]

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independent members of the board unanimously advised management that any involvement [by Wynn Resorts] in the Philippines under the current circumstances was inadvisable.”¹⁶ During this discussion, Mr. Okada challenged the other board members over statements regarding the impermissibility under the FCPA of giving gifts abroad in return for favorable treatment, and made statements about hiring “third party consultants” to give gifts to officials.¹⁷

One board member recalled Mr. Okada stating that, in Asia, one must follow the local culture, and that is why one should hire “consultants” to give the gifts.¹⁸ This board member understood Mr. Okada to mean that such use of consultants would help avoid prosecution under the FCPA. Another board member who was present recalled Mr. Okada stating that conducting business in the Philippines was all a matter of “hiring the right people” to pay other people.¹⁹ Yet another board member recalled Mr. Okada being “adamant” during the FCPA discussion that it is not corrupt to give “gifts.”²⁰ A board member who participated in the meeting by phone recalled Mr. Okada claiming that, in the Philippines, “business is done in a different manner, and sometimes you have an ‘intermediary’ that will do whatever he has to do,” or words to that effect.²¹ A different board member recalled being “shocked” by the contradiction between two of Mr. Okada’s statements during this discussion.²² Early in the discussion, Mr. Okada explained that there were no longer corruption issues in the Philippines with the new administration. However, Mr. Okada subsequently stated, in effect, that while he himself would not pay bribes, he would “hire someone else” to bribe the necessary person.

Pursuant to a chain of emails reviewed by FSS, commencing with an email on August 4, 2011 from Roxane Peper, Director of Intellectual Property and Corporate Records, to each of the board members (or their representatives), and ending with an email from Ms. Peper to Kevin Tourek, Senior Vice President and Corporate Counsel, on October 26, 2011, the following is clear:²³

- All board members were notified of upcoming FCPA training/board meeting set for October 31 – November 1, 2011 and asked to confirm attendance by August 31, 2011.
- Mr. Okada, through two of his representatives, was emailed at least three (3) separate times before Shinobu Noda, his assistant, sent an email on September 15, 2011 confirming that Mr. Okada would attend.

¹⁶ Minutes of Wynn Resorts Board of Directors meeting, February 24, 2011, p.3. [See Appendix]

¹⁷ Interview of Steve Wynn, November 7, 2011.

¹⁸ Interview of Robert J. Miller, December 16, 2011.

¹⁹ Interview of Alvin V. Shoemaker, December 20, 2011.

²⁰ Interview of Marc D. Schorr, December 20, 2011.

²¹ Interview of Allan Zeman, December 21, 2011.

²² Interview of D. Boone Wayson, December 20, 2011.

²³ See emails from Roxane Peper to Kevin Tourek on October 26, 2011. [See Appendix]

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Subsequent to the confirmation, Ms. Peper received an email from Ms. Noda on October 25, 2011. Ms. Noda stated that the email contained a message to Kim Sinatra, Senior Vice President and General Counsel of Wynn Resorts, from Mr. Okada.²⁴ This part of the message was entirely in Japanese and had to be translated. Mr. Okada asked for the FCPA training materials to be provided in Japanese. He also stated that he would be arriving on “Monday [October 31]”, which was the day the FCPA training was to commence. He asked if the training could be held after the board meeting or rescheduled. Kim Sinatra sent a response to Ms. Noda via email on October 25, 2011 thanking Mr. Okada for the note and stating further that the FCPA training materials had been translated and would be provided to him via email and that Wynn Resorts had made further arrangements to have the FCPA live training translated to Japanese via simultaneous translation.²⁵ She also stated that the date of the training could not be rescheduled because it had been planned around his previous confirmation and that outside counsel was coming to Las Vegas to provide the training.

Mr. Okada failed to attend the training on October 31, 2011. He was the only member of the board not in attendance (all others attended in person or via telephone dial-in as evidenced via a sign-in sheet).²⁶

2. Gaming Establishment in the Philippines

Evidence obtained in the course of the investigation establishes that Mr. Okada, his associates and companies, may have arranged and manipulated the ownership and management of legal entities in the Philippines under his control, in a manner that may have enabled the evasion of Philippine constitutional and statutory requirements. It is also noted that Mr. Okada’s two principal Philippine corporations, Eagle I Landholdings, Inc. and Eagle II Holdco, Inc., which may have been purposefully created to circumvent Philippine constitutional restrictions on foreign ownership of land, appear to be closely intertwined with Rodolfo Soriano, Paolo Bombase and Manuel M. Camacho, who have numerous common ties to former PAGCOR Chairman Efraim Genuino. For example, with regard to Eagle II Holdco, Inc., as late as 2010, Platinum Gaming and Entertainment (“Platinum”) had acquired 60% of its shares. According to a dated filing by Platinum on file with the Philippine SEC, Rodolfo Soriano controlled 20% of Platinum at the time of its incorporation. Mr. Soriano, referred to by attorney Camacho as a “bag man” for then-Chairman Genuino, is a former PAGCOR consultant and respondent in PAGCOR corruption referrals (see page 15 *infra*). Similarly, Paolo Bombase, an officer, director and nominal shareholder of Eagle I Landholding, Inc. and Eagle II Holdco, Inc. has a 1.25% share of Ophiuchus Real Properties Corp. This Ophiuchus entity is 15% owned by a Philippine company named SEAA Corp. In turn, SEAA is the family-controlled company of former PAGCOR Chairman Efraim Genuino. At this time, the significance of this interlocking shareholder link

²⁴ See email from Shinobu Noda to Roxane Peper dated October 25, 2011. [See Appendix]

²⁵ See email from Kim Sinatra to Shinobu Noda dated October 25, 2011. [See Appendix]

²⁶ See FCPA Training Sign-In sheet dated October 31, 2011. [See Appendix]

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between Mr. Okada, his former Philippine gaming regulator, and the regulator's associates is not known.

A. Corporate Links between Mr. Okada's Business Interests and Those of Philippine Government Officials

Close associates and consultants of the former Genuino PAGCOR administration eventually attained positions as corporate officers, directors and/or nominal shareholders in legal entities controlled by Mr. Okada, and, in some cases, served as links between the business interests of Mr. Okada and those of former PAGCOR chairman Efraim Genuino and members of Genuino's immediate family.

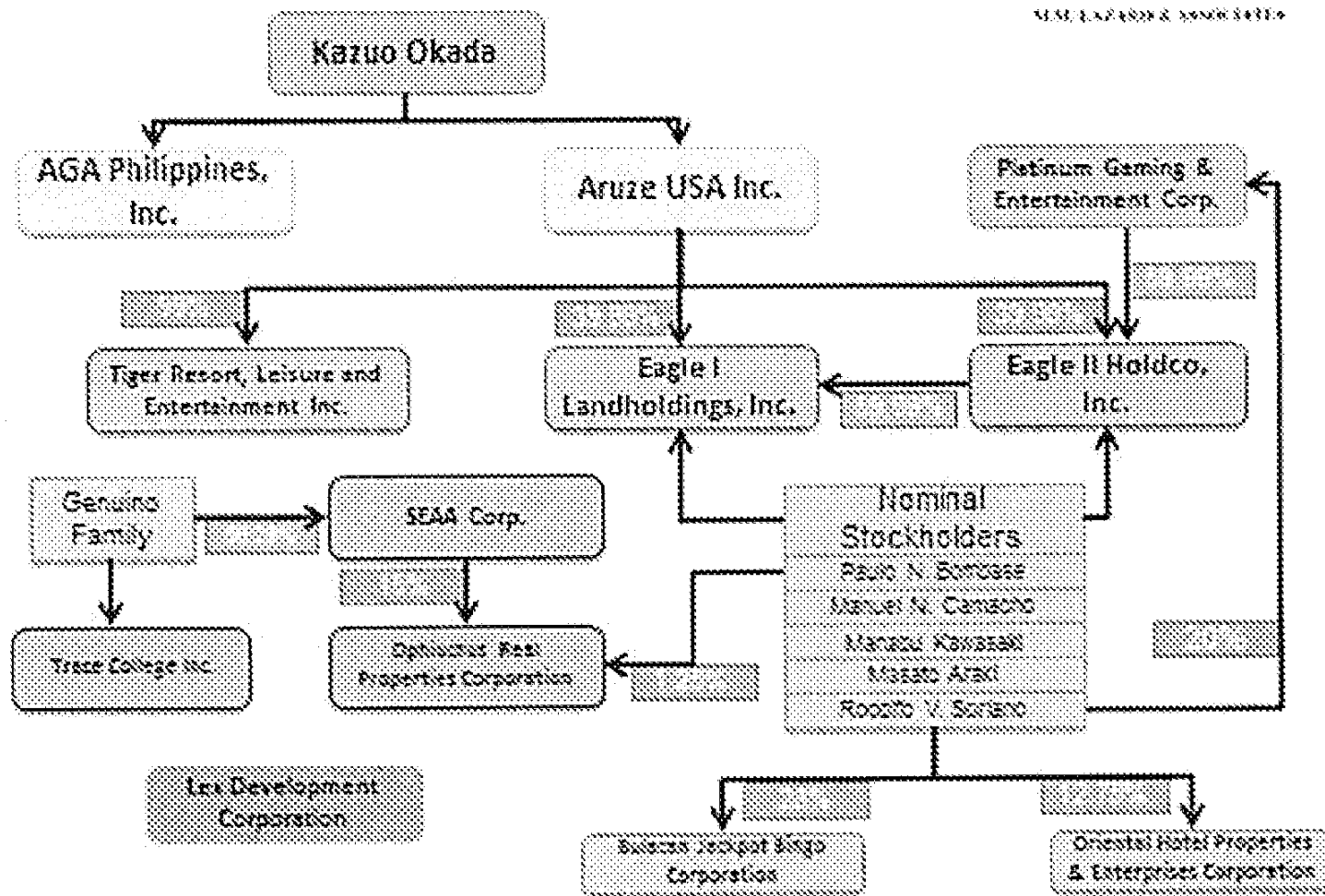
In order to better understand the interrelationships among corporate entities in the Philippines controlled by Mr. Okada and those controlled by PAGCOR officials and their associates, FSS requested the Philippines law firm of M. M. Lazaro & Associates ("Lazaro") to produce a study of this issue.²⁷ Drawing upon official records obtained from the Philippines Securities and Exchange Commission, Lazaro produced an analysis of the relationships created by the ownership and control structures of these entities.²⁸ The chart below, extracted from that analysis, illustrates these relationships in schematic form.

²⁷ Manuel Lazaro was formerly a government corporate counsel with the rank and privileges of a Philippine presiding justice, court of appeals, who FSS retained to assist in the investigation and to advise on certain aspects of Philippine law. [See Appendix]

²⁸ The complete Lazaro PPT is attached to this report. [See Appendix]

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Overview



Tiger Resorts, Leisure and Entertainment, Inc. ("Tiger") was incorporated in the Philippines on June 13, 2008.²⁹ Its primary purpose was stated as:

To acquire, own, maintain, operate and/or manage hotels (city and resort), inns, apartments, private clubs, pension houses, convention halls, lodging houses, restaurants, cocktail bars, and any and all services and facilities related or incident thereto.³⁰

Tiger is predominantly owned by Aruze USA, Inc.³¹ In August 2008, PAGCOR granted Tiger a Provisional Licensing Agreement to operate a gaming establishment in the Entertainment City Manila Zone. An official of the current PAGCOR administration told FSS in December 2011 that PAGCOR was currently reexamining this license.³²

²⁹ Articles of Incorporation of Tiger. [See Appendix]

³⁰ Ibid. [See Appendix]

³¹ GIS of Tiger, 2010. [See Appendix]

³² Combined interview of Jay Daniel R. Santiago and Thadeo Francis P. Hernando, on December 12, 2011. It should be noted that after the interview with Santiago and Hernando, FSS along with its Philippine counsel, for purposes of this investigation, formally requested a copy of the Provisional Licensing Agreement from PAGCOR, as well as other related documents. On the same date that the formal request was made, PAGCOR refused to supply a

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Eagle I Landholdings, Inc. (“Eagle I”) was incorporated in the Philippines on May 16, 2008 with 5 partners of the Philippines law firm Sycip Salazar Gatmaitan (“Sycip”) as the shareholders, directors and officers.³³ By certification on September 5, 2008, the original shareholders were all replaced by, among others, Eagle II Holdco, Inc. (“Eagle II”), with approximately 60% ownership. Eagle II maintained this percentage of ownership of Eagle I through the filing of the latest available General Information Statement (“GIS”) for the year 2010.³⁴ Eagle I’s 2009 GIS, filed September 17, 2009, indicates that Paolo Bombase, Manuel N. Camacho and Rodolfo V. Soriano (whose associations with PAGCOR and Mr. Genuino are explained below) all had become officers/directors and nominal stockholders of Eagle I; they retained this status through the filing of the latest GIS for Eagle I.³⁵ Aruze USA, Inc. first appears as the owner of approximately 40% of Eagle I as of the 2010 GIS, owning the share previously owned by Molly Investments Cooperative UA (“Molly”).³⁶

Eagle II’s filings with the Philippines Securities and Exchange Commission indicate a history similar to that of Eagle I. Incorporated on May 19, 2008 by the same 5 Sycip partners,³⁷ Eagle II reflected the acquisition of approximately 60% of its shares by Platinum Gaming & Entertainment Corp. (“Platinum”) on its GIS filed September 17, 2009, with Platinum owning the same percentage as of the 2010 GIS.³⁸ The same filings reflect the appearance--in 2009 and continuing through the 2010 filing--of Messrs. Camacho, Soriano and Bombase as officers/directors and nominal shareholders. In 2010 Aruze USA, Inc. appears with the 40% shareholding that was attributed to Molly in 2009.³⁹

Platinum was incorporated in the Philippines on November 21, 2001, with a Certificate of Filing of Amended Articles of Incorporation (“AOI”) issued by the Philippines Securities and Exchange Commission on June 10, 2002.⁴⁰ Platinum has no GIS on file with the Philippines Securities and Exchange Commission, and the only corporate document filed besides the Articles of Incorporation is the 2004 Financial Statement. The latest information on file lists Mr.

copy of Tiger’s Provisional Licensing Agreement, saying that they were bound by a non-disclosure clause. That refusal was signed by Francis P. Hernando, who is identified below as a PAGCOR employee, who stayed in Wynn Macau in June 2011 and had US 709.72 of expenses paid for by the Aruze City Ledger account. See Letter of Request and Letter of Refusal. [See Appendix]

³³ Articles of Incorporation of Eagle I. [See Appendix]

³⁴ GIS of Eagle I for years 2009 and 2010. [See Appendix] A GIS is required to be filed on an annual basis according to Section 141 of the Corporation Code of the Philippines. [See Appendix]

³⁵ Ibid. [See Appendix]

³⁶ Ibid. [See Appendix]; FSS has determined Molly to be a wholly owned subsidiary of Aruze Corp. See http://www.universal-777.com/en/ir/ir_lib/material/annual_20081119.pdf, page 32.

³⁷ Articles of Incorporation of Eagle II. [See Appendix]

³⁸ GIS of Eagle II, years 2009-2010. [See Appendix]

³⁹ GIS of Eagle II, 2010. [See Appendix]

⁴⁰ Articles of Incorporation of Platinum, as amended June 10, 2002. [See Appendix]

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Soriano, a former PAGCOR consultant, as a director/officer and a 20% shareholder in Platinum.⁴¹

Messrs. Camacho, Bombase and Soriano are all directly associated with former PAGCOR Chairman Genuino in significant ways. Mr. Camacho is an attorney and a principal of the Manila law firm Camacho & Associates. He was for a time in a law partnership with Mr. Genuino's son, Erwin Genuino.⁴² Mr. Camacho traveled to Japan with Mr. Soriano at then PAGCOR Chairman Genuino's behest, to meet with Mr. Okada and other representatives of Aruze. This meeting resulted in Mr. Camacho's firm replacing Sycip in representing Aruze with respect to the development of the project in Entertainment City Manila.⁴³

Sometime subsequent to this meeting, Aruze wired retainer funds to the bank account of Mr. Camacho's firm, an account controlled jointly by Mr. Camacho and Erwin Genuino. Later, Mr. Camacho discovered that all or most of these funds had been withdrawn by Erwin Genuino. When he questioned this withdrawal, he was eventually told by Mr. Soriano and/or then PAGCOR Chairman Genuino that the funds had been withdrawn to be used as a "cash payoff" to the mayor of the municipality in which the Entertainment City Manila project is located, in order to facilitate approval of the use of some plots of land to build roads needed for Mr. Okada's casino project. Mr. Camacho claims to have had a falling out with Erwin Genuino and Mr. Soriano, and to be involved currently in a lawsuit against Erwin Genuino over the dissolution of their law partnership.⁴⁴ Erwin Genuino is named as a respondent, along with former PAGCOR Chairman Genuino, in two sworn corruption referrals ("PAGCOR Referrals") filed with the Republic of the Philippines Department of Justice ("DOJ") in the summer of 2011 by the current PAGCOR Administration.⁴⁵

Mr. Bombase, also an attorney, is an officer/director and shareholder of Ophiuchus Real Properties Corporation ("Ophiuchus"), incorporated in April 2011.⁴⁶ According to its 2011 GIS, Ophiuchus was 15% owned by SEAA Corporation ("SEAA").⁴⁷ SEAA, which was registered with the Philippine SEC on December 3, 1997, is, according to its 2011 GIS, 100% owned by members of former PAGCOR Chairman Genuino's immediate family.⁴⁸ The Articles of

⁴¹ M. M. Lazaro & Associates, "Aruze Corporations in the Philippines and 'Related' Corporations", p. 18. [See Appendix]

⁴² Interview of M. Camacho, December 13, 2011.

⁴³ In his discussion with FSS, Mr. Camacho referred to the firm only as "Aruze," not further defined.

⁴⁴ Although Mr. Camacho, who is in his seventies, failed to recall some details of his dealings with Mr. Genuino and Mr. Soriano, FSS credits the general account given by him during the December 13, 2011 interview.

⁴⁵ See PAGCOR Referrals. [See Appendix]

⁴⁶ Articles of Incorporation of Ophiuchus. [See Appendix]

⁴⁷ GIS of Ophiuchus, 2011. [See Appendix]

⁴⁸ GIS of SEAA, 2011. [See Appendix]

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Incorporation of Ophiuchus also list Emilio Marcelo as an officer/director and shareholder.⁴⁹ Mr. Marcelo is named as a respondent in the PAGCOR Referrals.⁵⁰

Mr. Soriano is a former PAGCOR consultant, named by Mr. Camacho as a close business associate and “bag man” for Mr. Genuino.⁵¹ Mr. Soriano is also named as a respondent in the PAGCOR Referrals.⁵² As of the latest information filed with the Philippines Securities and Exchange Commission in 2002, Mr. Soriano was a 20% shareholder and an officer/director of Platinum,⁵³ identified above as a 60% shareholder in Eagle II. If Mr. Soriano still held the same stake in Platinum when it acquired its share of Eagle II in 2009, then he became an effective owner of 12% of Eagle II and approximately 7% in Eagle I.

B. Apparent Evasion of Republic of Philippines Legal Requirements

As described in the preceding section, Mr. Okada caused various legal entities to be incorporated in the Philippines, in order to develop his casino resort project there, over time replacing the original incorporating Filipino shareholders with combinations of foreign shareholders affiliated with or controlled by him and associates of then-PAGCOR Chairman Genuino. As discussed below, there are constitutional and statutory requirements in the Republic of the Philippines requiring that purchasers of land be Philippines citizens or Filipino-owned legal entities, and that legal entities conducting business in the Philippines, with certain exceptions, be at least 60% Filipino owned.

In 2008, Eagle I purchased various tracts of land near Manila Bay totaling approximately 30 hectares at a total price of PHP 13,527,637,941.00 (approximately US 314,953,000.00) for the development of the project in Entertainment City Manila.⁵⁴

At FSS’ request, Lazaro prepared an analysis and opinion on the validity of Eagle I’s ownership of these properties, in light of the aforementioned provisions of the Philippines Constitution and applicable statutes.⁵⁵ The analysis included a detailed review of the ownership and capitalization of Eagle I and associated entities described in the preceding section. The following is a summary of pertinent findings of the Lazaro analysis.

⁴⁹ Articles of Incorporation of Ophiuchus. [See Appendix]

⁵⁰ See PAGCOR Referrals. [See Appendix]

⁵¹ Interview of M. Camacho, Dec 13, 2011.

⁵² See PAGCOR Referrals. [See Appendix]

⁵³ Articles of Incorporation of Platinum, as amended June 10, 2002. The 2001 Articles of Incorporation list four (4) additional 20% shareholders, identified as Filipino nationals. Because Platinum has not filed a GIS since 2002, the current ownership and control of Platinum is unknown. [See Appendix]

⁵⁴ Numbered Transfer Certificates of Title (“TCT”) for Eagle I purchase of land tracts in Parañaque City, Philippines, dated August 19, 2008. [See Appendix]

⁵⁵ M. M. Lazaro & Associates. Memo re “Validity of Eagle I’s Ownership of Real Estate Properties” (“Ownership Memo”), Jan 2012. [See Appendix]

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A review of the 2009 Financial Statement of Eagle I disclosed that the funds used to purchase the land tracts appear to have been advanced by Molly.⁵⁶

Platinum, the 59.99% owner of Eagle II, has filed no records with the Philippines Securities and Exchange Commission indicating that its paid-in capital ever increased beyond the original PHP 62,500, despite its amended Articles of Incorporation indicating that its authorized capital stock was increased from the initial PHP 1,000,000.00 to PHP 24,000,000.00.⁵⁷ Nor is it known today what person(s) or entities have controlled Platinum since incorporation in 2001.

The 1987 Constitution of the Philippines requires that only Philippines citizens or corporations with at least 60% of their capital stock owned by Filipinos are qualified to acquire land in the Philippines.⁵⁸ The Philippines Foreign Investment Act further requires that for a corporation to be considered a Philippines national, at least 60% of its capital stock outstanding and entitled to vote must be owned and held by citizens of the Philippines.⁵⁹

Whenever facts or circumstances create doubt as to whether the ownership of 60% of a corporation is truly Filipino, Philippines Securities and Exchange Commission case law has held that a stringent examination of the true ownership of the voting stock of the subject corporation and of the true ownership of the voting stock of all successive layers of corporate ownership should be conducted. The application of this stringent standard is known as the “Grandfather Rule.”⁶⁰

Serious doubts are therefore raised about the actual Filipino equity of Eagle I, because of the appearance that Eagle I and Eagle II were created purposely to “...circumvent the constitutional restriction on foreign ownership of land.”⁶¹ Lazaro bases this assertion on its conclusion that “...Platinum appears to be merely a shell corporation used to satisfy the Filipino equity requirement.”⁶² Application of the Grandfather Rule would therefore be appropriate.

Applying the Grandfather Rule, Lazaro calculates the true percentage of Filipino versus foreign equity in Eagle I as illustrated in the following table:⁶³

⁵⁶ Ibid, p. 2. [See Appendix]

⁵⁷ Ibid, pp. 5-6. [See Appendix]

⁵⁸ Ibid, p. 8. [See Appendix]

⁵⁹ Ibid, pp. 9-10. [See Appendix]

⁶⁰ Ibid, pp. 11-14. [See Appendix]

⁶¹ Ibid, p. 14. [See Appendix]

⁶² Ibid, pp. 14-15. [See Appendix]

⁶³ Ibid, p. 15. [See Appendix]

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Shareholder	Direct	Indirect	Total Filipino investment in Eagle I	Total Foreign investment in Eagle I
Aruze USA	40% of Eagle I	24% (40% of 60% total holdings of Eagle II in Eagle I)		64%
Platinum*		36% (60% of 60% total holdings of Eagle II in Eagle I)	36%	

*As noted above, Platinum has failed to file its annually required GIS with the Philippine SEC since its inception in 2001. The calculations in the above table prepared by Lazaro assume the “best case” scenario (for Platinum), i.e., that it is a truly 100% Filipino-owned corporation. If Platinum’s actual Filipino ownership is less than 100%, then the percentage of Filipino investment in Eagle I would be correspondingly even less than calculated in the table.

Lazaro concludes that “...the foregoing shareholder structure appears to have been formulated by the parties as a legal scheme to justify the qualification of Eagle I to own real estate properties. The scheme employed...gives Aruze USA, Inc....a convenient vehicle to justify its ownership...in circumvention of the constitutional restriction on the foreign ownership of land.”⁶⁴ Lazaro goes on to conclude that the apparent shareholder structuring scheme outlined above may also constitute a violation of Commonwealth Act No. 108, commonly known in the Philippines as the “Anti-Dummy Law.”⁶⁵ If convicted of a violation of this law, stockholders of Platinum and of Aruze USA, Inc. who profited from the scheme would face a sentence of imprisonment of not less than five years nor more than fifteen years.⁶⁶

From the foregoing discussion, there is substantial evidence and credible legal opinion indicating that the ownership structure of Eagle I and Eagle II may subject Mr. Okada, along with his associates and companies, to civil as well as criminal sanctions under Philippine law.

⁶⁴ Ibid, p. 16. [See Appendix]

⁶⁵ Ibid, pp. 16-17. [See Appendix]

⁶⁶ Ibid, p. 17. [See Appendix]

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3. Apparent FCPA Violations Regarding Philippine PAGCOR Officials at Wynn Resort Properties

FSS has reviewed records of the Aruze City Ledger Account, through which Mr. Okada and Universal charge expenses for lodging, entertainment and other incidentals incurred at Wynn Resorts facilities against funds deposited into the account by Universal, and available underlying documentation furnished by Wynn Resorts management. The table below highlights thirty-six (36) separate instances, from May, 2008, through June 2011 (more than a three (3) year period), when Mr. Okada, his associates and companies made payments exceeding US 110,000, which directly benefitted senior PAGCOR officials, including two chairmen and their family members.

Name	Relationship to PAGCOR/Phil. Gov't.	Location(s) and Date(s) of Stay(s)	Total Charged to Aruze City Ledger Account (in US)
Efraim C. Genuino	Former PAGCOR Chairman (February 2001 to June 30, 2010)	WM June 6-9 2010	1,870.64
Cristino L. Naguiat Jr.	PAGCOR Chairman (July 2, 2010 to Present)	WM Sep 22-26 2010	See Suzanne Bangsil ⁶⁷
		WLV Nov 15-20 2010	5,380.86
		WM June 6-10 2011	3,909.80
Dinner (Naguiat Party)	Chairman (PAGCOR)	WM Sep 24 2010 (Hosted by and charged to Kazuo Okada)	1,673.07
Maria Teresa Socorro Naguiat	Wife of PAGCOR Chairman Cristino L. Naguiat Jr.	WM June 6-10 2011	1,039.31
Suzanne Bangsil ⁶⁸	Wife of Rogelio Bangsil, PAGCOR	WM Sep 22-26 2010	50,523.22
Jose Miguel	Husband of former	WLV Nov 12-17	4,642.40

⁶⁷ Chairman Naguiat did not identify himself and Mr. Okada's representatives insisted that his stay there be "Incognito." Accordingly, the bulk of the charges for the trip are reflected on the City Ledger Account as attributable to "Suzanne Bangsil," the wife of Rogelio Bangsil, a senior PAGCOR official and Chairman Naguiat's employee. However, interviews, photo identifications and documentary evidence clearly establish that Chairman Naguiat was the "Incognito" guest and the direct beneficiary of these payments.

⁶⁸ Investigation has in fact determined that Chairman Naguiat was registered as an "Incognito" VIP guest under Suzanne Bangsil's reservation. Therefore, this US 50,523.22 was paid for Chairman Naguiat's benefit.

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"Mike" Arroyo	Philippines President Gloria M. Arroyo (Jan 20 2001 – June 20 2010)	2009	
Imelda Dimaporo	PAGCOR Board Member	WM June 8-10 2010	891.44
Philip Lo	PAGCOR Board Member	WLV April 29 2009 – May 3 2009	1,755.25
Manuel Roxas	PAGCOR Board Member	WLV April 2009 ⁶⁹	253.75
		WLV April 29 2009 – May 3 2009	1,686.95
Susan Vargas	PAGCOR Board Member	WM June 8-10 2010	480.17
Jose Tanjuatco	PAGCOR Board Member (July 19 2010 to Present)	WLV Nov 15-18 2010	2,148.57
Rogelio J. B. Bangsil	Officer in Charge of PAGCOR Gaming Department	WM Sep 24-26 2010	1,149.04
		WM June 6-12 2011	2,955.23
Rodolfo Soriano	PAGCOR Consultant	WM June 3-7 2008	1,186.08
		WLV Nov 12-17 2009	4,228.00
		WM June 7-10 2010	1,104.06
		WM Aug 18 2010	368.06
Olivia Soriano	Relative of Rodolfo Soriano	WLV May 2008	975.55
Anthony F. "Ton" Genuino ⁷⁰	Son of Efraim C. Genuino; Mayor of Los Baños (2010 to Present)	WLV Sep. 2008	2,386.26
		WLV Oct 2008	2,326.49
Rafael Francisco	PAGCOR COO and President	WLV Nov 12-17 2009	4,360.16
		WM June 7-11 2010	935.21

⁶⁹ When the "Dates of Stay" in this table were not readily available, the month and year that the charges were entered in the City Ledger Account are used.

⁷⁰ See PAGCOR Referrals (Anthony Genuino is named as a respondent). [See Appendix]

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Emelio Marcello	PAGCOR Consultant	WLV Nov 12-17 2009	1,181.60
		WM June 7-9 2010	471.51
Carlos Bautista	PAGCOR VP Legal	WM June 6-10 2010	1,049.69
Mario Cornista	PAGCOR Consultant	WM June 7-9 2010	600.02
Rene Figueroa	PAGCOR Executive VP	WM June 7-10 2010	646.76
Ernesto Francisco	PAGCOR Executive Committee and Casino General Manager	WM June 7-10 2010	797.17
Edward King	PAGCOR VP Corporate Communications	WM June 7-10 2010	767.71
Transportation	PAGCOR Delegation	WM Aug 2010	462.42
Jeffrey Opinion	Member of Naguiat Party	WM Sep 24-26 2010	906.61
Ed de Guzman	PAGCOR Executive Committee, A VP Slots	WM Jun 6-12 2011	3,421.79
Gabriel Guzman	Probable relative of Ed de Guzman (had adjoining room)	WM Jun 6-12 2011	1,391.71
(Thadeo) Francis P. Hernando ⁷¹	PAGCOR VP, Licensed Casino Development Dept.	WM Jun 8-10 2011	709.72
TOTAL			110,636.36

The total in the above table represents charges from the Aruze City Ledger Account that are readily identifiable as incurred directly by officials and consultants of PAGCOR,⁷² their family members and close associates, including Jose Miguel Arroyo, the then-First Gentleman of the Republic of the Philippines, husband of Philippine President Gloria Arroyo. Through a review of the Aruze City Ledger Account for statement periods March 2008 through November 2011, FSS has calculated that total charges to the account for that period, attributable to

⁷¹ This is the same PAGCOR official who denied the FSS request for documents in December 2011, including a copy of the Provisional License Agreement. See footnote 31.

⁷² In order to establish the PAGCOR affiliation of some of the individuals listed in this chart, various sources were consulted, including the PAGCOR website, internet news articles and the PAGCOR Referrals.

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PAGCOR officials, employees, consultants, their associates and family members, exceed USD 110,000.⁷³

FSS investigators interviewed members of the Wynn Macau management team, who furnished the following relevant information regarding a visit to that property in September 2010 by then and current PAGCOR Chairman and CEO Cristino L. Naguiat, Jr., his wife, three children, nanny and other PAGCOR officials, whose four-day stay at Wynn Macau was paid for via the Aruze City Ledger Account:

- September 20, 2010: Yoshiyuki Shoji of Universal, in an e-mail to Angela Lai of Wynn Macau, requests reservations for “Rogelio Bangsil (Guest Representative) & Others.” Mr. Shoji requests Encore Suite or “more gorgeous room, such as Villa,” and “the best butler” for unnamed person in group, who is “VIP for Universal.” Mr. Shoji states that guests other than Bangsil should not be registered, that all charges should be posted to Universal’s City Ledger,⁷⁴ and that “Mr. Okada would like them to experience the best accommodations and services at Wynn Macau.”⁷⁵ The communication makes no reference to PAGCOR or the government affiliation of the guests.
- September 20, 2010: In an e-mail to Wynn Macau President Ian Coughlan and others, Ms. Lai informs Mr. Coughlan of the reservation and that checks of websites indicate that Mr. Bangsil is in charge of PAGCOR’s gaming department.⁷⁶
- September 20, 2010: In an e-mail to Mr. Shoji, Ms. Lai advises that Wynn Macau is checking on availability of the requested upgrade and that Macau law requires that all room occupants be registered, and requests that all guest names be furnished in advance of or at the time of registration.⁷⁷
- September 22, 2010: In an e-mail to Wynn Macau President Ian Coughlan, Wynn Macau Senior Vice-President – Legal Jay M. Schall advises Mr. Coughlan of

⁷³ See City Ledger Account. [See Appendix]

⁷⁴ When Mr. Shoji set up the City Ledger Account for Mr. Okada in 2008, he asked whether the customer name and amount paid would be made public. He was advised that such information would not become public. Email response from Kim Sinatra to Shoji, dated February 8, 2008. [See Appendix]

⁷⁵ E-mail from Y. Shoji to A. Lai, September 20, 2010 [See Appendix]; interview of A. Lai, January 4, 2012.

⁷⁶ E-mail from A. Lai to I. Coughlan, September 20, 2011 [See Appendix]; interview of A. Lai, January 4, 2012; interview of I. Coughlan, December 29, 2011. It should be noted that according to an article in Manilatimes.net, published February 2, 2012, Rogelio Bangsil has recently been transferred to the PAGCOR international marketing department after a probe that found the government losing PHP 160 million in government run casinos to a Mr. Liu. [See Appendix]

⁷⁷ E-mail from A. Lai to Y. Shoji, September 20, 2010 [See Appendix]; interview of A. Lai, January 4, 2012.

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PAGCOR's 100% government ownership and of Mr. Bangsil's position there. He writes "Bangsil, the guest of Mr. Okada, is a top five (if not 3) officer."⁷⁸

- September 22, 2010 (14:00): Wynn Macau sends 1 Rolls Royce and 1 Elgrand to the airport, along with Masato Araki, Special Assistant to Mr. Okada; and Kenichiro Watanabe, another Universal associate, to meet arriving party, who arrived on Philippine Airline Flight 352 from Manila. They return with Chairman Cristino L. Naguiat, Rogelio Bangsil and Jeffrey Opinion at 14:45.⁷⁹ Only Mr. Bangsil furnishes his name upon registration. Ms. Lai and Wynn Macau VIP Services Manager Beatrice Yeung thereafter checks PAGCOR website and identifies Chairman Naguiat's name from his picture there.⁸⁰ Ms. Yeung's log and ongoing entries refer to "[I]ncognito (Mr. Naguiat, Cristino L.)."⁸¹
- Chairman Naguiat occupies Villa 81, the most expensive accommodation at Wynn Resorts Macau (about 7,000 square feet in size, which then cost about US 6,000 per day and is mostly reserved for "high rollers").
- September 22, 2010: the Wynn Encore log book reflects "Incognito (Mr. Naguiat) stayed in Villa 81 Master Bedroom 1."⁸²
- September 23, 2010 (10:00): Mr. Araki advises Ms. Yeung that Chairman Naguiat plans to have lunch with Miss Pansy Ho at MGM.⁸³
- September 23, 2010 (14:04): Jay Schall sends an email to Wynn Macau corporate security to check Worldcheck, as a rush job, for Cristino L. Naguiat Jr., Chairman and Chief Executive Officer of PAGCOR.⁸⁴

⁷⁸ E-mail from J. Schall to I. Coughlan, September 22, 2010 [See Appendix]; interview of J. Schall, January 3, 2012; interview of I. Coughlan, December 29, 2011.

⁷⁹ Wynn Macau Manager – Encore Logbook, September 22, 2010. [See Appendix]

⁸⁰ Interviews of Beatrice Yeung, January 4, 2012 and February 1, 2012; interviews of Angela Lai January 4, 2012 and February 2, 2012.

⁸¹ Wynn Macau Manager – Encore Logbook, September 22, 2010. [See Appendix]

⁸² Ibid. [See Appendix] During subsequent visits, Chairman Naguiat was identified as "Naguiat," though he was identified during his initial visit as "incognito." The negative inference to be drawn is an attempt to hide the payment of extremely costly expenses by a corporation connected with a regulated entity. The fact that he had only recently become chairman may have been a factor in his desire to keep his identity secret.

⁸³ Miss Ho is the daughter of Hong-Kong and Macau-based businessman Stanley Ho. Though Nevada gaming regulators found Miss Ho to be a suitable business partner for MGM Mirage, see <http://www.lvrj.com/business/45462797.html>, New Jersey regulators recommended that she be found unsuitable as MGM Mirage's joint venture partner in Macau. See <http://www.newjerseynewsroom.com/state/mgm-mirage-chooses-pansy-ho-over-atlantic-city>. [See Appendix]

⁸⁴ Email from Jay Schall to Peter Barnes of Wynn Macau Corporate Security, dated September 23, 2010. [See Appendix]

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- September 23, 2010: In an e-mail to Ms. Lai, with a copy to Mr. Okada, Mr. Shoji requests that a credit of US 5,000 be extended to each person now staying at the Villa for shopping and gaming, up to a total of US 50,000. According to Mr. Shoji's email, the funds are to be advanced by Wynn Macau and charged to the Universal City Ledger account.⁸⁵
- September 24, 2010 (13:45): MOP 80,000⁸⁶ (approximately US 10,000) is advanced from the Wynn Macau main cage to a Wynn Macau VIP Services employee (no longer employed at Wynn Macau), who in turn hands the money to Masato Araki, special assistant to president of Aruze USA, based upon instructions in the above referenced e-mail to Ms. Lai. The handover of funds is witnessed by Wynn Encore manager Alex Kong. The funds are charged to the Universal City Ledger Account.⁸⁷ MOP 15,000 of this sum is used to pay for a Chanel bag that Chairman Naguiat requested be purchased for his wife.⁸⁸
- September 24, 2010 (Approximately 14:00): Mrs. Naguiat, her three children, Mrs. Bangsil and her daughter arrive at Wynn Macau.
- September 24, 2010 (15:45): Wynn Macau employees meet Mr. Okada and his assistant, Jun Yoshie, at the airport, transport them to Wynn Macau and escort Mr. Okada to room 5688.⁸⁹
- September 24, 2010 (late afternoon): Mr. Coughlan receives a phone message from Mr. Yoshie that Mr. Okada would like to speak to him. Mr. Coughlan proceeds to an area near the Wynn Encore reception desk, where he meets Mr. Yoshie and Mr. Okada. They step into the Cristal Bar to talk, whereupon Mr. Okada, with Mr. Yoshie interpreting into English, tells Mr. Coughlan that the guests [referring to

⁸⁵ E-mail from Y. Shoji to A. Lai, September 23, 2010 [See Appendix]; e-mail from B. Yeung to I. Coughlan, September 27, 2010 [See Appendix]; interview of B. Yeung, January 4, 2012; Wynn Macau Manager – Encore Logbook, September 24, 2010.

⁸⁶ MOP 80,000 was worth approximately US 9,816 at that time.

⁸⁷ Wynn Macau Manager – Encore Logbook, September 24, 2010 [See Appendix]; Wynn Macau "Miscellaneous Disbursement" record #013014, dated September 24, 2010 [See Appendix]; e-mail from B. Yeung to I. Coughlan, September 27, 2010 [See Appendix]; interview of B. Yeung, January 4, 2012; interview of Alex Kong, February 1, 2012.

⁸⁸ Wynn Macau Manager – Encore Logbook, September 24, 2010. [See Appendix]. The Chanel bag was purchased by a Wynn Macau employee as per instructions by Mr. Araki, who works for Mr. Okada. The Wynn Macau employee gave the bag, store receipt and change to Mr. Araki to deliver to Mrs. Naguiat. Later, Mr. Araki stated that Mrs. Naguiat did not like the bag so he would give it to his own wife.

⁸⁹ Wynn Macau Manager – Encore Logbook, September 24, 2010 [See Appendix]; interview of B. Yeung, January 4, 2012.

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Chairman Naguiat's party] are very important to Universal, and that Mr. Okada wants Mr. Coughlan to insure that they are well cared for during their stay.⁹⁰

- September 24, 2010 (17:00): Mr. Okada meets Chairman Naguiat (and approximately thirteen (13)) others in his party) for dinner at Okada Restaurant.⁹¹ Mr. Okada hosts the dinner and the bill for \$1,673.07 is charged to his room.
- September 25, 2010 (05:45): Wynn Macau employees meet Mr. Okada outside his room and escort him to a limousine, which transports him to the Macau Ferry Terminal for 07:00 scheduled ferry departure to Hong Kong International Airport.⁹²
- September 25, 2010: Beatrice Yeung describes in her log book "Movements – Incognito (Mr. Naguiat, Cristino L) / Mr. Bangsil, Rogelio / Mr. Opinion, Jeffrey (Mr. Okada's guests, Villa 81)."⁹³
- September 25, 2010: Mr. Araki requests a second advance of MOP 80,000 for guests in Villa 81. Ms. Yeung accompanies Mr. Araki to the Main Cage and obtains the advance for him.⁹⁴ [This makes a total of MOP 160,000 advanced for the use of Chairman Naguiat and his party and charged to the Universal City Ledger Account per Mr. Okada's orders, as relayed in Mr. Shoji's e-mail.]
- September 26, 2010 (11:10): Mr. Araki departs the Wynn Macau Encore main entrance. He hands Ms. Yeung MOP 4100, returning what he says is the remainder of the two cash advances for Chairman Naguiat's party.⁹⁵
- September 26, 2010 (13:15): Chairman Naguiat's party departs via Wynn Macau limousine to pick up Mrs. Naguiat from shopping and proceeds to the airport.⁹⁶

⁹⁰ Interviews of Ian Coughlan, January 5, 2012 and February 2, 2012.

⁹¹ Interview of B. Yeung, January 4, 2012; Wynn Macau Manager – Encore Logbook, September 24, 2010. [See Appendix]

⁹² Interview of B. Yeung, January 4, 2012; Wynn Macau Manager – Encore Logbook, September 25, 2010. [See Appendix]

⁹³ Wynn Macau Manager – Encore Logbook, September 25, 2010. [See Appendix]

⁹⁴ Interview of B. Yeung, January 4, 2012; Wynn Macau Manager – Encore Logbook, September 25, 2010 [See Appendix]; Wynn Macau "Miscellaneous Disbursement" record #013066, dated September 25, 2010. [See Appendix]

⁹⁵ E-mail from B. Yeung to I. Coughlan, September 27, 2010 [See Appendix]; Wynn Macau Manager – Encore Logbook, September 26, 2010 [See Appendix]; handwritten and signed note dated "9/26/10" with notation "MOP 4.100". [See Appendix]. The returned funds were equal to approximately US 503.07 returned out of a total of approximately US 19,632 provided.

⁹⁶ Interview of B. Yeung, January 4, 2012; Wynn Macau Manager – Encore Logbook, September 26, 2010. [See Appendix]

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- November 10, 2010: Mr. Shoji advises Mr. Coughlan in an e-mail of receipt of Wynn Macau's invoice for the late September 2010 visit, in which the Villa [for Chairman Naguiat] was charged at the amount of MOP 48,000. Mr. Shoji states that "I understand that Mr. Okada explained to you in Macau that they were our business guests and we made reservations for them and all charges are billed to our company. While some of charges [sic] will be reimbursed by them, room charges were planned to be borne by us as ordinary business expenses. Since the amount charged is too much and beyond the ordinary room charge, our company will be put in a very difficult position to give reasonable explanations if we are inquired by someone. I would appreciate if you would reconsider this matter and charge us the original rate (free upgrade to Villa) since the party directly dealing with [sic] on this matter is our company rather than the each [sic] individual guest." (Emphasis added.)⁹⁷
- On or about December 10, 2010: After e-mails and phone messages following Mr. Shoji's September 20, 2010 e-mail, Mr. Coughlan has a phone conversation with Mr. Shoji, in which he advises Mr. Shoji that, after internal Wynn Macau discussions, the final decision was that Wynn Macau would not provide the requested free upgrade for the Villa occupied during the September 2010 visit.⁹⁸

The foregoing recitation of facts surrounding the September 2010 visit of Chairman Naguiat and his party to Wynn Macau demonstrates several significant elements of that visit:

- Mr. Okada considered these guests to be very important to his company.
- An effort was made from the outset to conceal Chairman Naguiat's identity and official status, to the point of not even wanting to advise Wynn Macau management and staff.
- With Mr. Okada's knowledge, Chairman Naguiat and his family were provided with approximately US 20,000 cash to use for gaming and also shopping
- Mr. Okada's representative sought to have Wynn Resorts fund a portion of the expenses incurred by Chairman Naguiat and his party, i.e., the free upgrade to a Villa.

⁹⁷ E-mail from Y. Shoji to I. Coughlan, November 10, 2010 [See Appendix]; interviews of I. Coughlan, December 29, 2011 and January 5, 2012.

⁹⁸ Interviews of I. Coughlan, December 29, 2011 and January 5, 2012; e-mail string between I. Coughlan and Y. Shoji and others, September 20 to December 9, 2010, subject: "Invoice and Statement for September Stay." [See Appendix]

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- Mr. Okada's representative expressed apprehension about Universal being able to justify the level of expenditures in the event of future inquiries.

There is evidence that Mr. Okada personally directed the payments and gifts provided to Chairman Naguiat and his family during their luxury stay at Wynn Macau's most expensive accommodation in September 2010. On October 5, 2010, Mr. Araki sent an email to Wynn Macau in order to arrange for a "second group of PAGCOR" checking into Wynn Macau on October 8, 2010. Clearly referring back to Chairman Naguiat's stay less than two weeks earlier, Mr. Araki writes: "Our Chairman Okada once again instructed us to take care of the group, but not like last time meaning that we will not take care of their room charges and others." (Emphasis added). Mr. Araki, who worked for Mr. Okada and personally supervised Chairman Naguiat's luxury stay at Wynn Macau, appears to confirm Mr. Okada's personal knowledge and control of the payments for Chairman Naguiat.⁹⁹

It is significant to note that the leadership of PAGCOR, which is appointed by the President of the Republic of the Philippines, changed effective June 30, 2010, when Benigno S. Aquino III assumed office as President of the Republic of the Philippines, succeeding Gloria M. Arroyo. Former PAGCOR Chairman Efraim C. Genuino, an Arroyo appointee, left office effective June 30, 2010, and Cristino L. Naguiat, Jr., President Aquino's appointee, assumed the position of Chairman and CEO of PAGCOR on July 2, 2010.

A review of the Aruze City Ledger Account records reveals that, after June 30, 2010, there are no charges attributed to Mr. Genuino or any of his family members who collectively had three (3) separate stays at Wynn resorts (Macau or Las Vegas) while Mr. Genuino was PAGCOR Chairman.¹⁰⁰ Conversely, the Aruze City Ledger Account reflects charges for Chairman Naguiat, his family, and key PAGCOR staff from Chairman Naguiat's "new" administration only after Naguiat became PAGCOR Chairman. This sequence is evidence that the hosting of these persons at Wynn Resorts, and payments made for them through the Aruze City Ledger Account, are solely related to PAGCOR, the Philippines government agency in charge of licensing and regulating Mr. Okada's business interests.

It is also clear that, having already received approval from PAGCOR in 2008 for a Provisional Licensing Agreement to develop a gaming business in the Philippines, Mr. Okada had a strong and continuing motive through 2010 and beyond to maintain favorable relations with the Chairmen and senior officials of PAGCOR. As previously noted, PAGCOR's primary governmental mission is regulating gaming businesses in the Philippines. Mr. Okada's project in Entertainment City Manila was prominently featured in PAGCOR's annual reports for

⁹⁹ Email from Matt Araki to Beatrice Yeung dated October 5, 2010. [See Appendix]

¹⁰⁰ The sole exception identified, Rodolfo Soriano, Jr., is listed on the Aruze City Ledger Account as having a single room charge on August 18, 2010. [See Appendix]

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2008,¹⁰¹ 2009¹⁰² and 2010.¹⁰³ The 2010 Annual report features photos and messages from Chairman Naguiat, and several other members of the new PAGCOR leadership. The 2010 Annual report makes it clear that two of the proponents, Bloomsbury and the SM Consortium, are constructing their resorts and are expected to complete their first phase within 2014. The other two proponents (one of which is Tiger, the provisional licensee for Mr. Okada's casino project) are in the initial design stages and are expected to break ground in 2012.

The continuing coverage of Mr. Okada's Manila Bay Resorts project in PAGCOR's annual reports indicates that PAGCOR's interest in and oversight of this project did not stop with the granting of the Provisional Licensing Agreement in 2008. Indeed, the very nature of the Provisional Licensing Agreement requires continued oversight by PAGCOR officials. As Lazaro advised, the Provisional Licensing Agreement was issued in relation to the "Bagong Nayong Philipino Manila Bay Tourism City" project, which is also referred to as "PAGCOR City." PAGCOR City is envisioned to be a Las Vegas-style gaming and entertainment complex. The project was designed to attract proponents with established experience in the hotel and gaming business. PAGCOR released the "Terms of Reference," which detailed a list of requirements to which project proponents must conform in order to qualify for a PAGCOR license to operate within PAGCOR City.

The "Terms of Reference" section provides, in pertinent part, a mandatory Minimum Investment of US 1 Billion, consisting of both equity and debt, and the submission of an associated Project Implementation Plan within 120 days from signing of the Provisional License and approval by PAGCOR (Paragraph 4, Section II, Terms of Reference). Furthermore, within 30 days of signing of the Provisional License, proponents are required to submit a Performance Assurance Bond in the amount of PHP 100 Million to guarantee the completion of the project (Paragraph 8, Section II, Terms of Reference). Within 15 days of signing of the Provisional License, proponents are also required to open an Escrow Account (with an initial deposit of at least US 100 Million) through which funds for the project will pass. This Escrow Account must maintain a balance of at least US 50 Million. (Paragraph 9, Section II, Terms of Reference).

Specifically, paragraph 13 of the Terms of Reference states the following in relation to achieving a regular, non-provisional, Casino Gaming license:

¹⁰¹ PAGCOR 2008 Annual Report, pp. 12-18, viewed January 25, 2012 at <http://www.pagcor.ph/annual-reports/annual-2008/pagcor-annual-report-2008.html>. [See Appendix]

¹⁰² PAGCOR 2009 Annual Report, pp. 16-19, viewed January 25, 2012 at <http://www.pagcor.ph/annual-reports/annual-2009/pagcor-annual-report-2009.html>. [See Appendix]

¹⁰³ PAGCOR 2010 Annual Report, pp. 24-26, viewed January 25, 2012 at <http://www.pagcor.ph/annual-reports/annual-2010/pagcor-annual-report-2010.html>. [See Appendix]

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“13. Issuance of License

A Provisional License will be issued to the winning proponent effective for the duration of the project development period and shall not exceed the approved completion date of the whole project.

The Regular Casino Gaming License will be issued upon completion of the Project and upon approval by PAGCOR of the report detailing the actual total cost of the Project to ensure the proponent's compliance with the approved project cost based on the Project Implementation Plan. The term of the License shall not exceed the term of PAGCOR as specified in RA 9487.

No sub-license will be issued nor allowed.” (Emphasis added.)

Thus, a Regular Casino Gaming License will be issued by PAGCOR upon (1) completion of the Project and (2) compliance with the approved project cost as approved by PAGCOR, based on the previously submitted Project Implementation Plan, including all other conditions as may be stipulated in the Provisional License Agreement.¹⁰⁴ Clearly, PAGCOR maintains an active regulatory role over gaming businesses after the issuance of a provisional gaming license. An operator who has already been granted a provisional license, therefore, would have a powerful business incentive to maintain favorable relations with PAGCOR's Chairman and senior leadership.¹⁰⁵

Finally, the PAGCOR officials with whom FSS spoke in December 2011 indicated that, upon “taking over” from the Genuino Administration in 2010, they conducted a review of previously granted gaming licenses to ensure that all issuance decisions had been done properly, indicating that the Naguiat Administration was exercising close review in monitoring of all licensees, including Mr. Okada.

¹⁰⁴ See research of Michelle Lazaro as expressed in her email dated January 30, 2012 to Mike McCall; See also “Terms of Reference” that were attached to the email. [See Appendix]

¹⁰⁵ A recent example of the extent of PAGCOR's continuing oversight of gaming operators can be found in the August 2011 issue of *Inside Asian Gaming* magazine. An article therein reported on claims by gaming operator Thunderbird Resorts, Inc. (“Thunderbird”) that PAGCOR had unlawfully attempted to force Thunderbird, through various allegedly selective enforcement actions, to renegotiate the revenue sharing agreement it had signed with the previous PAGCOR leadership under Mr. Genuino. See “Ball of Confusion,” dated August 10, 2011, *Inside Asian Gaming*, online edition, viewed January 26, 2011 at <http://www.asgam.com/features/item/1238-ball-of-confusion.html>. In the September 2011 issue, PAGCOR responded by making reference to various regulatory or enforcement functions it had been carrying out with regard to Thunderbird's casinos, up through the time that the dispute became heated. Among the functions mentioned were “resident monitoring teams” in Thunderbird casinos to “...guarantee the fair conduct of games...” as well as PAGCOR's serving of a notice of closure to Thunderbird in response to the disputed issues. See “Philippines Gaming Regulation—The Untold Story”, dated 23 September 2011, *Inside Asian Gaming*, online edition, viewed January 26, 2011. [See Appendix]. These statements by PAGCOR clearly indicate that PAGCOR maintains active regulatory monitoring of licensed gaming businesses in the Philippines and claims the authority to close down licensed operators.

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Mr. Okada's hosting and payments on behalf of PAGCOR Chairman Naguiat and his family at Wynn Macau, was most likely related to Mr. Okada's business interests in the Philippines, and would therefore constitute a prima facie violation of the FCPA both by Mr. Okada as well as by Aruze USA, Inc.

4. Possible Pattern of FCPA Violations Regarding Korean Government Officials

As stated previously, in recent years, Mr. Okada has been pursuing development of a resort complex in the Incheon Free Economic Zone in the Republic of Korea. Jong Cheol Lee, the Commissioner of the Incheon Free Economic Zone Authority, and apparently an Incheon government official, announced the signing of a Memorandum of Understanding on approximately October 27, 2011, between the Incheon Free Economic Zone ("IFEZ") and Okada Holdings Korea to develop a casino resort near the Incheon International Airport.¹⁰⁶

A review of the Aruze City Ledger Account disclosed charges paid for Jong Cheol Lee and other guests of his party at Wynn Las Vegas and Wynn Macau for the period November 2010 to June 2011. Registration documents provided by Wynn Resorts disclosed annotations for Mr. Lee and three other guests, indicating: "Share with Incheon Free Economic Zone." According to the Aruze City Ledger Account, the following amounts were paid for government Lee and his party:

Name	Relationship to Incheon Free Economic Zone	Location and Date of Stay	Total Charged to Aruze City Ledger Account
Jong Cheol Lee	Commissioner	WLV Nov 16-18 2010	1,597.16
		WM June 2011	1,134.55
Woo Hyeung Lee	Unknown	WLV Nov 16-18 2010	843.89
		WM June 2011	1,083.22
Min Yong Choi	Unknown	WLV Nov 16-18 2010	507.50
Ki Dong Hur	Unknown	WLV Nov 16-18 2010	779.20
TOTAL PAID			5,945.52

These payments made for and on behalf of possible Korean government officials may be part of a continuing pattern by Mr. Okada and his associates to commit prima facie violations of the

¹⁰⁶http://english.visitkorea.or.kr/enu/bs/tour_investment_support/pds/content/cms_view_1516066.jsp?gotoPage=&item=&keyword=, viewed January 14, 2012 [See Appendix]. <http://blog.daum.net/ikoreatimes/60>, viewed January 14, 2012. [See Appendix]

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FCPA. However, further investigation is required in order to determine (i) the nature of Mr. Okada's relationship with these guests; (ii) whether these guests actually had a government affiliation at the time of their 2010 visits to Wynn Las Vegas and Wynn Macau; and, (iii) the status of Mr. Okada's gaming initiative in Korea.

5. Mr. Okada's Continuing Refusal to Receive Wynn Resorts mandated FCPA Orientation Training and to Acknowledge Wynn Resorts Code of Conduct

Mr. Okada's apparent practice and pattern of committing prima facie violations of the FCPA must also be reviewed in the context of his ongoing and likely future conduct as a majority shareholder and director of Wynn Resorts. Since August, 2011, Mr. Okada has failed to make himself available for requisite Wynn Resorts Board of Directors training regarding the FCPA and compliance. Not only has every other board member accepted and received such training, but attempts to accommodate Mr. Okada (including Japanese translation of the FCPA training materials and telephonic availability for the training) have failed.

Moreover, since August 2011, Mr. Okada has also failed even to acknowledge in writing Wynn Resorts Code of Business Ethics and Wynn Resorts Policy regarding Payments to Government Officials. Mr. Okada's continuing failure to perform this requisite review and agreement to comply with Wynn Resorts Ethics and anti-bribery rules and regulations create risk to Wynn Resorts and its board. Such non-compliance by Mr. Okada also suggests that he intends to continue his apparent practice and pattern of making FCPA prohibited payments on a going-forward basis. Any such future conduct would substantially enhance the risks to Wynn Resorts and compromise Mr. Okada's fiduciary duties to Wynn Resorts.

On August 5, 2011, Cheryl Palmer, the executive assistant to Kevin Tourek, sent out an email memorandum on Mr. Tourek's behalf to all board members stating that per compliance policy requirements, all members must acknowledge in writing on an annual basis having reviewed (and agreeing to comply with) two separate documents: (1) the Company's Code of Business Ethics and (2) Policy Regarding Payments to Government Officials.¹⁰⁷ A copy of the form was attached to the email, as was a copy of both the Code and the Policy. The email asked for the executed form to be returned prior to August 26, 2011. All of the members of the board, except for Mr. Okada, returned a signed copy of the acknowledgement. Mr. Okada was reminded, via emails to his representatives on a number of occasions,¹⁰⁸ as well as via a letter from Kevin Tourek, dated November 2, 2011, to provide an executed copy of the

¹⁰⁷ See email from Cheryl Palmer dated August 5, 2011. [See Appendix]

¹⁰⁸ See emails contained in email from Kevin Tourek to Robert Shapiro, Esq., dated October 24, 2011. [See Appendix]

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acknowledgement form no later than November 15, 2011.¹⁰⁹ Mr. Okada failed to meet this deadline and, as of the date of this report, has yet to provide a signed copy of the form.¹¹⁰

In addition to his failure to return the fully executed Code of Business Conduct and Ethics and the Policy Regarding Payments to Government Officials Acknowledgment Form, which, as previously indicated, was sent out in August of 2011, Mr. Okada has yet to return a secondary acknowledgement form that was attached to the annual Directors' & Officers' Questionnaire ("D&O Questionnaire"). This form was sent out to each member of the board of directors on January 9, 2012, as part of the overall D&O Questionnaire packet.¹¹¹ The packet contained instructions to "sign where indicated by the *sign here tabs*" and asked that the 2012 D&O Questionnaire be returned in its entirety on or before January 27, 2012. The two places that required Mr. Okada's signature were (1) on page 26 of the D/O Questionnaire itself, and (2) on page 50 on the separate Code of Business Conduct and Ethics Acknowledgment Form that was part of the overall D&O Questionnaire packet. Though Mr. Okada returned the signature page (page 26) of the D&O Questionnaire itself on January 27, 2012,¹¹² (which was confirmed to FSS on February 7, 2012), the fact that he has yet to return the separate Code of Business Conduct and Ethics Acknowledgment Form (which he has unequivocally pledged to do by virtue of signing on the signature page of the D&O Questionnaire) is telling and is consistent with his refusal to provide an executed copy of the Code of Business Conduct and Ethics and the Policy Regarding Payments to Government Officials Acknowledgment Form that was sent to him in August of 2011. Though Wynn Resorts did not send to Mr. Okada the Code of Business Conduct and Ethics and the Policy Regarding Payments to Government Officials attached to the D & O Questionnaire in Japanese language versions, which they did previously with respect to the code and policy sent out in August of 2011 after a request by Mr. Okada's attorney, Mr. Okada has never previously requested that the D & O Questionnaire itself be translated into Japanese. Mr. Okada was again reminded of his obligation to return the separate Code of Business Conduct and Ethics Acknowledgment Form (page 50 of the D&O Questionnaire packet) in an email from Roxane Peper to Mr. Okada's assistant, Takashi Matsui, on January 31, 2012.¹¹³ A copy of the form was attached to the email for Mr. Okada's convenience. This form remains outstanding.

¹⁰⁹ See letter from Kevin Tourek to Mr. Okada, dated November 2, 2011. [See Appendix]

¹¹⁰ In a letter dated December 1, 2011 to Robert Shapiro, Esq., outside counsel for Wynn Resorts, Gidon Caine, Esq., counsel for Mr. Okada, explained that the reason Mr. Okada did not sign the acknowledgment form was due to the fact that the materials had not been translated into Japanese. As of the date of submission of this Report, Mr. Okada has not yet submitted a signed copy of the acknowledgment form despite being provided with the requested translations, which were attached to a letter sent via email dated December 27, 2011 from Jeffrey Soza to Gidon Caine. [See Appendix]

¹¹¹ See Memorandum from Kim Sinatra to Board of Directors and Officers of Wynn Resorts, Limited, dated January 9, 2012, and 2012 Director's & Officers Questionnaire attached thereto. [See Appendix]

¹¹² See email from Takashi Matsui to Roxane Peper, dated January 27, 2012. [See Appendix]

¹¹³ See email from Roxane Peper to Takashi Matsui, dated January 31, 2012. [See Appendix]

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On February 1, 2012, Barry Brooks, one of Mr. Okada's attorneys, contacted Kevin Tourek, senior vice president and general counsel with Wynn Resorts, via email regarding "address[ing] the request, forwarded to Mr. Okada under cover of a memorandum from Mr. Wynn, that Mr. Okada execute and return to Wynn Resorts, Ltd. ("Wynn Resorts") a form of acknowledgment ("Acknowledgment") in regard to the Wynn Resorts Code of Business Conduct and Ethics (the "Code"). Most importantly, I wanted to emphasize that Mr. Okada agrees, with a deep sense of commitment, with the principles set out in the Code and agrees that it is in the best interest of Wynn Resorts and its shareholders that he, as a director, be a leader in observing and advocating for those principles. Also, and in any case, Mr. Okada believes that the requirements of the Code, and the spirit of those requirements, are keys to the future success of Wynn Resorts."¹¹⁴ In a follow-up phone call to that email, Mr. Brooks and Mr. Tourek discussed the ramifications of Mr. Okada not signing the policy, the possibility of interpretation issues, and concerns over whether Mr. Okada may have any conflict of interest issues. Mr. Brooks also asked for a copy of the D & O Questionnaire.¹¹⁵

6. Mr. Okada, his associates and companies, Universal have pursued independently a casino gambling development in the Philippines since 2008.

FSS interviewed Mr. Okada on February 15, 2012 and the results of that interview are set forth more fully in Section VI.¹¹⁶ In this interview, Mr. Okada asserted that all his efforts in the Philippines prior to the change of presidential administration in the summer of 2010 were undertaken on behalf of and for the benefit of Steve Wynn and Wynn Resorts, and that he only undertook to develop a gaming business in the Philippines independently subsequent to the change of presidential administrations.

On December 20, 2007, Aruze Corp. issued a press release entitled "Business Realignment and Future Business Development." The press release stated the following:

"The Company looks to acquire the licenses necessary to operate a casino resort in the Asian region, including Macau, and to commence operation of a casino resort on its own over the next business year. . . . For this know-how, which is vital from a management perspective, the Company intends to enlist the full cooperation of Wynn Resorts, Limited's Steve Wynn in its future pursuits regarding this project. For the purpose of successfully operating a casino resort in the Asian Region on an independent basis, the Company has received agreement from Steve Wynn that he will supply all necessary support, including active personal exchange with Wynn Resorts, Limited...."¹¹⁷ (Emphasis added.)

¹¹⁴ See email from Barry Brooks to Kevin Tourek, dated February 1, 2012. [See Appendix]

¹¹⁵ See email from Kevin Tourek to Kim Sinatra, dated February 2, 2012. [See Appendix]

¹¹⁶ Statements attributed to Okada during the February 15, 2012 interview are based on FSS' contemporaneous notes.

¹¹⁷ See JASDAQ press release for Aruze Corp., dated December 20, 2007, entitled "Business Realignment and Future Business," available at: http://www.universal-777.com/en/ir/releases/2007/20071220_c.pdf. [See Appendix]

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On April 25, 2008, Aruze Corp. issued another press release entitled “Casino Project in the Philippines.” This press release stated the following:

“As announced in its ‘Business Realignment and Future Business Development’ press release issued December 20, 2007, ARUZE GROUP seeks to commence the operation of a casino resort in the Asian region, which shall be conducted independently by ARUZE CORP. . . . Out of the above mentioned elements, where essential management-based know-how is concerned, the Company intends to proceed with the project under the full guidance of Wynn Resorts, Limited’s Steve Wynn.”¹¹⁸(Emphasis added.)

The press release identifies the location of the planned casino as a plot of land adjacent to “Bagong Nayong Pilipino Manila Bay Tourism City.”

The language in the press releases suggest that Universal’s intentions from the inception of the project were to develop a gaming business independently, and not for the benefit of Steve Wynn or Wynn Resorts.

7. Mr. Okada has stated that Universal paid expenses related to then-PAGCOR Chairman Genuino’s trip to Beijing during the 2008 Olympics.¹¹⁹

Mr. Okada was asked during his interview whether he met then-PAGCOR Chairman Genuino in Beijing during the 2008 Olympics. Mr. Okada stated that Universal’s President Tokuda made the arrangements for Chairman Genuino to travel to the Olympics. Mr. Okada explained that Mr. Tokuda was involved with the setting of the travel itinerary. When Mr. Okada was asked if the travel arrangements were “paid by Universal,” Mr. Okada responded “not 100% perhaps there were people certainly not all but I’m not familiar with the details.” Mr. Okada was then asked “To your knowledge, did Universal pay any of the associated costs of any of the travel of Mr. Genuino?” Mr. Okada answered “I don’t know whether or not the travel expense was paid by them. My understanding is that there was a certain amount of personal monies being spent from the attendees and participants including Chairman Genuino but I do not know details regarding this.” Mr. Okada was then asked “But is it your knowledge that some of those expenses were paid by Universal?” Mr. Okada answered: “Regarding the individual payment of personal monies, whether before or after, it was Universal that put together all of the expenses.”

Mr. Okada then explained that since Mr. Okada was previously invited to “one of the islands in the Philippines so in return well we decided that we would decide to do this in turn so I too would invite them as well. There was a time from where we had that understanding now that I recall. So I may have asked Mr. Tokuda to include this person [Genuino] as well.” The

¹¹⁸ See JASDAQ press release for Aruze Corp., dated April 25, 2008, entitled “Casino Project in the Philippines,” available at: http://www.universal-777.com/en/ir/releases/2008/20080425_c_pr2.pdf. [See Appendix]

¹¹⁹ Attributions from Mr. Okada’s interview are based on FSS contemporaneous notes.

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following question was then asked: “If there was a time that Genuino has invited you to the Philippines and in return for that you may have invited him or had some knowledge that Universal paid some of his expenses when he came to Beijing?” Mr. Okada responded: “I don’t like to be invited more than what is necessary because that would mean that I am vulnerable and I don’t like that. I was told that it was paid for and he insisted so I remember he had to be paid for in this way. So I remember that Mr. Tokuda said he should be included as well. I remember thinking that I had to return this in some way so I may have made that decision based on that memory.” (Emphasis Added).

Later in the interview, Mr. Okada stated that Chairman Genuino appeared to have a “few people” with him at the Olympics and, “I asked my staff why wasn’t he around and then my people said Mr. Genuino had a few people accompany him and he met with them to go shopping and once I heard that I do not recall now but again I don’t have a clear recollection of his whereabouts.”

VI. Summary of Mr. Okada’s February 15, 2012 Interview¹²⁰

Mr. Okada had four lawyers present over the course of the interview, including a Japanese interpreter/associate. Mr. Okada was given a full opportunity to answer all questions. He attended the interview voluntarily and at the end he was asked whether he wanted to explain anything else.

A. Apparent FCPA Violations regarding Philippine PAGCOR officials.

1. Mr. Okada admitted going to Macau on or about September 24 2010 to meet with PAGCOR chairman Naguiat at Wynn Macau. Mr. Araki called Mr. Okada on either September 24 or 23 to advise that Chairman Naguiat was at Wynn Macau.
2. Mr. Okada stated he flew to Macau from Japan for the sole reason of meeting Chairman Naguiat.
3. Mr. Okada stated the purpose of Chairman Naguiat’s visit to Wynn Macau was for business – as a new PAGCOR Chairman, Naguiat wanted to better understand the casino business. Mr. Okada stated that a number of his Universal employees, including Araki, were at Wynn Macau in order to assist Chairman Naguiat in this regard.
4. Mr. Okada stated that when he got to Wynn Macau he asked to see Ian Coughlan, Wynn Macau CEO.
5. Mr. Okada asked to see and met with Ian Coughlan at Wynn Macau but denied telling Coughlan that the guests were Universal VIPs and that they should be treated well.

¹²⁰ Certain sections of the report below are presented in an abbreviated form. See the attached notes of Mr. Okada’s interview for a more expansive description. [See Appendix]

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6. Mr. Okada emphatically denied saying this and related that there is no way he would have said something to that extent regarding special care: “I would have said this is a person with a position with PAGCOR, I would have said be normal and don’t do anything out of the ordinary.”
7. Mr. Okada stated he attended a dinner for approximately ten (10) people at Wynn Macau and that Chairman Naguiat also attended.
8. Mr. Okada stated that either Araki, Shoji or Universal paid for the dinner
9. Mr. Okada said that he did not know whether any other PAGCOR officials attended the dinner.
10. Mr. Okada stated that he and Naguiat did not discuss any business at the dinner which would have been rude.
11. Mr. Okada stated that he believed Naguiat’s wife was present at the dinner but that he was not introduced to her.
12. Mr. Okada stated he left early the next morning.

B. Mr. Okada’s Knowledge of and Response to Chairman Naguiat’s September 2010 stay

1. Mr. Okada stated that sometime after September 2010 he learned from Universal President Tokuda that the cost of Chairman Naguiat’s stay at Wynn Macau exceeded reasonable entertainment expenses.
2. Mr. Okada learned about the excessive September 2010 expenses from Takuda about three or four months after the events when the bills would come up.
3. Mr. Okada stated that he was never told the cost of Chairman Naguiat’s Wynn Macau stay nor did he ask anybody that question.
4. Mr. Okada stated that he understood that Chairman Naguiat had stayed in the most expensive accommodation at Wynn Macau. But he said “I heard later on that he was in one of the more expensive rooms. I heard this in the context of it would be a problem regarding our corporate policy....”
5. Mr. Okada stated that Chairman Naguiat’s wife was present at Wynn Macau. Mr. Okada did not know if his children were present.
6. Mr. Okada stated that he did not know that any cash had been provided to Chairman Naguiat.
7. Mr. Okada stated that he did not know that Universal employees had tried to hide the identity of Chairman Naguiat as a guest.
8. Mr. Okada stated that he did not know how long Chairman Naguiat had stayed at Wynn Macau.
9. Mr. Okada denied seeing two (2) emails from Shoji to Angela Lai at Wynn Macau, dated September 20th and 23rd 2010 respectively, which requested .

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reservations for a Universal VIP guest, “who would not be registered,” and arrangements to provide up to 5,000 US credit for each person staying at Naguiat’s Villa. Mr. Okada explained that although he saw his name in the email cc’s, he would not have seen either email because for the most part he does not use his PC.

10. Mr. Okada stated that internal Universal rules do not permit the payment of cash to government officials. Mr. Okada stated that no stay in the Villa in Wynn Macau could cost US 50,000
11. Mr. Okada stated that internal Universal rules permitted the payment of reasonable entertainment expense for government officials but did not know what amount was permitted.
12. Mr. Okada stated that the cost of Chairman Naguiat’s stay at Wynn Macau caused a “problem” for Universal and that as a result Araki was fired, and Shoji resigned after having been scolded by Mr. Okada.
13. Mr. Okada stated that he did not make any changes at his company or give anyone new instructions as a result of finding out about Naguiat’s stay in September 2010.
14. Mr. Okada said that it was possible that Chairman Naguiat would be billed for the cost of the stay.
15. Mr. Okada said, when he was asked about a reference in a Shoji email to posting all expenses to the Universal City Ledger Account, that he lacked any knowledge of such an account and said “I wonder if the City Ledger is in reference to our internal policy, as long as it is under that ceiling....”

C. Mr. Okada stated that he was aware of only one other guest stay at Wynn Macau that he believed was improperly paid by Universal.

1. Mr. Okada stated only a few weeks ago he learned from President Tokuda that Anthony Genuino, son of former PAGCOR Chairman Genuino, had stayed at Wynn Las Vegas in September of 2008 and that Universal had paid US 2300 for his stay.
2. Mr. Okada stated that Genuino would be sent the bill for this cost
3. Mr. Okada denied any knowledge of other PAGCOR officials staying at Wynn Resorts from 2008 through June 2011 with Universal paying for their expenses.
4. Mr. Okada stated that he had just instructed President Tokuda of Universal to conduct an investigation into Universal’s payment of entertainment expenses.
5. Mr. Okada blamed Shoji as the responsible party for these payments.
6. Mr. Okada stated that he yelled at Shoji for not reporting these matters to him and would have fired Shoji except that Shoji resigned. Mr. Okada stated that Tokuda

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did report these matters and Mr. Okada believed that Shoji was also in a position to know all about what had happened but had failed to report it to him.

7. Mr. Okada stated that Shoji was a trusted employee who had worked closely with him since 2002 and should have reported these matters to him.
8. Mr. Okada stated that they were just starting this investigation and that bills may be sent to certain of these guests for the expenses which Universal paid.
9. Mr. Okada especially blamed Mr. Shoji since he was the head of the company's compliance committee from 2002-2010.
10. Mr. Okada stated that he last met with Chairman Naguiat in the Philippines during January 2012 in order to seek land leasing approval from PAGCOR.
11. Mr. Okada stated that Universal had an expense policy but he didn't know what the amounts were. Mr. Okada stated that he was unfamiliar with the specific details of his compliance policy because he was too high within the company. He left it to others to handle the details of the policies.
12. Mr. Okada was asked a series of questions regarding about a dozen other PAGCOR officials who stayed at Wynn Macau or Wynn Las Vegas during 2010 and 2011 for whom Universal paid their expenses.
13. Mr. Okada denied having authorized any of these payments and said that he would not have authorized such payments if the guests were PAGCOR officials.
14. Mr. Okada stated that on one occasion he met Jose Miguel Arroyo, husband of Former Philippine President Gloria Arroyo, but did not know that Jose Arroyo had stayed at Wynn Las Vegas in November 2009, with Universal paying for his expenses totaling US 4,642.
15. Mr. Okada stated that he met Chairman Naguiat approximately 4 or 5 times since Naguiat's Chairmanship in June 2010 and that these meetings always involved official matters.
16. Mr. Okada stated that he told Tokuda in December of 2011 to investigate these matters.
17. Mr. Okada stated that December was the first time he asked Mr. Tokuda investigate these charges for Universal.
18. Mr. Okada stated further that Shoji was a trusted employee whom he had met with "very frequently." During the time period in September 2010 when Shoji was setting up the Naguiat visit, Shoji told Mr. Okada nothing about Naguiat.

D. Okada statements to the Board of Directors Regarding doing business in Asia

1. Mr. Okada stated that he could not specifically remember attending a Wynn Resorts Board of Directors meeting in February 2011.

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2. Mr. Okada stated that he did not remember attending a Wynn Resorts Board of Directors meeting where bribery was discussed.
3. Mr. Okada denied ever stating to Wynn Resort Directors words to the effect that “it was a matter of hiring the right people and that you must pay other people.” He responded “absolutely not, that’s a lie.”
4. Mr. Okada denied telling fellow board members words to the effect that “you have to follow local customs and that’s why you have consultants.”
5. Mr. Okada also denied ever stating to fellow board members words to the effect “I wouldn’t bribe someone but would have someone else bribe that person.”
6. As to bribing someone in the Philippines, Mr. Okada stated that “there is no need to do that in the Philippines even because we are in the position to invest.”
7. Mr. Okada also denied ever stating words to the effect that “in Asia, it is okay to give gifts to government officials.” His response was “absolutely not.”
8. Mr. Okada stated that he had been a member of the Wynn Resorts Board of Directors since 2005 or 2006. When asked about his duties or responsibilities as a director of Wynn Resorts, Okada stated that he had to “ensure socially just company, there should be no illegal activities, and that I have to help them be successful and grow as a company.”
9. Mr. Okada was asked if he had ever read the Wynn Resorts Code of Conduct to which he responded, “No because it is in English, no I cannot.”
10. Mr. Okada was asked if he had accepted Wynn Resorts Board of Director FCPA training in 2011, to which he replied that he had received some documents but sent them to his lawyers.

E. Doing Business in the Philippines

1. Mr. Okada stated that prior to the new Philippine administration taking over in 2010, his efforts to conduct a gambling business in the Philippines were being done for Wynn Resorts and that he was reporting to Steve Wynn about these activities.
2. Mr. Okada said before the new Philippine administration in 2010 “All of the conversation between myself and Genuino was for the sake of explaining to Mr. Wynn.”
3. Mr. Okada stated that a press release from Aruze Corp. dated April 25, 2008, that announced Aruze would independently operate a casino project in the Philippines, had not been presented to him for approval.
4. Mr. Okada stated that neither Steve Wynn nor Wynn Resorts had invested any money in the Philippine business initiative which he had been conducting since 2008.

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5. Okada stated that Universal had invested between US 300-400 million in 2008 to acquire the land for the Manila Bay project.
6. When asked whether Mr. Wynn or Wynn Resorts invested any money in the US 300-400 million purchase, Mr. Okada stated that “Wynn Resorts had no involvement whatsoever.”
7. Mr. Okada stated that it was only after the new Aquino presidency in June of 2010 that he decided to pursue a Philippine gaming project independently.
8. Mr. Okada stated that this land had been acquired by a company called Eagle I Land Holdings in which Aruze USA had an ownership interest.
9. Mr. Okada stated that at the time of the land acquisition in 2008, Eagle I Land Holdings was 60% owned by Filipino nationals. However, when asked to identify the 60% ownership today, he responded “I know of them I know who they are but I don’t remember their names.”
10. Mr. Okada stated that he was aware of the Philippine legal requirement that land be 60% owned by Filipinos.
11. Mr. Okada stated that neither Tiger or Aruze had a provisional gaming license for the Philippines.
12. Mr. Okada does not know whether a deposit was made by Universal in order to pursue the Filipino gaming initiative.
13. It was his understanding that to get a gaming license in the Philippines you needed to do certain things beforehand and that he asked questions on Wynn’s behalf as to what had to be done.
14. Mr. Okada stated that Platinum Gaming and Entertainment was a Philippine company run by Soriano.
15. Mr. Okada stated that he did not know Paolo Bombase or Manuel Camacho as shareholders of Eagle I and Eagle II.
16. Mr. Okada stated that Masato Araki may have lent his name as a stockholder to Eagle I and Eagle II but that Mr. Okada did not know the details. Mr. Okada stated that he did not know whether Manabu Kawasaki, who was another Universal employee, was a stockholder of Eagle I or Eagle II.

F. Possible Payments by Universal to Korean Government Officials.

Mr. Okada stated that he is interested in the IFEZ for possible investment. Mr. Okada stated that he personally set up arrangements in 2009 or 2010 for a Korean delegation from the IFEZ to visit Las Vegas. According to Mr. Okada, this delegation was led by a Mr. Lee, who was “seconded” to IFEZ by the Korean government. Mr. Okada invited this delegation to see the Venetian.

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Mr. Okada stated that “at the very beginning” he discussed the “issue of expense” and the Korean side said they had to pay for their own expenses as government officials. Mr. Okada stated that the Korean delegation stayed at Wynn Las Vegas and paid for their rooms. When told that Universal in fact paid for the Koreans’ rooms, Mr. Okada stated “It’s possible we paid in advance the first time but then they paid later. I am personally in charge of the Koreans.” When Mr. Okada was then asked if he knew that was done he responded “I am certain it was done.”

Mr. Okada later repeated that the Koreans paid for their own travel. When advised that Universal paid for Commissioner Lee and others to stay at Wynn Macau in 2011, and Wynn Las Vegas in 2010, Mr. Okada stated that “It may have been that we made a temporary payment to be reimbursed later but in any case for Korea all trips must be applied for with the City Hall and they need to get prior approval.”

Mr. Okada later repeated that he did not authorize Universal to pay approximately US 6,000 worth of room charges for Commissioner Lee and other IFEZ officials for stays at Wynn Resorts. When asked if it would be against “Universal’s policy” to pay such travel expenses, Mr. Okada repeated that the Koreans would pay for their own expenses. He added that “Maybe it was the case where Universal made a temporary payment to be reimbursed later and all this would be paid by ‘admin official.’”

G. Mr. Okada Instructs Mr. Tokuda to Conduct an Investigation

Mr. Okada stated that since about 2008-2009, Universal has had both “ordinary” and “extraordinary” rules about paying entertainment expenses regarding government officials. However, he stated that he did not know the “specific details.” Mr. Okada stated that “cash” could not be given but that he did not know the dollar amount limit for providing government officials with meals.

Mr. Okada stated that after learning from Mr. Tokuda about the excessive expenses paid by Universal for Chairman Naguiat’s September 2010 stay at Wynn Macau, Mr. Okada did not take any steps or give instructions to prevent a recurrence. Indeed, Mr. Okada stated his belief that Universal’s corporate policy as it exists today is “plenty on its own.”

Mr. Okada stated that “within the last week or so” he learned from Mr. Tokuda that the son of then-PAGCOR Chairman Genuino stayed at Wynn Las Vegas in 2008 and that Universal had paid US 2,800 for his expenses. Mr. Okada said this was “inexcusable” and that he had given instructions to have him [Genuino] billed directly. Mr. Okada further stated that Mr. Tokuda had found “several more” of these instances but that Mr. Okada did not “know the details.” Mr. Okada stated that in regard to Chairman Naguiat’s stay at Wynn Macau, perhaps an invoice should also be sent to him as the customer.

Mr. Okada stated that “it was just yesterday” that he heard from Tokuda about “these issues being raised.” After being asked what he knew about a list of PAGCOR officials whose

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stays at Wynn Macau and Wynn Las Vegas were paid by Universal from 2008 – 2011, Mr. Okada denied any knowledge of these events. However, Mr. Okada stated that “everything I believe [FSS] mentioned matches with what Mr. Tokuda is investigating right now. And I will have him write a paper that lists all the countermeasures and a progress report and what has been wrapped up and so forth.”

Mr. Okada stated that in approximately December 2011, he “clearly instructed” Mr. Tokuda to conduct an investigation about these matters. At the end of the interview, Mr. Okada stated that “I will look into all the expense that you have asked about and if it is someone who has an existing relationship I will for sure bill that person.”

VII. Conclusions

The investigation has produced substantial evidence that directly relates to Mr. Okada’s suitability under Nevada law as both a major shareholder and director of Wynn Resorts.

Nevada Gaming Commission Regulations regarding individual suitability issues encompass, among other things, a person’s “good character, honesty and integrity,” and whether a person’s “background, reputation and associations will not result in adverse publicity for the State of Nevada and its gaming industry” (Section 3.090 of the NRS). The NRS also require that a covered person satisfy the Commission that such person has “adequate business probity” (Section 463.170, paragraph 3).

Both Aruze USA , a Nevada corporation, and Mr. Okada personally, as a Director, President, Secretary and Treasurer of Aruze Inc., are covered parties under the jurisdiction of the FCPA.

As set forth above, the investigation has produced substantial evidence that Mr. Okada, his associates and companies have apparently been engaging in a longstanding practice and pattern of committing prima facie violations of anti-bribery laws, particularly the FCPA.

The testimonial and documentary evidence appear to prove that, since at least 2008, Mr. Okada, his associates and companies have made over US 110,000 in payments to his chief gaming regulators (2) in the Philippines (PAGCOR), their families and associates. Mr. Okada is building a multi-billion dollar gaming business and operation in the Philippines.

The practice and means of making these payments varied slightly but were regularly and repeatedly arranged in the same manner. For example, between June 2008 and August 2010, former PAGCOR Chairman Efraim Genuino (February 2001 – June 30, 2010), his son and other PAGCOR government officials, were hosted by Mr. Okada, his associates and companies at either Wynn Resorts Las Vegas or Wynn Resorts Macau. Mr. Okada, his associates and companies would arrange and pay thousands of dollars to cover the expenses of Chairman

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Genuino, his son and other then-current PAGCOR officials in his party. These payments were made by Mr. Okada, his associates and companies, using the City Ledger Account, which contained an average balance of US 100,000 funded and replenished by Universal. International money transfers and the facilities of interstate commerce were used to make these payments.

There is substantial evidence to show that Chairman Genuino's June 2010 stay at Wynn Macau was due to the fact that he was then Mr. Okada's principal Philippine gaming regulator. This is also demonstrated by the fact that after Chairman Genuino left his PAGCOR office in June 2010, he and his family were no longer the beneficiaries of such payments at Wynn Resorts facilities.

However, as set forth above in greater detail, Mr. Okada's current chief Philippine gaming regulator, Chairman Cristino Naguiat (July 2, 2010 – present) and his family quickly succeeded Chairman Genuino as the beneficiaries of payments by Universal for stays at Wynn Resorts Las Vegas and Wynn Resorts Macau (September 2010 in Macau; November 2010 in Las Vegas; and June 2011 in Macau, just over seven (7) months ago).

These payments were made using Mr. Okada's City Ledger Account, as was done regarding payments on behalf of the former PAGCOR Chairman. The evidence further suggests that Chairman Naguiat's luxury stays at Wynn Resorts facilities were fully known to Mr. Okada, who actively involved himself in some of the arrangements. For example, Chairman Naguiat's September 22-26, 2010 stay at Wynn Resorts Macau luxury Villa 81, the most expensive accommodation at Wynn Resorts Macau (about 7,000 square feet in size, which then cost about US 6,000 per day), was intended by Mr. Okada and his associates to be kept secret and concealed within Wynn Resorts Macau records. Initially, Mr. Okada's associates arranging for Chairman Naguiat's September 2010 stay at Wynn Resorts Macau purposefully withheld Naguiat's name and had him registered as an "Incognito" VIP guest of Universal, utilizing the named reservation of "Rogelio Bangsil" (another then-senior PAGCOR official). Chairman Naguiat then stayed at the Wynn Resorts Macau for four days, together with his wife, three children and a nanny, without ever once introducing himself to the constantly attending Wynn Resorts Macau VIP service managers.

Mr. Okada's associate, who made this reservation for Chairman Naguiat, requested a "more gorgeous room, such as "Villa" and "the best butler," for this unnamed "VIP for Universal," who turned out to be the chief gaming regulator for the Philippines. The evidence also shows that on September 24, 2010, Mr. Okada personally made clear (via an interpreter) to Ian Coughlan, the Wynn Resorts Macau Executive Director and President, that Chairman Naguiat and his party were important guests and that Mr. Coughlan should make sure that his staff took good care of them. The evidence further shows that on the evening of September 24, 2010, Mr. Okada hosted a dinner at Wynn Macau for Chairman Naguiat (and approximately 13 others). The US 1,673.07 cost of this dinner was charged to Mr. Okada's room.

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The testimonial and documentary evidence also shows that despite deliberate attempts to conceal Chairman Naguiat's identity while a guest at Wynn Resorts Macau in September 2010, hotel staff, acting on their own, soon identified Chairman Naguiat by means of a photo from the PAGCOR website. Their interest in doing so was sparked by the fact that the senior PAGCOR guest known to them, Mr. Bangsil, exercised great deference to Chairman Naguiat, who the staff determined must be the 'boss'. Nevertheless, the VIP service providers continued to refer to Chairman Naguiat only as "sir," thereby following the wishes and directions of Chairman Naguiat and Mr. Okada's associates. The evidence also shows that several weeks after Chairman Naguiat's intended "Incognito" stay at Villa 81, Mr. Okada's associates became concerned about the high cost of Chairman Naguiat's luxury stay at Wynn Resorts Macau. Specifically, Mr. Okada's associate advised Wynn Resorts Macau that the amount being charged for Chairman Naguiat's stay was too much over an ordinary business expense. Mr. Okada's associate then asked if Wynn Resorts Macau "could reconsider the matter [Chairman Naguiat's stay] and charge us [Mr. Okada's company] the original rate [and free upgrade to a Villa] since the party directly dealing with on this matter is our company [Mr. Okada's company] rather than each individual guest [Chairman Naguiat]." Mr. Okada's associate further stated that "since the amount charged [for Chairman Naguiat] is too much beyond the ordinary room charge, our company [Mr. Okada's company] will be put in a very difficult position to give reasonable explanations if we are inquired by someone." (Emphasis added).

Despite Mr. Okada's associate's efforts to have Wynn Resorts Macau reduce these payments and assist in covering up the beneficial amounts received by Chairman Naguiat, Wynn Resorts Macau denied this request.

Mr. Araki's later email ("Our Chairman Okada once again instructed us to take care of the group [PAGCOR], but not like the last time...") to Wynn Macau, dated October 5, 2010, also tends to confirm Mr. Okada's personal knowledge and direction of the payments made on behalf of Chairman Naguiat and his family for their luxury stay at Wynn Macau for September 22-26, 2010.

The evidence also shows that on September 24-25, 2010, Mr. Okada's associates obtained a total of US 20,000 cash from Wynn Resorts Macau's main cage as "cash advances" for Chairman Naguiat, his family and party. This same associate of Mr. Okada returned approximately US 503 of this advance on September 26, 2010 as the remainder from Chairman Naguiat's party. Mr. Okada's City Ledger Account was again used to pay for this advance.

The evidence also shows that the PAGCOR-related payments made by Mr. Okada and his associates are not the result of any misunderstanding of the applicable anti-bribery laws, including the FCPA. Conversely, by his own statements and declarations to fellow Wynn Resorts Board members, Mr. Okada apparently believes that there is nothing wrong with making payments and gifts to government officials when doing business in Asia. When advised by fellow directors and Wynn Resorts lawyers that such payments are bribes strictly prohibited by

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the FCPA and other laws, Mr. Okada responded that third party intermediaries or “consultants” can be used to make the payments.

The best evidence of Mr. Okada’s belief that it is permissible to make payments to government officials is his admission that Universal paid expenses for then-PAGCOR Chairman Genuino’s trip to the 2008 Beijing Olympics. Mr. Okada explained that since Mr. Genuino had previously invited Mr. Okada to “one of the islands in the Philippines,” Mr. Okada and Universal’s President Tokuda in turn had Universal pay for expenses related to Genuino’s trip to Beijing, which Mr. Okada stated was arranged by President Tokuda. This admission by Mr. Okada is consistent with his February 24, 2011 statements to board members that there is nothing wrong with making payments and gifts to government officials.

The evidence about the corporate structures utilized by Mr. Okada and his associates to initiate his multibillion dollar gaming business in the Philippines also appears to demonstrate Mr. Okada’s intent to do business as he desires, regardless of the applicable laws and regulations. FSS’s examination of the corporate documents relating to Mr. Okada’s gaming initiative in the Philippines appears to show that he has used a complex web of corporate structures and companies to evade laws which require Philippine nationals to own 60% interest in all real estate. A separate legal analysis by a Philippine attorney confirms this finding and suggests that Mr. Okada’s Philippine gaming initiative has been set up in violation of applicable law.

Additionally, the preliminary evidence also shows that in connection with Mr. Okada’s efforts to develop a gaming business in IFEZ, Mr. Okada and his associates may be engaging in the same pattern of proscribed payments to government officials. The preliminary evidence shows that in October 2011, Mr. Okada’s company signed a Memorandum of Understanding with IFEZ to develop a casino resort near the Incheon International Airport. Preliminary information indicates that IFEZ is overseen by the Incheon Free Economic Zone Authority, apparently part of the City of Incheon government. Mr. Okada’s City Ledger account reflects that from November 2010 through June 2011, four (4) individuals, including IFEZ Commissioner Jong Cheol Lee, had two stays at Wynn Resorts Las Vegas and Wynn Resorts Macau, where payments totaling US 5,945.52 were made on their behalf through Mr. Okada’s City Ledger account. Preliminary internet research identifies Jong Cheol Lee as the current IFEZ Commissioner, a position he has held since July 2010. It is not clear at this preliminary stage i) whether Mr. Okada’s announced gaming investment and operation within IFEZ has received any gaming licensing, and ii) whether the three (3) guests who accompanied Commissioner Lee were then Korean government officials.

The investigation has established that despite requests by Wynn Resorts since August 2011 that Mr. Okada acknowledge in writing that he has reviewed (and agreed to comply with) Wynn Resort’s “Code of Business Ethics” and “Policy Regarding Payments to Government Officials,” Mr. Okada has failed to do so.

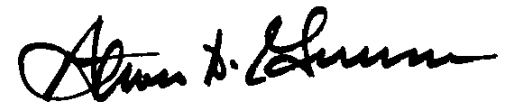
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Finally, Mr. Okada was interviewed by FSS on February 15, 2012 by FSS and was given the opportunity to present his version of the facts. Mr. Okada denied knowledge of Chairman Naguiat staying “incognito” at Wynn Macau in September 2010. He also denied knowledge that Mr. Shoji was actively involved in arranging for Chairman Naguiat’s stay. Although Mr. Shoji’s emails asking that Chairman Naguiat’s identity be kept secret, and that Chairman Naguiat be provided with cash in connection with his visit, were copied directly to Mr. Okada, the latter stated that because he rarely uses his personal computer, he would not have seen such emails. Mr. Okada acknowledged flying to Macau on September 24, 2010 in order to visit Chairman Naguiat but denied telling Ian Coughlan that Chairman Naguiat was an important Universal guest who should be treated well. Conversely, Mr. Okada stated that there is “no way” he would have said something like that, but would have said “be normal and don’t do anything out of the ordinary.” The substantial evidence relating to Chairman Naguiat’s September 2010 stay at Wynn Macau, including emails, Coughlan’s statements, and the facts and reasonable inferences regarding this evidence, cast substantial doubt on Mr. Okada’s credibility.

Mr. Okada also vehemently denied making statements to fellow board members to the effect that doing business in Asia requires and permits bribes to be made to government officials. Mr. Okada’s denials are directly contradicted by many of his fellow board members.

Similarly, Mr. Okada insists that all of his efforts to establish a gambling business in the Philippines prior to 2010 were undertaken solely on behalf of Wynn Resorts. His insistence is largely contradicted by the actions which he undertook. First, Mr. Okada and Universal invested US 300-400 million to buy property in the Manila Bay Entertainment Zone, which was to be used for his gaming operation. Mr. Okada admitted that Wynn Resorts had “no money involved in this investment.” Secondly, Mr. Okada and Universal set up an elaborate corporate structure in order to initiate, and operate in the future, a multimillion dollar casino operation. Wynn Resorts had no participation in any of these corporate initiatives or structures, all of which were controlled by Universal and Mr. Okada. Third, the provisional gaming license, which is required in order to establish a gaming business in the Philippines, was procured by Mr. Okada and his companies, without any relation to Wynn Resorts. Finally, when shown an April 25, 2008 Aruze Corp. press release, which states that the Aruze casino operation will be independently developed by Aruze with the mere intent that Wynn Resorts help guide its project, Mr. Okada denied any knowledge of this press release.

In sum, the substantial evidence developed by this investigation and set forth above, based on witness interviews, public information, documentary and electronic data, provide the Compliance Committee and Board of Directors a factual basis to review Mr. Okada’s continued suitability to be a major shareholder and director of Wynn Resorts.



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DISTRICT COURT

CLARK COUNTY, NEVADA

KAZUO OKADA, an individual,
Petitioner,

V.

WYNN RESORTS, LIMITED, a Nevada
corporation,

Respondent.

Case No.: A-12-654522-B
Dept. No.: XI

**WYNN RESORTS, LIMITED'S SECOND
SUPPLEMENT TO RESPONDENT'S
OPPOSITION TO PETITION FOR A WRIT
OF MANDAMUS**

Date: March 8, 2012

Time: 9:00 a.m.

BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 NORTH CITY PARKWAY, SUITE 1600
LAS VEGAS, NV 89106
(702) 382-2101

1 **I. INTRODUCTION**

2 Wynn Resorts, Limited ("Wynn") files this supplemental brief to demonstrate that it has
3 produced all non-privileged documents that could reasonably relate to Kazuo Okada's ("Okada")
4 responsibilities as a Director of Wynn, thereby negating any basis for the Court to grant Okada's
5 Petition for a Writ of Mandamus ("Petition"). To ensure that the Court does not have half of the
6 story when it hears Okada's Petition, Wynn also fully informs the Court of the events underlying
7 and preceding Okada's Petition. These events bring Okada's Petition into proper focus and
8 context.

9 If the Court determines, however, that Wynn should produce additional documents to
10 Okada, any such production should be stayed for a period of at least sixty (60) days. A stay will
11 permit the Court to consider Okada's requests with the benefit of full and complete information
12 concerning Okada's status as a director (*i.e.*, present and future). A stay will further give the
13 Court a window of opportunity to consider Okada's status as a litigant against and as a business
14 competitor of Wynn, and to uncover Okada's apparent media campaign to share Wynn
15 information with the press on a near real time basis. Taken together, this additional information
16 will confirm and underscore the unreasonableness of Okada's document and writ requests.

17 **II. BACKGROUND OF DISPUTE**

18 **A. The Wynn Board Considers Okada's Document Requests.**

19 As the Court will recall, at the close of the hearing on February 9, 2012, the Court stated
20 that the right of a director to inspect corporate books and records "is *limited by reasonableness*
21 under the common law." (*See* Petition Hearing Transcript, 19:5–6, Exhibit "A" (emphasis
22 added).) The Court acknowledged that the Wynn Board of Directors ("Wynn Board") possesses
23 "the *right* to address each item individually as to whether the production of those particular items
24 [requested in the Petition] are in fact reasonable." (*Id.* at 19:12–14 (emphasis added).) The Court
25 continued the hearing to enable the Wynn Board to consider Okada's requests and requested that
26 Wynn file "a supplement on [Wynn's] . . . position related to each of the individual document
27 request's reasonableness." (*Id.* at 20:21–23.)
28

1 Steering by the Court's beacon, Wynn acted quickly and diligently to notice a Wynn
2 Board meeting for February 18, 2012. At the meeting, the Wynn Board discussed, among other
3 items of business, Okada's document requests. Pursuant to Wynn's practice of transparency with
4 its stockholders and Directors, the Wynn Board ultimately approved the limited release of certain
5 documents for Okada's inspection notwithstanding the dark cloud hovering over him.¹

6 ***1. Pre-IPO documents dating back ten to twelve years ago.***

7 The Wynn Board approved Wynn to make certain documents available for Okada's
8 inspection in response to Okada's requests to inspect (a) "books and records related to how [sic]
9 the manner in which the \$120 million invested by Aruze USA in April 2002 was spent"; (c)
10 "books and records regarding the Macau Reimbursement Amount, as that term is used in the
11 Third Amended and Restated Operating Agreement [sic] of Valvino Lamore"; and (d) "[b]ooks
12 and records of Wynn Resorts and its predecessor entities for the years 2000 through 2002." (See
13 Petition ¶ 36, on file with the Court.) These documents include, among other things, Valvino
14 Lamore, LLC ("Valvino Lamore") operating agreements, financial documents, and filings with
15 the U.S. Securities and Exchange Commission ("SEC").

16 It is important to highlight at this juncture that the three categories of documents sought
17 by Okada concern documents that are ten to twelve years old and predate the initial public
18 offering (IPO) of Wynn. Thus, these documents relate to corporate entities other than Wynn and
19 do not reasonably relate to Okada's ability to carry out his duties as a Director of Wynn. For
20 example, Okada's document request concerning the "Macau Reimbursement Amount" refers to a
21 defined term in a document effective as of April 11, 2002, between the members of Valvino
22 Lamore. (See Third Amendment to Amended and Restated Operating Agreement of Valvino
23 Lamore, Exhibit "C".) This request has nothing whatsoever to do and should not be confused
24 with the propriety of Wynn Macau, Limited's ("Wynn Macau") charitable donation to the
25

26
27 ¹ Wynn notified Okada of the Wynn Board's decision by letter dated February 21, 2012.
28 (See Letter from T. Peterson to G. Caine, Exhibit "B".)

1 University of Macau. Wynn Macau's charitable donation to the University of Macau is the
2 subject of a separate document request by Okada and is discussed below.

3 Put into context, Okada believes it is entirely reasonable for Wynn to devote considerable
4 time, resources and expense to search through its extensive archives to locate documents that pre-
5 date the IPO of Wynn and the time when Okada became a Director of Wynn. In exchange for this
6 burdensome exercise, Okada fails and refuses to provide any explanation whatsoever as to how
7 these stale documents are reasonably related to his responsibilities as a Director of Wynn. For
8 these reasons, the Wynn Board surely could have concluded that these three requests were
9 unreasonable and rejected each request out of hand. The Wynn Board did not do so, but instead
10 permitted Wynn to make a reasonable production of documents responsive to these requests to
11 Okada.

12 Wynn complied with the Wynn Board's directives when it produced 898 pages of
13 documents to Okada that are responsive to these three requests. (See Initial Disclosure of
14 Documents, Exhibit "D".) These documents include, among other things, various licensing,
15 development and employment agreements, the Operating Agreement of Valvino Lamore and
16 amendments thereto, and financing agreements. Nothing more should be required of Wynn.

17 **2. Documents concerning the charitable donation to the University of**
18 **Macau.**

19 Addressing Okada's second request to inspect Wynn's books and records regarding "a HK
20 \$1 billion pledge (and partial donation) by the Company or its affiliates to the University of
21 Macau" (Petition ¶ 36(b)), the Wynn Board authorized Wynn to make the following documents
22 available for Okada's inspection:

- 23 • Information distributed to the Wynn Board and to the Wynn Macau Board
24 of Directors;
- 25 • Background information on the University of Macau and the University
26 Rector;
- 27 • Board of Directors minutes; and
- 28 • Correspondence and other documents discussing the donation to the extent
that they are not privileged.

1 Subsequently, Wynn produced all non-privileged documents responsive to Okada's
2 request for books and records concerning Wynn Macau's charitable donation to the University of
3 Macau. (See First Supplemental Disclosure of Documents, Exhibit "E".) In total, Wynn
4 produced 49 pages of documents relating to Wynn Macau's charitable donation. (*Id.*) These
5 documents consist of the agenda for the joint meeting of the Wynn Board and the Wynn Macau
6 Board, the executed agreement by and between Wynn Macau and the University of Macau
7 Development Foundation that memorializes the charitable donation, a background report,
8 informational attachments to a confidential memorandum, and a letter from Wynn's counsel to
9 Okada's counsel concerning the charitable donation. (*Id.*) Thus, through this disclosure, Wynn
10 has produced all non-privileged documents that could reasonably relate to Okada's
11 responsibilities as a Director of Wynn. (See Letter from T. Peterson to D. Wilson, Exhibit "F".)
12 For this singular reason, Okada's Petition can and should be denied.

13 **3. Documents concerning the 2010 Stockholders Agreement.**

14 As to Okada's fifth request to inspect Wynn's books and records of "[a]ll evidence
15 regarding negotiation, drafting, and execution of the Amended and Restated Stockholders
16 Agreement dated January 6, 2010, between Mr. Wynn, Ms. Wynn and Aruze USA, Inc." (Petition
17 ¶ 36(e)), the Wynn Board gave Wynn the green light to disclose the 2010 Stockholders
18 Agreement and all amendments, which were filed with the SEC and, thus, are already publically
19 available to Okada. With respect to any other non-privileged documents that may be responsive
20 to this request,² the Wynn Board determined that Okada's request was not reasonably related to
21 his responsibilities as a Director of Wynn.

22 ² The Wynn Board did not authorize Wynn to disclose any of Wynn's attorney-client
23 privileged books and records. Likewise, Wynn has asserted the attorney-client privilege with
24 respect to certain privileged, confidential communications and withheld documents that may be
25 responsive to Okada's requests concerning the University of Macau donation and the Amended
26 and Restated Stockholders Agreement dated January 6, 2010, and its amendments (the "2010
27 Stockholders Agreement") on this basis. Indeed, the attorney-client privilege belongs to Wynn,
28 rather than to any individual corporate director. See *Montgomery v. Etreppid Tech., LLC*, 548 F.
Supp. 2d 1175, 1187–88 (D. Nev. 2008) (adopting the "entity theory" and concluding that
management owns the privilege). Therefore, a corporation may block a director with interests
adverse to or dissident from the corporation from inspecting privileged documents. See *id.*
(concluding that a former, dissident LLC manager's interests became adverse to the corporation,

1 Simply put, the Wynn Board got it right. As pointed out in Wynn's Opposition, Wynn is
2 not a party to the 2010 Stockholders Agreement. Rather, the signatories to the 2010 Stockholders
3 Agreement were Aruze, Mr. Wynn and Ms. Wynn. Again, Okada's Petition refused to offer any
4 credible explanation how his request for documents concerning the 2010 Stockholders Agreement
5 was reasonable or even remotely related to his responsibilities as a Director of Wynn.

6 Recently, however, Okada revealed his hand. Okada seemingly believes that his request
7 is proper because the Wynn Board relied upon the 2010 Stockholders Agreement to redeem
8 Aruze's shares of Wynn at a discount. (*See* Affidavit of T. Peterson ¶ 4, Exhibit "G".)
9 Incredibly, the event that Okada claims justifies his request occurred after he filed his Petition.
10 What is more, Wynn's redemption of Aruze's stock, and Okada's misdeeds that triggered the
11 redemption, are squarely at issue in the separate action recently filed by Wynn. (*See* Section
12 II(C), *supra*.) It is, therefore, manifestly unreasonable for Okada to seek through an extraordinary
13 writ in this action documents he can obtain in and that are relevant to the new action.

14 **B. Okada Misuses This Action As A Public Relations Platform.**

15 In totality, Wynn has produced 953 pages of documents to Okada. (*See* Exhibits "D" and
16 "E".) Notwithstanding the laborious undertaking by Wynn, however, it has become increasingly
17 apparent that Okada will never be satisfied with Wynn's production. In what is clearly a
18 sideshow to the larger dispute between Okada and Wynn, Okada has made clear that he will
19 either continue to distract and burden Wynn's management with the endless task of satisfying his
20 unfounded and vague discovery requests, or he will pursue the Petition with the Court irrespective
21 of the quantity and relevancy of the documents Wynn produces. Any claim by Okada that he
22 needs more documents to satisfy his responsibilities as a Director of Wynn should have no
23

24 _____
25 such that he was no longer acting in "his fiduciary role as a corporate director to benefit the
26 company, but rather in his individual role to benefit himself[.]" and was therefore no longer
27 entitled to access privileged books and records created during the time he served as a director
28 over management's objection). As explained herein, given the current state of affairs, Okada
unquestionably is adverse to and a dissident of Wynn. As such, Wynn's assertion of the attorney-
client privilege is proper. A privilege log is being prepared for Okada's review. Of course, Wynn
will submit further briefing on this issue at the Court's request.

1 traction with the Court. This is especially so considering his position in the context of the
2 changed circumstances noted below.

3 Furthermore, Wynn has produced documents to Okada notwithstanding the impropriety of
4 all but one of his requests. Notably, for his part, Okada has funneled (either through his
5 California lawyers or the well-known public relations firm he hired to publicize his dispute with
6 Wynn (or both)) his confidential communications and business dealings with Wynn directly to the
7 press, topping off the media blitz with personal interviews and false stories so as to cloud the real
8 and compelling stories concerning his own misconduct.³ Okada unquestionably is using this case
9 as a public relations platform to paint a false picture to the press and to vilify Mr. Wynn. Despite
10 the Protective Order entered by the Court, Okada has given Wynn no reason to believe that any
11 documents Wynn provides to Okada will meet a different fate. Okada's preference for the
12 pressroom over the courtroom further undermines the "reasonableness" of any request by Okada
13 for documents.

14 **C. Okada's Unlawful Actions Cause The Wynn Board To Take Appropriate**
15 **Actions To Protect Wynn And Its Stockholders.**

16 As the Court likely knows from the media blitz (a substantial portion of which is fueled by
17 Okada's team), the Wynn Board recently concluded its year-long investigation into Okada,
18 covering a series of prima facie criminal acts surrounding Okada's personal business affairs in the
19 Philippines. That investigation was conducted at the direction and supervision of Wynn's
20 Compliance Committee, led by former Nevada Governor Robert J. Miller, and by the former
21 Director of the FBI and former federal judge, Louis Freeh. Mr. Freeh concluded, among other
22 things, that evidence overwhelmingly showed that Okada had been involved in a pattern of prima
23 facie criminal behavior in violation of the U.S. Foreign Corrupt Practices Act (among other
24 laws—national and international). For the Court's convenience, a copy of Mr. Freeh's report is
25 attached hereto as Exhibit "I".

26
27 ³ See Exhibit "H" hereto which reflects, among other things, evidence of Okada's
28 interviews with the press and evidence that Okada is feeding the press information from Wynn
documents, if not the documents themselves.

1 Needless to say, Okada was fully aware that the investigation was well underway when he
2 filed his Petition and that he had been playing a game of cat and mouse concerning his interview
3 with Mr. Freeh at the time. More importantly, although Okada bore the burden of establishing an
4 entitlement to an extraordinary writ of mandamus, Okada never informed the Court that he was
5 not only aware of the investigation but that the investigation could result in a finding by the Wynn
6 Board of his (or Aruze's) unsuitability to own shares in Wynn and his unsuitability to sit as a
7 Director of Wynn or any of its related entities. It was with full knowledge of this process and the
8 possible results thereof that Okada made his stale and pretextual demands for documents. That
9 his demands were brought as a distraction and a not-so-subtle counterattack against Wynn is
10 beyond serious debate.⁴

11 Following Okada's preemptive strike, the Wynn Compliance Committee and Board
12 moved forward undeterred and un-intimidated. At the Wynn Board meeting on February 18,
13 2012, and subsequent to the Wynn Board's consideration of Okada's document requests, Mr.
14 Freeh presented his full report to the Wynn Board concerning Okada's gross improprieties. The
15 Wynn Board then fulfilled its duties owed to all stockholders (including the fulfillment of its
16 duties owed pursuant to Nevada's gaming laws and Wynn's governing documents) and found
17 Okada to be unsuitable and redeemed Aruze's shares pursuant to the Wynn Articles of
18 Incorporation. (*See* Press Release, Exhibit "K".)

19 Shortly thereafter, the Board of Directors for Wynn Macau removed Okada as a director
20 pursuant to Wynn Macau's governing documents. (*See* Wynn 8-K filing, Exhibit "L".) And, the
21 process has been set in motion for a stockholders' vote to remove Okada as a Director on Wynn's
22 Board. (*See* Schedule 14A Preliminary Proxy Statement, Exhibit "M".) Documents concerning
23 that vote have been filed with the SEC for comment. (*Id.*) Equally important, Wynn filed a
24 lawsuit (Case No. A656710) against Okada in this Court for, among other things, breach of

25 ⁴ Okada's attempt to portray the actions taken by the Wynn Board as retaliation for
26 Okada's Petition is, frankly, laughable. As noted above, Wynn's Compliance Committee initiated
27 an investigation of Okada's domestic and foreign activities nearly nine months before Okada
28 requested to inspect any of Wynn's books and records. Perhaps most revealing, on January 9,
2012, a letter was sent by Freeh Sporkin & Sullivan, LLP to Okada's counsel, requesting an
interview of Okada during the week of January 30, 2012. (*See* Letter from J. Friedman to G.
Caine, Exhibit "J".) Not coincidentally, Okada filed his Petition just two days later.

1 fiduciary duty and for declaratory relief concerning the stock redemption (the "Breach of
2 Fiduciary Duty Action").⁵ That action was randomly assigned to this Court.

3 III. DISCUSSION

4 "The power to stay proceedings is incidental to the power inherent in every court to
5 control the disposition of the causes on its docket with economy of time and effort for itself, for
6 counsel, and for litigants." *Maheu v. Eighth Jud. Dist. Ct.*, 89 Nev. 214, 217, 510 P.2d 627, 629
7 (1973) (quoting *Landis v. North Am. Co.*, 299 U.S. 248, 254–55 (1936)); *see also Stern v. United*
8 *States*, 563 F. Supp. 484, 489 (D. Nev. 1983) ("Every court has the inherent power to stay causes
9 on its docket with a view to avoiding duplicative litigation, inconsistent results, and waste of time
10 and effort by itself, the litigants and counsel."). As succinctly stated in *Yong v. INS*, 208 F.3d
11 1116, 1119–20 (9th Cir. 2000):

12 [A] trial court may, with propriety, find it is efficient for its own docket and the
13 fairest course for the parties to enter a stay of an action before it, pending
14 resolution of independent proceedings which bear upon the case. This rule applies
15 whether the separate proceedings are judicial, administrative, or arbitral in
character, and does not require that the issues in such proceedings are necessarily
controlling of the action before the court.

16 *See also Mediterranean Enter., Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983)
17 ("The trial court possesses the inherent power to control its own docket and calendar."). This
18 clearly is an appropriate case to exercise such power.

19 To begin, although the result of the upcoming Wynn stockholders' vote on whether to
20 remove Okada from the Wynn Board cannot be predicted with certainty, the possibility that
21 Okada may soon cease to be a Wynn Director should not be discounted or dismissed. If the
22 Wynn stockholders vote to remove Okada from the Wynn Board, Okada would immediately lose
23 standing to inspect Wynn's books and records through his Petition. *See Jacobson v. Dryson*
24 *Acceptance Corp.*, No. C.A. 17684, 2002 WL 75473, at *4 (Del. Ch. Jan. 9, 2002) (holding that
25 former director lost his standing to pursue claim demanding inspection of corporate books and

26 ⁵ While Okada's two related entities (Aruze and Universal) were served with process,
27 Okada's counsel has ignored requests to accept service of the Summons and Complaint on
28 Okada's behalf. Thus, while seeking *extraordinary* relief from this Nevada Court in the instant
action, Okada appears to be seeking to avoid its jurisdiction in the real, substantive action
concerning his many breaches and violations of Nevada, federal, and international law.

1 records when he was removed as a director). As a result, if the stockholders vote to remove
2 Okada from the Wynn Board, but Wynn is required to produce additional documents to Okada,
3 then Wynn would be required to provide confidential, proprietary information to an individual
4 who is adverse to and no longer a Director of Wynn. Nothing about Okada's Petition warrants
5 placing Wynn in such an untenable position.

6 Equally important, allowing this writ action to proceed may adversely and unfairly impact
7 the Breach of Fiduciary Duty Action. Among other things, Okada could use (and is using) this
8 writ action as a vehicle to conduct unilateral and informal discovery for use in the Breach of
9 Fiduciary Duty Action, even before Okada files an answer or other response to Wynn's
10 Complaint. Again, the pretextual writ petition was preemptive information gathering since Okada
11 knew that Mr. Freeh's investigation was winding up, and that he needed to create a diversion in
12 not only the Nevada court, but also in the Nevada, national, and international press. The fact
13 remains, however, that the Wynn Board deemed Okada and his affiliated entities unsuitable at the
14 Board meeting so that Okada would not jeopardize Wynn's gaming licenses, standing, and
15 operations. A writ by a Nevada court allowing an "unsuitable person" access to Wynn's
16 confidential books and records (so to continue to feed them to the press to spin a self-serving
17 story) would not advance any fiduciary duty owed by Okada to Wynn or its stockholders.

18 Additionally, in light of the Breach of Fiduciary Duty Action, Okada has another forum to
19 seek books and records from Wynn, particularly those relating to the 2010 Stockholders
20 Agreement. Indeed, if obtaining documentation from Wynn in order to fulfill his responsibilities
21 as a Director of Wynn and having "his day in Court" are truly Okada's objectives, he certainly
22 will not reach those goals any faster than if he simply prosecuted his claims (to the extent he has
23 any) and requested that Wynn produce documents in the Breach of Fiduciary Duty Action. This
24 is yet another reason why Okada cannot meet his "heavy" burden of proving that he has no other
25 "plain, speedy, and adequate remedy", which would entitle him to an extraordinary writ of
26 mandamus. *See Jeep Corp. v. Second Jud. Dist. Ct.*, 98 Nev. 440, 443, 652 P.2d 1183, 1185
27 (1982) ("It is true that neither mandamus nor prohibition is appropriate in the face of effective
28 alternative relief."); *see also Allied Chem. Corp. v. Daiflon, Inc.*, 449 U.S. 33, 34 (1980) (stating

1 that a party seeking mandamus must "have no other adequate means to attain the relief he
2 desires").

3 In fact, given Okada's (and Universal's) statements to the media that Okada intends to file
4 claims for relief against Wynn (*see* Statement dated February 21, 2012, Exhibit "N") and Okada's
5 counsel's refusal to respond to Wynn's requests to accept service of the Summons and Complaint
6 in the Breach of Fiduciary Duty Action on Okada's behalf, the logical conclusion is that Okada is
7 dragging his feet on asserting any claims or defenses against Wynn so that he can first obtain
8 documents in this case. Bluntly put, the Court should decline to be used as a pawn in Okada's
9 game.

10 Last, but certainly not least, the stay requested is neither indefinite nor lengthy and, thus,
11 Okada cannot legitimately claim that he will be prejudiced by the stay. The Wynn stockholders'
12 vote is set to take place in late April or early May 2012. To be sure, Wynn is fully prepared to
13 move forward with the Breach of Fiduciary Duty Action and is simply waiting for Okada, Aruze
14 and Universal to appear and respond to Wynn's Complaint.

15 As pointed out in Wynn's Opposition, the documents sought by Okada date, in some
16 instances, as far back as ten to twelve years ago, and in other instances, one to two years ago.
17 The most recent documents sought by Okada concern the University of Macau donation. Wynn
18 has already provided all non-privileged documents to Okada relating to this request and has
19 provided documents concerning the donation to and is fully cooperating with the appropriate
20 governmental agencies. (*See, e.g.*, Exhibit "E".) Thus, there is no actual legitimate benefit from
21 any document production that Okada can hope to achieve. And, to the extent Okada (on behalf of
22 Aruze) believes there is a pressing need for documents related to the 2010 Stockholders
23 Agreement, of which Wynn is not a party, Aruze and Okada can pursue the request with the
24 actual parties to that agreement and/or during discovery in the Breach of Fiduciary Duty Action.
25 For any or all of these reasons, Okada will not be prejudiced if the Court stays the current
26 proceedings.

1 **IV. CONCLUSION**

2 For any or all of the reasons set forth above, and incorporating the arguments and legal
3 authority set forth in Wynn's Opposition, Wynn respectfully requests that the Court deny Okada's
4 Petition. In the alternative, Wynn respectfully requests that the Court stay this action and any
5 decision on the Petition for a period of at least sixty (60) days.

6 DATED this 7th day of March, 2012.

7
8 By: /s/ Tamara Beatty Peterson

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25 *Wynn Resorts, Limited*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 7th day of March, 2012, I caused to be served a true and correct copy of the foregoing **WYNN RESORTS, LIMITED'S SECOND SUPPLEMENT TO RESPONDENT'S OPPOSITION TO PETITION FOR A WRIT OF MANDAMUS** via the Court's electronic filing system **and** electronic mail, addressed to the following individuals:

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EXHIBIT A

EXHIBIT A

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

KAZUO OKADA	.	
	.	
Plaintiff	.	CASE NO. A-654522
	.	
vs.	.	
	.	DEPT. NO. XI
WYNN RESORTS LIMITED	.	
	.	
Defendant	.	Transcript of
	.	Proceedings
.....	.	

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

HEARING ON PETITION FOR WRIT OF MANDAMUS

THURSDAY, FEBRUARY 9, 2012

APPEARANCES:

FOR THE PLAINTIFF:	PAUL R. HEJMANOWSKI, ESQ.
	CHARLES McCREA, ESQ.
	GIDON CAINE, ESQ.

FOR THE DEFENDANT:	KIRK LENHARD, ESQ.
	TAMARA PETERSON, ESQ.
	ROBERT SHAPIRO, ESQ.
	KIM SINATRA, ESQ.

COURT RECORDER:	TRANSCRIPTION BY:
JILL HAWKINS	FLORENCE HOYT
District Court	Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 9, 2012, 9:51 A.M.

2 (Court was called to order)

3 THE COURT: Okay. Is there anybody here who is not
4 on the Okada case? If I could start that case, please.

5 And for the benefit of my staff would everyone
6 please identify yourselves when you get to counsel table so
7 they can keep track of who is participating in our hearing
8 today. And, as I told counsel in chambers when I met with
9 them earlier this morning, my intention today is to try and
10 rule on the legal issue of the entitlement of the director to
11 information, which is at the heart of this petition.

12 Mr. Hejmanowski.

13 MR. HEJMANOWSKI: Good morning, Your Honor. Paul
14 Hejmanowski, Lionel, Sawyer & Collins, for the petitioner.
15 With me is Mr. Gidon Caine, who is something of an expert in
16 corporate governance matters, from the firm of Alston & Byrd.
17 Mr. Caine will be presenting the argument for our side today.

18 MR. CAINE: Good morning, Your Honor.

19 THE COURT: Good morning.

20 MR. LENHARD: Good morning, Your Honor. Kirk
21 Lenhard, Tammi Peterson from Brownstein on behalf of the
22 respondent, Wynn Resorts. With me also is Robert Shapiro, who
23 will be appearing as co-counsel in this matter. Also at
24 counsel table is Kim Sinatra, general counsel and vice
25 president of Wynn Resorts. In the audience is Kevin Turik,

1 who is a vice president and general counsel of Wynn Las Vegas.

2 THE COURT: Thank you.

3 It's your petition, sir.

4 MR. CAINE: Good morning, Your Honor. We're here
5 today on Mr. Okada's petition to inspect the books and records
6 of Wynn Resorts. This matter is adequately briefed, and I
7 just want to stress a few points and, of course, answer any of
8 the Court's questions.

9 The writ of inspection is essential to good
10 corporate governance. This right exists in every state that's
11 considered the issue. It's the way that a director can check
12 up on management and make sure that it's acting appropriately.

13 It's particularly important here, Your Honor, where
14 Nevada places even more responsibilities on directors of
15 licensed gaming enterprises than it does on other companies.
16 Wynn Resorts' argument is that management can control the
17 information a director receives. That is exactly backwards.
18 Under Nevada law the board of directors runs Wynn Resorts, not
19 management. And I would refer the Court to NRS 78.115 and
20 78.138 in that regard. This doesn't change simply because
21 Aruze USA is the largest stockholder of Wynn, and it doesn't
22 change simply because some of the information is not from last
23 year or two years ago. For example, if Mr. Okada wanted to
24 see the aboriginal title to the Desert Inn, I don't think that
25 there'd be a defense that that document is old.

1 Now, under the law of many states the director's
2 right of inspection is absolute, because he's a fiduciary. As
3 a result, this Court should order immediate inspection. Mr.
4 Okada should have the same rights to examine the corporate
5 books and records that Steve Wynn has.

6 Now, we're ready to start inspection this afternoon,
7 Your Honor. There's a board meeting that starts on the 23rd,
8 and the fact is that as of today we still don't actually know
9 the schedule on which the payments to the University of Macau
10 are actually going to be made. We know they're annual, but we
11 don't know actually when they are. As a consequence of that,
12 we'd like to start the inspection immediately.

13 And with that, Your Honor, I'll take any questions.

14 THE COURT: Thank you.

15 MR. CAINE: Thank you, Your Honor.

16 THE COURT: Mr. Lenhard.

17 MR. LENHARD: Thank you, Your Honor. May it please
18 the Court. Out of necessity, speaking as a respondent here
19 today, I will have to be a little more detailed and a little
20 more lengthy in my response and in my comments.

21 But one of the things I think I need to agree with
22 Mr. Caine this morning -- we don't agree on much, but I
23 certainly agree that the board of directors control the
24 corporation, the board of directors govern a corporation.
25 What I'm asking the Court to do here today is look closely at

1 this petition for a writ of mandate, because that is the
2 vehicle we are here to review. Review that petition for writ
3 of mandate and ask yourself is the board of directors being
4 taken out of the process, is the governing entity of Wynn
5 Resorts being in essence emasculated for the desires of one
6 director. And I'm suggesting that the actions that this
7 director want to take -- this director wants to take is
8 contrary to the clear dictates and clear requirements of
9 Chapter 78.

10 This director would have you believe that this five-
11 part document request is absolutely necessary in order to
12 assist him in the exercise of his fiduciary duties as
13 director, assist -- if I read his moving papers correctly,
14 assist in the active investigation of Wynn Resorts. The
15 argument today is really not about the records that are being
16 sought by Mr. Okada, because most of these records, frankly,
17 are ancient history, the aboriginal comment notwithstanding.
18 And these are certainly not the type of records that Wynn is
19 trying to hide. Wynn Resorts has nothing to hide. Let me
20 make that perfectly clear. But what we are here today to
21 defend is the integrity of the board of directors of Wynn
22 Resorts.

23 And let me explain why I am so concerned about
24 protecting the integrity and the decisional process of that
25 board here today as it relates to Chapter 78. We're not

1 talking about a board that is a non-active board. We're
2 talking about a board that has among its members a former
3 chair of Citicorp. We have the former governor of the state,
4 Robert Miller, for two and a half terms, the longest-sitting
5 governor of the state. We have community leaders. We have
6 national business leaders, and we have gaming leaders. This
7 is an active, energized, and a very impressive board. The CEO
8 of this company, Mr. Wynn, has been recently named one of the
9 top 30 CEOs in the world by Barron's Magazine. This is a
10 sophisticated, wealthy, successful, well-run corporation who
11 wants the integrity of its board to be protected.

12 I think it's well documented -- everybody in this
13 courtroom I'm sure has followed all the press accounts that
14 have occurred and followed this case -- that Mr. Okada has
15 other interests, and these other interests are things that
16 have to be reviewed by that board when they consider Mr.
17 Okada's document requests.

18 It's amidst this background that I'm suggesting this
19 Court has to decide first is a writ of mandate appropriate.
20 And let me -- I'm not being hypertechnical here, but we are
21 here today on a writ of mandamus, a Chapter 34.160
22 proceedings. I'm not going to preach to the Court, because
23 the Court knows the law, but a writ is an extraordinary
24 remedy. It's to be used only in circumstances -- in very,
25 very limited circumstances. And, you know, as the Supreme

1 Court has stated, there's two questions that have to be
2 answered in the affirmative before a writ can be granted, any
3 writ of mandate.

4 The first answer -- or the first question that has
5 to be answered in the affirmative -- and remember, the
6 plaintiff or the petitioner bears the burden of proof. But
7 keep in mind the first question always must be answered, there
8 has to be a clear right for the relief requested. Keep in
9 mind under our corporate code, under Chapter 78, there is not
10 a defined right to a director right of inspection of records,
11 there is not an independent right for a director right of
12 inspection of records. So there is not a clear right to the
13 relief requested under Nevada law.

14 Secondly, Mr. Okada, as the petitioner, is required
15 to demonstrate that he does not have an ordinary remedy and
16 that ordinary remedy has failed to provide a plain and
17 adequate remedy. What is the ordinary remedy here? It's to
18 go to your board of directors. It's to go to the board of
19 directors and state, I want an investigation of management, I
20 want certain documents, I want to review the actions of this
21 company.

22 THE COURT: Is your position, Mr. Lenhard, that a
23 director has to go to the other directors to request
24 information?

25 MR. LENHARD: As a minimum -- and I'll go through

1 the statutory scheme in just a second to explain why I'm
2 taking that position. As a minimum, a board member has an
3 obligation to go to the governing body which he is a member of
4 and state to that governing body, whether it be the audit
5 committee, the gaming compliance committee, or the board as a
6 whole, and state, as a director I want the following
7 information, and it should be vetted first by the board. And
8 he has chosen not to do that.

9 Nevada -- let's go there a second. Chapter 78, if
10 you accept Mr. Caine's analysis -- and certainly he's a bright
11 lawyer, creative lawyer, a fine lawyer, a gentleman. If you
12 accept his analysis, there is a void or a gap in Chapter 78,
13 our legislature blew it because they didn't put in a right of
14 specific director inspection in our statutes. I respectfully
15 disagree with Mr. Caine. As this Court knows, because I've
16 been in this court more than a few times on Chapter 78 issues,
17 our legislature has been very active in how it has handled and
18 defined the corporate code and the various rights of
19 directors, stockholders, and so forth pursuant to Chapter 78.

20 As the Court's well aware, in the early 1980s
21 Delaware and a number of states chose to by code grant a
22 director right of inspection. The Nevada Legislature has met
23 15 times since those amendments were done to the Delaware code
24 in 1982. Each time the Nevada Legislature has chosen not --
25 let me stress again, not to grant the type of director

1 inspection that Mr. Okada seeks today without first going to
2 the board. It's not that the Nevada Legislature omitted to
3 do, because in other contexts they have granted a right of
4 inspection. I remind the Court that in the case of nonprofit
5 corporations members have a right of inspection per
6 legislative direction. In the case of LLCs members have a
7 right of direct inspection pursuant to legislative direction.
8 But the legislature, not by omission, but by commission has
9 determined that the director right of inspection in this state
10 should be handled by the board of directors.

11 The legislature in this state has made it clear --
12 and, again, all you have to do is read Chapter 78 in its
13 entirety -- that it's clear the policy of this state is always
14 going to be to entrust the board of directors in a Chapter 78
15 corporation with the authority to run their organization
16 without undue judicial intervention. In other words, judicial
17 intervention should not occur until the board of directors has
18 an opportunity to review the document requests of Mr. Okada.
19 Chapter 78 is generally as a rule deferential -- as evidenced
20 by the Nevada business judgment rule, is generally deferential
21 to the decisional process of a board of directors.

22 Petitioner -- and, again, creatively, I'll give him
23 that credit -- would have this Court find a gap in our law
24 where one does not exist, because he's asking this Court to
25 judicially legislate a director right of inspection where our

1 legislature has failed, and I say intentionally so, failed to
2 dictate that type of director inspection.

3 All you have to do is look at the language of
4 Chapter 78 and I'm saying .37. And let me find it. Sometimes
5 you have a little bit too much paper with you. Our
6 legislature in .037 leaves it to the corporation -- and I'm
7 talking about Point 2 -- leaves it to the corporation itself
8 to create, define, limit, or regulate the powers of the
9 corporation or the rights, powers, or duties of the directors,
10 the officers, or the stockholders of the corporation.

11 In the case of Wynn it's not done by bylaws.
12 Instead, it's done by its corporate governance procedures.
13 And in those procedures there is a methodology set out to
14 where a board member can bring an issue to the board or a
15 concern to the board to be reviewed by the board. That is how
16 the governance of Wynn works with this active board. And what
17 Wynn is asking you to do here today is not take this board out
18 of the equation. What we are suggesting to the Court is that
19 this request, this petition is actually premature. It should
20 be remanded, delayed, deferred, or dismissed, whatever the
21 Court deems appropriate, but it should be sent to the board
22 for their initial consideration and their review of the
23 request of Mr. Okada. It should especially be so when we
24 consider that Mr. Okada may in fact -- in fact, does in fact
25 have interests that may be adverse to Wynn.

1 One of the -- and I'm going to go back again to the
2 writ itself, because we are here on a writ. This isn't a
3 discovery motion, this is a writ of mandate. The documents
4 requested themselves frankly do not require extraordinary
5 relief. What are we talking about? I mean, the caselaw in
6 this state is clear that you have to have a need, an urgency,
7 or a strong necessity for the documents for the Court to -- or
8 for the act being required, for the Court to grant a writ of
9 mandate. What is the urgency or strong necessity for
10 documents concerning an April 2002 \$120 million investment
11 that can't wait a month for the Wynn board to review the
12 request? What is the urgency or strong necessity of a review
13 of the Macau reimbursement account as stated in a third
14 amended and restated operating agreement of Valvino, the
15 original company, dated in 2002 that can't wait a month for
16 the board to review the request and ferret through this
17 request? What is the urgency of a request for books and
18 records of Wynn from 2000 to 2002 that can't wait one month
19 for this board to consider, consider as a board, a
20 deliberative body the appropriateness of the request? What is
21 the urgency of a request to review the restated stockholder
22 agreement between Mr. and Mrs. Wynn and Aruze, which, of
23 course, is the company controlled a hundred percent by Mr.
24 Okada himself and we can assume he's got the document dated
25 January 6, 2010, that can't wait a month for the board to

1 consider that action?

2 And the same goes with the Macau donation, which, by
3 the way, has been somewhat misconceived here today -- or I
4 should say in the moving papers. We're talking about a gift
5 that's extended over a 10-year period of time that in American
6 dollars is about I think a hundred, \$110 million, and that the
7 objection that this gentleman had that has I believe led to a
8 portion of this dispute was the extent -- the amount of time
9 of the payout and the binding nature of the payout or
10 whatever.

11 The point I'm getting to, though, again is this vote
12 occurred, by the way, 11 to 1 from the board in favor of the
13 Macau gift after the board deliberated, reviewed all aspects
14 of the gift, and decided it was in the best interests of the
15 corporation to make the gift. After that occurred -- excuse
16 me. That occurs in May. What is the urgency now to engage in
17 this review of documents today, as Mr. Caine says, that can't
18 wait a couple weeks and allow this board to engage in what a
19 board should do, which is deliberate and determine whether
20 these document requests are appropriate? The Nevada
21 Legislature has in fact decreed that is what should be done.

22 I don't hold myself out, nor will I, as an expert in
23 corporate governance. As the Court knows, I do a lot of
24 different things, I wear a lot of different hats. But I can
25 certainly read our corporate code, and I can read Chapter 78,

1 and I can see what this legislature's done the last 30 years,
2 and I can easily determine that this legislature has not
3 granted the type of relief that Mr. Okada is seeking, and that
4 is intentional, it is not a gap. And I'd suggest to the Court
5 with all deference to the Court and all respect to the Court
6 that the Court should not interject herself into this issue
7 until the board has had a chance to act.

8 Finally, I'm going to ask the Court to look again
9 closely at the actual document requests themselves. In our
10 opposition we pointed out to the Court that Mr. Okada made a
11 13-d filing, and the 13-d filing is somewhat instructive as
12 what really is going on with these document requests. And I'm
13 going to try to quote it so I don't misstate myself. Mr.
14 Okada, through his counsel, whatever, said the following, and
15 he's referring to the petition he had filed with this Court,
16 the petition for writ of mandate. "Okada himself will take
17 whatever action that they deem necessary and appropriate to
18 protect the value of their investment in Wynn common stock."

19 Now, what does that tell you? It tells you that
20 this is a -- truly a stockholder request disguised as a
21 director demand. You don't have to go any further than to
22 also look at the clarification the petitioner put into his
23 responding papers where he reminded Wynn and the Court that
24 Aruze is the largest stockholder in Wynn Resorts. This
25 correction -- whether it's correct or not I don't know -- only

1 highlights the true nature of this so-called director request.
2 It is really a stockholder request pursuant to 78.257. And
3 why doesn't he characterize it as such? I think we all know
4 the answer, subsection (6). Subsection (6) has an absolute
5 exclusion and exception. Again let me find it. I've walked
6 up here with just a batch of paper.

7 Subsection (6) says as follows, Your Honor. "Except
8 as otherwise provided in this subsection, the provisions of
9 this section do not apply to any corporation that furnishes to
10 its stockholders a detailed annual financial statement or any
11 corporation that has filed during the preceding 12 months all
12 reports that are required to be filed pursuant to Section 13
13 or Section 15(d) of the Securities Exchange Act," which is
14 exactly what Wynn has done.

15 Ms. Sinatra, as I was preparing for this argument,
16 reminded me of some very basic facts. One is how transparent
17 this business is and this corporation is with its directors.
18 She reminded me that all directors, including Mr. Okada, get
19 advance copies of all 10-Qs and 10-Ks. They get extensive
20 monthly operating reports for both properties, Wynn Resorts
21 and Wynn Macau. And Mr. Okada has asked for and been granted
22 special access because apparently pursuant to Japanese law Mr.
23 Okada has to have his auditors come in and do a financial
24 review of the books and records of Wynn. That has been --
25 that accommodation, of course, has been provided to Mr. Okada.

1 So for us to come in here and have to defend ourselves -- I
2 should say for me to have to come in and defend my client on
3 the basis that my client has somehow not been transparent is
4 just simply false. This company has been transparent, it will
5 remain transparent, and it absolutely has nothing to hide.

6 But what I'm asking this Court to do is follow
7 Nevada law. Don't create a situation where we're going to
8 open up a can of worms that'll be corporate chaos. Think
9 what's going to happen, is if every time a director gets
10 outvoted 11-1, 10-1, 9-1, or whatever, doesn't like the
11 results, he can run off to court and make a document demand
12 rather than going to his fellow directors first. You will
13 turn Chapter 78 upside down. All I'm asking is to let this go
14 to the board of directors. I have no idea what that board
15 will do. I've never even been to a Wynn board meeting. But
16 make Mr. Okada go to that board, raise this issue with the
17 board, and then come back here.

18 THE COURT: So, Mr. Lenhard, you're not saying that
19 the directors have to rely only upon the information that
20 management provides them?

21 MR. LENHARD: No. A director can seek more
22 information, but it shouldn't be done in a haphazard fashion
23 or in a fashion like Mr. Okada's trying to do. If he feels
24 he's not getting sufficient information, go to the board
25 first. That's what I'm saying.

1 THE COURT: So how is the procedure that you're
2 suggesting going to result in compliance with the duties of
3 the directors under 78.138, which is the business judgment
4 rule, essentially, for our directors in Nevada?

5 MR. LENHARD: I'm assuming -- because you know what
6 Mr. Okada's doing here, he's taking away the opportunity for
7 the other directors to engage in their fiduciary duties.

8 THE COURT: Yeah, but --

9 MR. LENHARD: He's taking that opportunity away. He
10 -- I am assuming that every director of that company will
11 follow the dictates of the chapter you have just referred to
12 and will in their collective judgment decide if these records
13 are necessary in order to fulfill those obligations. But
14 again, what I'm saying, and maybe not as articulately as I'd
15 like to, is that the first step in this process, especially in
16 the citation you just referred to, is the board.

17 THE COURT: Okay. Thank you, Mr. Lenhard.

18 MR. LENHARD: Thank you.

19 THE COURT: Mr. Caine.

20 MR. CAINE: Your Honor, I have a couple of very
21 brief points to make. I'd like to actually start with the
22 last point that Mr. Lenhard made, which is that if they want
23 to join in in the petition for inspection, they're welcome to.
24 None of them have. In fact, if they want to fulfill their
25 fiduciary obligations in that way, they can do so. They have

1 not.

2 The fact is that these requests have been
3 outstanding, some of them since November. The notion that the
4 board needs another month to consider them when they've been
5 around since November is just not justified.

6 In addition to that, Your Honor, there is no
7 caselaw, no statute which would provide for a single director
8 to have to go to the other directors in order to seek
9 inspection in order to fulfill his fiduciary obligations. Not
10 a single state would do this. And in fact, if this were -- if
11 we were to follow the policy that's articulated by Wynn
12 Resorts in this matter, what would happen is that 51 percent
13 of the directors would be able to stop the legitimate
14 interests of 49 percent of the directors in an instance where
15 they need to get documents in order to fulfill their fiduciary
16 duties. There is nothing in Nevada law that requires that
17 absurd result.

18 In addition to that, Your Honor, Mr. Lenhard talks
19 about the fact that this Court does not have the power,
20 essentially, to go forward and issue that writ. The fact is
21 this Court does have the power, and the power is reserved to
22 this Court for precisely these situations where a corporation
23 simply refuses to follow its own guidelines and the guidelines
24 of this -- of Nevada law.

25 He also points out that the Nevada Legislature has

1 met a number of times and has never actually provided for a
2 statutory right of inspection. That's obviously true. The
3 New York State Legislature hasn't, either, nor has the one in
4 Tennessee, nor has the one in a number of other states.
5 That's why the common law is there. And in fact, Your Honor,
6 one of the things is that Nevada has enshrined that power to
7 this Court to look to the common law both in Supreme Court
8 opinions and by statute. As a consequence, this Court does
9 have the power to look at that common law.

10 I also want to address one other thing, which is
11 this notion that as a stockholder somehow Mr. Okada has fewer
12 rights. If that were true, then many of the Wynn Resorts'
13 directors would also have fewer rights, because many of them
14 are stockholders. That's just not the case. The fact is that
15 those fiduciary duties that are provided for in Nevada law are
16 not conditioned on whether or not you are a stockholder. They
17 are in fact the law. There's nothing in there about an
18 exception for stockholders.

19 As a consequence of that, Your Honor, what we're
20 saying is it's a very simple matter. This is a document
21 request to the corporation. He is a director. He is entitled
22 to these documents. And if Wynn Resorts really does have
23 nothing to hide, it should be able to provide them, because
24 these requests have been outstanding now for close to three
25 months. Thank you, Your Honor.

1 THE COURT: Thank you.

2 Anything else?

3 Each director as a fiduciary, regardless of whether
4 they are a shareholder, has a clear right of inspection under
5 the common law. However, that right is limited by
6 reasonableness under the common law.

7 I am going to continue this matter for two weeks for
8 a determination as to whether the document request that has
9 been made is in fact reasonable, because some of the items I
10 have serious questions about, Mr. Caine. Other items I agree
11 with you are -- clearly fall within that scope. But I think
12 the company has the right to address each item individually as
13 to whether the production of those particular items are in
14 fact reasonable.

15 MR. LENHARD: How do you -- how would you like -- I
16 guess the question I have --

17 THE COURT: I'm not issuing the writ today. But if
18 I make a determination in two weeks that the company has
19 refused to produce documents that I think are reasonable, then
20 at that time I will issue the writ, because that will be my
21 only remedy.

22 MR. LENHARD: So what you're looking for the company
23 to do is begin a process where the company feels the
24 production is appropriate, and then you're going to review
25 that production in two weeks? I just want to be sure --