

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 II of VI

DATED this 21st day of July 2015.

PISANELLI BICE PLLC

By: /s/ James J. Pisanelli

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

Todd L. Bice, Esq., Bar No. 4534

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400 South 7th Street, Suite 300

Las Vegas, Nevada 89101

Attorneys for Real Party in Interest

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

1 THE COURT: I want to see you guys in two weeks.
2 Which means the company will have to do it sooner.
3 MR. LENHARD: All right. Can I just have one
4 second?
5 THE COURT: You can.
6 MR. LENHARD: Thank you.
7 (Pause in the proceedings)
8 MR. LENHARD: Thank you, Judge. I don't need any
9 more clarification.
10 THE COURT: Okay. See you at 9:00 o'clock in two
11 weeks, which will be the 20th? 23rd.
12 MR. CAINE: May we approach about the other matter
13 that we discussed in chambers today?
14 THE COURT: Yes.
15 Please turn on my white noise.
16 (Off-record bench conference)
17 THE COURT: All right. Counsel, if any of you need
18 my assistance prior to the next hearing on February 23rd at
19 9:00 a.m., I assume that you will schedule a conference call
20 or file a motion on an OST. In the meantime, I will be
21 hopeful to get a supplement from the company on your position
22 related to each of the individual document request's
23 reasonableness.
24 MR. LENHARD: Thank you very much, Your Honor.
25 THE PROCEEDINGS CONCLUDED AT 10:23 A.M.

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

FLORENCE HOYT
Las Vegas, Nevada 89146

2/10/12

FLORENCE HOYT, TRANSCRIBER

DATE

EXHIBIT B

EXHIBIT B

Brownstein Hyatt
Farber Schreck

February 21, 2012

Tamara Beatty Peterson
Attorney at Law
702.464.7046 tel
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tpeterson@bhfs.com

VIA EMAIL AND REGULAR U.S. MAIL

Gidon M. Caine, Esq.
ALSTON & BIRD LLP
275 Middlefield Road
Suite 150
Menlo Park, California 94025

RE: Kazuo Okada vs. Wynn Resorts, Limited
Case No.: A-12-654522-B
Client-Matter No. 21658.172

Dear Mr. Caine:

Please allow this letter to follow-up your conversation with Mr. Shapiro yesterday. On February 15, 2012, a special meeting of Wynn Resorts, Limited's ("WRL") Board of Directors was noticed to take place on February 18, 2012. At the meeting held on February 18, 2012, WRL's Board of Directors discussed, among other items of business, Mr. Okada's requests to inspect certain books and records of WRL, as more fully set forth in Mr. Okada's Petition for a Writ of Mandamus (the "Petition"). During the meeting, WRL's Board of Directors gave approval – consistent with WRL's policy of being transparent to its stockholders and its Directors – for WRL to make certain documents that may be responsive to all five categories of documents identified in the Petition available to Mr. Okada for inspection.

Specifically, with respect to Mr. Okada's requests, as set forth in the Petition, to inspect the books and records of (a) "All books and records related to how [sic] the manner in which the \$120 million invested by Aruze USA in April 2002 was spent"; (c) "All books and records regarding the Macau Reimbursement Amount, as that term is used in the Third Amended and Restated Operating Agreement [sic] of Valvino Lamore"; and (d) "Books and records of Wynn Resorts and its predecessor entities for the years 2000 through 2002", WRL will make the following documents available for Mr. Okada's inspection:

- * Valvino Lamore, LLC ("Valvino Lamore") operating agreements, including membership documents;
- * Valvino Lamore financing documents, including contribution agreements;
- * Valvino Lamore financial statements;
- * Financial back up detail for the Macau Reimbursement Amount;

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- * Back-up support for the Valvino Lamore financial statements, including documents showing the use of funds;
- * Documents memorializing actions taken by Valvino Lamore's Board of Representatives or Managing Member;
- * Reports of operations;
- * Filings with the United States Securities and Exchange Commission; and
- * Spreadsheet reconciling the capital contributions of Stephen Wynn, Baron Asset Fund and Aruze USA, Inc.

Due to the broad nature of Mr. Okada's requests, it is unclear what additional documents, if any, Mr. Okada seeks. If Mr. Okada would like to narrow his requests and provide more specificity as to the documents he seeks, WRL will strive to locate and disclose any additional, non-privileged documents that may be responsive to his requests.

Additionally, with respect to Mr. Okada's second request to inspect WRL's books and records regarding "[a]ll books and records related to a HK \$1 billion pledge (and partial donation) by the Company or its affiliates to the University of Macau", WRL will make the following documents available for Mr. Okada's inspection:

- * Information distributed to WRL's Board of Directors and the Wynn Macau, Limited Board of Directors;
- * Background information on the University of Macau and the University Rector;
- * Board of Directors minutes; and
- * Correspondence and other documents discussing the donation to the extent that they are not privileged.

Next, with respect to Mr. Okada's fifth request to inspect WRL's books and records regarding "[a]ll 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.", WRL responds as follows: WRL has filed the Stockholder Agreement and all amendments with the Securities and Exchange Commission and, thus, all non-privileged documents that are responsive to this request are publically available to Mr. Okada. If, however, Mr. Okada would like WRL to print these documents for him off of WRL's website, please so advise.

We are in the process of gathering and indexing all of the above-mentioned documents and should have them available for inspection within the next week or so. Once all of the documents are compiled and indexed, I will contact you to schedule a date and time that is convenient to you and/or Mr. Okada to conduct this inspection.

Gidon M. Caine, Esq.
February 21, 2012
Page 3

Of course, if you have any questions, please feel free to contact me.

Sincerely,

Brownstein Hyatt Farber Schreck, LLP

A handwritten signature in black ink, appearing to read "Tamara Beatty Peterson". The signature is fluid and cursive, with the first name "Tamara" being the most prominent.

Tamara Beatty Peterson

TBP:ep

cc: Paul R. Hejmanowski, Esq.
Charles H. McCrea, Esq.

EXHIBIT C

EXHIBIT C

CONFIDENTIAL

THIRD AMENDMENT
TO
AMENDED AND RESTATED OPERATING AGREEMENT
OF
VALVINO LAMORE, LLC

This Third Amendment to Amended and Restated Operating Agreement (the "Amendment") of Valvino Lamore, LLC, a Nevada limited liability company (the "Company"), is adopted, entered into, and effective as of April 11, 2002 (the "Effective Date"), by and among the Persons signatory hereto with reference to the following facts:

A. The Members of the Company previously adopted the Amended and Restated Operating Agreement of the Company effective as of October 3, 2000, as amended by the first amendment thereto (effective as of April 16, 2001) and the second amendment thereto (dated February 18, 2002) (collectively, the "Operating Agreement").

B. Wynn Resorts (Macau), S.A. ("Wynn Macau"), an entity in which Wynn holds (or, after transfers of interests in Wynn Macau to certain other parties, will hold) beneficially or directly an eighty percent (80%) ownership interest, has entered into negotiations with the Chief Executive of the Macau Special Administrative Region ("MSAR") regarding the development of a casino project in the MSAR (the "Macau Project") and intends to enter into a Concession Contract for Operating Casino Games of Chance or Games of Other Forms in the MSAR or similar document.

C. The Members desire that Wynn contribute his entire ownership interest in Wynn Macau and all rights of reimbursement from, and loan repayment from, Wynn Macau (collectively, the "Macau Interest") to the capital of the Company and that, in connection therewith, Wynn, Aruze, and Baron Asset Fund each make a contribution in cash to the capital of the Company, as provided for herein.

D. Baron Asset Fund desires to make an additional contribution in cash to the capital of the Company in exchange for additional Shares of the Company, as provided for herein.

E. The Company intends to raise additional financing from various sources, and the Members desire to authorize and empower the Managing Member to take all actions and to execute and deliver all documents as may be necessary or advisable to effect such financing.

F. In order to provide for the contributions and financing described above and to make certain amendments to the Operating Agreement in connection therewith, the parties hereto desire to amend the Operating Agreement as set forth below.

NOW, THEREFORE, in consideration of the foregoing and of the mutual agreements contained below, the parties hereto hereby agree as follows:

1. All capitalized terms not defined in this Amendment shall have the meanings ascribed to them in the Operating Agreement.

(a) Clause (b) of the definition of "Covered Person" in Article I of the Operating Agreement shall be amended and restated in its entirety to read as follows: "(b) any member of the Board, officer, or employee of the Company,".

(b) Paragraph (i) of the definition of "Permitted Transferee" in Article I of the Operating Agreement shall be amended by deleting the word "or" at the end of clause (d) thereof and by adding a new clause (f) at the end thereof to read as follows: "(f) if the Transfer is being made by Aruze, then in addition to the Permitted Transferees described in clauses (a) through (e), any wholly-owned subsidiary of Aruze Parent where the Transfer has the effect of substituting a foreign corporation for Aruze with respect to Aruze's entire Interest; or".

(c) The definition of "Reorganization" in Article I of the Operating Agreement shall be amended by deleting, immediately before the proviso of such definition, the phrase ", whether or not such corporation or other entity".

2. On or before April 22, 2002, the Members shall make the following contributions to the capital of the Company: (a) Wynn shall contribute (i) the Macau Interest, and the Members agree that as of the Contribution Date (as hereinafter defined) the value of the Macau Interest shall be equal to the sum of fifty-five million six hundred fifty-nine thousand three hundred seventy-five dollars (\$55,659,375) plus the Macau Reimbursement Amount (as defined in Paragraph 8 of this Amendment), and (ii) cash in the amount of thirty-two million dollars (\$32,000,000); (b) Aruze shall contribute cash in the amount of one hundred twenty million dollars (\$120,000,000); and (c) Baron Asset Fund shall contribute cash in the amount of nine million two hundred thirty thousand seven hundred seventy-two dollars (\$9,230,772). No additional Shares shall be issued to the Members as a result of the foregoing contributions (except to the extent permitted under Paragraph 7 hereof). As soon as practicable following the contribution to capital described in clause (a)(i) of this Paragraph 2, the Company shall furnish each of Aruze and Baron Asset Fund with a copy of the assignment or other reasonable documentation used to effectuate the transfer of the Macau Interest to the Company. Notwithstanding the foregoing, Aruze may contribute up to ninety million dollars (\$90,000,000) of the contribution to capital described in clause (b) of this Paragraph 2 on or before April 30, 2002 (the "Contribution Date"). The contributions to capital described in this Paragraph 2, the contribution to capital and issuance of Shares described in Paragraph 3 hereof, and the distribution to Wynn pursuant to Paragraph 8 hereof shall be deemed to have occurred as of the Contribution Date for purposes of this Amendment.

3. In addition to the contribution to capital described in clause (c) of Paragraph 2 of this Amendment, on or before April 22, 2002, Baron Asset Fund shall contribute to the capital of the Company cash in the amount of eleven million sixty-three thousand nine hundred fifty-six dollars (\$11,063,956) and, in connection therewith, the Company shall issue to Baron Asset Fund two thousand eight hundred thirty-four point zero one (2,834.01) Common Shares; provided, however, that at the election of Baron

Asset Fund, all or part of such contribution may be made by any publicly-traded, registered mutual fund managed by BAMCO (the "Other Baron Fund"), subject to the following terms and conditions: (i) to the extent that such contribution is made by the Other Baron Fund, the Shares to be issued by the Company under this Paragraph 3 shall be issued to the Other Baron Fund; (ii) the Other Baron Fund agrees in writing to be bound by the terms and provisions applicable to, and to assume all obligations of, Baron Asset Fund with respect to the contribution to be made by the Other Baron Fund hereunder and to be subject to all restrictions to which Baron Asset Fund was and is subject under the Articles and the Operating Agreement, as amended, with respect thereto; (iii) the Other Baron Fund agrees in writing to be bound by the terms and provisions applicable to, and to assume all obligations of, a Member and to be subject to all restrictions to which a Member is subject under the Articles and the Operating Agreement, as amended; (iv) the Other Baron Fund agrees in writing, to the same extent as Baron Asset Fund, to become a party to, and to be bound as a Stockholder under, that certain Stockholders Agreement (the "Stockholders Agreement") being entered into by Wynn, Baron Asset Fund, and Aruze in connection with the formation of the Corporate Vehicle (as defined in clause (d) of Paragraph 12 hereof); and (v) Baron Asset Fund's election under this Paragraph 3 shall not release it from any liability to the Company under this Paragraph 3. The Members hereby consent to the admission of the Other Baron Fund as a Member of the Company.

4. In connection with making their respective contributions to capital hereunder, each of the Members (and if applicable, the Other Baron Fund) hereby represents and warrants to the Company and the other Members as set forth on Exhibit A.

5. Pursuant to subparagraph (b) of the definition of "Gross Asset Value" in Article I of the Operating Agreement, as of immediately prior to the Contribution Date (i.e., as of immediately prior to the date as of which the contributions described in Paragraphs 2 and 3 of this Amendment, and the distribution described in Paragraph 8 hereof, are deemed to be made), the Gross Asset Values of the Company's assets shall be adjusted to reflect that the aggregate net value of the Company (i.e., the aggregate gross value of the Company's assets minus the aggregate amount, or absolute value, of its liabilities) is five hundred ninety-three million nine hundred forty thousand four hundred sixty-three dollars (\$593,940,463).

6. Immediately following the contributions to capital described in Paragraph 2 of this Amendment, the contribution to capital and issuance of Shares described in Paragraph 3 hereof, and the distribution to Wynn pursuant to Paragraph 8 hereof, the Capital Account and number of Shares of each Member shall be as set forth on Schedule I attached hereto and Schedule I of the Operating Agreement shall be amended and restated in its entirety to read as Schedule I to this Amendment (for purposes of clarification and without limiting the generality of the foregoing, the Capital Account balance for Wynn as set forth on Schedule I reflects, in full, both the increase attributable to the value of the Macau Interest to be contributed to the Company by Wynn and the decrease attributable to the cash in the amount of the Macau Reimbursement Amount to be distributed by the Company to Wynn). To the extent that the contribution pursuant to Paragraph 3 hereof is made by the Other Baron Fund, the information shown on Schedule

I for Baron Asset Fund shall be appropriately decreased to reflect the admission of the Other Baron Fund as a Member and its corresponding Capital Account balance and number of Common Shares as of the Contribution Date.

7. If any Member fails, on or before the date required hereby, to make all or any part of a contribution required to be made by such Member pursuant to Paragraph 2 or 3 hereof, the Managing Member (unless the Managing Member is the Member who fails to make such a contribution) may choose (i) to return those of such contributions that were made and suspend implementation of those provisions of this Amendment that, in the judgment of the Managing Member, are dependent on the making of such contributions (in which case, the effectiveness of the other provisions hereof shall not be affected), or (ii) to accept those of such contributions that were made and make appropriate adjustments, in the judgment of the Managing Member, in the Members' Interests to reflect such failure, including without limitation through the issuance of new Common Shares to the Members who made such contributions. The Managing Member's exercise of his rights under the preceding sentence shall not preclude him, the other Members, or the Company from exercising any other rights or remedies available to any of them under the Operating Agreement, at law, in equity, or otherwise. If the Managing Member is the Member who fails to make such a contribution, the Managing Member shall return those of such contributions that were made and terminate those provisions of this Amendment that, in the judgment of the Managing Member, are dependent on the making of such contributions (in which case, the effectiveness of the other provisions hereof shall not be affected).

8. On or as soon as practicable after April 22, 2002, and notwithstanding anything to the contrary expressed or implied in the Operating Agreement or elsewhere herein, the Managing Member shall distribute from the Company to Wynn cash in an amount equal to the Macau Reimbursement Amount to reimburse Wynn, in accordance with Regulations Section 1.707-4(d), for all of his expenditures with respect to the Macau Interest and the Macau Project. For purposes hereof, "Macau Reimbursement Amount" means the aggregate amount of all of the expenditures incurred and amounts advanced directly or indirectly by Wynn (including for this purpose all amounts advanced by Marc D. Schorr) with respect to the Macau Interest and the Macau Project. Without limiting the generality of the foregoing, it is acknowledged that, as of the Effective Date, the Macau Reimbursement Amount is approximately \$24,000,000, and that the Macau Reimbursement Amount shall be increased as of the date of reimbursement hereunder to reflect all additional such expenditures of Wynn with respect to the Macau Interest and the Macau Project on or after the Effective Date. The Company shall, and hereby does, assume and agree to pay, perform, and discharge when due all other liabilities and obligations of any kind or nature with respect to the Macau Interest, whether known, unknown, asserted, unasserted, absolute, contingent, accrued, unaccrued, liquidated, unliquidated, due, to become due, or otherwise. On or before the April 22, 2002, Wynn shall furnish each of Aruze and Baron Asset Fund with documentation showing the amount of cash or cash equivalents that will be held by Wynn Macau as of the April 22, 2002.

9. Section 5.1(a)(1) of the Operating Agreement shall be amended and restated in its entirety to read as follows:

(1) First, to Members pro rata in accordance with the respective amounts of their initial Capital Accounts as shown on Schedule I (as amended and restated by the Third Amendment to this Agreement), without adjustment for subsequent allocations of Profits or Losses or otherwise, until each Member has received an aggregate amount of distributions pursuant to this Subsection 5.1(a)(1) equal to the amount of such initial Capital Account; and

10. Section 7.5 of the Operating Agreement shall be amended and restated in its entirety to read as follows:

7.5 Tag-Along Rights.

(a) If Wynn is the Transferor required to provide the Notice of Offer under Section 7.4(a), then Aruze and Baron Asset Fund shall each have a right (in addition to its rights under Section 7.4) to participate in such Transfer pursuant to the provisions of this Section 7.5(a). During the fifteen-day Refusal Period described in Section 7.4(a), each of Aruze and Baron Asset Fund may, by written notice to Wynn, elect to participate in such Transfer and to sell that percentage of the Total Common Shares owned by Aruze or Baron Asset Fund, as the case may be, which is equal to the Total Common Shares that will be sold by Wynn in such Transfer divided by the Total Common Shares owned by Wynn. The terms and conditions of such Transfer (including the purchase price per Common Share sold in such Transfer, the identity of the buyer(s), and the consequences resulting from the other Members' exercise of any rights of first refusal) shall be no less favorable to Aruze or Baron Asset Fund, as the case may be, than to Wynn; provided, however, that (i) the purchase price per Common Share paid to any Member may be different from that paid to any other Member if, and to the extent appropriate to take into account that, the Capital Account balance associated with each Common Share being sold by such Member differs from the Capital Account balance associated with each Common Share being sold by such other Member, and (ii) Wynn may enter into service, noncompetition, or similar agreements with the buyer and receive appropriate consideration thereunder.

(b) If Aruze is the Transferor required to provide the Notice of Offer under Section 7.4(a), then Wynn and Baron Asset Fund shall each have a right (in addition to his or its rights under Section 7.4) to participate in such Transfer pursuant to the provisions of this Section 7.5(b). During the fifteen-day Refusal Period described in Section 7.4(a), each of Wynn and Baron Asset Fund may, by written notice to Aruze, elect to participate in such Transfer and to sell that percentage of the Total Common Shares owned by Wynn or Baron Asset Fund, as the case may be, which is equal to the Total Common Shares that will be sold by Aruze in such Transfer divided by the Total Common Shares owned by Aruze. The terms and conditions of such Transfer (including the purchase price per Common Share sold in such Transfer, the identity of the buyer(s), and the

consequences resulting from the other Members' exercise of any rights of first refusal) shall be no less favorable to Wynn or Baron Asset Fund, as the case may be, than to Aruze; provided, however, that (i) the purchase price per Common Share paid to any Member may be different from that paid to any other Member if, and to the extent appropriate to take into account that, the Capital Account balance associated with each Common Share being sold by such Member differs from the Capital Account balance associated with each Common Share being sold by such other Member, and (ii) Aruze may enter into service, noncompetition, or similar agreements with the buyer and receive appropriate consideration thereunder.

11. Section 7.6(b) of the Operating Agreement shall be amended by adding a new sentence at the end thereof to read as follows: "Notwithstanding anything to the contrary in this Section 7.6, any Transfer or issuance of shares in Aruze Parent shall not constitute a transfer of an Upstream Ownership Interest if, immediately following such Transfer or issuance, Okada is more than a fifty percent shareholder in Aruze Parent and has the right to directly exercise more than fifty percent of the voting power of the shareholders of Aruze Parent."

12. Notwithstanding anything to the contrary expressed or implied in the Operating Agreement or elsewhere herein, but without limiting the generality of the powers and authority given to the Managing Member under the Operating Agreement, the Managing Member shall have the power and authority, on behalf of the Company, and without any further consent or other action of the Board or the Members, to:

(a) designate Common Shares to be issued, and issue such Shares, to Baron Asset Fund (or if applicable, the Other Baron Fund) pursuant to Paragraph 3 hereof, to the extent necessary to bring the aggregate number of issued and outstanding Common Shares held by Baron Asset Fund (together with any Common Shares held by the Other Baron Fund), as a Member, immediately following such issuance, to ten thousand five hundred twenty-six point three two (10,526.32);

(b) designate Common Shares to be issued, and issue such Shares, (i) to Anthony Marnell or his designee ("Marnell") and John Moran or his designee ("Moran") and admit Marnell and Moran as Members, and (ii) to Baron Asset Fund (or if applicable, the Other Baron Fund) in the manner provided for under Paragraph 3 hereof, where the collective Interests of Marnell, Moran, Baron Asset Fund, and the Other Baron Fund following the issuances contemplated by the foregoing clauses (i) and (ii) may at the discretion of the Managing Member correspond to a Percentage Interest and/or a Voting Interest of up to fifteen percent (15%), and each of whose Percentage Interest and Voting Interest attributable to the issuances contemplated by the foregoing clauses (i) and (ii) shall dilute and reduce the Percentage Interest and Voting Interest of each Member on a pro-rata basis in accordance with the respective Percentage Interest of such Member; such Interests shall be issued in exchange for such consideration and upon such other terms and conditions as the Managing Member shall determine, which may include without limitation the execution of standstill agreements by any Person and the establishment of special voting arrangements that could vest partial or complete control over the voting rights of any Person in Wynn (provided that none of the Common Shares

comprising the Interests attributable to the issuances contemplated by the foregoing clauses (i) and (ii) shall have rights or privileges superior to Aruze or Wynn);

(c) designate Common Shares to be issued, and issue such Shares, to any Member pursuant to Paragraph 7 hereof;

(d) alter the organizational form of the Company or form a successor entity for the purpose of effecting a public offering of securities of the Company or such successor (any such altered form or successor entity, the "Corporate Vehicle"), including without limitation by incorporating the Company or any of its subsidiaries or businesses for such purpose or by causing a direct transfer of Interests by the Members to a newly-formed corporation, provided that (i) the technique used to establish the Corporate Vehicle shall be intended to constitute a nontaxable transaction for the Members for federal income tax purposes and (ii) the organizational documents for the Corporate Vehicle shall be consistent with those provisions of the Stockholders Agreement relating to actions requiring a supermajority vote of the Corporate Vehicle's directors;

(e) make a public offering of securities of the Corporate Vehicle in exchange for such consideration and upon such other terms and conditions as the Managing Member shall determine;

(f) borrow money and incur indebtedness on behalf of the Company, the Corporate Vehicle, or any of their subsidiaries for the purpose of developing and constructing the Project (also known as "Le Rêve" hotel and casino), and cause to be executed and delivered in the name of the Company, the Corporate Vehicle, or any of their subsidiaries (or authorize any individual manager, officer, or other Person to execute and deliver in the name of the Company, the Corporate Vehicle, or any of their subsidiaries) promissory notes, bonds, debentures, deeds of trust, pledges, hypothecations, guarantees, or other evidences of indebtedness or security interests;

(g) borrow money and incur indebtedness, or effect other forms of financing, of up to five hundred million dollars (\$500,000,000) on behalf of the Company, the Corporate Vehicle, or any of their subsidiaries, on commercially reasonable terms, for the purpose of developing the Macau Project, and cause to be executed and delivered in the name of the Company, the Corporate Vehicle, or any of their subsidiaries (or authorize any individual manager, officer, or other Person to execute and deliver in the name of the Company, the Corporate Vehicle, or any of their subsidiaries) promissory notes, bonds, debentures, deeds of trust, pledges, hypothecations, guarantees, or other evidences of indebtedness or security interests;

(h) cause the Company, the Corporate Vehicle, or any of their subsidiaries to purchase that certain aircraft identified as a Bombardier Global Express, serial number 9065; and

(i) take all further actions and execute and deliver all further documents as may be necessary or advisable for the consummation of the transactions

contemplated by the foregoing clauses (a) through (h) (including without limitation an amendment and restatement of the Operating Agreement to incorporate the Operating Agreement, as amended, into a single document).

13. In connection with the establishment of the Corporate Vehicle, any distribution or allocation of shares of stock in the Corporate Vehicle among the Members shall be made pro rata in proportion to their respective positive Capital Account balances (i.e., based on a proportion similar to that contemplated by Section 10.2(e)(iv) of the Operating Agreement), irrespective of the technique used to establish the Corporate Vehicle.

14. In connection with the power and authority granted to the Managing Member under Paragraph 12 hereof, each Member hereby irrevocably constitutes and appoints the Managing Member as its true and lawful attorney-in-fact, in its name, place, and stead, to make, execute, acknowledge, and file any document that may be necessary or advisable to consummate the transactions contemplated thereby, including without limitation the execution of assignments to effectuate a direct transfer of Interests by the Members to a corporation pursuant to clause (d) of Paragraph 12 hereof. It is expressly intended by each Member that the power of attorney granted by the preceding sentence is coupled with an interest, shall be irrevocable, and shall survive and not be affected by the establishment of the Corporate Vehicle or the subsequent dissolution or termination of such Member.

15. Section 8.2(l) of the Operating Agreement shall be amended and restated in its entirety to read as follows:

(l) admit additional investors as Members after October 3, 2000, whose collective Interests may at the discretion of the Managing Member have a Percentage Interest and/or a Voting Interest of up to twenty percent (20%) (excluding from such calculation any Interest held by Marnell or Moran and any Interest received by Baron Asset Fund or the Other Baron Fund pursuant to Paragraph 3 of the Third Amendment to Agreement), and each of whose Percentage Interest and Voting Interest shall dilute and reduce the Percentage Interest and Voting Interest of each other Member on a pro rata basis in accordance with the respective Percentage Interest of such Member; such Interests shall be issued in exchange for such consideration and upon such other terms and conditions as the Managing Member shall determine, provided that none of the Common Shares comprising such Interests shall have rights or privileges superior to Aruze or Wynn; and

16. The Members hereby waive any pre-emptive or related rights under Section 8.3 of the Operating Agreement, or otherwise, with respect to any of the shares or other equity interests contemplated to be issued pursuant hereto.

17. The Members hereby acknowledge that, as of the Effective Date and pursuant to Section 8.6 of the Operating Agreement, Aruze is removing Sachio Togo as a representative and appointing Kyoichiro Ohga as a successor representative.

18. The items to be reviewed at each meeting of the Board pursuant to Section 8.7(a) of the Operating Agreement shall include without limitation the status of the Macau Project and of the Company's efforts to raise equity or debt financing as contemplated by clauses (e), (f), and (g) of Paragraph 12 of this Amendment.

19. In Section 11.5 of the Operating Agreement, the phrase "Member or manager" and the phrase "Member or the manager" shall be amended and restated in its entirety to read as "Covered Person" each place either such phrase appears therein, and the phrase "Members or the managers" shall be amended and restated in its entirety to read as "Covered Persons."

20. Reference is hereby made to the second amendment (dated February 18, 2002) to the Operating Agreement. Without limiting the applicability of the provisions thereof with respect to Aruze's membership interests in the Company, such provisions shall also apply in a like manner with respect to any shares or other equity interests that Aruze may hold in the Corporate Vehicle or any of its subsidiaries or other related companies; provided, however, that in any purchase by Wynn of Aruze's membership interests in the Company or shares or other equity interests in the Corporate Vehicle, Wynn may elect to give Aruze a promissory note in the same manner as described in paragraph 4 of such second amendment.

21. The Members hereby approve and consent to all actions taken and documents executed by the Company, its subsidiaries and/or the Managing Member heretofore, including, without limitation, the prior designation and issuance of Shares to Baron Asset Fund and the admission of Baron Asset Fund as a Member.

22. In the event of a conflict between the terms and conditions of this Amendment and the terms and conditions of the Operating Agreement, the terms and conditions of this Amendment shall control.

23. On and after the Effective Date, each reference in the Operating Agreement to "this Agreement," "hereunder," "hereof," "herein," or any other expression of the like import referring to the Operating Agreement shall mean and be a reference to the Operating Agreement as amended by this Amendment, unless the context of the Operating Agreement requires otherwise (such as in the context of Sections 3.4 and 5.2 of the Operating Agreement). Except as expressly amended hereby, the provisions of the Operating Agreement, including without limitation Section 8.5 of the Operating Agreement, shall remain in full force and effect.

24. To the extent reasonably applicable, the provisions of Article XIV of the Operating Agreement are hereby incorporated herein and made a part hereof. This Amendment may be executed in two or more counterparts, each of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, this Amendment is being executed as of the Effective Date.

Stephen A. Wynn, Managing
Member of Valvino Lamore, LLC

Aruze USA, INC.

By: _____

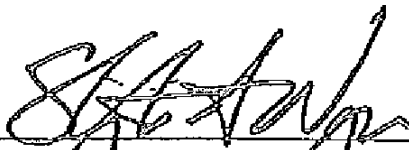
Baron Asset Fund

By: _____

Robert Brown
CHAIRMAN & CEO

24. To the extent reasonably applicable, the provisions of Article XIV of the Operating Agreement are hereby incorporated herein and made a part hereof. This Amendment may be executed in two or more counterparts, each of which shall together constitute one and the same instrument.

IN WITNESS WHEREOF, this Amendment is being executed as of the Effective Date.


Stephen A. Wynn, Managing
Member of Valvino Lamore, LLC

Aruze USA, INC.

By: 

Baron Asset Fund

By: _____

SCHEDULE I

MEMBERS, CAPITAL ACCOUNTS, AND SHARES AS OF CONTRIBUTION DATE UNDER THIRD AMENDMENT

Members	Address	Capital Accounts	Common Shares
		(immediately after all contributions described in Paragraphs 2 and 3 of, and the reimbursement distribution to Wynn pursuant to Paragraph 8 of, the Third Amendment to Agreement)	
Stephen A. Wynn		\$390,399,919	100,000.00
Aruze USA, Inc.		\$390,399,919	100,000.00
Baron Asset Fund*		\$ 41,094,728	10,526.32

* To the extent that the contribution pursuant to Paragraph 3 of the Third Amendment to Agreement is made by the Other Baron Fund (as defined in such Paragraph 3), the information shown in this Schedule I for Baron Asset Fund shall be appropriately decreased to reflect the admission of the Other Baron Fund as a Member and its corresponding Capital Account balance and number of Common Shares as of the Contribution Date.

EXHIBIT A
REPRESENTATIONS

In connection with their respective capital contributions hereunder and their respective Interests in the Company, each of the Members represents and warrants to the Company and the other Members that each of the following statements is true and correct as of the Effective Date and the Contribution Date:

1. Authority: Such Member has all requisite power and authority to execute and deliver this Amendment and any related agreements to which such Member is a party and to carry out the provisions of this Amendment and any such related agreements. The execution, delivery, and performance by such Member of this Amendment and any related agreements to which such Member is a party, and the consummation by such Member of the transactions contemplated hereby and thereby have been or will be duly authorized by all necessary action on the part of such Member and, if such Member is an entity, its direct and indirect owners. This Amendment and any related agreements to which such Member is a party constitute, or upon execution and delivery will constitute, valid and binding agreements of such Member, enforceable in accordance with their terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, or other laws of general application affecting enforcement of creditors' rights; and (ii) as general principles of equity restrict the availability of equitable remedies.
2. Investment Representations. Such Member understands that the Interests have not been registered under the Securities Act of 1933, as amended (the "Securities Act"). Such Member also understands that the Interests are being offered and sold pursuant to an exemption from registration contained in the Securities Act based in part upon the representations contained herein. Such Member hereby represents, warrants, acknowledges, and agrees as follows:
 - a. Accredited Investor. Such Member is an accredited investor within the meaning of Regulation D under the Securities Act.
 - b. Member Bears Economic Risk. Such Member must bear the economic risk of its investment in the Company indefinitely unless the Interests are registered pursuant to the Securities Act, or an exemption from registration is available. Such Member also understands that there is no assurance that any exemption from registration under the Securities Act will be available and that, even if available, such exemption may not allow such Member to transfer all or any portion of its Interest or under the circumstances, in the amounts, or at the times such Member might propose.
 - c. Acquisition for Own Account. Such Member is acquiring its Interest for such Member's own account for investment only, and not with a view towards distribution (subject to certain options that Wynn has agreed to grant to Marc D. Schorr and Kenneth R. Wynn to purchase a portion of Wynn's Interest).

d. Investment Experience. By reason of such Member's own business or financial experience (or, if an entity, by reason of the business or financial experience of its parent company), such Member has the capacity to protect such Member's own interests in connection with the transactions contemplated hereby.

e. Receipt of Company Information. Such Member has had an opportunity to discuss the Company's business, management, and financial affairs with directors, officers, and management of the Company and has had the opportunity to review the Company's operations and facilities and has received all of the information such Member has requested. Such Member has also had the opportunity to ask questions of and receive answers from the Company and its management regarding the terms and conditions of investment in the Company.

f. Restricted Securities. The Interests must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available.

g. Legends. Each certificate representing any Shares shall be stamped or otherwise imprinted with (in addition to any legend required under applicable state securities laws or as provided elsewhere in the Operating Agreement) a legend substantially similar to the one set forth in Section 14.4 of the Operating Agreement.

h. Limitations. Such Member is not relying on representations and warranties except as expressly set forth herein, and such Member acknowledges that no such representation or warranty is being made by the Company or any of its respective officers, employees, Affiliates, agents, representatives, and, in particular, such Member is not relying on, and acknowledges that no representation or warranty is being made in respect of, (i) any projections, estimates, or budgets delivered or made available to such Member of future revenues, expenses, or expenditures, or future results of operations, and (ii) any other information or documents delivered or made available to such Member or such Member's Affiliates or their respective representatives, other than representations and warranties expressly set forth herein and other documents referred to herein.

EXHIBIT D

EXHIBIT D

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27 Telephone: (702) 464-7036
28 Facsimile: (702) 382-8135

Attorneys for Respondent
Wynn Resorts, Limited

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

INITIAL DISCLOSURE OF DOCUMENTS

INITIAL DISCLOSURE OF DOCUMENTS

Respondent, Wynn Resorts, Limited, by and through its counsel of record, Kirk B. Lenhard, Esq. of the law firm of Brownstein Hyatt Farber Schreck, LLP and Robert Shapiro, Esq. of the law firm of Glaser Weil Fink Jacobs Howard Avchen & Shapiro LLP, hereby submit its initial disclosure of documents as follows:

Respondent identifies the following documents:

<u>Bates Numbers</u>	<u>Document Description</u>
WRL-000001 – 5	Confidential Meeting Minutes marked "Confidential" pursuant to the Court's anticipated February 8, 2012 Protective Order. Produced to Petitioner via Receipt of Copy and letter dated February 2, 2012.

Respondent identifies the following documents:

Bates Numbers	Date	Document Description
WRL-000006 - 8	6/3/2002	Articles of Incorporation of Wynn Resorts, Limited
WRL-000009 - 22		Bylaws of Wynn Resorts, Limited, a Nevada corporation
WRL-0000023 - 64	4/28/2000	Asset and Land Purchase Agreement dated as of April 28, 2000 by and among Starwood Hotels & Resorts Worldwide, Inc. Sheraton Gaming Corporation, Sheraton Desert Inn Corporation, Valvino Lamore, LLC and Stephen A. Wynn
WRL-000065 - 68	5/26/2000	First Amendment to Asset and Land Purchase Agreement
WRL-000069 - 71	6/16/2000	Second Amendment to Asset and Land Purchase Agreement
WRL-000072 - 76	6/22/2000	Third Amendment to Asset and Land Purchase Agreement
WRL-000077 - 78	10/27/2000	Fourth Amendment to Asset and Land Purchase Agreement
WRL-000079 - 81	11/3/2000	Fifth Amendment to Asset and Land Purchase Agreement
WRL-000082 - 96	11/1/2001	Lease Agreement between Valvino Lamore, LLC, Landlord and Wynn Resorts, LLC, Tenant Dated November 1, 2001
WRL-000097 - 102	11/1/2001	Art Rental and Licensing Agreement between Stephen A. Wynn ("Lessor") and Wynn Resorts, LLC "Lessee")
WRL-000103 - 122	4/11/2002	Stockholders Agreement between Stephen A. Wynn, Baron Asset Fund, and Aruze USA, Inc.
WRL-000123 - 200	6/4/2002	Agreement for Guaranteed Maximum Price Construction Services Between Wynn Las Vegas, LLC ("Owner") and Marnell Corrao Associates, Inc. ("Contractor") for Le Reve
WRL-000201 - 204	6/4/2002	Continuing Guarantee regarding Agreement for Guaranteed Maximum Price Construction Services Between Wynn Las Vegas, LLC ("Owner") and Marnell Corrao Associates, Inc. ("Contractor") for Le Reve
WRL-000205 - 246	6/6/2002	Design/Build Agreement by and between Wynn Las Vegas, LLC ("Owner") and Bomel Construction Company, Inc., ("Contractor") for a Parking Structure to be located at 3131 Las Vegas Boulevard South, Las Vegas, Nevada
WRL-000247 - 255	4/1/2002	Employment Agreement between Wynn Resorts, LLC and Ronald J. Kramer

	Bates Numbers	Date	Document Description
1			
2	WRL-000256 - 265	6/10/2002	Contribution Agreement between Stephen A. Wynn, Aruze USA, Inc., Baron Asset Fund on behalf of Baron Asset Fund Series, Baron Asset Fund on behalf of Baron Growth Fund Series, Kenneth R. Wynn Family Trust, and Wynn Resorts, Limited
3			
4	WRL-000266 - 276	2/28/2002	Amended and Restated Business Loan Agreement between Bank of America, N.A. and World Travel, LLC
5			
6	WRL-000277 - 281	5/30/2002	Bank of America, N.A. Continuing Guaranty, Borrower: World Travel, LLC, Guarantor: Valvino Lamore, LLC
7			
8	WRL-000282 - 286	6/13/2002	Agreement between Stephen A. Wynn and Wynn Resorts, Limited
9	WRL-000287 - 290	5/30/2002	Purchase Agreement between Stephen A. Wynn and Valvino Lamore, LLC
10	WRL-000291 - 296	5/31/2002	Employment Agreement by and between Valvino Lamore, LLC and Matt Maddox
11	WRL-000297 - 331	6/24/2002	Concession Contract for the Operation of Games of Chance or Other Games in Casinos in the Macau Special Administrative Region
12			
13	WRL-000332 - 354	6/14/2002	Deutsche Bank Securities, Inc., Banc of America Securities LLC, Bear, Stearns & Co., Inc. June 14, 2002 Amended and Restated Commitment Letter
14	WRL-000355 - 359	8/12/2002	Agreement for Guarantee Maximum Price Construction Services Change Order No. 1; Between Wynn Las Vegas, LLC ("Owner") and Marnell Corrao Associates, Inc. ("Contractor") for Le Reve
15			
16	WRL-000360 - 372	1/25/2001	Agreement between Wynn Resorts, LLC and Calitri Services and Licensing Limited Liability Company
17			
18			
19	WRL-000373 - 382		Wynn Resorts, Limited 2002 Stock Incentive Plan
20	WRL-000383 - 390		Indemnity Agreement
21	WRL-000391 - 428	8/30/2002	Declaration of true and correct English translation of Concession Contract for the Operation of Games of Chance or Other Games in Casinos in the Macau Special Administrative Region
22			
23	WRL-000429 - 435	10/5/2001	Profession Design Services Agreement between Wynn Design and Development, LLC and A.A. Marnell II, Chtd.
24	WRL-000436 - 448		General Conditions to the Professional Design Services Agreement
25	WRL-000449 - 452	6/7/2001	Trademark/Service Mark Purchase Agreement between Wynn Resorts and the STAD Trust
26	WRL-000453 - 456	4/1/2001	Purchase Agreement between Stephen A. Wynn and Valvino Lamore, LLC
27	WRL-000457 - 485	10/3/2000	Amended and Restated Operating Agreement of Valvino Lamore, LLC
28			

	Bates Numbers	Date	Document Description
1			
2	WRL-000486 - 496	4/16/2001	First Amendment to Amended and Restated Operating Agreement of Valvino Lamore, LLC
3	WRL-000497 - 498	2/18/2002	Second Amendment to Amended and Restated Operating Agreement of Valvino Lamore, LLC
4	WRL-000499 - 512	4/11/2002	Third Amendment to Amended and Restated Operating Agreement of Valvino Lamore, LLC
5	WRL-000513 - 516	6/24/2002	Fourth Amendment to Amended and Restated Operating Agreement of Valvino Lamore, LLC
6	WRL-000517 - 525	7/7/2000	Employment Agreement by and between Wynn Development, LLC and William Todd Nisbet
7	WRL-000526 - 534	9/6/2002	Employment Agreement by and between Wynn Resorts, Limited and Marc H. Rubinstein
8	WRL-000535 - 543	9/9/2002	Employment Agreement by and between Wynn Resorts, Limited and John Strzemp
9	WRL-000544 - 550	9/16/2002	Second Amendment and Restated Articles of Incorporation of Wynn Resorts, Limited
10	WRL-000551 - 565	9/23/2002	Wynn Resorts, Limited Third Amended and Restated Bylaws Effective as of September 23, 2002
11	WRL-000566 - 568	6/22/2002	Wynn Resorts, Limited form Stock Certificate
12	WRL-000569 - 578		Standard Form of Agreement Between Owner and Architect with Standard Form of Architect's Services between Wynn Design and Development, LLC as Owner and Butler/Ashworth Architects, LLC as Architect
13			
14			
15	WRL-000579 - 584	8/19/2002	Amended and Restated Art Rental and Licensing Agreement between Stephen A. Wynn Lessor and Wynn Resorts Holdings, LLC, Lessee
16			
17	WRL-000585 - 590	9/18/2002	Second Amended and Restated Art Rental and Licensing Agreement between Stephen A. Wynn Lessor and Wynn Resorts Holdings, LLC, Lessee
18	WRL-000591 - 599	9/18/2002	Employment Agreement by and between Wynn Design & Development, LLC and Kenneth R. Wynn
19	WRL-000600 - 605	9/24/2002	Tax Indemnification Agreement by and among Stephen A. Wynn, Aruze USA, Inc., Baron Asset Fund, and Kenneth R. Wynn Family Trust
20			
21	WRL-000606 - 614	9/26/2002	Employment Agreement by and between Wynn Design & Development, LLC and Deruyter O. Butler
22	WRL-000615 - 623	10/4/2002	Employment Agreement by and between Wynn Resorts, Limited and Stephen A. Wynn
23	WRL-000624 - 625		Subsidiaries of the Registrant
24	WRL-000626 - 633		Form of Indemnity Agreement
25	WRL-000634 - 644	5/30/2002	Amended and Restated Business Loan Agreement between Bank of America, N.A. and World Travel, LLC
26			
27	WRL-000645 - 647	5/24/2002	Letter of Intent to Stephen A. Wynn, Managing Member of Valvino Lamore, LLC regarding Ferrari North America, Inc.
28			

Bates Numbers	Date	Document Description
WRL-000648 - 649	10/4/2002	First Amendment to Letter of Intent to Stephen A. Wynn, Managing Member of Valvino Lamore, LLC regarding Ferrari North America, Inc.
WRL-000650 - 652	5/24/2002	Letter of Intent to Stephen A. Wynn, Managing Member of Valvino Lamore, LLC regarding Maserati North America, Inc.
WRL-000653 - 654	10/4/2002	First Amendment to Letter of Intent to Stephen A. Wynn, Managing Member of Valvino Lamore, LLC regarding Maserati North America, Inc.
WRL-000655 - 663	10/4/2002	Employment Agreement by and between Wynn Resorts, Limited and Marc D. Schorr
WRL-000664 - 669		Form of Wynn Resorts, Limited Restricted Stock Agreement
WRL-000670 - 673	10/17/2002	Distribution Agreement and Assignment between Wynn Resorts, Limited and Valvino Lamore, LLC
WRL-000674 - 691		Form of Lease Agreement between Valvino Lamore, LLC, Landlord and Wynn Las Vegas, LLC, Tenant
WRL-000692 - 709		Form of Golf Course Lease between Wynn Resorts Holdings, LLC, Landlord and Wynn Las Vegas, LLC, Tenant
WRL-000710 - 727		Form of Driving Range Lease between Valvino Lamore, LLC, Landlord and Wynn Las Vegas, LLC, Tenant
WRL-000728 - 742		Form of Parking Facility Lease between Valvino Lamore, LLC, Landlord and Wynn Las Vegas, LLC, Tenant
WRL-000743 - 768	10/15/2002	Share Subscription and Shareholders' Agreement by and among S.H.W. & Co. Limited, SKKG Limited, L'Arc de Triomphe Limited, Classic Wave Limited, Yany Kwan Yan Chi, Li Tai Foon, Kwan Yan Ming, Wong Chi Seng, Wynn Resorts International, Ltd., and Wynn Resorts (Macau) Holdings, Ltd.
WRL-000769 - 790	10/15/2002	Shareholders' Agreement by and among Wynn Resorts (Macau), Limited, Wynn Resorts International, Ltd., Wong Chi Seng, and Wynn Resorts (Macau), S.A.
WRL-000791 - 802	2/28/2002	Mortgage, Security Agreement and Assignment between World Travel, LLC as the Grantor and Bank of America, N.A. as the Lender
WRL-000803 - 804		Subsidiaries of the Registrant
WRL-000805 - 806	10/21/2002	Letter from Schreck Brignone to Wynn Resorts, Limited Re: Registration Statement on Form S-1, File No. 333-90600
WRL-000807 - 817		Form of Registration Rights Agreement between Wynn Resorts, Limited and Stephen A. Wynn
WRL-000818 - 825		Form of Management Agreement

1	Bates Numbers	Date	Document Description
2	WRL-000826 - 851		Shares Wynn Resorts, Limited Common Stock (\$0.01 Par Value) Form of Equity Underwriting Agreement to Deutsche Bank Securities Inc.
3			
4	WRL-000852 - 853	10/3/2002	Deutsche Bank Trust Company Americas, Bank of America, N.A., Bear Stearns Corporate Lending, Inc. October 3, 2002 FF&E Facility Commitment Letter Attention: Dave Buccolo
5			
6	WRL-000854	9/16/2002	Bank of America, N.A. Letter Attention: Dave Buccolo, Re: \$188.5 Million FF&E Facility for Wynn Las Vegas, LLC
7			
8	WRL-000855	8/22/2002	The CIT Group/Equipment Financing, Inc. Letter Attention: Dave Buccolo, Re: \$178.5 Million FF&E Facility for Wynn Las Vegas, LLC
9			
10	WRL-000856 - 857	10/18/2002	General Electric Capital Corporation Letter Attention: Dave Buccolo, Re: \$188.5 Million FF&E Facility for Wynn Las Vegas, LLC
11			
12	WRL-000858 - 878	9/13/2002	Commitment Letter between Deutsche Bank Securities, Inc., Societe Generale, and SG Cowen Securities Corporation Re: \$1,000,000,000 Senior Secured Credit Facilities
13			
14	WRL-000879	10/22/2002	GMAC Commercial Mortgage Corporation Letter to Bank of America, N.A. Attention: Dave Buccolo, Re: \$188.5 Million FF&E Facility for Wynn Las Vegas, LLC
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Bates Numbers	Date	Document Description
WRL-000880 - 885		Form of Wynn Resorts Agreement made by Wynn Resorts, Limited in favor of Wells Fargo Bank, National Association as trustee for the benefit of the holders of the second mortgage notes
WRL-000886 - 900	10/21/2002	Wynn Resorts, Limited Fourth Amended and Restated Bylaws Effective as of October 21, 2002
WRL-000901 - 902		Form of Purchase Agreement
WRL-000903	10/21/2002	First Amendment to the Wynn Resorts, Limited 2002 Stock Incentive Plan

DATED this 24th day of February, 2012.

By: 

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rs@glaserweil.com

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Wynn Resorts, Limited*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 24th day of February, 2012, I caused to be served a true and correct copy of the foregoing INITIAL DISCLOSURE OF DOCUMENTS, addressed to the following individuals:

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RECEIPT OF COPY

RECEIPT OF A COPY of INITIAL DISCLOSURE OF DOCUMENTS in the above-captioned matter is hereby acknowledged this 24th day of February, 2012.

LIONEL SAWYER & COLLINS

By: V. Raymond Calogian for:
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Charles H. McCrea, Esq.
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Attorneys for Petitioner Kazuo Okada

EXHIBIT E

EXHIBIT E

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Attorneys for Respondent
Wynn Resorts, Limited

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

FIRST SUPPLEMENTAL DISCLOSURE OF
DOCUMENTS

FIRST SUPPLEMENTAL DISCLOSURE OF DOCUMENTS

Respondent, Wynn Resorts, Limited, by and through its counsel of record, Kirk B. Lenhard, Esq. of the law firm of Brownstein Hyatt Farber Schreck, LLP and Robert Shapiro, Esq. of the law firm of Glaser Weil Fink Jacobs Howard Avchen & Shapiro LLP, hereby submits its first supplemental disclosure of documents as follows:

Respondent identifies the following documents:

Bates Numbers	Date	Document Description
WRL-000904 – WRL-000906	4/18/2011	Agenda
WRL-000907 – WRL-000910	5/13/2011	Agreement
WRL-000911 – WRL-000925	4/8/2011	Report
WRL-000926 – WRL-000946	N/A	Attachments to confidential memorandum
WRL-000947 – WRL-000953	11/9/2011	Letter from Robert L. Shapiro to Gidon M. Caine with attachments

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Documents bates numbered WRL-000904 - WRL-000953 above have been marked
"Confidential" pursuant to the Court's February 8, 2012 Protective Order. Further see Redacted
Documents Log and Privilege Log attached hereto as Exhibits A and B respectively for details
pertaining to document bates numbered WRL-000904.

DATED this 2nd day of March, 2012.

By: 

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*Attorneys for Respondent
Wynn Resorts, Limited*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that on this 2nd day of March, 2012, I caused to be served a true and correct copy of the foregoing FIRST SUPPLEMENTAL DISCLOSURE OF DOCUMENTS, addressed to the following individuals:

Via Hand Delivery

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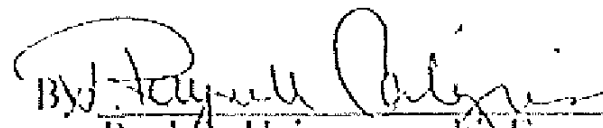
Employee of Brownstein Hyatt Farber Schreck, LLP

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RECEIPT OF COPY

RECEIPT OF A COPY of FIRST SUPPLEMENTAL DISCLOSURE OF
DOCUMENTS in the above-captioned matter is hereby acknowledged this 2nd day of March,
2012.

LIONEL SAWYER & COLLINS



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EXHIBIT F

EXHIBIT F

Brownstein Hyatt
Farber Schreck

March 7, 2012

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VIA EMAIL AND REGULAR U.S. MAIL

Dawn M. Wilson, Esq.
ALSTON & BIRD LLP
90 Park Avenue
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RE: Kazuo Okada vs. Wynn Resorts, Limited
Case No. A-12-654522-B
Client-Matter No. 21658.172

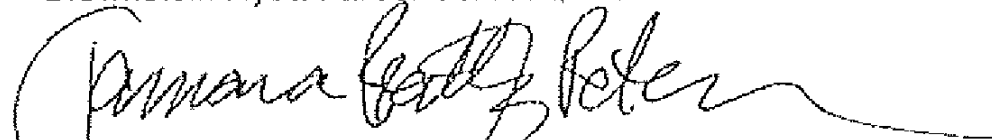
Dear Ms. Wilson:

This correspondence is to confirm our conversation yesterday, wherein you inquired about the status of any documents that would be produced to Mr. Okada in connection with his requests as outlined in his Petition for Writ of Mandamus ("Petition").

I informed you that upon review, Wynn has determined, consistent with the Board's direction, that all documents to which Mr. Okada may reasonably be entitled as a director have been produced to him or his counsel, including all nonprivileged documents related to the donation to the University of Macau. We will be providing a privilege log with respect to those documents that have been withheld based upon the attorney-client privilege.

Very truly yours,

Brownstein Hyatt Farber Schreck, LLP



Tamara Beatty Peterson, Esq.

TBP:ep

cc Charles H. McCrea, Esq.

100 North City Parkway, Suite 1600 | Las Vegas, NV 89106-4611
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21658\172\1657354.1

EXHIBIT G

EXHIBIT G

AFFIDAVIT OF TAMARA BEATTY PETERSON, ESQ.

STATE OF NEVADA)
)
COUNTY OF CLARK) ss:

I, TAMARA BEATTY PETERSON, ESQ., being first duly sworn, depose and state as follows:

1. I am a shareholder with the law firm of Brownstein Hyatt Farber Schreck, LLP, counsel of record for Respondent Wynn Resorts, Limited ("Wynn"). I make the following Affidavit in support of Wynn's Second Supplement to Respondent's Opposition to Petitioner Kazuo Okada's ("Okada") Petition for a Writ of Mandamus (the "Petition"). 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. On March 5, 2012, I participated in a telephone conference with Dawn Wilson, Esq. and Charles H. McCrea, Esq., counsel of record for Okada, to discuss Wynn's production of non-privileged documents responsive to Okada's requests, as more specifically set forth in Okada's Petition.

3. Among other categories of documents addressed during the call, Ms. Wilson and I discussed Okada's request to inspect Wynn's books and records of "[a]ll 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." (See Petition ¶ 36(e)).

4. During the discussion, I inquired as to the reasons for Okada's belief that it was reasonable for Wynn to produce books and records concerning an agreement of which Wynn was not a party. Ms. Wilson responded by stating that Okada's request concerning the 2010 Stockholders Agreement was relevant because the Wynn Board of Directors relied upon that agreement as a basis to redeem Aruze USA, Inc.'s ("Aruze") stock in Wynn at a discount.

5. I pointed out to Ms. Wilson that the redemption of Aruze's stock occurred after Okada's Petition was filed, and was squarely at issue in the action recently filed by Wynn (Case No. A656710). I further stated that any document request concerning the 2010 Stockholders

1 Agreement was relevant to that action and, thus, Okada can seek those documents there, rather
2 than through a writ of mandamus in this case. Ms. Wilson stated that she "somewhat agree[d]."

3 6. Ms. Wilson then stated that we should "table" Okada's request concerning the 2010
4 Stockholders Agreement. Ms. Wilson and I went on to discuss Okada's other document requests.

5 *Further affiant sayeth naught.*

6 DATED this 7th day of March, 2012.

7
8 
9 TAMARA BEATTY PETERSON, ESQ.

10 Subscribed and sworn before me
11 this 7th day of March, 2012.

12 
13 Notary Public

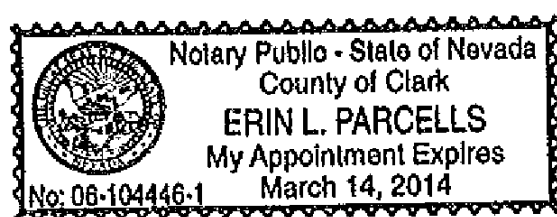


EXHIBIT H

EXHIBIT H

Bloomberg

Billionaire Okada's Manila Tour Is Defining Moment as Wynn Goes 'Nuclear'

By Vinicy Chan and Kana Nishizawa - Mar 5, 2012

Stephen Wynn stepped off his private jet at Manila airport in June 2010 to be greeted by the Philippines gaming regulator. On the tarmac too, in black wraparound sunglasses and trademark 1950s-style slicked-back hair, was Japanese slot-machine billionaire Kazuo Okada.

Okada, 69, wanted the chief executive officer of Wynn Resorts Ltd. (WYNN) to join his \$2 billion casino and hotel project on Manila Bay. Wynn, companion Andrea Hissom and Wynn Resorts Chief Operating Officer Marc Schorr toured a hotel, shopping mall and casino showcasing Manila's investment potential, and sat through a presentation on the new project in an air-conditioned marquee, photographs of the trip show.

That visit proved pivotal for Okada's ambition to create an Asian casino empire -- only not as he'd hoped, according to an interview last week detailing how his 12-year alliance with Wynn went sour. Philippines regulator Efraim Genuino was indicted in an ongoing graft case. By the fall, Wynn was focusing on Okada's Philippines activities, court documents show, removing him as vice chairman last year and forcibly buying his \$2.77 billion stake last month at a 30 percent discount.

During three hours at his 36th-floor office in Hong Kong's Tsim Sha Tsui district, Okada laid out his version of the split with Wynn, whose business he helped revive with funding in 2000. It's a story at odds with the 47-page report Wynn commissioned from Louis J. Freeh, a former director of the U.S. Federal Bureau of Investigation, which catalogs more than \$110,000 in hotel rooms, meals and gifts for gaming officials and their associates that Wynn's lawyers said may have breached U.S. anti-graft laws.

No Notice

"They gave the board the report without letting me review it," said Okada, founder of Tokyo-based Universal Entertainment Corp. (6425) "Even criminals would be asked to sign off on the findings to ensure there are no mistakes."

The boardroom scrap at Las Vegas-based Wynn Resorts shows the dilemma U.S. companies face when seeking growth in Asia, where a broader acceptance of gift giving and hospitality conflicts with the tightening anti-bribery regime at home. Wynn Resorts alleges Okada misused its assets, name and know-how to promote himself, even though Wynn had decided to stay out of the Philippines, and that his actions put the company's gambling licenses at risk.

Clause Invoked

Freeh briefed Wynn Resorts' directors on his findings Feb. 18, and on the same day they judged Okada to be an "unsuitable person," invoking a clause in the articles of incorporation to redeem the 20 percent stake that made him the company's biggest shareholder. Okada said he's gathering evidence to show the report was riddled with errors and exaggerated standard industry practice as a pretext to eliminate a man Wynn, 70, had come to regard as a threat.

"These are very standard terms that lawyers put in these contracts, but they're rarely invoked," said Wendy Wysong, a Hong Kong-based lawyer at Clifford Chance (1000L) LLP who specializes in anti-corruption matters. Clifford Chance isn't advising either party, she said. The clause is like a "dormant nuclear weapon" that's put in "to make everyone comply with the law."

Wynn's use of the provision raises the prospect that other companies may follow suit to "just boot somebody out that's fallen out of favor," she said.

Freeh interviewed Okada for more than seven and a half hours in Tokyo. "He did not offer any exculpatory evidence in that meeting nor has he to date," said Paul Kranhold, a Wynn spokesman.

Macau Rival

Wynn Resorts alleges Okada broke its code of conduct by trying to set up a casino to rival its operation in Macau.

Okada planned "to lure high-limit, VIP gamblers from China" to Manila "in direct competition with Wynn Macau," according to documents filed in a Feb. 19 lawsuit in Nevada.

A shareholder agreement amended Jan. 6, 2010, bars Okada from investing in casinos in Macau and Nevada, regulatory filings show. There is nothing to stop Universal from expanding elsewhere, he said. What's more, everything was done to further the partnership with Wynn and for their mutual benefit, he said.

"I believe that business by nature is about trust, contracts are a last resort," Okada said. "That may be a difference between Western and Asian countries."

Okada won one of four provisional gaming licenses awarded in the Philippines in 2008, according to Wynn's lawsuit. Pushing ahead with the project went against "requests to Okada not to pursue business in the Philippines," the document said.

Manila Trip

"In or around the fall of 2010," Wynn learned Okada was falsely claiming that he and Wynn Resorts were developing the Manila project together, the lawsuit said. After Wynn's compliance committee advised the group to steer clear of the country because of corruption concerns, "Okada was unrelenting," and in February 2011 "repeated his oft-uttered request that Mr. Wynn travel to the Philippines to explore investing in Universal's Manila Bay project," the papers said.

The photographs, copies of which were given to Bloomberg News, show Wynn had already been there, with Hissom and Schorr, on June 14, 2010. Wynn was "very interested" and asked to meet with Aquino, Okada said.

In a 2008 press release, Universal said it "intends to enlist the full cooperation of Wynn Resorts Ltd.'s Steve Wynn" to develop the project. Okada said the license was to build the hotel-related facilities at an integrated casino resort and that he wanted Wynn to join in any gaming business.

Okada pushed for the meeting with Aquino and was "embarrassed and angry" when told to cancel, the court document said. Okada said Wynn was "foolish" to turn his back on the Philippines project, which he expects to rake in about \$3.5 billion in revenue in its first year of operation.

Hong Kong Move

Okada last year began moving operations to Hong Kong, transferring Philippine land assets from his U.S. unit to Aruze Hong Kong Ltd. in April, filings show. Through another Hong Kong company, Okada, his son, daughter and second wife control 70 percent of Universal, filings show. Okada and his wife rent a luxury, 10th-floor apartment overlooking Repulse Bay on the south of Hong Kong island, and he plans to open three restaurants in the territory this year.

It's all part of refocusing the group on growth in Asia outside Japan, he said, seated at a conference-room table in offices bereft of ornaments or signage, except for an Aruze Gaming logo above reception. During the interview, Okada's iPhone rang with a Japanese earthquake warning. Category 2, he said, nothing to worry about.

Cambodia, South Korea

Okada said he has also bought land in Siem Reap, Cambodia, and has held talks with South Korean officials about a \$3 billion casino project near Incheon Airport (IIACZ).

For Okada, the growing number of governments in the region that plan to introduce casinos offers a chance to diversify away from Japan, where Universal's operating profit peaked in 2000. Wynn Resorts sees the trend more as a risk.

"If current efforts to legalize gaming in other Asian countries are successful, our Wynn Macau resort will face additional regional competition," the company said in its annual report released last week.

Wynn lost out to Sheldon Adelson's Las Vegas Sands Corp. (LVS) and Kuala Lumpur-based Genting Bhd. (GENT) when Singapore granted its first gaming licenses in 2005 and 2006. Global anti-graft watchdog Transparency International ranks Singapore the fifth- least corrupt nation in the world, behind New Zealand, Denmark, Finland and Sweden.

The Philippines ranks 129th. Cambodia, 164th.

Outstripped

Ten years after Macau began offering new casino licenses, the Chinese territory's \$34 billion annual gambling revenue is more than four times that of Las Vegas. A turf war between triad mobsters in the run-up to the deregulation saw casinos raked with automatic gunfire, gangland killings and the attempted car-bombing of the police chief. Now the enclave has cleaned up its act, said Okada.

"It's no longer that dim, dirty, dark and sketchy place that's scary at night," he said.

The territory, the only place under Chinese rule where casinos are legal, now accounts for more than 70 percent of the group's revenue. Okada was booted off the board at Wynn Macau Feb. 24. He's still on Wynn Resorts' board because he can't be removed without a shareholder vote.

Wynn married Hissom on April 29, 2011, at Wynn Encore in Las Vegas. He divorced his first wife, Elaine, in 2009, giving half his roughly 20 percent stake in her settlement.

University Grant

In a conference call to explain the decision to oust Okada, Wynn Resorts executives, including compliance committee head Robert Miller, said they needed to limit the company's risk of losing its gaming licenses. Okada was given ample notice of the board's concern and was asked to choose between the Philippines and Wynn Resorts, Miller said, according to a transcript of the call.

In January, Okada turned the spotlight on Wynn, suing to force more disclosure on a \$135 million donation to the University of Macau that he said hasn't been sufficiently explained.

Wynn Resorts needs land to build a second Macau casino-hotel on the increasingly popular Cotai Strip, where it is one of only two operators in the territory yet to set up business. Wynn Resorts rose 4.3 percent March 2 after it filed a statement suggesting it had been awarded a concession there. It later retracted the filing. Las Vegas Sands will open a new casino-hotel on Cotai in April. Hong Kong tycoon Francis Lui's Galaxy Resorts opened there in May.

No Details

Wei Zhao, the university's rector, in a Feb. 29 interview, declined to give a detailed breakdown of how the money would be spent.

The U.S. Securities and Exchange Commission last month requested information on the donation, Wynn Resorts said in its annual report. Okada's court action was an attempt to distract attention from his own conduct, Wynn said.

Wynn's court documents cited 36 occasions between 2008 and June 2011 in which Universal allegedly made a total of about \$110,000 in payments at Wynn Resorts in Macau and Las Vegas benefiting Philippine gaming

officials. Cristino Naguiat, who took over from Genuino, stayed at a \$6,000 a night apartment usually reserved for high rollers, the report said.

Villa 81, one of four for VIP guests at Wynn Macau, sprawls over almost 7,000 square feet, with three master bedrooms, a sound-proof media room with 100-inch television, and bathrooms with mother-of-pearl walls. One time, Universal picked up a \$50,523.22 tab for Naguiat's party, Wynn alleges.

Inaccurate Picture

Wynn's figures fail to distinguish between business and regulatory guests, highlight the total amount rather than per-person expenses over the three-year period and fail to take account of Universal's own costs tagged onto the rooms, Okada said. Universal was also reimbursed for some expenses, he said.

Universal keeps track of hospitality its executives receive and seeks to provide a reciprocal amount in return, he said. Universal estimates Philippines regulators spent about \$112,010 entertaining its officials between July 2017 and Dec. 1 last year, according to documents provided by Okada.

There was nothing inappropriate in the Macau trip, Naguiat said in a Feb. 21 phone interview. "It is industry practice that if there are casino executives in town, we offer cars, security and rooms as a courtesy, as a form of reciprocity," he said. "In the past month, Francis Lui of Galaxy and Lawrence Ho of Melco also visited and we offered the same."

Okada said he is gathering evidence to prove Wynn's facts are wrong, clear his name, and win back the shareholding. Wynn Resorts' board canceled the stock at a weekend meeting, effectively preventing Okada from seeking an injunction, the company's lead counsel Kim Sinatra said on the conference call.

10-Year Note

Wynn Resorts will pay Okada \$1.9 billion for his stake through a 10-year promissory note, the maximum term permissible under the company's articles of incorporation. Because of a 2006 shareholder agreement restricting Okada from selling the shares without Wynn's consent, they weren't deemed freely tradable and so were priced at a discount, Wynn Resorts Chief Financial Officer Matt Maddox said on the call.

Universal fell 21 percent Feb. 20, the first trading day after the Wynn board meeting. The shares since pared the loss to about 6 percent, and rose 4.1 percent in Tokyo trading today.

With hindsight, Okada said he now suspects Wynn may have harbored a desire to get rid of him as early as 2002, when he unilaterally approved the articles of incorporation for the company before its initial public offering.

Wynn couldn't afford to get rid of him until their expansion into Macau, Okada said.

Forced Redemption

"He saw his chance when Macau proved to be a success, and started to feel like he was on top of the world around mid-2010," Okada said.

Okada said he wasn't aware of the 2002 amendment that included a clause giving the board powers to declare a person unsuitable and forcibly redeem their shares at a price the board would determine.

"Mr. Okada has previously authorized and acknowledged these fundamental protective measures and has participated in board meetings at which the documents containing these provisions were discussed," Wynn spokesman Kranhold said.

Kranhold provided Bloomberg News with copies of documents relating to Wynn Resorts' predecessor companies that were signed by Okada, outlining the provisions.

Articles of incorporation are generally overlooked in Japan as nobody thinks they're important, Okada said.

"We should have been helping each other over the hard times, in a relationship based on trust," he said of Wynn. "But he was a cunning man."

To contact the reporters on this story: Vinicy Chan in Hong Kong at ychan91@bloomberg.net; Kana Nishizawa in Hong Kong at knishizawa5@bloomberg.net

To contact the editor responsible for this story: Ben Richardson at brichardson8@bloomberg.net

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EXHIBIT I

EXHIBIT I

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 Godokai 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 jwayama.hidetugu@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 Arrajj, Esq. and/or see Memo dated December 9, 2011 from Kate Lowenhar-Fisher, Esq. and Jamie L. Thalgott, Esq. to David Arrajj, 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 Michlaki 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.

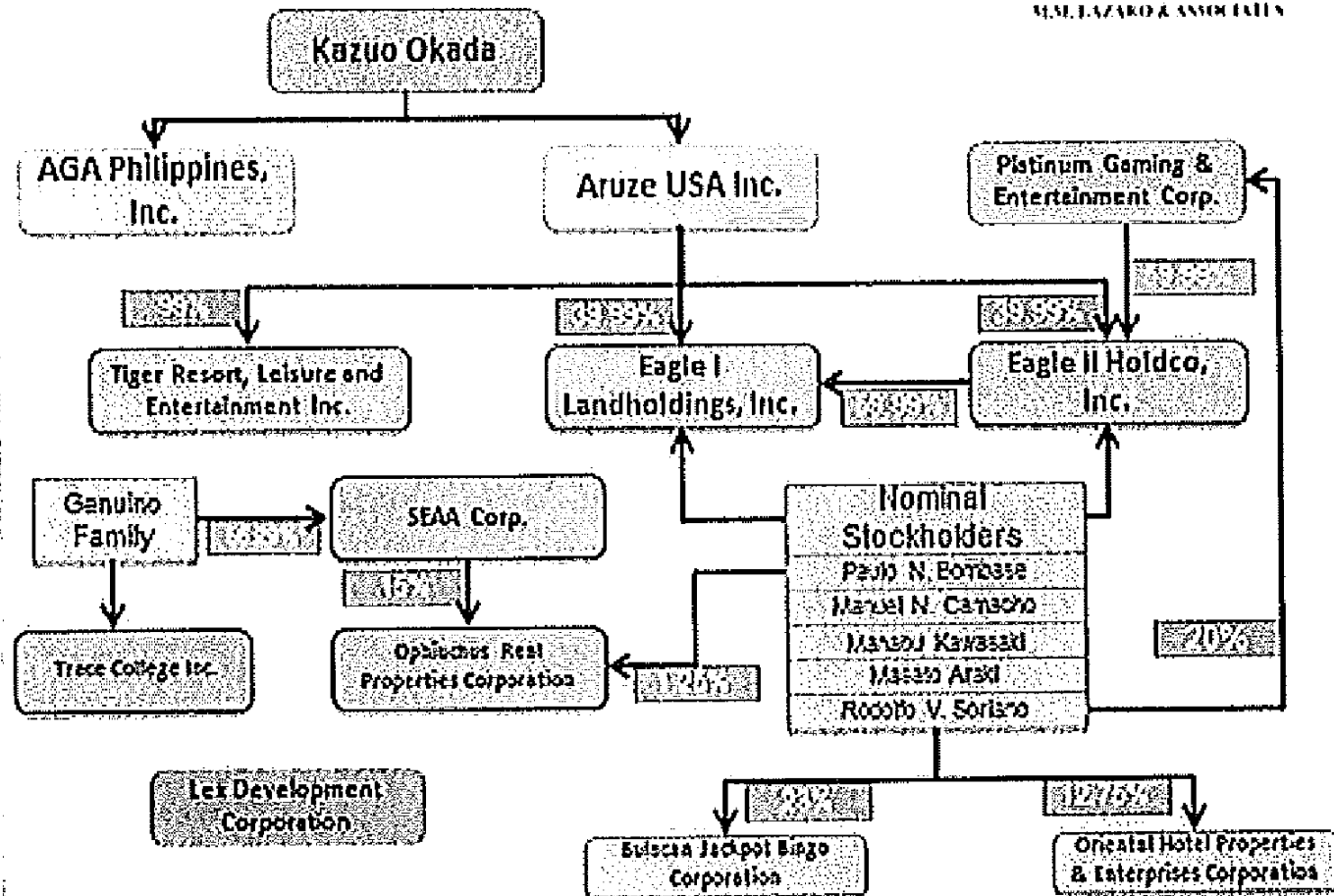
In order to better understand the interrelationships among corporate entities in the Philippines controlled by Mr. Okada and those controlled by PAGCOR officials and their associates, FSS requested the Philippines law firm of M. M. Lazaro & Associates ("Lazaro") to produce a study of this issue.²⁷ Drawing 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, AVP 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. Nagulat, 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 \$03.07 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 "[u]nderstand 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 Filipino 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_e.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 \$10,000 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.

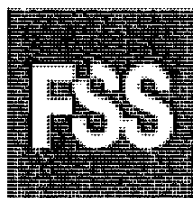
Similarly, Mr. Okada insists that all of his efforts to establish a gambling business in the Philippines prior to 2010 were undertaken solely on behalf of Wynn Resorts. His insistence is largely contradicted by the actions which he undertook. First, Mr. Okada and Universal invested US 300-400 million 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.

EXHIBIT J

EXHIBIT J

Freeh Sporkin & Sullivan, LLP



January 9, 2012

VIA EMAIL
gidon.caine@alston.com

Mr. Gidon M. Caine
Alston & Bird, LLP
275 Middlefield Road, Suite 150
Menlo Park, CA 94025-4008

Re: Kazuo Okada

Dear Mr. Caine,

Our firm has been engaged to conduct an independent investigation under the direction of the Compliance Committee of Wynn Resorts, Limited. Your client, Kazuo Okada, has been informed of that investigation.

On November 1, 2011, Mr. Okada delivered a memorandum to the Board of Directors of Wynn Resorts, Limited. In that memorandum, he questioned the need to retain Judge Freeh. Nevertheless, he said that if the Compliance Committee decides to retain Judge Freeh, "...I intend to fully cooperate with his investigation." In that regard, we would very much like to interview Mr. Okada. Accordingly, we would greatly appreciate it if he would make himself available for interview on a mutually agreeable date during the week of January 30, 2012.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joel M. Friedman".

Joel M. Friedman
Partner, Freeh Sporkin & Sullivan, LLP
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EXHIBIT K

EXHIBIT K



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PRESS RELEASE

Wynn Resorts Board Concludes Year-Long Investigation of Kazuo Okada after Receiving Freeh Report Detailing Numerous Apparent Violations of U.S. Anti-Corruption Laws

Board Finds Okada-Controlled Entity "Unsuitable"

Board Redeems Okada's 20% Stake Pursuant to Company's Articles of Incorporation

LAS VEGAS--(BUSINESS WIRE)--Feb. 19, 2012-- Wynn Resorts, Limited (NASDAQ: WYNN) today announced that its Compliance Committee has concluded a year-long investigation after receiving an independent report detailing numerous apparent violations of the U.S. Foreign Corrupt Practices Act (FCPA) by Aruze USA, Inc., its parent company Universal Entertainment Corporation (JASDAQ Code: 6425) and its principal shareholder, Kazuo Okada. Mr. Okada is a Director of Wynn Resorts, Limited, and of Wynn Macau, Limited, a majority-owned subsidiary of the Company.

The Compliance Committee, chaired by former Nevada Governor Robert Miller, engaged several investigators, including Freeh, Sporkin and Sullivan, LLP, led by Louis J. Freeh, the former Director of the U.S. Federal Bureau of Investigation, which conducted a thorough independent investigation. Freeh's investigators uncovered and documented more than three dozen instances over a three-year period in which Mr. Okada and his associates engaged in improper activities for their own benefit in apparent violation of U.S. anti-corruption laws and gross disregard for the Company's Code of Conduct. These troubling discoveries include cash payments and gifts totaling approximately \$110,000 to foreign gaming regulators.

"Mr. Okada and his associates and companies appear to have engaged in a longstanding practice of making payments and gifts to his two chief gaming regulators at the Philippines Amusement and Gaming Corporation (PAGCOR), who directly oversee and regulated Mr. Okada's Provisional Licensing Agreement to operate in that country," according to the Freeh Report. The report further stated that Mr. Okada and his associates have "consciously taken active measures to conceal both the nature and amount of these payments."

Based on the Freeh Report, presented to the Wynn Resorts Board of Directors on February 18, 2012, the Board determined that Aruze USA, Inc., Universal Entertainment Corporation and Mr. Okada are "unsuitable" under the provisions of the Company's Articles of Incorporation. The Board was unanimous (other than Mr. Okada) in its determination. The Board has requested that Mr. Okada resign as a Director of Wynn Resorts. The Company will immediately inform the Board of Directors of its Hong Kong listed subsidiary, Wynn Macau, Limited, of its actions and will recommend that Mr. Okada be removed from the Wynn Macau Board.

Pursuant to the finding of "unsuitability," the Board has redeemed Aruze USA, Inc.'s 24 million Wynn Resorts' shares. The terms of redemption are outlined in Wynn Resorts' Articles of Incorporation, which have been in place since the Company's inception. Following a finding of "unsuitability," the Articles provide for redemption at "fair value" of the shares held by unsuitable persons to protect the Company's gaming licenses. The Company engaged an independent financial advisor to assist in the fair value calculation and concluded that a discount to the current trading price was appropriate because of restrictions on most of the shares which are subject to the terms of an existing stockholder agreement. Pursuant to the Articles, the Company has issued a 10-year \$1.9 billion promissory note in redemption of the shares. The note matures on February 18, 2022 and bears interest at the rate of 2% per annum.

"The Compliance Committee and the entire Board are deeply disturbed by the behavior of Mr. Okada, and we have fulfilled our obligations to our stockholders, the State of Nevada and the Wynn community," said former Governor Miller. "As Directors of a gaming company privileged to hold licenses, we have a duty to uphold the highest ethical standards and comply with the laws and the terms of the licenses upon which our business depends. Unfortunately, it is very clear from the Freeh Report that Mr. Okada repeatedly flouted these requirements."

The Freeh Report is the culmination of a year-long investigation by the Compliance Committee based on increasing concerns the Board had relating to the activities of Mr. Okada and Aruze USA, Inc. in the Philippines and statements made by Mr. Okada to Wynn Resorts' Directors that gifts to regulators are permissible in Asia. Mr. Okada is the only Director of Wynn Resorts who has continued to refuse to sign the Company's Code of Conduct or participate in mandatory Foreign Corrupt Practices Act training for Directors.

Wynn Resorts today filed a lawsuit against Mr. Okada, Aruze USA, Inc. and Universal Entertainment Corporation in Nevada District Court, Clark County for breach of fiduciary duty and related offenses.

The Company intends to communicate with the appropriate regulatory agencies and government authorities on these matters.

The Company will hold a conference call to discuss this announcement on February 21, 2012 at 6:00 a.m. Pacific Time (10:00 p.m. Hong Kong time). Interested parties are invited to join the call by dialing (800) 794-8478, or if outside North America, by dialing (706) 643-0974. The conference call ID is 54978500. A live audio webcast of the event will be available by visiting <http://www.wynnresorts.com>.

Source: Wynn Resorts

Investors:

Wynn Resorts

Samanta Stewart, 702-770-7555

investorrelations@wynnresorts.com

or

Media:

Sard Verbinnen & Co.

George Sard / Paul Kranhold / Charles Sipkins

212-687-8080 / 415-618-8750 / 310-201-2040

EXHIBIT L

EXHIBIT L

WYNN RESORTS LTD (WYNN)

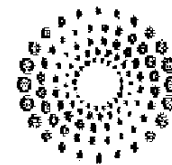
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Current report filing

Filed on 02/24/2012

Filed Period 02/18/2012

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

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): February 18, 2012

WYNN RESORTS, LIMITED
(Exact name of registrant as specified in its charter)

Nevada
(State or other jurisdiction
of incorporation)

000-50028
(Commission File Number)

46-0484987
(I.R.S. Employer
Identification No.)

3131 Las Vegas Boulevard South
Las Vegas, Nevada
(Address of principal executive offices of the registrant)

89109
(Zip Code)

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

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 8.01. Other Events.

On February 24, 2012, Wynn Macau, Limited issued a press release announcing that its board of directors had removed Mr. Kazuo Okada from the board. Wynn Macau, Limited is a majority owned subsidiary of Wynn Resorts, Limited (the "Company"). A copy of the press release is filed as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference.

Mr. Okada also was removed from the board of directors of Wynn Las Vegas Capital Corp., a wholly owned subsidiary of the Company, on February 18, 2012.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits:

<u>Exhibit Number</u>	<u>Description</u>
99.1	Press Release, dated February 23, 2012, of Wynn Macau, Limited.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: February 24, 2012

WYNN RESORTS, LIMITED

By: /s/ Marc D. Schorr
Marc D. Schorr
Chief Operating Officer



News Release

For Immediate Release

WYNN MACAU LIMITED REMOVES KAZUO OKADA FROM BOARD OF DIRECTORS

Macau, February 24, 2012— Wynn Macau, Limited, a subsidiary of Wynn Resorts, Limited, today announced that its Board of Directors met today to review Mr. Kazuo Okada's status as a Director of the Company. All of the other Directors voted unanimously to remove Mr. Okada from the Board and the removal is effective immediately.

The Board of Directors issued the following joint statement:

"The Board considered the information disclosed by Wynn Resorts, Limited concerning the independent report (as further described in the 20 February Announcement) commissioned by the Compliance Committee of Wynn Resorts, Limited. After due consideration of the independent report, taking into account the Company's high ethical standards, the Board determined that it was obligated to remove Mr. Okada as a non-executive Director given the unacceptable conduct by Mr. Okada, his employees and associates detailed in the independent report. Accordingly, the Board resolved to remove Mr. Okada as a non-executive Director of the Company."

- ends -

About Wynn Resorts

Wynn Resorts, Limited is traded on the Nasdaq Global Select Market under the ticker symbol WYNN and is part of the S&P 500 and NASDAQ-100 Indexes.

Our Las Vegas operations (Wynn Las Vegas and Encore) feature two luxury hotel towers with a total of 4,750 spacious hotel rooms, suites and villas, an approximately 186,000 square feet of casino space, 35 food and beverage outlets featuring signature chefs, an on-site 18-hole golf course, meeting space, a Ferrari and Maserati dealership, approximately 97,000 square feet of retail space as well as two showrooms; four nightclubs and a beach club.

Our Macau resort is a resort destination casino located in the Macau Special Administrative Region of the People's Republic of China with two luxury hotel towers (Wynn Macau and Encore) with a total of 1,008 spacious rooms and suites, approximately 265,000 square feet of casino space, casual and fine dining in eight restaurants, approximately 54,200 square feet of retail space, recreation and leisure facilities, including two health clubs and spas, a pool.

For media enquiries, please contact:

Wynn Macau

Katharine Liu, Director – Communications Tel: (853) 8986 5521 / Email: katharine.liu@wynnmacau.com

永利澳門有限公司 · 澳門外港填海區仙德麗街 Wynn Macau, Limited, rua cidade de sintra, napa, macau

電話 tel (853) 2888 9966 · 傳真 fax (853) 2832 9966 · wynnmacau.com

EXHIBIT M

EXHIBIT M

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:

☒ Preliminary Proxy Statement

☐ Confidential, For Use of the Commission
Only (as permitted by Rule 14a-6(e)(2))

☐ Definitive Proxy Statement

☐ Definitive Additional Materials

☐ Soliciting Material Pursuant to § 240.14a-12

WYNN RESORTS, LIMITED

(Name of Registrant as Specified in Its Charter)

N/A

(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:

PRELIMINARY COPY



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

NOTICE OF SPECIAL MEETING OF STOCKHOLDERS
To Be Held On [], 2012

To Our Stockholders:

Notice is hereby given that a Special Meeting of Stockholders (the "Special Meeting") of Wynn Resorts, Limited, a Nevada corporation (the "Company"), will be held at [location], on [], 2012, at [time] (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 consider and vote on a proposal to remove Mr. Kazuo Okada as a director of the Company (the "Removal Proposal"); and
2. To consider and vote on a proposal to adjourn the Special Meeting to a later date, if necessary or appropriate in the view of the Board of Directors of the Company (the "Board") or the Executive Committee of the Board (the "Executive Committee"), to solicit additional proxies in favor of the Removal Proposal if there are insufficient proxies at the time of such adjournment to approve the Removal Proposal (the "Adjournment Proposal").

Pursuant to the Fourth Amended and Restated Bylaws of the Company, no business is proper for consideration, or may be acted upon, at the Special Meeting, except as set forth in this Notice of Special Meeting of Stockholders.

The Executive Committee recommends that stockholders vote "FOR" the Removal Proposal and "FOR" the Adjournment Proposal. The Executive Committee's reasons for seeking the removal of Mr. Okada are set forth under "Removal Proposal" in the attached Proxy Statement and are summarized briefly below.

The Executive Committee believes that:

- Mr. Okada has not been acting in the best interests of the Company and its stockholders;
- Mr. Okada undertook the acts described in the attached Proxy Statement despite admonishments that all directors of the Company are required to comply with Company policy and the law, both foreign and domestic, and to adhere to scrupulous business practices and ethics; and
- Mr. Okada's conduct poses a present threat to the Company's reputation for probity, which is fundamental to preserving its current gaming licenses, applying for and receiving additional gaming licenses in connection with future projects and maintaining its integrity and stature as a leader in the gaming industry.

In view of the Board's determination that Mr. Okada is an "Unsuitable Person" under Article VII of the Company's Second Amended and Restated Articles of Incorporation, the Executive Committee believes that it is essential from a gaming regulatory standpoint to remove Mr. Okada from the Board and that failure to take steps to separate the Company from Mr. Okada and his affiliates poses material risks to the Company.

Prior to and on February 18, 2012, the Board requested that Mr. Okada resign as a director of the Company, but Mr. Okada has refused to do so. Accordingly, the Special Meeting has been called for the purpose of removing Mr. Okada from the Board. As noted in the attached Proxy Statement, Mr. Okada has been removed from the boards of directors of the Company's subsidiaries, Wynn Macau, Limited and Wynn Las Vegas Capital Corp.

Stockholders of record at the close of business on March 30, 2012, the record date for the Special Meeting, are entitled to notice of, and to attend and to vote at, the Special Meeting and any postponement or adjournment thereof. This Notice of Special Meeting of Stockholders and the attached Proxy Statement are first being mailed to the Company's stockholders on or about [], 2012.

All stockholders are cordially invited to attend the Special Meeting in person. Stockholders of record as of the record date will be admitted to the Special Meeting and any postponement or adjournment thereof upon presentation of identification. Please note that if your shares are held in the name of a bank, broker, or other nominee, and you wish to vote in person at the Special Meeting, you must bring to the Special Meeting a statement or letter from your bank, broker or other nominee showing your ownership of shares as of the record date and a proxy from the record holder of the shares authorizing you to vote at the Special Meeting (such statement/letter and proxy are required in addition to your personal identification).

Whether or not you plan to attend the Special Meeting in person, you are encouraged to read the attached Proxy Statement and then cast your vote as promptly as possible in accordance with the instructions contained in the attached Proxy Statement. Even if you have given your proxy, you may still vote in person if you attend the Special Meeting and follow the instructions contained in the attached Proxy Statement.

If your shares are held by a bank, broker or other nominee, your shares may not be voted on the Removal Proposal or the Adjournment Proposal unless you provide voting instructions to such bank, broker or other nominee.

Stephen A. Wynn
Chairman of the Board of Directors

Las Vegas, Nevada
March [], 2012

PROXY STATEMENT
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WYNN RESORTS, LIMITED

**3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
(702) 770-7000**

SPECIAL MEETING OF STOCKHOLDERS — [], 2012

PROXY STATEMENT

The following information is furnished to each stockholder in connection with the foregoing Notice of Special Meeting of Stockholders of Wynn Resorts, Limited (the "Company" or "Wynn Resorts") to be held on [], 2012 at [location], at [time] (local time). The enclosed proxy is for use at the Special Meeting (the "Special Meeting") and any postponement or adjournment thereof. This proxy statement (this "Proxy Statement") and form of proxy are being mailed to stockholders on or about [], 2012.

In accordance with the Fourth Amended and Restated Bylaws of the Company (the "Bylaws"), the Special Meeting has been called for the following purposes:

1. To consider and vote on a proposal to remove Mr. Kazuo Okada as a director of the Company (the "Removal Proposal"); and
2. To consider and vote on a proposal to adjourn the Special Meeting to a later date, if necessary or appropriate in the view of the Board of Directors of the Company (the "Board") or the Executive Committee of the Board (the "Executive Committee"), to solicit additional proxies in favor of the Removal Proposal if there are insufficient proxies at the time of such adjournment to approve the Removal Proposal (the "Adjournment Proposal").

Pursuant to the Fourth Amended and Restated Bylaws of the Company, no business is proper for consideration, or may be acted upon, at the Special Meeting, except as set forth in the Notice of Special Meeting of Stockholders.

The Executive Committee recommends that stockholders vote "FOR" the Removal Proposal and "FOR" the Adjournment Proposal.

Shares represented by duly executed and unrevoked proxies will be voted at the Special Meeting and any postponement or adjournment thereof in accordance with the specifications made therein. If no such specification is made, shares represented by duly executed and unrevoked proxies will be voted "FOR" the Removal Proposal and "FOR" the Adjournment Proposal.

Date, Time and Place

We will hold the Special Meeting on [], 2012 at [location], at [time] (local time), unless postponed or adjourned to a later date.

Principal Executive Offices

The Company's principal executive offices are located at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

Executive Committee

The Executive Committee, which consists of all of the members of the Board other than Mr. Okada, was designated by the Board on February 18, 2012.

Record Date; Stockholders Entitled to Vote

The record date for the Special Meeting is March 30, 2012 (the "Record Date"). Record holders of shares of common stock of the Company, par value \$.01 per share, at the close of business on the Record Date are entitled to vote or have their votes cast at the Special Meeting and any postponement or adjournment thereof. On the Record Date, there were [] shares issued and outstanding. Holders of shares are entitled to one vote per share.

Quorum

Under the Nevada Revised Statutes (the "NRS") and the Bylaws, stockholders holding at least a majority of the voting power of the Company's capital stock, represented in person or by proxy (regardless of whether the proxy has authority to vote on all matters), are necessary to constitute a quorum for the transaction of business at any meeting. Shares that are present, or represented by a proxy, at the Special Meeting and any postponement or adjournment thereof, will be counted for quorum purposes regardless of whether the holder of the shares or proxy fails to vote on any particular matter, or "abstains" on any matter. If a quorum is not present at the Special Meeting, the Special Meeting will be adjourned until the holders of the number of shares required to constitute a quorum are represented.

Required Vote

The NRS and the Bylaws provide that approval of the Removal Proposal requires the 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 Company entitled to vote generally in the election of directors. If a quorum is present, the Adjournment Proposal will be approved if the number of votes cast in favor of the Adjournment Proposal exceeds the number of votes cast in opposition.

Effect of Failure to Vote, Abstentions and Broker Non-Votes

Abstentions, as well as shares not in attendance at the Special Meeting and not voted by proxy, will have the same effect as a vote against the Removal Proposal, but will have no effect on whether the Adjournment Proposal is approved.

If you hold your shares of Company common stock in the name of a bank, broker or other nominee and you do not provide voting instructions to the bank, broker or other nominee, your shares will not be voted on the Removal Proposal or the Adjournment Proposal. This is called a broker non-vote. Broker non-votes, which will not be considered present or represented at the Special Meeting, will not be counted for purposes of determining whether there is a quorum at the Special Meeting, and will have the same effect as a vote against the Removal Proposal, but will have no effect on whether the Adjournment Proposal is approved.

For instructions on how to vote, see "Voting and Proxies Procedures."

REMOVAL PROPOSAL

On February 18, 2012, the Company's Gaming Compliance Committee concluded a year-long investigation after receiving an independent report detailing numerous prima facie violations of the Foreign Corrupt Practices Act by Aruze USA, Inc., at the time a stockholder of the Company, Universal Entertainment Corporation, Aruze USA, Inc.'s parent company, and Kazuo Okada, the majority shareholder of Universal Entertainment Corporation, who is also a member of the Board.

The Compliance Committee, chaired by former Nevada Governor Robert Miller, engaged several investigators, including Freeh, Sporkin and Sullivan, LLP ("FSS"), led by Louis J. Freeh, the former Director of the U.S. Federal Bureau of Investigation to conduct an independent investigation. According to FSS's report (the "Freeh Report"), FSS's investigators uncovered and documented more than three dozen instances over a three-year period in which Mr. Okada and his associates engaged in improper activities for their own benefit in apparent violation of U.S. anti-corruption laws and in contravention of the Company's Code of Conduct. The activities described in the Freeh Report include cash payments and gifts totaling approximately \$110,000 to foreign gaming regulators.

The Freeh Report is the culmination of a year-long investigation by the Compliance Committee based on increasing concerns of the Board relating to the activities of Mr. Okada and Aruze USA, Inc. in the Philippines and statements made by Mr. Okada to the Company's directors that gifts to regulators are permissible in Asia. Mr. Okada is the only director of the Company who has not signed the Company's Code of Conduct, despite repeated requests by the Company, and not participated in mandatory Foreign Corrupt Practices Act training for directors.

Based on the Freeh Report, the Board determined that Aruze USA, Inc., Universal Entertainment Corporation and Mr. Okada are "Unsuitable Persons" under Article VII of the Company's Second Amended and Restated Articles of Incorporation (the "Articles of Incorporation"). The Board was unanimous (other than Mr. Okada) in its determination.

Based on the Board's determination of "unsuitability," on February 18, 2012, the Company redeemed Aruze USA, Inc.'s 24,549,222 shares. Following a finding of "unsuitability," the Company's Articles of Incorporation authorize redemption at "fair value" of the shares held by "Unsuitable Persons." The Company engaged an independent financial advisor to assist in the fair value calculation and concluded that a discount to the current trading price was appropriate because of, among other things, restrictions on most of the shares held by Aruze USA, Inc. under the terms of an existing stockholders agreement. Pursuant to the Articles of Incorporation, the Company issued a promissory note with a principal amount of approximately \$1.936 billion to Aruze USA, Inc. in redemption of the shares.

On February 18, 2012, the Board (other than Mr. Okada) unanimously approved the establishment of the Executive Committee, which consists of all of the members of the Board other than Mr. Okada. The Executive Committee has all of the powers and authority of the Board to manage, conduct and control the business and affairs of the Company during the periods between annual meetings of the Board.

On February 19, 2012, the Company filed a complaint in the District Court, Clark County, Nevada against Aruze USA, Inc., Universal Entertainment Corporation and Mr. Okada, alleging breaches of fiduciary duty and related claims. The complaint alleges, among other things, that Mr. Okada breached his fiduciary duties to the Company, breached the Company's Code of Conduct, and committed improper acts, including making payments for the benefit of foreign gaming officials who could advance his personal business interests. The complaint also alleges that Mr. Okada's conduct jeopardizes the Company's good reputation, its long-standing business relationships, and its gaming licenses. The complaint further alleges that, in pursuing the development of gaming operations in the Philippines through companies he controls, Mr. Okada is breaching his obligations to the Company because such Philippines operations would be in competition with the Macau operations of Wynn Macau, Limited, a subsidiary of the Company.

The Executive Committee believes that Mr. Okada has not been acting in the best interests of the Company and its stockholders; that Mr. Okada undertook the acts described above despite admonishments that all directors of the Company are required to comply with Company policy and the law, both foreign and domestic, and to adhere to scrupulous business practices and ethics; and that Mr. Okada's conduct poses a present threat to the Company's reputation for probity, which is fundamental to preserving its current gaming licenses, applying for and receiving additional gaming licenses in connection with future projects and maintaining its integrity and stature as a leader in the gaming industry. In view of the Board's determination that Mr. Okada is an "Unsuitable Person," the Executive Committee believes that it is essential from a gaming regulatory standpoint to remove Mr. Okada from the Board and that failure to take steps to separate the Company from Mr. Okada and his affiliates poses material risks to the Company.

Prior to and on February 18, 2012, the Board requested that Mr. Okada resign as a director of the Company, but Mr. Okada has refused to do so. Accordingly, the Special Meeting has been called for the purpose of removing Mr. Okada from the Board. Mr. Okada has been removed from the boards of directors of both Wynn Macau, Limited and Wynn Las Vegas Capital Corp., a wholly owned subsidiary of the Company.

Under the NRS and the Bylaws, a director of the Company may be removed from office with or without cause by the affirmative vote of the holders of not less than two-thirds (2/3) of the voting power of the issued and outstanding shares. Although the Company believes that Mr. Okada's actions constitute cause for his removal, cause is not required under the NRS or the Bylaws for the Company's stockholders to remove Mr. Okada as a director of the Company.

If the Removal Proposal is approved by the Company's stockholders, the size of the Board will be reduced from 12 to 11, effective immediately after Mr. Okada is removed.

The Executive Committee recommends that stockholders vote "FOR" the Removal Proposal.

ADJOURNMENT PROPOSAL

If, at the time of the Special Meeting, there are insufficient votes to adopt the Removal Proposal, the person presiding at the Special Meeting may move to adjourn the Special Meeting in order to enable the Company to continue to solicit additional proxies in favor of the Removal Proposal. In that event, you will be asked to vote only upon the Adjournment Proposal at that session of the Special Meeting, and the Removal Proposal would be voted upon at an adjourned session of the Special Meeting. The Special Meeting may be postponed or adjourned on multiple occasions.

The Executive Committee believes that if the number of shares of Company common stock present or represented at the Special Meeting and voting in favor of the Removal Proposal is insufficient to approve the Removal Proposal, it may be in the best interests of the Company and its stockholders to continue to seek to obtain a sufficient number of additional votes to approve the Removal Proposal.

The Executive Committee recommends that stockholders vote "FOR" the Adjournment Proposal.

VOTING AND PROXY PROCEDURES

Only stockholders of record at the close of business on the Record Date will be entitled to notice of, and to attend and to vote at, the Special Meeting and any postponement or adjournment thereof. Stockholders of record on the Record Date who sell shares before the Record Date (or stockholders who acquired shares without voting rights after the Record Date) may not vote such shares. Stockholders of record on the Record Date will retain their voting rights in connection with the Special Meeting and any postponement or adjournment thereof even if they sell such shares after the Record Date.

Under the NRS and the Bylaws, stockholders holding at least a majority of the shares, represented in person or by proxy (regardless of whether the proxy has authority to vote on the Removal Proposal and/or the Adjournment Proposal), are necessary to constitute a quorum for the transaction of business at the Special Meeting and any postponement or adjournment thereof. Shares that are present, or represented by a proxy, at the Special Meeting and any postponement or adjournment thereof, will be counted for quorum purposes regardless of whether the holder of the shares or proxy fails to vote on any particular matter, or "abstains" on any matter. The NRS and the Bylaws provide that approval of the Removal Proposal requires the affirmative vote of the holders of not less than two-thirds (2/3) of the voting power of the issued and outstanding shares of the Company entitled to vote generally in the election of directors. If a quorum is present, the Adjournment Proposal will be approved if the number of votes cast in favor of the Adjournment Proposal exceeds the number of votes cast in opposition. Abstentions, as well as shares not in attendance at the Special Meeting and not voted by proxy, will have the same effect as a vote against the Removal Proposal, but will have no effect on whether the Adjournment Proposal is approved.

If you hold your shares of Company common stock in the name of a bank, broker or other nominee and you do not provide voting instructions to the bank, broker or other nominee, your shares will not be voted on the Removal Proposal or the Adjournment Proposal. This is called a broker non-vote. Broker non-votes, which will not be considered present or represented at the Special Meeting, will not be counted for purposes of determining whether there is a quorum at the Special Meeting, and will have the same effect as a vote against the Removal Proposal, but will have no effect on whether the Adjournment Proposal is approved.

Proxies

If you hold your shares in your own name, you may submit your proxy and vote your shares by using one of the following methods:

- signing and returning the enclosed proxy card by mail in the postage-paid envelope provided, so that it is received before the Special Meeting;
- submitting your proxy or voting instructions by telephone toll-free in the United States or Canada at (800) 776-9437 or outside the United States or Canada at (718) 921-8500, and following the instructions included with the enclosed proxy card by 11:59 p.m., Eastern Time, on [], 2012;
- submitting your proxy or voting instructions by Internet at www.voteproxy.com and following the instructions included with the enclosed proxy card by 11:59 p.m., Eastern Time, on [], 2012; or
- attending the Special Meeting and voting in person. If you hold your shares in the name of a bank, broker or other nominee, please follow the voting instructions provided by your bank, broker or other nominee to ensure that your shares are represented at the Special Meeting. If you have not received such voting instructions or require further information regarding such voting instructions, please contact your bank, broker or other nominee, who can give you further direction. Your bank, broker or other nominee may not vote your shares with respect to the Removal Proposal or the Adjournment Proposal without your instructions.

If you need additional information or assistance voting your shares, please contact our proxy solicitor, D.F. King & Co., Inc. ("D.F. King"), at (800) 549-6697.

Shares represented by duly executed and unrevoked proxies will be voted at the Special Meeting and any postponement or adjournment thereof in accordance with the specifications made therein. **If no such specification is made, shares represented by duly executed and unrevoked proxies will be voted "FOR" the Removal Proposal and "FOR" the Adjournment Proposal.**

Stockholders of record as of the Record Date will be admitted to the Special Meeting and any postponement or adjournment thereof upon presentation of identification. Please note that if your shares are held in the name of

a bank, broker, or other nominee, and you wish to vote in person at the Special Meeting, you must bring to the Special Meeting a statement or letter from your bank, broker or other nominee showing your ownership of shares as of the Record Date and a proxy from the record holder of the shares authorizing you to vote at the Special Meeting (such statement/letter and proxy are required in addition to your personal identification).

Revocation of Proxies

You can change your vote or revoke your proxy at any time before your proxy is voted at the Special Meeting by taking any of the following actions:

- you can send a signed notice of revocation;
- you can grant a new, valid proxy bearing a later date; or
- if you are a holder of record, you can attend the Special Meeting and vote in person, which will automatically cancel any proxy previously given, or you may revoke your proxy in person, but your attendance alone will not revoke any proxy that you have previously given. If your shares are held in the name of a bank, broker or other nominee, and you wish to change your vote by voting in person at the Special Meeting, you must bring to the Special Meeting a statement or letter from your bank, broker or other nominee showing your ownership of shares as of the Record Date and a proxy from the record holder of the shares authorizing you to vote at the Special Meeting.

If you choose either of the first two methods listed in the paragraph above, you must submit your notice of revocation or your new proxy to the Secretary of the Company no later than the beginning of the Special Meeting. If you have voted your shares by telephone or through the Internet, you may revoke your prior telephone or Internet vote by recording a different vote using the telephone or Internet, or by signing and returning a proxy card dated as of a date that is later than your last telephone or Internet vote. If your shares are held in street name by your bank, broker or other nominee, you should contact your bank, broker or other nominee to change your vote.

SOLICITATION OF PROXIES

This solicitation of proxies is being made by the Company and the cost of this solicitation is being borne by the Company.

The Company has retained D.F. King, a professional proxy solicitation firm, to assist in the solicitation of proxies for the Special Meeting. The Company has agreed to pay D.F. King a fee of approximately \$25,000, plus reimbursement of reasonable out-of-pocket expenses. D.F. King's employees and the Company's directors, officers and employees may solicit the return of proxies by personal contact, mail, e-mail, telephone or the Internet. D.F. King expects that approximately 35 of its employees will assist in the solicitation. Proxies may be solicited by mail, advertisement, telephone, facsimile or in person. Solicitations may be made by persons employed by or affiliated with D.F. King. However, no person will receive additional compensation for such solicitation other than as described above.

The Company may also issue press releases asking for your vote or post letters or notices to you on its website, <http://www.wynnresorts.com>. The Company's directors, officers and employees may also solicit proxies by personal interview, mail, e-mail, telephone, facsimile or other means of communication. These persons will not be paid additional remuneration for their efforts.

Banks, brokers and other nominees will be requested to forward the proxy materials to the beneficial owners of the shares for which they hold of record and the Company will reimburse them for their reasonable out-of-pocket expenses.

If you have any questions about how to vote or direct a vote in respect of your shares, you may contact the Company's proxy solicitor at:

D.F. King & Co., Inc.
48 Wall Street, 22nd Floor
New York, New York 10005
Banks and Brokers call collect: (212) 269-5550
All others call toll-free: (800) 549-6697
E-mail: wynn@dfking.com

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of March 1, 2012 (unless otherwise indicated), certain information regarding the shares of the Company's common stock beneficially owned by: (i) each 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 Company's named executive officers; and (iv) all executive officers and directors as a group. There were 100,537,724 shares outstanding as of March 2, 2012.

Name and Address of Beneficial Owner(2)	Beneficial Ownership Of Shares(1)	
	Number	Percentage
Stephen A. Wynn(3)	10,026,708	10.0%
Elaine P. Wynn(3)	9,742,150	9.7%
Waddell & Reed Financial, Inc.(4)	18,066,873	18.0%
6300 Lamar Avenue Overland Park, KS 66202		
Marsico Capital Management, LLC(5)	8,476,973	8.4%
1200 17 th Street, Suite 1600 Denver, Colorado 80202		
Linda Chen(6)	265,000	*
Russell Goldsmith(7)	40,000	*
Ray R. Irani(8)	18,000	*
Robert J. Miller(9)	20,500	*
John A. Moran(10)(12)	190,500	*
Marc D. Schorr(13)	250,000	*
Alvin V. Shoemaker(10)	40,500	*
D. Boone Wayson(10)	90,500	*
Allan Zeman(11)	30,500	*
Kazuo Okada	0	0.0%
Matt Maddox(14)	60,000	*
John Strzemp(15)	245,500	*
Kim Sinatra(16)	40,887	*
All Directors, Director Nominees, and Executive Officers as a Group (15 persons)(17)	21,060,745	20.9%

* 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"), to which Mr. Wynn and Elaine P. Wynn are parties. Mr. Wynn and Elaine P. Wynn 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.
- (4) Waddell & Reed Financial, Inc. ("Waddell") has beneficial ownership of these shares as of December 31, 2011. The information provided is based upon a Schedule 13G/A filed on February 14, 2012 by Waddell.

Waddell has sole voting and dispositive power as to 18,066,873 shares. Waddell & Reed Financial Services, Inc. a subsidiary of Waddell, has sole voting and dispositive power as to 4,518,938 shares. Waddell & Reed, Inc., a subsidiary of Waddell & Reed Financial Services, Inc. has sole voting and dispositive power as to 4,518,938 shares. Waddell & Reed Investment Management Company, a subsidiary of Waddell & Reed, Inc., has sole voting and dispositive power as to 4,518,938 shares. Ivy Investment Management Company, a subsidiary of Waddell, has sole voting and dispositive power as to 13,547,935 shares.

- (5) Marsico Capital Management LLC ("Marsico") has beneficial ownership of these shares as of December 31, 2011. The information provided is based upon a Schedule 13G/A filed on February 14, 2012 by Marsico. Marsico has sole dispositive power as to 8,476,973 shares and sole voting power as to 4,320,237 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; and (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.
- (7) Includes: (i) 12,000 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; (iii) 1,300 shares owned as Trustee for which Mr. Goldsmith disclaims beneficial ownership; and (iv) 1,500 shares through a company for which Mr. Goldsmith disclaims beneficial ownership of 1,470 shares.
- (8) Includes: (i) 13,000 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) 13,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares and 2,500 vested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.
- (10) Includes: (i) 33,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares and 2,500 vested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.
- (11) Includes: (i) 23,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares and 2,500 vested 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) 50,000 shares subject to immediately exercisable options to purchase Wynn Resorts Common Stock pursuant to Wynn Resorts' 2002 Stock Incentive Plan.
- (16) Includes: 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.
- (17) Includes 210,000 shares subject to immediately exercisable stock options.

OTHER MATTERS AND ADDITIONAL INFORMATION

Stockholder Proposals

The Company's 2012 annual meeting of stockholders (the "2012 Annual Meeting") is scheduled for [], 2012. The deadline for submitting stockholder proposals for inclusion in the Company's proxy statement and form of proxy for the 2012 Annual Meeting pursuant to Rule 14a-8 of the Securities Exchange Act of 1934 has passed. The deadline for bringing any business (including director nominations) before the 2012 Annual Meeting pursuant to the Bylaws is 60 days prior to the date of the 2012 Annual Meeting. Assuming that the 2012 Annual Meeting is held on or before [], 2012, the deadline for bringing business (including director nominations) before the 2012 Annual Meeting pursuant to the Bylaws has passed.

For any proposal to be considered for inclusion in the proxy statement and form of proxy for submission to the Company's stockholders at the 2013 annual meeting of stockholders (the "2013 Annual Meeting"), it must be submitted in writing and comply with the requirements of Rule 14a-8 of the Securities Exchange Act of 1934. Assuming the proxy statement for the 2012 Annual Meeting is released to stockholders on [], 2012, such proposals must be received by the Company at its offices at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109 no later than [], 2012.

In addition, the Bylaws provide notice procedures for stockholders to nominate a person as a director and to propose business to be considered by stockholders at a meeting. Notice of a nomination or proposal must be delivered to the Company not less than 60 days and not more than 90 days prior to the date of the meeting, or not more than 10 days from the public announcement of the meeting if the meeting is first publicly announced less than 70 days prior to the date of the meeting. Accordingly, assuming the 2013 Annual Meeting is held on [], 2013, notice of a nomination or proposal for the 2013 Annual Meeting must be delivered to the Company no later than [], 2013 and no earlier than [], 2013. Nominations and proposals also must satisfy other requirements set forth in the Bylaws. The Chairman of the Board may refuse to acknowledge the introduction of any stockholder proposal not made in compliance with the foregoing procedures.

Householding

The bank, broker or other nominee for any stockholder who is a beneficial owner, but not the record holder, of the Company's shares may deliver only one copy of the proxy statement to multiple stockholders who share the same address, unless that broker, bank or other nominee has received contrary instructions from one or more of the stockholders. The Company will deliver promptly, upon written or oral request, a separate copy of the proxy statement to a stockholder at a shared address to which a single copy of the document was delivered. Stockholders who wish to receive a separate copy of the proxy statement now, or a separate copy of the Notice of Internet Availability or proxy statement and annual report in the future, should submit their request to the Company by telephone at (702) 770-7555 or by submitting a written request to Investor Relations, Wynn Resorts, Limited, 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109. Beneficial owners sharing an address who are receiving multiple copies of the proxy statement and wish to receive a single copy of the Notice of Internet Availability or proxy statement and annual report in the future will need to contact their broker, bank or other nominee to request that only a single copy be mailed to all stockholders at the shared address in the future.

PRELIMINARY COPY

**WYNN RESORTS, LIMITED
Proxy For Special Meeting Of Stockholders
To Be Held On [], 2012**

This Proxy is Solicited on Behalf of the Executive Committee of the Board of Directors

The undersigned stockholder of Wynn Resorts, Limited, a Nevada corporation (the "Company"), hereby appoints Stephen A. Wynn, Kim Sinatra and Kevin Tourek, and each of them, as proxies for the undersigned, each with full power of substitution, to attend the Special Meeting of Stockholders of the Company to be held on [], 2012 at [], local time, at [] and at any adjournment(s) or postponement(s) thereof, to cast on behalf of the undersigned all votes that the undersigned is entitled to cast at such Special Meeting and otherwise to represent the undersigned at the Special Meeting, with the same effect as if the undersigned were present. The undersigned instructs such proxies or their substitutes to act on the following matters as specified by the undersigned. The undersigned hereby acknowledges receipt of the Notice of Special Meeting of Stockholders and the accompanying Proxy Statement and revokes any proxy previously given with respect to such shares.

THE VOTES ENTITLED TO BE CAST BY THE UNDERSIGNED WILL BE CAST IN ACCORDANCE WITH THE SPECIFICATIONS MADE. IF THIS PROXY IS EXECUTED BUT NO SPECIFICATION IS MADE, THE VOTES ENTITLED TO BE CAST BY THE UNDERSIGNED WILL BE CAST "FOR" THE REMOVAL PROPOSAL AND "FOR" THE ADJOURNMENT PROPOSAL.

(Continued and to be signed on reverse side)

FOLD AND DETACH HERE

WYNN RESORTS, LIMITED

PLEASE REVIEW THE PROXY STATEMENT AND VOTE TODAY IN ONE OF THREE WAYS:

1. **Vote by Telephone**—Please call toll-free in the United States or Canada at (800) 776-9437, on a touch-tone telephone. If outside the United States or Canada, call (718) 921-8500. Please follow the simple instructions by 11:59 p.m., Eastern Time, on [], 2012.

OR

2. **Vote by Internet**—Please access www.voteproxy.com and follow the simple instructions by 11:59 p.m., Eastern Time, on [], 2012.

CONTROL NUMBER: _____

You may vote by telephone or Internet 24 hours a day, 7 days a week. Your telephone or Internet vote authorizes the named proxies to vote your shares in the same manner as if you had marked, signed and returned a proxy card.

3. **Vote by Mail**—Please sign, date and return the proxy card in the envelope provided, or mail to American Stock Transfer & Trust Company, LLC, 6201 15th Avenue, Brooklyn, New York 11219, Attn: Shareholder Relations, so that it is received before the Special Meeting.

▼ TO VOTE BY MAIL PLEASE DETACH PROXY CARD HERE, AND SIGN, DATE
AND RETURN IN THE ENVELOPE PROVIDED ▼

THE EXECUTIVE COMMITTEE RECOMMENDS A VOTE "FOR" THE FOLLOWING PROPOSAL:

1. To remove Mr. Kazuo Okada as a director of the Company.

☐ FOR ☐ AGAINST ☐ ABSTAIN

THE EXECUTIVE COMMITTEE RECOMMENDS A VOTE "FOR" THE FOLLOWING PROPOSAL:

2. To adjourn the Special Meeting to a later date, if necessary or appropriate in the view of the Board or the Executive Committee of the Board, to solicit additional proxies in favor of the Removal Proposal if there are insufficient proxies at the time of such adjournment to approve the Removal Proposal.

☐ FOR ☐ AGAINST ☐ ABSTAIN

☐ CHECK HERE IF YOU PLAN TO ATTEND THE SPECIAL MEETING

Sign, date and return the proxy card promptly using the enclosed envelope.

Signature _____ Signature if held jointly _____

Dated _____, 2012

Please sign exactly as your name appears hereon and date. If the shares are held jointly, each holder should sign. When signing as an attorney, executor, administrator, trustee, guardian or as an officer, signing for a corporation or other entity, please give full title under signature.

EXHIBIT N

EXHIBIT N



February 22, 2012

Company Name: Universal Entertainment Corporation
Representative: Jun Fujimoto
Representative Director and President
(JASDAQ Code: 6425)
Contact: Nobuyuki Horiuchi, Assistant General Manager,
PR & IR Office
TEL: +81-3-5530-3055 (switchboard)

UNIVERSAL ENTERTAINMENT RESPONDS TO WYNN RESORTS ALLEGATIONS

Company to Seek Legal Action to Prevent Redemption of its Wynn Holdings

Las Vegas – February 21, 2012 – Universal Entertainment Corporation today issued the following statement regarding the purported redemption of the shares of Wynn Resorts (NYSE: WYNN) owned by its subsidiary, Aruze USA, Inc. based on action taken over the weekend by the Wynn Resorts Board of Directors:

While Wynn Resorts has still not provided Universal with a copy of the "investigation" report, we believe the allegations leveled against Universal are motivated by self-interest and represent the results of an incomplete and otherwise flawed corporate governance process in breach of the Board's fiduciary and other duties. Universal believes the entire process has been tainted by the desire to serve Steve Wynn's predetermined goal of removing Aruze USA as the largest stockholder of the Company. Aruze USA intends to commence litigation, which includes seeking a temporary restraining order and preliminary injunction, to protect its interests in Wynn Resorts and prevent the redemption of its shares.

End of announcement

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ARUZE USA, INC. and UNIVERSAL
ENTERTAINMENT CORPORATION
**pro hac vice application forthcoming*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Plaintiff,

vs.

KAZUO OKADA, an individual, ARUZE
USA, INC., a Nevada corporation,
UNIVERSAL ENTERTAINMENT
CORPORATION, a Japanese corporation,

Defendants.

ARUZE USA, INC., a Nevada corporation,
UNIVERSAL ENTERTAINMENT
CORPORATION, a Japanese corporation

Counterclaimants,

vs.

CASE NO: 2:12-cv-00400-LRH-PAL

**COUNTERCLAIM AND ANSWER
OF ARUZE USA, INC. AND
UNIVERSAL ENTERTAINMENT
CORPORATION**

JURY DEMAND

1 WYNN RESORTS, LIMITED, a Nevada
2 Corporation, STEPHEN A. WYNN, an
3 individual, KIMMARIE SINATRA, an
4 individual, LINDA CHEN, an individual,
5 RAY R. IRANI, an individual, RUSSELL
6 GOLDSMITH, an individual, ROBERT J.
7 MILLER, an individual, JOHN A. MORAN,
an individual, MARC D. SCHORR, an
individual, ALVIN V. SHOEMAKER, an
individual, D. BOONE WAYSON, an
individual, ELAINE P. WYNN, an individual,
ALLAN ZEMAN, an individual,

8 Counterdefendants.

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COUNTERCLAIM

JURISDICTION AND VENUE

1
2
3 1. This Court has jurisdiction over this Counterclaim pursuant to Section 27 of
4 the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78aa; 28 U.S.C. §
5 1331; and 28 U.S.C. § 1367.

6 2. The claims asserted herein arise under Section 10(b) of the Exchange Act,
7 15 U.S.C. § 78j(b), and Rule 10b-5 promulgated thereunder, 17 C.F.R. § 240 10b-5, the
8 Nevada Racketeer Influenced and Corrupt Organizations Act ("RICO"), N.R.S. § 207.400
9 *et seq.*, and Nevada statutory and common law. Additionally, the claims asserted herein
10 raise substantial federal questions under the Foreign Corrupt Practices Act of 1977
11 ("FCPA"), 15 U.S.C. §§ 78dd-1, *et seq.*

12 3. Venue is proper in this District pursuant to: (i) 15 U.S.C. § 78aa, because
13 this is the District in which acts constituting the violation occurred and in which
14 Defendants transact business; and (ii) 28 U.S.C. § 1391(b)(2), because this is a District in
15 which a substantial part of the events or omissions giving rise to the claim occurred, or a
16 substantial part of the property that is the subject of the action is situated.

NATURE OF THE ACTION

4. Plaintiff and Counterdefendant Wynn Resorts, Limited (“Wynn Resorts” or the “Company”) initiated this litigation on the same night it claims to have forcibly purchased (*i.e.*, “redeemed”) the nearly 20% of its own common stock held by Counterclaimant Aruze USA, Inc. (“Aruze USA”). Wynn Resorts understood that, as soon as it became known that it was doing this, Aruze USA would sue Wynn Resorts and the Wynn Directors.¹ Wynn Resorts had undertaken the redemption in the dead of night through a rushed and secretive process.

5. Among other things, Wynn Resorts purported to redeem the shares at a flat 30% discount to the most recent market price. Aruze USA’s interests, valued by the market at more than \$2.7 billion, would be forcibly purchased in exchange for a promissory note to pay approximately \$1.9 billion in a single “balloon payment” 10 years from now. So Wynn Resorts raced to court, electronically filing a complaint at 2:14 a.m. on a Sunday morning – even before giving notice to Aruze USA of the purported redemption. Wynn Resorts apparently thought that its position as the named “plaintiff” would help obfuscate the issues and distract the court from the claims of wrongdoing sure to be filed against it by Aruze USA and Counterclaimant Universal Entertainment Corporation (“Universal” and collectively with Aruze USA, “Counterclaimants”). Wynn Resorts’ cynical tactics are unavailing. Based on the facts and the law, it is clear that it is Counterclaimants who have been grievously damaged in this case, and any suggestion to the contrary is entirely without credibility.

6. This Counterclaim arises because this purported redemption would:

- (a) violate the express terms of agreements between Wynn Resorts and Aruze USA;
- (b) allow Mr. Wynn and others to profit unjustly from their illegal acts and a process that

¹ The Wynn Resorts’ Board of Directors (the “Board”), other than Kazuo Okada (“Kazuo Okada” and “Mr. Okada”), are Stephen A. Wynn (“Mr. Wynn” or “Steve Wynn”), Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, Boone Wayson, Elaine P. Wynn, and Allan Zeman.

1 was corrupt and unfair; and (c) subject Aruze USA to an unconscionably punitive remedy
2 based on an unproven pretext.

3 7. To be clear at the outset, Aruze USA disputes that any redemption has
4 occurred. Among other things, even if the redemption provision in the Company's
5 Second Amended Articles of Incorporation were legally enforceable (which it is not), the
6 Board's vote of redemption is void *ab initio*, because Wynn Resorts is barred by contract
7 from redeeming Aruze USA's securities. According to Wynn Resorts, the stock held by
8 Aruze USA is subject to transfer restrictions in a stockholders agreement (the
9 "Stockholders Agreement"). The transfer restrictions in the Stockholders Agreement (to
10 which Wynn Resorts agreed to be bound), if valid, preclude any redemption of Aruze
11 USA's stock. In addition, Aruze USA's stock was never subject to the redemption
12 provision in the Company's Articles of Incorporation, because Aruze USA agreed to
13 purchase Wynn Resorts stock *before* the redemption provision became effective. As a
14 threshold matter, then, the applicable contracts relied upon by Wynn Resorts to justify its
15 conduct actually bar Wynn Resorts' purported redemption of Aruze USA's stock.

16 8. Even if the Articles of Incorporation allowed the redemption of
17 Aruze USA's interests in Wynn Resorts (which they do not), there was no legitimate
18 factual or legal basis to invoke the redemption provision in this case. Wynn Resorts
19 undertook a secret investigation, hiding the subjects of the investigation from Aruze USA
20 by erroneously invoking attorney-client privilege and confidentiality, even after Wynn
21 Resorts had leaked a "report" of the investigation to the *Wall Street Journal*. Wynn
22 Resorts refused Aruze USA any reasonable opportunity to respond prior to redeeming
23 Aruze USA's interests, despite prior written promises to do so. If Wynn Resorts had
24 provided the opportunity, it would be clear why redemption is unwarranted.

25 9. The Wynn Directors breached their fiduciary duties to Wynn Resorts and to
26 Aruze USA in not undertaking a thorough, independent, and objective examination of the
27 law, facts, and evidence before purporting to usurp the role of the gaming authorities in
28 finding Aruze USA "unsuitable." Similarly, they breached their duties by then voting for

1 a wholly unnecessary and improper “redemption” on unconscionable terms. As a result,
2 the Wynn Directors cannot rely on the “business judgment rule,” as they did not act in a
3 fully informed, good faith, and independent manner, and their actions are both contrary to
4 the law and not objectively reasonable.

5 10. Apart from the lack of any legal basis for Wynn Resorts’ actions,
6 Aruze USA sues because Wynn Resorts, for all its accomplishments, is not a corporation
7 in any ordinary sense. Rather, Wynn Resorts’ flamboyant Chairman, Mr. Wynn, has run
8 Wynn Resorts as a personal fiefdom, packing the Board with friends who do his personal
9 bidding, and paying key executives exorbitant amounts for their unwavering fealty.

10 11. In the course of trying to illegally force out Aruze USA as Wynn Resorts’
11 largest stockholder, Mr. Wynn and Wynn Resorts’ General Counsel Kimmarie Sinatra
12 (“Kim Sinatra” or “Ms. Sinatra”) committed a series of predicate acts of racketeering,
13 which include fraud, acquiring property under false pretenses, acquiring signatures under
14 false pretenses, and other similar wrongful activities. Mr. Wynn and Ms. Sinatra executed
15 on a scheme and pattern of racketeering activity, the aim of which was to defraud, defame,
16 and steal from Aruze USA and its President, Mr. Okada, by taking Aruze USA’s interest
17 in Wynn Resorts, for the purpose of illegally placing and maintaining the control of Wynn
18 Resorts in a single man – Mr. Wynn. The wrongful acts complained of here cannot be
19 countenanced, and the purported taking of Aruze USA’s property cannot stand

20 **PARTIES**

21 12. Counterclaimant Aruze USA is a company organized and existing under the
22 laws of the State of Nevada and is a wholly-owned subsidiary of Universal. Aruze USA
23 has its principal place of business in Las Vegas, Nevada. Aruze USA has been found
24 suitable by the Nevada Gaming Commission as a stockholder of Wynn Resorts. Aruze
25 USA owns 24,549,222 shares or 19.66% of the total outstanding stock of Wynn Resorts,
26 making it the largest single owner of Wynn Resorts stock.

27 13. Counterclaimant Universal (f/k/a Aruze Corp.) is a corporation organized
28 and existing under the laws of Japan. Universal manufactures and sells pachislot and

1 pachinko machines. Universal is registered with the Nevada Gaming Commission, and
2 was deemed suitable by the Nevada Gaming Commission as a 100% shareholder of Aruze
3 USA. Mr. Okada is the Chairman of the Board of Universal.

4 14. Counterdefendant Wynn Resorts, Limited is a corporation organized and
5 existing under the laws of the State of Nevada with its principal place of business in Las
6 Vegas, Nevada. Wynn Resorts' stock is publicly traded on NASDAQ under the ticker
7 symbol "WYNN."

8 15. Counterdefendant Stephen A. Wynn is the Chairman of the Board and Chief
9 Executive Officer of Wynn Resorts and is a resident of Nevada. Mr. Wynn owns
10 10,026,708 shares² of the common stock of Wynn Resorts.

11 16. Counterdefendant Kimmarie Sinatra is the General Counsel, Secretary, and a
12 Senior Vice President of Wynn Resorts and, on information and belief, is a resident of
13 Nevada. Ms. Sinatra owns 40,887 shares of the common stock of Wynn Resorts.

14 17. Counterdefendant Elaine P. Wynn is a director of Wynn Resorts and, on
15 information and belief, is a resident of Nevada. Elaine Wynn is Mr. Wynn's ex-spouse.
16 Elaine Wynn owns 9,742,150 shares of the common stock of Wynn Resorts.

17 18. Counterdefendant Linda Chen is a director of Wynn Resorts and, on
18 information and belief, is a resident of Macau. Ms. Chen owns 265,000 shares of the
19 common stock of Wynn Resorts.

20 19. Counterdefendant Ray R. Irani is a director of Wynn Resorts and, on
21 information and belief, is a resident of California. Mr. Irani owns 18,000 shares of the
22 common stock of Wynn Resorts.

23 20. Counterdefendant Russell Goldsmith is a director of Wynn Resorts and, on
24 information and belief, is a resident of California. Mr. Goldsmith owns 40,000 shares of
25 the common stock of Wynn Resorts.

26
27 ² All references to the number of shares owned by Counterdefendants are as of March 1, 2012, as
28 disclosed in Wynn Resorts' Schedule 14A Proxy Statement, filed with the SEC on March 7,
2012.

1 21. Counterdefendant Robert J. Miller is a director of Wynn Resorts and, on
2 information and belief, is a resident of Nevada. Mr. Miller owns 20,500 shares of the
3 common stock of Wynn Resorts.

4 22. Counterdefendant John A. Moran is a director of Wynn Resorts and, on
5 information and belief, is a resident of Florida. Mr. Moran owns 190,500 shares of the
6 common stock of Wynn Resorts.

7 23. Counterdefendant Marc D. Schorr is a director and Chief Operating Officer
8 of Wynn Resorts and, on information and belief, is a resident of Nevada. Mr. Schorr owns
9 250,000 shares of the common stock of Wynn Resorts.

10 24. Counterdefendant Alvin V. Shoemaker is a director of Wynn Resorts and,
11 on information and belief, is a resident of New Jersey. Mr. Shoemaker owns 40,500
12 shares of the common stock of Wynn Resorts.

13 25. Counterdefendant D. Boone Wayson is a director of Wynn Resorts and, on
14 information and belief, is a resident of Maryland. Mr. Wayson owns 90,500 shares of the
15 common stock of Wynn Resorts.

16 26. Counterdefendant Allan Zeman is a director of Wynn Resorts and, on
17 information and belief, is a resident of Macau. Mr. Zeman owns 30,500 shares of the
18 common stock of Wynn Resorts.

GENERAL ALLEGATIONS

I. MR. OKADA AND STEVE WYNN LAUNCH WYNN RESORTS

A. Turned Out By Mirage Resorts, Steve Wynn Turns to Kazuo Okada to Finance the New Wynn Project

27. Mr. Wynn has a long history of involvement in Las Vegas as a casino operator. As Las Vegas changed, Mr. Wynn sought to present himself as a representative of the new “corporate” Las Vegas. Mr. Wynn developed Mirage Resorts, Inc., a casino conglomerate that owned and operated the Mirage, Treasure Island, and Bellagio. On May 31, 2000, MGM Grand Inc. completed a merger with Mirage Resorts, Inc. In June 2000, after a bruising boardroom battle, which centered on allegations that Mr. Wynn misappropriated company funds, MGM Grand, Inc. ousted Mr. Wynn as Chief Executive Officer of Mirage Resorts.

28. Humiliated by his public ouster, Mr. Wynn was anxious to re-enter the casino business and rebuild his reputation and standing in Las Vegas. He purchased the old Desert Inn casino and had plans to build a new casino on the site – it was to be a monument to himself, called “Wynn.” But Mr. Wynn lacked the capital to fund the development of the casino, so he undertook an extensive search for investors. Having recently been forced out of Mirage Resorts, Inc., however, he was shunned by other sources of capital; Mr. Wynn eventually called on Mr. Okada, who became the means for Mr. Wynn to get back on his feet.

29. Mr. Okada was and is a highly successful Japanese entrepreneur and himself a pioneer in the gaming industry. After leaving high school, Mr. Okada attended an electronics trade school. In 1969, Mr. Okada founded Universal Lease Co. Ltd., which is now Universal. Mr. Okada became a leader in the businesses of pachinko. In addition, Mr. Okada founded a company that created one of the first video poker machines. In fact, Mr. Wynn originally met Mr. Okada when one of Mr. Okada’s affiliated companies, Aruze Gaming America, was selling electronic gaming machines in Nevada.

1 30. Beginning in November 2000, Mr. Wynn used a Nevada limited liability
2 company called Valvino Lamore, LLC (“Valvino”) as the holding entity for his new
3 Desert Inn casino project. After in-person discussions between Mr. Wynn and Mr. Okada,
4 Aruze USA made a contribution of \$260 million in cash to Valvino in exchange for 50%
5 of the membership interests in Valvino effective November 30, 2000. This contribution
6 was the seed capital that allowed for the development of what is now Wynn Resorts.
7 Valvino is referred to by Wynn Resorts as Wynn Resorts’ “predecessor.”

8 31. In April 2002, Aruze USA made two additional contributions totaling \$120
9 million to Valvino. Mr. Wynn told Mr. Okada that \$30 million was related to Macau, but
10 Mr. Wynn did not explain to Mr. Okada how Mr. Wynn actually spent the money.
11 Serious questions now exist about how Mr. Wynn used the money and whether Mr. Wynn
12 used the funds for his personal benefit and/or for other inappropriate purposes. There are
13 also serious questions about the use of the other \$90 million Aruze USA contributed.

14 **B. The Stockholders Agreement**

15 32. In 2002, all three owners of LLC interests in Valvino – Mr. Wynn, Aruze
16 USA, and Baron Asset Fund³ – understood that the Wynn organization was planning to go
17 public as Wynn Resorts. This required a series of legal steps by which the owners’
18 interests in Valvino were converted into shares of a newly formed corporation, “Wynn
19 Resorts, Limited,” that could then sell additional shares to the public.

20 33. On April 11, 2002, prior to the filing of the Articles of Incorporation for
21 Wynn Resorts, the three owners of LLC interests in Valvino – Mr. Wynn, Aruze USA,
22 and Baron Asset Fund – entered into the Stockholders Agreement, which imposed certain
23 restrictions on the sale of the stock they were to receive in “NewCo,” the entity that would
24 become Wynn Resorts. As described in Wynn Resorts’ prospectus, dated October 29,
25 2002, “the stockholders agreement establishes various rights among Mr. Wynn, Aruze

26 _____
27 ³ Baron Asset Fund is a Massachusetts business trust comprised of a series of funds. It became a
28 member of Valvino pursuant to the First Amendment to Amended and Restated Operating
Agreement of Valvino Lamore, LLC, dated April 16, 2001.

1 USA and Baron Asset Fund with respect to the ownership and management of Wynn
2 Resorts.”

3 34. Notably, the parties to the Stockholders Agreement stated that the terms of
4 that agreement were a condition of transferring their LLC interests in Valvino to Wynn
5 Resorts. Specifically, the Stockholders Agreement stated “as a condition to their
6 willingness to form [Wynn Resorts], either through the contribution of their interests in
7 the LLC or through a different technique, the Stockholders are willing to agree to the
8 matters set forth” in the Stockholders Agreement.

9 35. Wynn Resorts publicly acknowledged the impact of the Stockholders
10 Agreement on the Company and the shareholders, disclosing in Wynn Resorts’ Form S-
11 1/A filed with the SEC on October 7, 2002 that the Stockholders Agreement established
12 “restrictions on the transfer of the shares of Wynn Resorts’ common stock owned by the
13 parties to the stockholders agreement.” In this way, Wynn Resorts – and all other
14 stockholders – were aware that there were limitations written in the Stockholders
15 Agreement on the transferability of the Wynn Resorts stock held by Aruze USA.

16 36. The Stockholders Agreement contained certain transfer restrictions on
17 shares held by Aruze USA. The agreement defined a “[t]ransfer” as “any . . . disposition,
18 either voluntary or *involuntary*” (emphasis added). The agreement provided that such
19 securities may only be transferred to Mr. Okada, an immediate family member of Mr.
20 Okada, a family trust, or a company related to Aruze USA. No other transfers were
21 allowed. For example, there is no provision that would allow Wynn Resorts to buy or
22 take, or redeem the securities. To the contrary, the Stockholders Agreement expressly
23 made **any** transfer of shares – including any involuntary transfers – in violation of the
24 Agreement “null and void *ab initio*.” As explained in further detail below, because Wynn
25 Resorts expressly adopted this transfer restriction at the time of the contribution of Aruze
26 USA’s LLC interests in Valvino, and Wynn Resorts asserts that these transfer restrictions
27 are legally valid, Wynn Resorts had no legal right or ability to redeem Aruze USA’s
28 interests in Wynn Resorts.

1 37. Apart from removing Aruze USA from the purview of later-adopted
2 redemption provisions in Wynn Resorts' Articles of Incorporation, the Stockholders
3 Agreement also contained provisions that allowed Mr. Wynn to nominate a bare majority
4 of directors, and Aruze USA to nominate all remaining directors. Although Aruze USA
5 repeatedly tried over the years to nominate directors, Mr. Wynn refused to allow this to
6 happen, instead nominating all of the directors himself to ensure and perpetuate his
7 complete control of the Board.

8 38. Finally, the Stockholders Agreement gave Mr. Wynn the power of attorney
9 to sign all documentation necessary to transfer Aruze USA's LLC interests in Valvino to
10 Wynn Resorts in exchange for Wynn Resorts stock, and thereby created a fiduciary duty
11 as between Mr. Wynn and Aruze USA.

12 39. On November 8, 2006, Mr. Wynn caused Aruze USA to enter into an
13 Amendment to the Stockholders Agreement which purports to contain a mutual restriction
14 on the sale of stock without the other party's written consent. All other relevant terms of
15 the Stockholders Agreement remained unchanged.

16 **C. Wynn Resorts' Original Articles of Incorporation**

17 40. On June 3, 2002, Mr. Wynn, on behalf of Wynn Resorts, caused the filing of
18 the Company's initial Articles of Incorporation. Those Articles of Incorporation did not
19 include any provision establishing Wynn Resorts' purported right to redeem shares held
20 by "Unsuitable Person[s]."

21 **D. The Contribution Agreement**

22 41. Before Wynn Resorts could go public, the LLC interests in Valvino held by
23 Mr. Wynn, Aruze USA, and Baron Asset Fund had to be transferred to the new Wynn
24 Resorts entity. This was no small matter. By this point, Aruze USA had contributed some
25 \$380 million in exchange for its LLC interests in Valvino.

26 42. On June 11, 2002, Wynn Resorts, Mr. Wynn, Aruze USA, Baron Asset
27 Fund, and the Kenneth R. Wynn Family Trust entered into the Contribution Agreement
28 (the "Contribution Agreement"), by which they agreed to contribute all of the Valvino

1 membership interests to Wynn Resorts in exchange for the capital stock of Wynn Resorts.
2 The Wynn Resorts stock acquired by Aruze USA was subject to the provisions of the
3 Stockholders Agreement.

4 43. The Contribution Agreement made clear that Wynn Resorts could not later
5 enlarge its rights *vis-à-vis* the stock held by Aruze USA. An integration clause stated:

6 *This Agreement, the Stockholders Agreement, and the*
7 *Operating Agreement contain the entire understanding of the*
8 *parties with respect to the subject matter hereof or thereof.*
9 *There are no restrictions, agreements, promises,*
10 *representations, warranties, covenants, or undertakings with*
11 *respect to the subject matter hereof other than those expressly*
12 *set forth or referred to herein or therein. This Agreement, the*
13 *Stockholders Agreement, and the Operating Agreement*
14 *supersede all prior agreements and understandings between*
15 *the parties with respect to their subject matter.*

16 (emphasis added) (The Contribution Agreement defined the “Stockholders Agreement” as
17 the agreement dated April 11, 2002, and “as it may be amended and/or restated from time
18 to time.”). Accordingly, any attempt by Wynn Resorts to claim that it could unilaterally
19 impose a redemption provision on Aruze USA is contradicted by the express language of
20 Wynn Resorts’ agreements with Aruze USA.

21 **E. After Securing Aruze USA’s Contribution, Steve Wynn Unilaterally**
22 **Amends the Articles of Incorporation**

23 44. After entering into the Contribution Agreement, but before transferring the
24 LLC interests in Valvino, Mr. Wynn secretly and unilaterally changed Wynn Resorts’
25 Articles of Incorporation to include a provision that purportedly allows Wynn Resorts to
26 “redeem” stock held by stockholders under certain circumstances. At this time, Mr. Wynn
27 was the sole stockholder and director of Wynn Resorts.

28 45. Under the Stockholders Agreement, Mr. Wynn had power of attorney to
transfer the LLC interests in Valvino to Wynn Resorts. Although the Contribution
Agreement obligated Mr. Wynn to “as soon as practicable . . . deliver or cause to be
delivered to Holders certificates representing the Common Stock[.]” Mr. Wynn
deliberately delayed the contribution of the LLC interests in Valvino interests to Wynn

1 Resorts. Among other things, this delay meant that, although he had already received
2 Aruze USA's commitment via the Contribution Agreement and the Stockholders
3 Agreement, Mr. Wynn would continue to maintain unilateral control over Wynn Resorts
4 for the period of the delay. This enabled Mr. Wynn to improperly change the Company's
5 Articles of Incorporation in an attempt to achieve Mr. Wynn's own long-term interests at
6 Aruze USA's expense. This deliberate delay, and the intervening acts taken by Mr. Wynn
7 before he fulfilled the terms of the Contribution Agreement, breached Mr. Wynn's
8 fiduciary duties to Aruze USA.

9 46. On September 16, 2002, Mr. Wynn secretly and unilaterally amended Wynn
10 Resorts' Articles of Incorporation. Although this change would purport to fundamentally
11 alter the securities received by Aruze USA, Mr. Wynn made the change unilaterally,
12 without providing notice and affording Aruze USA the opportunity to vote on the changes,
13 as required in order to make the provision enforceable. The language Mr. Wynn
14 unilaterally added to the Articles of Incorporation provided, in pertinent part:

15 The Securities Owned or Controlled by an Unsuitable Person
16 or an Affiliate of an Unsuitable Person shall be subject to
17 redemption by the Corporation, out of funds legally available
18 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. . . .

19 47. If Mr. Wynn had done what he was bound to do pursuant to the trust and
20 duties placed in him under the Stockholders Agreement and Contribution Agreement, and
21 transferred the LLC interests in Valvino to Wynn Resorts *before* adding the redemption
22 provision, Aruze USA would have had the right under Nevada law to vote on the changes
23 to Wynn Resorts' Articles of Incorporation. On information and belief, Mr. Wynn's
24 actions were a deliberate effort to induce Aruze USA to agree to transfer the LLC interests
25 in Valvino, and then change the nature of the Wynn Resorts stock that Aruze USA would
26 receive in exchange for those interests. Aruze USA relied on the absence of a redemption
27 provision in making its sizable contribution of interests to Wynn Resorts. Although the
28 first acts perpetrated in furtherance of this fraud occurred in 2002, damages only accrued

1 recently, when Wynn Resorts purported to use the redemption provision to redeem Aruze
2 USA's shares in 2012 for a fraction of their true value.

3 **F. Wynn Resorts Goes Public**

4 48. On September 28, 2002, Mr. Wynn eventually contributed the LLC interests
5 in Valvino to Wynn Resorts. Thereafter, on October 21, 2002, Mr. Okada became a
6 member of Wynn Resorts' Board.

7 49. On October 25, 2002, Wynn Resorts conducted an initial public offering
8 ("IPO") on NASDAQ at \$13 per share. At this time, Mr. Okada and Mr. Wynn each
9 owned about 30% of the outstanding stock. Shortly thereafter, Mr. Okada became Vice
10 Chairman of Wynn Resorts' Board.

11 50. On April 28, 2005, Wynn Las Vegas opened. It was an instant success. On
12 September 8, 2006, Wynn Resorts opened in Macau. "Encore" hotels followed in both
13 locations. Again, each property has been very successful. None of this success would
14 have been possible without the capital funding, support, and expertise of Aruze USA and
15 Mr. Okada.

16 51. As one form of recognition for Aruze USA's contributions, Wynn Resorts
17 included a high-end Japanese restaurant at both the Las Vegas and Macau resorts. These
18 restaurants have been named "Okada."

19 **G. The Close and Trusting Relationship of Steve Wynn and Mr. Okada**

20 52. Although they have very different backgrounds and educational experiences,
21 both Mr. Wynn and Mr. Okada are of similar ages, interests, and ambitions. Beyond their
22 business dealings, Mr. Wynn gave every indication that he considered Mr. Okada to be a
23 close personal friend, and repeatedly called him his "partner."

24 53. For example, at hearings before the Nevada State Gaming Control Board
25 and Nevada Gaming Commission, on June 4 and 17, 2004, respectively Mr. Wynn
26 affirmed that "Mr. Okada was not only suitable" to receive a gaming license "but he was
27 desirable." Repeatedly referring to Mr. Okada as his "partner," Mr. Wynn said Mr. Okada
28 was "dedicated to the pursuit of excellence."

1 54. In this sworn testimony, Mr. Wynn also affirmed Mr. Okada's generosity
2 and unwavering trust in Mr. Wynn. Mr. Wynn said "I have never dreamed that there
3 would be a man as supportive, as long-term thinking, as selfless in his investment as Mr.
4 Okada." Mr. Wynn recalled a conversation with Mr. Okada on a plane from Macau to
5 Tokyo: Mr. Okada "told me the most important thing, Steve . . . is the right thing. Take
6 the high road. Do the right thing. Don't worry about me. I'll support any decision you
7 may make."

8 55. And, indeed, Mr. Okada trusted Mr. Wynn. Mr. Wynn knew this, and
9 callously and illegally set out to exploit this trust for his advantage.

10 **II. UNIVERSAL DISCLOSES AND ULTIMATELY PURSUES FOREIGN**
11 **DEVELOPMENT PROJECTS**

12 **A. In 2007, Universal Fully Discloses to Wynn Resorts Its Interest In**
13 **Pursuing a Casino Project in the Philippines**

14 56. Universal and Mr. Okada first began exploring the possibility of acquiring
15 and developing land in the Philippines in 2007, with one possible option for development
16 being a casino and hotel resort. Although the initial discussions were preliminary,
17 Mr. Okada brought the opportunity immediately to Mr. Wynn, hoping that Wynn Resorts
18 might be interested in undertaking the project. Mr. Wynn told Mr. Okada that Wynn
19 Resorts was not interested at that time in pursuing a project in the Philippines. However,
20 Mr. Wynn voiced no concerns at all with Universal's pursuit of the project. Mr. Okada
21 thereafter kept Mr. Wynn fully informed of the project's progress.

22 57. On December 20, 2007, Universal publicly announced a planned casino
23 project in the Asian market.

24 58. On April 25, 2008, Universal announced its planned casino project in the
25 Philippines.

26 59. From that point on, Wynn Resorts and Universal had an agreement.
27 Universal could pursue a project in the Philippines, but at least for the time being, it would
28 not formally be a Wynn Resorts project. On a May 1, 2008 conference call with stock

1 analysts, Mr. Wynn affirmed that Wynn Resorts' Board and management team had
2 longstanding knowledge of and fully supported Universal's project in the Philippines:

3 Well, first of all, I love Kazuo Okada as much as any man that
4 I've ever met in my life. He's my partner and my friend. And
5 there is hardly anything that I won't do for him. Now, we are
6 not at the present time an investor, nor do we contemplate, an
7 investment in the Philippines. *This is something that Kazuo*
8 *Okada and his company, [Universal], has done on its own*
9 *initiative. He consults me and has discussed it with me*
10 *extensively and I've given him my own personal thoughts on*
11 *the subject and advice. And, to the extent that he comes to me*
12 *for any more advice or input, all of us here at the Company*
13 *will be glad to give him our opinions. But that's short of*
14 *saying this is a Wynn Resorts project. It is a [Universal]*
15 *project.*

16 (emphasis added).

17 60. Importantly, Mr. Wynn voiced no concerns about the potential of the
18 Philippine project competing with Wynn Macau, Ltd. ("Wynn Macau"). As reflected in
19 his public statement to Wynn Resorts' shareholders and analysts, Mr. Wynn's attitude
20 reflected Wynn Resorts' official position on the Philippine project until at least late 2011
21 or early 2012 when Mr. Wynn decided to use it as a pretext to deprive Aruze USA of its
22 Wynn Resorts stock.

23 61. As a further example of Wynn Resorts' knowledge and approval of
24 Universal and Aruze USA's activities in the Philippines, on April 4, 2008, Kevin Tourek,
25 a member of Wynn Resorts' Compliance Committee, emailed Frank Schreck, the then-
26 head of Universal's Compliance Committee. The email was regarding Universal's
27 investment in the Philippines. Mr. Tourek confirmed that – so long as Universal was in
28 compliance with the laws of the Philippines – the investment would not be something that
would concern Nevada regulators or Wynn Resorts.

 62. Once again, on September 24, 2009, Wynn Resorts acknowledged
Universal's project in the Philippines. Wynn Macau's IPO prospectus explicitly
acknowledged Universal's plans to develop a casino in the Philippines:

 In addition to its investment in Wynn Resorts, Limited,
[Universal], has invested in the construction of a hotel casino
resort in the Philippines, which is anticipated to open to the

1 public in 2010. Mr. Okada confirms that, as at the Latest
2 Practicable Date, except for his indirect shareholding interests
3 in Wynn Resorts, Limited through Aruze USA, Inc., neither he
4 nor his associates holds, owns or controls more than 5%
5 voting interests in an entity which, directly or indirectly,
6 carries on, engages, invests, participates or otherwise is
7 interested in any company, business or operation that
8 competes, or is reasonably expected to compete, with the
9 business carried on by us in Macau.

6 63. In this way, Wynn Macau's prospectus acknowledged and ratified
7 Universal's plans to open a casino in the Philippines and – by adopting Universal's
8 statement – affirmed that a casino in the Philippines will not materially compete with
9 Wynn Macau.

10 **B. With the Blessing of Wynn Resorts, Universal Commits Significant**
11 **Funds and Energy to the Philippine Project**

12 64. As was disclosed fully to Wynn Resorts and the Nevada Gaming
13 Commission, Universal went about the difficult process of acquiring land and approvals to
14 build a casino in the Philippines.

15 65. In 2008, after negotiations with private landowners that spanned several
16 months, Universal purchased contiguous land in and about a special economic zone in
17 Manila Bay that was specifically zoned for casinos. It made this purchase with a
18 Philippine-based partner; and at all times (contrary to statements in the Complaint and by
19 Mr. Freeh) has complied with the laws of the Philippines requiring the citizenship for
20 landholding.

21 66. The Philippine government approached Universal as early as 2005 and
22 courted Universal for years. The Philippine government ultimately secured an agreement
23 that Universal would employ significant numbers of local people to work in the casinos,
24 and press reports indicate Universal's project could create as many as 15,000 jobs for
25 Filipinos, and generate billions of dollars in tax revenues for the Philippine government.
26 When Universal delayed the project in the wake of the 2008 financial crisis, the Philippine
27 government again stepped up its efforts to encourage Universal to advance the
28

1 development of its project. While Universal certainly expects the Manila Bay Project to
2 be a “win-win” for the Philippines and Universal, the idea that Universal needed to curry
3 special favor with Philippine government officials is profoundly mistaken.

4 **C. Steve Wynn and Elaine Wynn Divorce**

5 67. In March 2009, Mr. Wynn divorced Elaine Wynn. The divorce proved to be
6 damaging to Mr. Wynn’s financial position and standing within Wynn Resorts. By early
7 2010, Mr. Wynn had reached an agreement to split his ownership of Wynn Resorts stock
8 with Elaine Wynn. As a result of the divorce settlement, Aruze USA was now by far
9 Wynn Resorts’ largest stockholder, owning some 24,549,222 shares of Wynn Resorts, or
10 19.66% of the outstanding stock. Mr. Wynn would now own less than half what Aruze
11 USA owned of Wynn Resorts stock. While neither Aruze USA nor Mr. Okada ever made
12 any threats against Mr. Wynn, the possibility loomed that Mr. Wynn could be losing
13 control of Wynn Resorts, as had happened ten years earlier, Mr. Wynn lost control of
14 Mirage Resorts, Inc.

15 68. On January 6, 2010, Mr. Wynn obtained an Amended and Restated
16 Stockholders Agreement. The amended agreement altered the Stockholders Agreement
17 language regarding Aruze USA’s right to nominate directors. Aruze USA could endorse
18 nominees so long as the majority of nominees were endorsed by Mr. Wynn. Although the
19 agreement required Mr. Wynn to support a minority slate of directors proposed by Aruze
20 USA, he never did so. On information and belief, Mr. Wynn obtained the Amended and
21 Restated Stockholders Agreement, with the intention of never supporting any director
22 proposed by Aruze USA. In fact, Mr. Wynn consistently refused efforts to consider Aruze
23 USA directors for the Board, in an effort to continue to monopolize control over Wynn
24 Resorts.

25 69. In addition, the Amended and Restated Stockholders Agreement continued
26 to contain a non-compete clause that prohibited Mr. Okada, Aruze USA, and Universal
27 only from operating casinos in Clark County, Nevada and in Macau, and certain Internet
28 gaming ventures. Neither this version of the Stockholders Agreement, nor any prior or

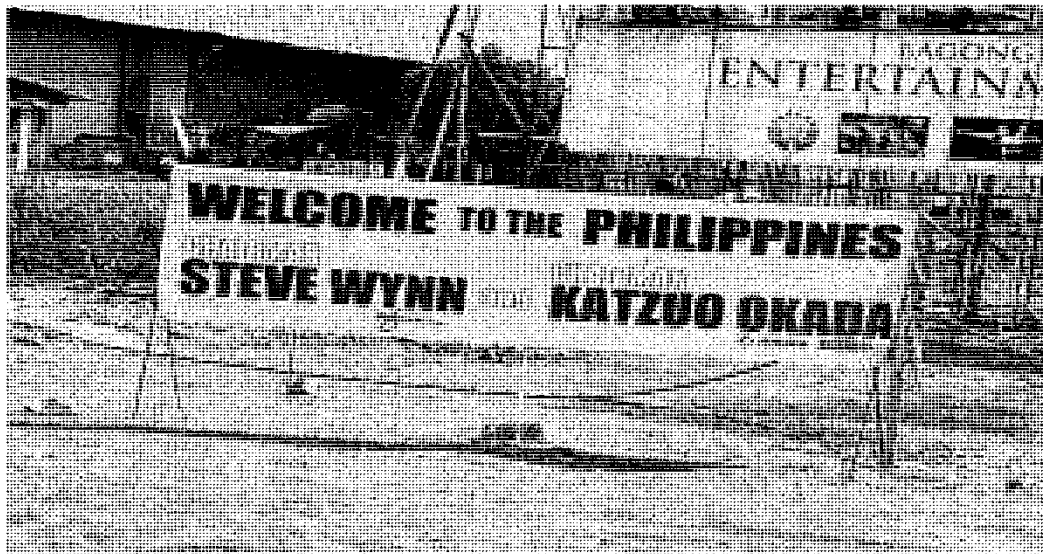
1 subsequent agreements, contained any prohibition or concerns regarding the Philippines or
2 Korea.

3 70. In January 2010, Mr. Okada indicated that he was willing to move ahead
4 with the amendments provided that Mr. Wynn reciprocated by allowing Aruze USA to sell
5 publicly the same number of shares as Mr. Wynn and Elaine Wynn. In this way, Mr.
6 Okada expected to receive liquidity for Aruze USA whenever Mr. Wynn and Elaine Wynn
7 asked permission to sell or transfer their stock.

8 **D. Steve Wynn and Kazuo Okada Visit the Philippines in 2010, as Wynn**
9 **Resorts Considers Involvement with the Philippine Project**

10 71. Though Mr. Wynn had consistently declined to involve Wynn Resorts
11 formally in the Philippine project, he began to reconsider the opportunity in 2010. On
12 June 14, 2010, Mr. Wynn and Mr. Okada jointly visited Manila to conduct due diligence
13 on behalf of Wynn Resorts and Universal. On information and belief, Mr. Wynn was
14 considering pursuing the project in his individual capacity as well as on behalf of Wynn
15 Resorts.

16 72. As illustrated in the photographs, this pre-arranged trip involved meetings
17 with dignitaries and officials and informational presentations on the project.
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73. Mr. Wynn never formally committed Wynn Resorts to the Manila Bay project, but was clearly interested in pursuing the opportunity. The idea – promulgated by Mr. Wynn in recent press conferences – that Mr. Okada and Universal were off “doing their own thing” unbeknownst to anyone at Wynn Resorts, is not true.

E. Over Kazuo Okada’s Objection, Wynn Resorts Makes an Unprecedented \$135 Million Donation For Wynn Macau

74. In May 2011, Wynn Macau pledged to donate HK\$1 billion (about \$135 million) to the University of Macau Development Foundation. This contribution consisted 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. Suspiciously, Wynn Macau’s current gaming concession covers essentially the same 10-year period expiring in June 2022. Wynn Macau and Wynn Resorts have also disclosed that Wynn Macau is in the process of seeking to obtain land in Macau and the rights to develop a third casino in the area.

75. At a Board meeting in April, 2011, Mr. Okada objected to and voted against this donation, which appears to be unprecedented in the annals of the University of Macau, and in the history of Wynn Resorts. Mr. Okada objected to the unprecedented size

1 and duration of the commitment. It was unclear how the University of Macau would use
2 the funds. Mr. Okada wondered why a wealthy university that sits on government land
3 and largely caters to non-Macau residents might need or want such a large donation. Mr.
4 Okada, who is himself a significant philanthropist, wondered whether such a donation
5 actually benefits the people who live in Macau. He was concerned about the lack of
6 deliberation of the boards of Wynn Resorts and Wynn Macau (the donation was approved
7 at a joint meeting in Macau of the two boards), and that pending approvals in Macau
8 related to a new development in Cotai, and the coincidence of the date of the donation and
9 the term of Wynn Macau's gaming license in Macau, might make it appear that Wynn
10 Macau and Wynn Resorts were paying for benefits.

11 76. Notably, for example, the Chancellor of University of Macau is also the
12 head of Macao's government, with ultimate oversight of gaming matters.

13 77. While Wynn Resorts claims to have received a legal opinion sanctioning the
14 unprecedented donation, Wynn Resorts did not provide that legal opinion to Mr. Okada or,
15 on information and belief, to any other members of the board of either Wynn Macau or
16 Wynn Resorts. On information and belief, Mr. Wynn – and potentially others – misled the
17 Wynn Resorts' Board by securing its consent to the donation, without disclosing his
18 personal knowledge of the close connection between University of Macau and officials
19 responsible for regulatory decisions related to Wynn Macau's gaming operations.

20 78. Mr. Okada's opposition to this donation caught the attention of the U.S.
21 Securities and Exchange Commission ("SEC"). According to Wynn Resorts 2011 Form
22 10-K, Wynn Resorts received a letter from the Division of Enforcement of the SEC
23 indicating the SEC has commenced an "informal inquiry" regarding matters in Macau.
24 Mr. Wynn, Ms. Sinatra (Wynn Resorts' General Counsel), and Mr. Miller (head of Wynn
25 Resorts' Compliance Committee) did not take kindly to Mr. Okada's scrutiny of the
26 donation. On information and belief, Mr. Wynn, Ms. Sinatra, and Mr. Miller set out to
27 discredit Mr. Okada, in an effort to distract attention from the problematic Macau
28 donation.

F. Steve Wynn and Kim Sinatra Fraudulently Promise Mr. Okada Financing for the Philippine Project

79. On or about April 29, 2011, Mr. Wynn married his current wife Andrea Hissom. Shortly thereafter, on May 16, 2011, Mr. Wynn and Mr. Okada met in Macau. Ms. Sinatra was present at the meeting, as was Matt Maddox ("Mr. Maddox"), the Chief Financial Officer of Wynn Resorts, and Michiaki Tanaka ("Mr. Tanaka") of Aruze USA, who prepared a transcript of the meeting.

80. According to the transcript of the meeting, Mr. Wynn told Mr. Okada that Elaine Wynn was very angry at Mr. Wynn for remarrying. Knowing she was going through a difficult time, Mr. Okada expressed sympathy for Elaine Wynn. Mr. Wynn said that Elaine Wynn had a desire to transfer her shares to a new owner, and that there was an urgent need for Mr. Okada to immediately consent on Aruze USA's behalf to the transfer of the securities under the Stockholders Agreement.

81. Mr. Okada was amenable to allowing Elaine Wynn to transfer her stock because of this exigency but, in return, Mr. Okada wanted to sell or pledge some of Aruze USA's Wynn Resorts stock in order to obtain a measure of liquidity from the stock.

82. Mr. Wynn suggested that instead of having Aruze USA sell or pledge its shares, he had "good answers to solve [Mr. Okada's] . . . requests." Mr. Wynn suggested that Wynn Resorts would make a loan to Aruze USA. Mr. Wynn told Mr. Okada that this was better than Aruze USA liquidating its stock (which could have hurt Wynn Resorts' stock value), and much better than a bank loan because a bank: (1) would set a credit line of only 50% of the market value of Aruze USA's stock; (2) would require additional guarantees if the market value of Aruze USA's stock decreases; and (3) could require forfeiture of Aruze USA's stock if there was any delay in payment.

83. Mr. Wynn gave Mr. Okada an explicit personal assurance that financing would occur. Mr. Wynn stated that this proposal would be good for Mr. Okada and good for Wynn Resorts, because it will contribute to the stability of Wynn Resorts. And, based

1 on such assurances, Mr. Okada agreed to financing from Wynn Resorts, rather than selling
2 or otherwise pledging Aruze USA's stock.

3 84. Ms. Sinatra was present at the meeting. On information and belief, Ms.
4 Sinatra is a highly sophisticated and knowledgeable attorney, and is one of the highest
5 paid general counsels in the United States. Toward the end of the meeting, Ms. Sinatra
6 stated that draft loan agreements would be provided to Aruze USA within 10 days to
7 support the agreement reached between Mr. Okada and Mr. Wynn. Neither Mr. Wynn nor
8 Ms. Sinatra said anything about internal or external limitations on loans to directors and
9 officers. For example, neither of them made any mention of Section 402 of the Sarbanes-
10 Oxley Act ("SOX") which, contrary to Japanese law that has no such prohibition, would
11 appear to bar any loan to Aruze USA by Wynn Resorts. On information and belief, at the
12 time of this meeting, Ms. Sinatra was intimately familiar with SOX and Section 402 of the
13 Act, having overseen the implementation of SOX compliance policies at Wynn Resorts
14 that specifically addressed prohibitions on loans to officers and directors.

15 85. At the conclusion of the meeting, and in reliance on the assurances by Mr.
16 Wynn and Ms. Sinatra that Wynn Resorts would make a loan to provide liquidity for
17 Aruze USA and that loan documents would be forthcoming, Mr. Okada signed a waiver
18 and consent granting Elaine Wynn the option to transfer her stock. Simultaneously, Mr.
19 Tanaka of Aruze USA made a handwritten note to memorialize the agreement that Wynn
20 Resorts would provide financing to Aruze USA.

21 86. Later that day, in response to Mr. Tanaka's note and after Mr. Okada had
22 signed the waiver and consent about Elaine Wynn's stock, Ms. Sinatra prepared a draft
23 "Side Letter" to replace the one prepared by Mr. Tanaka. The "Side Letter" prepared by
24 Ms. Sinatra stated that Wynn Resorts would negotiate a loan from Wynn Resorts to Aruze
25 USA secured by Aruze USA's stock "*to the extent compliant with all state and federal*
26 *laws*" (emphasis added). On information and belief, Ms. Sinatra inserted this language
27 because she knew Section 402 of SOX prohibited the loan proposed by Mr. Wynn and
28 agreed to by both Mr. Wynn and Mr. Okada.

1 87. At the time, Wynn Resorts had extensive SOX compliance policies. Yet,
2 Ms. Sinatra said nothing to Mr. Okada or Aruze USA concerning the loan prohibitions
3 under SOX, leading Mr. Okada and Aruze USA to believe that financing through Wynn
4 Resorts was not only possible, but would be forthcoming in the near future. Ms. Sinatra's
5 role in this transaction makes clear that she was not working on Wynn Resorts' behalf.
6 Rather, in breach of her duty to Wynn Resorts, she intentionally sought to deceive
7 Mr. Okada for the personal benefit of Mr. Wynn, who would benefit personally from
8 stringing along Aruze USA.

9 88. On June 9, 2011, Ms. Sinatra emailed Aruze USA's attorneys regarding the
10 "Side Letter," expressing "concern." For the first time, Ms. Sinatra specifically referred to
11 Section 402 of SOX. She provided no further explanation (although this confirmed that
12 she understood the issue). Ms. Sinatra urged Aruze USA to "obtain sophisticated US
13 securities lawyers to assist." Ms. Sinatra also disputed that Mr. Wynn had committed to
14 provide financing at the meeting, a statement that she knew to be false.

15 89. On June 20, 2011, Ms. Sinatra asked Aruze USA's counsel if Mr. Okada's
16 consent to Elaine Wynn's transfer of shares was conditioned on Aruze USA receiving the
17 loan. On July 13, 2011, Aruze USA's lawyer emailed Ms. Sinatra stating that
18 Aruze USA, through Mr. Okada, would allow the immediate transfer of Elaine Wynn's
19 shares because he understood that approval was needed urgently, but stated that the
20 consent was "based upon the mutual understanding between Mr. Okada and Mr. Wynn
21 that Mr. Wynn would pursue avenues for Mr. Okada to obtain financing." Ms. Sinatra
22 immediately sent an email back: "Thank you very much for this."

23 90. In the same email, Ms. Sinatra then explained that Wynn Resorts was
24 negotiating with Deutsche Bank on a margin loan transaction, with Wynn Resorts acting
25 as a "backstop." She did not dispute that Mr. Okada's consent to the amendment in the
26 Stockholders Agreement was based on Wynn Resorts agreement to continue to pursue
27 financing for a loan to Aruze USA (using Aruze USA's Wynn Resorts shares as
28 collateral). At no point in time did Ms. Sinatra call into question the Philippine project.

1 91. On or about September 23, 2011, Ms. Sinatra called Aruze USA. Ms.
2 Sinatra informed Aruze USA that Wynn Resorts' Compliance Committee would be
3 meeting the following week regarding the Philippines, which could impact whether Wynn
4 Resorts would allow the loan.

5 92. Wynn Resorts' Compliance Committee is not an independent committee of
6 the Board. Rather, it is made up of one Wynn Resorts director, former Nevada Governor
7 Bob Miller, and two Wynn Resorts insiders. On information and belief, each member of
8 Wynn Resorts' Compliance Committee depends on Mr. Wynn for his livelihood and each
9 is beholden to Mr. Wynn. On information and belief, Mr. Wynn has plenary control over
10 the Compliance Committee. On September 30, 2011, the Compliance Committee refused
11 to permit the loan to Aruze USA.

12 **G. The Chair of Universal's and Aruze Gaming America's Compliance**
13 **Committee Resigns**

14 93. Also, on or about September 27, 2011, Frank A. Schreck, who had been the
15 Chairman of the Universal Compliance Committee for years, abruptly resigned his
16 position. In addition to being the Chair of the Universal Compliance Committee, he was
17 (and, on information and belief, still is) a long-time lawyer for Mr. Wynn.

18 94. Richard Morgan, the new Chairman of the Universal Compliance
19 Committee, spoke with Mr. Schreck regarding his reasons for resignation. Mr. Schreck
20 told Mr. Morgan that he did not resign from the Committees because of any suitability
21 concerns about Mr. Okada. Mr. Morgan asked Mr. Schreck if he knew of any facts that
22 gave Mr. Schreck concerns about Mr. Okada's suitability; Mr. Schreck told Mr. Morgan
23 that he knew of no such facts.

24 95. Notably, Mr. Schreck's law firm thereafter appeared as litigation counsel for
25 Wynn Resorts on January 27, 2012, representing Wynn Resorts in the Nevada state court
26 in seeking to deny Mr. Okada his right as a director of Wynn Resorts to review Wynn
27 Resorts' records regarding the enormous donation it made to the University of Macau.

28

1 **III. STEVE WYNN DIRECTS WYNN RESORTS TO CONDUCT A**
2 **PRETEXTUAL INVESTIGATION FOR THE PURPOSE OF REDEEMING**
3 **ARUZE USA'S SHARES**

4 **A. Wynn Resorts Seeks Kazuo Okada's Resignation and Threatens**
5 **Redemption in an Attempt to Secure a Personal Benefit for Steve Wynn**

6 96. On September 30, 2011, Aruze USA's lawyers, Robert Faiss and Mark
7 Clayton of Lionel Sawyer & Collins law firm, met with Ms. Sinatra and Kevin Tourek of
8 Wynn Resorts. The conversation took a very unexpected turn.

9 97. First, Ms. Sinatra and Mr. Tourek said that Wynn Resorts' Compliance
10 Committee had commissioned two "investigations" and that the Compliance Committee
11 had produced an investigative "report." Ms. Sinatra and Mr. Tourek were concerned that
12 Universal had purchased land from a person in the Philippines who was now under
13 indictment for tax evasion. Neither Ms. Sinatra nor Mr. Tourek explained how Universal
14 or Mr. Okada could bear any responsibility for another man's alleged failure to pay his
15 taxes.

16 98. Second, Ms. Sinatra and Mr. Tourek said that Wynn Resorts has a "policy"
17 that officers and directors cannot pledge their Company stock. This was the first mention
18 of such a policy, despite extensive discussions of a loan secured by Aruze USA's stock.

19 99. Third, Ms. Sinatra and Mr. Tourek stated that, if there was a loan,
20 Mr. Okada would have to step down from the Board and then would have the right to
21 pledge or sell Aruze USA's shares subject to the voting agreement. Again, this was the
22 first mention of such a requirement.

23 100. Fourth, Ms. Sinatra and Mr. Tourek proposed to change the Stockholders
24 Agreement to allow Aruze USA to sell or pledge shares, but subject to a voting trust,
25 which would allow Mr. Wynn to vote the shares, and a right of first refusal for Mr. Wynn
26 to purchase the shares. This proposal was improper. Ms. Sinatra and Mr. Tourek were
27 again advocating for Mr. Wynn, not for Wynn Resorts. This was another breach of duty
28 by Ms. Sinatra to Wynn Resorts and to its largest shareholder, Aruze USA.

1 101. Fifth, Ms. Sinatra and Mr. Tourek stated that Mr. Okada has a fiduciary duty
2 to present to Wynn Resorts any proposed competitive opportunities. Further, they stated
3 that if Mr. Okada has a competing casino business, he should consider stepping down
4 from the Board. This was the first mention of any “competitive” concerns. Mr. Wynn and
5 Wynn Resorts (and, indeed, Ms. Sinatra and Mr. Tourek) had known about Universal’s
6 Philippine project for years. Universal had committed hundreds of millions of dollars to
7 pursuing the project. Wynn Resorts and Mr. Wynn had never objected to the Philippine
8 project.

9 102. Sixth, toward the end of the meeting, Ms. Sinatra gave Mr. Okada’s counsel
10 a copy of the Articles of Incorporation of Wynn Resorts, with certain provisions
11 highlighted in yellow. The highlighted portions included the redemption provision. That
12 was the first time that redemption was ever obliquely mentioned to Mr. Okada or his
13 counsel.

14 103. Ms. Sinatra then brought her threat into stark reality. She stated that the
15 Compliance Committee would meet on October 31, 2011 (in advance of a November 1
16 Board meeting). She told Mr. Okada that she hoped a “resolution” would be reached
17 before those meetings regarding Mr. Okada’s directorship and the voting rights of
18 Aruze USA’s stock, so as to avoid presenting this matter to the Compliance Committee
19 and the Board. Ms. Sinatra’s intent was clear – Wynn Resorts’ compliance procedures
20 were being used to extract a personal benefit for Mr. Wynn.

21 **B. Steve Wynn and Kim Sinatra Try to Intimidate and Threaten Mr.**
22 **Okada, While Hiding Supposed Evidence of Wrongdoing**

23 104. On an October 3, 2011 telephone call, Aruze USA’s counsel asked Ms.
24 Sinatra to provide Aruze USA with a copy of the Compliance Committee’s investigative
25 report regarding Mr. Okada. Ms. Sinatra replied that she would have to check to see if a
26 copy could be provided; in fact, she did not and has never provided a copy of the
27 investigative report to Aruze USA, Mr. Okada, or their counsel.

28 105. On October 4, 2011, Mr. Wynn and Ms. Sinatra met with Mr. Okada and his

1 counsel. At the meeting, Mr. Wynn stated that of Wynn Resorts' other directors had
2 already decided that Mr. Okada must be removed as Vice Chairman of the Company's
3 Board and as a director of both the Wynn Macau and Wynn Resorts Boards. It apparently
4 did not matter to Mr. Wynn and Ms. Sinatra that in Nevada *only stockholders can remove*
5 *directors*. Based on a false threat, Mr. Wynn demanded Mr. Okada's resignation as a
6 director.

7 106. Mr. Okada's counsel told Mr. Wynn that, in all his years, he had never
8 before experienced a situation where the subject of an investigative report had never been
9 formally questioned or even permitted to respond to the accusations being levied against
10 him. Mr. Okada's counsel once again requested a copy of the investigative report so that
11 he and Mr. Okada's other attorneys could ensure they were advising Mr. Okada properly
12 and that the Wynn Directors could make a decision based on accurate information. Over
13 the course of the remainder of the October 4 meeting, counsel for Mr. Okada asked at least
14 two additional times for a copy of the investigative report. Ms. Sinatra finally replied that
15 Mr. Okada and his counsel could not see a copy of the investigative report because it was
16 "privileged." On information and belief, Ms. Sinatra once again intentionally
17 misrepresented the law (Mr. Okada, as a director of the Company, has a right to see the
18 Company's books and records, including its communications with counsel), in breach of
19 her duties to Wynn Resorts.

20 107. During the October 4, 2011 meeting, Mr. Wynn stated that the purported
21 "grounds" upon which the other directors based their decision to move against Mr. Okada
22 were as follows:

- 23 • That the Philippines were so corrupt that no one could possibly do business
24 in that country without violating the FCPA;
- 25 • That "research" showed Mr. Okada owned land without a Philippines
26 partner, and that this violated Philippines law;
- 27 • That the other directors were "convinced" that Mr. Okada's use of his Wynn
28 Resorts business card in other countries had caused a belief that Wynn

- 1 Resorts was involved in the Philippine project and that the Company would
2 not be in this position had he instead used his Universal business card;
- 3 • That Mr. Okada had used the Wynn Resorts' building design and other trade
4 secrets without permission; and
 - 5 • That Mr. Okada had associated with persons who had later been indicted in
6 the Philippines on charges unrelated to the Philippine project.

7 108. Mr. Wynn's characterizations of the allegations are telling for several
8 reasons. First, many of these claims were not ultimately used as a basis to redeem
9 Aruze USA's stock. Rather, Wynn Resorts had an ever-changing list of supposed
10 transgressions it claimed against Mr. Okada, strongly suggesting that Mr. Wynn and
11 Wynn Resorts were seeking to find something – anything – to justify a predetermined
12 outcome. Second, many of these claims are demonstrably false – as one example, the
13 acquisition of the land in the Philippines was entirely compliant with Philippine law.

14 109. Mr. Wynn closed the meeting by telling Mr. Okada that if he had any
15 respect for Mr. Wynn and the other members of the Board, he would voluntarily step
16 down from his role as a director and Vice Chairman of Wynn Resorts. At this time, Mr.
17 Okada's counsel explained to Mr. Wynn that Mr. Okada should not be required to respond
18 to his demand for resignation until he had time to further consider it. Mr. Wynn agreed
19 and the meeting was adjourned.

20 110. Around this same time, the Chairman of Universal's Compliance Committee
21 also requested a copy of the investigative report through the Chairman of Wynn Resorts'
22 Compliance Committee. This request has been ignored.

23 **C. A Letter From Steve Wynn's Outside Lawyer Confirms that, While**
24 **Wynn Resorts Had Already Determined the Outcome, a Pretextual**
"Investigation" is Only Just Starting

25 111. On October 13, 2011, Robert L. Shapiro, Esq., an attorney retained by Wynn
26 Resorts, sent a letter to Aruze USA. Without any elaboration, the letter reiterated the
27 same mistaken – and soon to be abandoned – conclusions that Mr. Wynn outlined in the
28 October 4 meeting. Mr. Shapiro also explicitly stated that Universal's Manila Bay project

1 “raises questions” regarding “possible violations of the Foreign Corrupt Practices Act.”
2 The letter again demanded Mr. Okada’s resignation.

3 112. Curiously, Mr. Shapiro’s letter admitted that the Compliance Committee
4 was only then beginning the very investigation that Mr. Wynn and Ms. Sinatra claimed to
5 have already been concluded. They also claimed to have already generated a report. Yet
6 Mr. Shapiro wrote that “The Compliance Committee of Wynn Resorts must fully
7 investigate the foregoing acts and have retained Louis J. Freeh . . . to conduct an
8 independent investigation.” On information and belief, as of the date of Mr. Shapiro’s
9 letter, Mr. Freeh had not started his investigation.

10 **D. Wynn Resorts Refuses to Allow Mr. Okada and Aruze USA to Review**
11 **Any Supposed “Evidence”**

12 113. On October 24, 2011, Mr. Okada through his counsel made an initial
13 demand for documents regarding the Philippine investigation. Although he was plainly
14 entitled to such documents as a director under Nevada law, Wynn Resorts refused this and
15 numerous subsequent demands for documents. Wynn Resorts aimed to conduct a secret
16 investigation and never allow Mr. Okada or his counsel to scrutinize or respond to the
17 supposed “evidence” against him.

18 **E. The Board Summarily Removes Mr. Okada As Vice-Chairman**

19 114. At the Board’s November 1, 2011 meeting, Mr. Miller presented a report of
20 an alleged investigation by the Compliance Committee into Mr. Okada’s and Universal’s
21 activities in the Philippines. The report disclosed that the Compliance Committee had
22 allegedly conducted one internal and two “independent” investigations into allegations of
23 suitability, conflicts of interest, and possible breaches of fiduciary duties related to
24 acquisition of land for the Philippine project and charitable contributions made by
25 Universal. To date, the contents of these purported investigations have not been presented
26 to Mr. Okada.

27 115. Mr. Miller reported that the Compliance Committee (and not a committee
28 consisting of the independent directors) had retained Freeh Sporkin & Sullivan LLP

1 (“Freeh Sporkin”) as a special investigator to conduct an investigation into the allegations
2 against Mr. Okada. The Board – without debate, deliberation, or allowing Mr. Okada a
3 chance to respond – summarily eliminated Mr. Okada’s position as Vice-Chairman of
4 Board and ratified the decision to hire Freeh Sporkin.

5 **F. Kazuo Okada Seeks More Information Regarding Wynn Macau**

6 116. The vehemence of the actions by Mr. Wynn, Ms. Sinatra, Mr. Miller, and
7 the Board against Mr. Okada is highly suspicious. After all, Mr. Okada had raised
8 concerns about the donation to the University of Macau before Wynn Resorts had raised
9 any type of unsuitability allegations against Mr. Okada and before anyone associated with
10 Wynn Resorts even mentioned the word “redemption” to him. Mr. Okada made several
11 requests for access to Wynn Resorts’ books and records for information relating to the
12 donation made by Wynn Resorts to the University of Macau, all of which were denied
13 without a valid basis. In the state court of Nevada, Mr. Okada even filed a petition for a
14 writ of mandamus on January 11, 2012 to compel Wynn Resorts to grant him access to
15 Wynn Resorts’ books and records. *Okada v. Wynn Resorts, Ltd.*, case number A-12-
16 65422-B, Department XI (the “Inspection Action”). At a hearing on February 9, 2012, the
17 Court ordered Wynn Resorts to comply with Mr. Okada’s reasonable requests.

18 **G. Aruze USA Nominates Directors; But Steve Wynn Refuses to Endorse**
19 **Them Despite His Obligation to Do So**

20 117. To further address the concerns about Wynn Resorts management, on
21 January 18, 2012, pursuant to Section 2(a) of the Stockholders Agreement, Aruze USA
22 submitted a letter to the Nominating and Corporate Governance Committee of the
23 Company designating three individuals as candidates to be considered for nomination as
24 directors of the Company and included in the Company’s proxy statement relating to the
25 Company’s 2012 annual meeting of the stockholders or any stockholder meeting held for
26 the purpose of electing Class I directors. Despite numerous written requests to Mr. Wynn
27 to endorse the slate of directors nominated by Aruze USA, as required by the Stockholders
28 Agreement, Mr. Wynn refused to do so.

H. The Freeh Investigation Proceeds Without Seeking Any Input From Kazuo Okada

118. In early November 2011, counsel for Mr. Okada contacted Freeh Sporkin requesting further information regarding how its investigation would proceed and to request copies of documents, evidence, or reports related to the allegations against Mr. Okada. Mr. Okada requested the documents so that he could address the allegations made against him. Freeh Sporkin declined to provide any materials and instead directed counsel for Mr. Okada to make such requests of Mr. Shapiro. When such requests were made of Mr. Shapiro, they were rejected.

119. While Plaintiffs allege in their Complaint that Mr. Okada “long evaded” his interview (Complaint at 2), the record conclusively contradicts this contention. Freeh Sporkin did not contact Mr. Okada or his counsel about an interview until January 9, 2012, at which time it demanded (not requested) an interview of Mr. Okada during the week of January 30 (*i.e.*, January 30-February 5). On January 15, 2012, four days after Mr. Okada filed his Inspection Action, Freeh Sporkin informed Mr. Okada’s counsel that the “schedule has changed” and pressured Mr. Okada to agree to an interview *before* the week of January 30.

120. On January 19, 2012, Mr. Miller, Chair of Wynn Resorts’ Compliance Committee, wrote directly to Mr. Okada, threatening that if Mr. Okada failed to make himself available for interviews with Freeh Sporkin on January 30 or 31, the Compliance Committee “can only conclude that you have refused participation.” The letter stated that the Compliance Committee originally had a goal of receiving a report by the end of 2011, which was extended to January 15, 2012. In addition to this being the first time anyone shared the Compliance Committee’s purported deadlines with Mr. Okada, these dates are inconsistent with Freeh Sporkin making its initial request to conduct an interview of Mr. Okada that would take place in the first week of February. It proved not to be the first time Mr. Miller was “confused” about the “investigation” that was supposedly operating under his direction.

1 121. Mr. Okada had only recently hired new counsel to assist with the response to
2 the Freeh Sporkin investigation. In order to prepare for the interview, the new counsel
3 requested that the parties seek a mutually convenient date for an interview by February 15,
4 2012. Freeh Sporkin then agreed to schedule the interview on February 15. This
5 undeniable record demolishes any claim that Mr. Okada avoided an interview with Freeh
6 Sporkin, let alone that he “long evaded” an interview.

7 **I. Freeh Sporkin Refuses to Provide Meaningful Information Regarding**
8 **the Investigation to Kazuo Okada**

9 122. While attempting to set a date to schedule the Freeh Sporkin interview,
10 Mr. Okada’s counsel requested that Freeh Sporkin identify the specific matters under
11 review so that Mr. Okada could prepare appropriately for his interview. After all,
12 Mr. Okada is the Chairman of a publicly traded corporation – and cannot be expected to
13 know every operational detail in his organizations. In addition, translations between
14 Japanese and English are notoriously difficult because of subtleties in language.
15 Mr. Okada’s counsel repeatedly requested documents that Freeh Sporkin might use in the
16 interview and topics so Mr. Okada could prepare for the interview and be ready to provide
17 information and documents that could help Freeh Sporkin (and the Board) understand the
18 facts concerning whatever topics and issues it wanted to discuss with Mr. Okada.

19 123. Freeh Sporkin refused to provide anything more than a statement that it was
20 investigating “all matters related to Mr. Okada’s, Universal’s, and Aruze’s activities in the
21 Philippines and Korea.” This was the first time that Korea was even mentioned as the
22 subject of any investigation by the Company. Again – the basis of Aruze USA’s supposed
23 “unsuitability” kept changing.

24 124. Instead of sharing the topics of the interview with Mr. Okada, Mr. Freeh
25 chose to conduct the interview as an ambush, not unlike the hostile interrogation of a
26 suspected criminal, rather than a respectful and cooperative interview seeking information
27 from a director of Wynn Resorts. If he was afforded the opportunity to do so, Mr. Okada
28 could have helped Mr. Freeh and Freeh Sporkin avoid the public embarrassment of a

1 report that is riddled with factual and legal errors.

2 **J. Kazuo Okada Voluntarily Sits For A Full-Day Interview With Freeh**
3 **Sporkin**

4 125. On February 15, 2012, Mr. Okada sat for a full-day interview with
5 Mr. Freeh and other lawyers for Freeh Sporkin.

6 126. The questions focused mainly on expenses that Mr. Freeh claimed had been
7 paid by Universal for lodging and meals at Wynn Resorts properties on behalf of persons
8 Mr. Freeh identified as foreign officials. This was a subject that had never been
9 mentioned in the months before when Ms. Sinatra asserted that an investigation had
10 already been conducted by the Company, or when Mr. Wynn or Mr. Shapiro, in a
11 subsequent letter, listed the supposed bases for the directors taking action to eliminate Mr.
12 Okada's position as Vice Chairman. Other than allegations regarding such purported
13 expenses, Mr. Freeh also asked questions about Universal's compliance with Philippine
14 landownership requirements, which had been handled for Universal by one of the
15 Philippines' leading law firms.

16 127. The interview went well into the evening, hours past the time originally
17 estimated by Mr. Freeh. At the end of the interview, Mr. Okada stated that he would look
18 into the matters raised during the interview, and that he would be willing to report back
19 with detailed information once it could be assembled.

20 **K. Wynn Resorts Allows No Opportunity for A Reasonable Response**

21 128. At a press conference following the redemption of Aruze USA's stock,
22 Mr. Miller made a number of statements that will prove to be false. One stood out in
23 particular. Mr. Miller said:

24 Following the interview, [Mr. Freeh] informed Mr. Okada that
25 he would be finalizing the report on Friday, February 17, and
26 offered [Mr. Okada] an opportunity to present any exculpatory
27 evidence prior to that time frame. [Mr. Freeh] determined that
no additional exculpatory evidence was presented, and thus a
final report was presented.

28 129. Similarly, the Wynn Resorts Complaint states that "Freeh announced that he

1 would report his findings to the Board of Directors on February 18, 2012.” (Compl. at ¶
2 43.)

3 130. Neither statement is true. Mr. Freeh said nothing regarding the date of the
4 completion of his report at the interview, and, in fact, said at the February 15, 2012
5 interview of Mr. Okada that his investigation was not complete and that his report was not
6 complete.

7 131. On February 16, 2012, Mr. Okada’s counsel emailed Mr. Freeh stating:

8 Louis:

9 I hope you had a good trip back to the US. Following your
10 interview of Mr. Okada, we understand that you will be
11 drafting a report for submission to the Wynn Resorts
12 Compliance Committee. I am writing to request an
13 opportunity for Mr. Okada and Universal Entertainment to
14 submit additional material for your consideration, prior to the
15 submission of your report. Please let me know as soon as you
16 are able if you will allow us to do.

13 132. In response, on February 17, 2012, Mr. Freeh offered two options to Mr.
14 Okada’s counsel:

15 Joel Friedman called you about 900a today (PT) and left a
16 message for you to call a well as an email.

17 I can suggest two possibilities in response to your letter:

18 First, that you provide me as soon as possible, and no later
19 than 600p PacT today, with a proffer of what Mr Okada and
20 Universal wish to submit for additional consideration. Your
21 very able firm has represented Mr. Okada now for several
22 weeks and you know the principal areas of our investigation
23 based on Wednesday’s interview. So I would expect you can
24 make such a proffer.

22 *Secondly, Mr Okada will have the opportunity to respond to
23 my report after he receives a copy, along with the other Wynn
24 Resorts' directors. I will certainly consider and evaluate
25 whatever information may be provided.*

24 ...

25 I also note that Mr. Okada’s litigation against Wynn Resorts
26 has now predicated an SEC inquiry and no doubt drawn the
27 proper attention of other regulatory agencies. Consequently,
28 the Compliance Committee has given me instructions to
conclude my report with all deliberate speed.

...

1 Anyway, I have a great deal of respect for you and believe the
2 above alternatives allow for a fair resolution at this stage.

3 Best regards,

4 Louie

5 (emphasis added.)

6 133. Given the timing, Mr. Okada elected to respond to the Freeh Sporkin report
7 once he was able to see it, responding through his counsel:

8 Louis:

9 Thanks for your response. I am still traveling in Asia, and did
10 not have a chance to review Joel's message or contact him. I
11 appreciate your willingness to review any supplemental
12 information that we provide and to consider it in your
13 findings. *Under the circumstances, and in particular the tight*
14 *time framework, I think it makes the most sense for Mr.*
15 *Okada, UE, Aruze USA, and our Firm to review your report*
16 *and to use it to focus our efforts in providing you additional*
17 *information.* So, we accept the second of the two proposals in
18 your letter, and would expect that the opportunity to respond
19 will include an opportunity for our law firm to work with Mr.
20 Okada, UE, and Aruze USA in order to be able to respond in a
21 complete and helpful fashion. Thanks very much.

22 (emphasis added.)

23 134. Mr. Freeh responded "Thanks Tom and safe travels."

24 135. Curiously, about an hour and half later (now late in the day on Friday,
25 February 17), Mr. Freeh sent a second response, stating:

26 Just to confirm, I will now deliver my report to the
27 Compliance Committee having completed my investigation
28 regarding the matters under inquiry. It is my understanding
29 that the Compliance Committee will thereafter provide all of
30 the Directors, including Mr. Okada, with a copy of the report.
31 As we both stated, Mr. Okada can then submit any responses
32 to the report which will be considered and evaluated.
33 However, the report I am submitting is not a 'draft' subject to
34 being finalized after Mr. Okada provides any response. Rather
35 this is akin to a final brief being submitted with the
36 opportunity for a response to be made.

1 Please let me know if you have any questions.

2 Best regards

3 Louie

4 136. Perhaps unbeknownst to Mr. Freeh, this statement would prove to be
5 misleading. As it turned out, Wynn Resorts would refuse to give Mr. Okada a copy of the
6 Freeh Sporkin report and then purported to redeem Aruze USA's stock (at a nearly \$1
7 billion discount) *on the day the other Wynn Directors received the report*, without giving
8 Mr. Okada any reasonable opportunity to respond.

9 137. In addition, Mr. Freeh's statement that he was preparing a "final brief" is
10 very telling about how Mr. Freeh viewed his role in the process. Mr. Freeh was not
11 preparing an objective report of the facts by an "independent" investigator – he was
12 providing the Board with an argumentative document as an *advocate* against Mr. Okada.
13 But even so, Mr. Freeh clearly contemplated that Mr. Okada would and should have the
14 opportunity for a response. Nevertheless, spurred on by Mr. Wynn, the Board ignored Mr.
15 Freeh's promise of an opportunity to respond to the report (and the express statements in
16 Mr. Freeh's report that further investigation would be needed on certain topics), and
17 instead acted rashly to redeem Aruze USA's stock on an incomplete factual record and a
18 faulty understanding of governing legal principles (including, for example, the application
19 of the FCPA to the facts, as well as Wynn Resorts' (lack of) contractual rights to attempt
20 to redeem Aruze USA's stock).

21 **L. Steve Wynn Hurriedly Schedules Board of Directors Meeting**

22 138. On February 15, 2012, scant hours after the completion of Mr. Freeh's
23 interview of Mr. Okada, Wynn Resorts noticed a special meeting of its Board. The
24 meeting was set for Saturday, February 18, 2012, at 9:00 a.m. in Las Vegas – which is
25 2:00 a.m. Sunday morning in Japan. Although the notice for the Board meeting went out
26 immediately following the conclusion of the interview of Mr. Okada, and was scheduled
27 to occur a mere three days after the interview, Mr. Wynn and Ms. Sinatra included on the
28 agenda a review of the Freeh Sporkin report.

1 **M. Steve Wynn Tries to Use the Threat of Redemption to Buy Aruze USA's**
2 **Stock at a Substantial Discount**

3 139. Following the interview, Mr. Wynn communicated to Aruze USA through
4 intermediaries that, instead of having the Board consider the Freeh Sporkin report, Mr.
5 Wynn would be willing to buy Aruze USA's stock for his benefit at a significant discount.
6 A sale to Mr. Wynn was presented as an alternative to the embarrassment and regulatory
7 issues attendant to possible disclosure of the Freeh Sporkin report.

8 **IV. WYNN RESORTS' UNFOUNDED AND UNPRECEDENTED**
9 **REDEMPTION OF MORE THAN \$2.7 BILLION OF ARUZE USA'S**
10 **SHARES**

11 **A. The Board Hurriedly Meets and Rushes to Redeem Aruze USA's Stock**

12 140. On February 17, 2012, Mr. Okada's counsel contacted Wynn Resorts'
13 representatives to express Mr. Okada's concerns with the substantive and procedural
14 process for the Company's investigation, and stated that any discussion of unsuitability or
15 redemption, including any discussion involving the Freeh Sporkin report at the
16 February 18 Board meeting, would be premature.

17 141. Rather than addressing the substantive and procedural issues raised by
18 Mr. Okada and his counsel, Wynn Resorts responded briefly, informing Mr. Okada's
19 counsel that additional accommodations would not be made to facilitate translation to
20 enable Mr. Okada's participation by teleconference. The Company also informed Mr.
21 Okada's counsel that, despite the seriousness of the accusations against him, Mr. Okada
22 was not permitted to have counsel present for the Board call.

23 142. When it came time for the meeting, at 2:00 a.m. on Sunday morning, Mr.
24 Okada sat ready to participate by telephone. Mr. Wynn yelled at Mr. Okada's counsel
25 when he introduced himself. Mr. Wynn also said that Mr. Okada's counsel could not be
26 present to advise Mr. Okada even though counsel made clear that he would not address the
27 meeting. (At the threat of having Mr. Okada's telephone connection to the meeting
28 severed, Mr. Okada's counsel had to sit outside the room while the meeting went on,

1 despite Wynn Resorts having a battery of lawyers from multiple law firms present on its
2 end of the line.) Mr. Wynn and a company lawyer informed Mr. Okada that – despite
3 prior assurances that Mr. Okada would receive a copy of the Freeh Sporkin report along
4 with the other directors – he would not receive a copy of the report unless both he and his
5 legal counsel signed a nondisclosure agreement. The nondisclosure agreement would
6 have arguably precluded Mr. Okada from using the report in legal proceedings. Mr.
7 Okada did not sign the nondisclosure agreement.

8 143. As alleged in detail below, a few hours after demanding that Mr. Okada sign
9 the nondisclosure agreement claiming confidentiality, Wynn Resorts would leak a copy of
10 the Freeh Sporkin report to the *Wall Street Journal* and would itself attach a copy to its
11 Complaint in this action.

12 144. There were numerous translation problems during the Board meeting. Mr.
13 Wynn provided a translator who was woefully unable to perform an accurate simultaneous
14 translation. Mr. Okada requested that the translation be provided sequentially (with each
15 speaker and the translator speaking in turn) rather than simultaneously (with the translator
16 speaking at the same time as the speaker at the meeting), but this request was denied. As a
17 result, Mr. Okada could not follow or participate in the proceedings.

18 145. In this way, Mr. Okada sat and listened while Mr. Freeh made a presentation
19 in English that Mr. Okada could not understand. After Mr. Freeh completed his
20 presentation, the Board asked if Mr. Okada had any questions. Mr. Okada stated that he
21 could not understand the presentation, and that he would be able to address the claims of
22 the report only after receiving a copy and discussing with counsel. Mr. Okada also asked
23 the Board to delay making any resolutions until he could respond to the Freeh Sporkin
24 report.

25 146. At some point, someone at Wynn Resorts hung up the telephone, cutting Mr.
26 Okada off from the meeting. Mr. Okada waited to be reconnected, staying up until the sun
27 rose in Asia, all the while not knowing whether the Board had resolved anything following
28 the presentation by Mr. Freeh. Ms. Sinatra later claimed that cutting off the telephone

1 connection to Mr. Okada was a “misunderstanding.” No other contact was made with Mr.
2 Okada.

3 147. At 4:45 am ET on February 19, 2012, Aruze USA’s counsel received
4 correspondence, containing a notice of determination of unsuitability and a purported
5 redemption notice. In the redemption notice, the Company stated that it would redeem
6 Aruze USA’s stock for a note of approximately \$1.936 billion, a discount of exactly 30%
7 off the value measured by the stock market’s valuation of the stock based on the prior
8 day’s closing price.

9 148. Although Wynn Resorts had claimed the Freeh Sporkin report was
10 confidential and tried to extract a signature from both Mr. Okada and his legal counsel in
11 order to see the report prior to redemption, a copy of the report was leaked to the *Wall*
12 *Street Journal* in the early morning Eastern Time of February 19, 2012. Almost
13 immediately, reports appeared on the *Wall Street Journal* website regarding the contents
14 of the report.

15 149. In addition, at 2:14 a.m. PT on February 19, 2012, Wynn Resorts
16 electronically filed a complaint attaching the supposedly confidential Freeh Sporkin report
17 (without exhibits).

18 150. Despite repeated requests to Ms. Sinatra and Mr. Shapiro, Mr. Okada’s
19 counsel only obtained a copy of the “confidential” report when it sent a messenger to court
20 on February 21, 2012, the first court day following the weekend Board meeting. Wynn
21 Resorts continues to refuse to provide the Freeh Sporkin report’s exhibits to Mr. Okada or
22 Aruze USA.

23 **B. Aruze USA Disputes That Redemption Has Occurred**

24 151. In public statements, representatives of Wynn Resorts have claimed
25 redemption is complete and that the securities formerly held by Aruze USA have been
26 cancelled. Aruze USA disputes that this has happened. Among other reasons, as
27 explained elsewhere in this Counterclaim, the purported redemption is void *ab initio*.

28

1 **C. The Board Redeems on False Premises**

2 152. Even if Aruze USA were bound by the Redemption Provision (which Aruze
3 USA disputes), the Articles of Incorporation only purport to allow redemption in three
4 situations.

5 153. First, according to the Articles of Incorporation, Wynn can redeem when it
6 “is determined by a Gaming Authority to be unsuitable to Own or Control any Securities
7 or unsuitable to be connected or affiliated with a Person engaged in Gaming Activities in a
8 Gaming Jurisdiction.” This has not occurred. In fact, Aruze USA has been found to be
9 “suitable” by the Nevada gaming authorities.

10 154. Second, according to the Articles of Incorporation, Wynn can redeem when
11 a person “causes the Corporation or any Affiliated Company to lose or to be threatened
12 with the loss of any Gaming License.” This has not occurred.

13 155. Third, Wynn Resorts’ Articles of Incorporation profess that the Company
14 can redeem where a person “in the sole discretion of the board of directors of the
15 Corporation, is deemed likely to jeopardize the Corporation’s or any Affiliated
16 Company’s [a] application for, [b] receipt of approval for, [c] right to the use of, or [d]
17 entitlement to, any Gaming License.” Subsections [a] and [b] do not apply because, on
18 information and belief, Wynn Resorts has no present plan to apply for a license and is not
19 awaiting approval of any pending application. So, even under the standards of the Articles
20 of Incorporation, Wynn Resorts could only seek redemption upon a showing that Aruze
21 USA’s stock ownership is “likely to jeopardize” Wynn Resorts’ “right to the use of, or
22 entitlement to” its existing gaming licenses.

23 156. No such showing was made in the rushed Freeh Sporkin report. In fact, in
24 the gaming industry, any impact on the right to use or entitlement to a gaming license
25 requires action by the cognizant gaming authority. No gaming authority has found
26 Aruze USA, Universal, or Mr. Okada to be “unsuitable.” Furthermore, association with
27 an “unsuitable” person would only conceivably create a problem for a gaming license *after*
28 that person has been found to by a gaming authority to be unsuitable. Even then, such

1 concerns can be addressed via a voting trust or orderly sale of shares. If Wynn Resorts'
2 true aim was to disassociate itself from Aruze USA in order to protect its interests, it failed
3 miserably. Even if the redemption were effective, Aruze USA would now be Wynn
4 Resorts' largest holder of debt – a circumstance which would be impermissible under
5 Nevada law if Aruze USA were truly "unsuitable." Under the circumstances, it is obvious
6 that the supposed redemption of Aruze USA's shares was simply a pretext to seek to quiet
7 a potential dissident shareholder and director, increase the relative ownership interests of
8 the Board members by virtue of their shareholdings in Wynn Resorts, and to enhance and
9 maintain Mr. Wynn's personal control over Wynn Resorts.

10 **D. Even if Aruze USA Was Subject to the Redemption Provision (Which it**
11 **is Not), the Unilateral Blanket 30% Discount that Wynn Resorts**
12 **Applied to the Stock is Erroneous**

13 157. According to a press release dated February 19, 2012, Wynn Resorts issued
14 a note in the amount of \$1.936 billion to Aruze USA. This amount is exactly 30% less
15 than the market value of Aruze USA's stock as measured by the closing price of Wynn
16 Resorts' stock on the Friday prior to the Saturday Board meeting. According to its press
17 release, Wynn Resorts arrived at this value because "it engaged an independent financial
18 advisor to assist in the fair value calculation and concluded that a discount to the current
19 trading price was appropriate because of restrictions on most of the shares which are
20 subject to the terms of an existing stockholder agreement." The irony here is rich, because
21 the Stockholders Agreement, by its terms, either precludes the redemption of Aruze
22 USA's stock altogether or, alternately, the transfer restrictions are not binding on Aruze
23 USA to the extent that they constitute an illegal restraint on alienability, and thus could
24 not legitimately impact the value of Aruze USA's shares so as to support a discount
25 against the market price.

26 158. Nevertheless, hoping to unilaterally decide on a "clearance" price for
27 Aruze USA's almost 20% shareholder interest in the Company, Wynn Resorts relied
28 solely on one opinion from Moelis & Company ("Moelis"), *which has done business with*
Wynn Resorts in the past.

1 159. Mr. Wynn and Kenneth Moelis ("Mr. Moelis") – the founder of Moelis – go
 2 way back. Mr. Moelis first worked with Mr. Wynn when Mr. Moelis worked at the
 3 investment banking firm of Drexel Burnham Lambert ("Drexel"). At Drexel, Mr. Moelis
 4 was the banker who helped Mr. Wynn finance his Golden Nugget Casino in Atlantic City
 5 and Mirage Casino in Las Vegas. On information and belief, Mr. Wynn has a close
 6 personal and professional relationship with Mr. Moelis. According to press reports, Mr.
 7 Moelis has stated that he would take the first flight out of LAX to rush to the assistance of
 8 Mr. Wynn. Mr. Wynn reciprocates Mr. Moelis' loyalty and support. Mr. Wynn engaged
 9 Mr. Moelis to serve as the lead underwriter of Wynn Resorts' \$210 million common stock
 10 offering in March 2009.

11 160. Mr. Wynn called on Mr. Moelis' loyalty in this case. Despite the fact that at
 12 least some of the stock was exempted from the Stockholders Agreement, Moelis
 13 discounted Aruze USA's more than \$2.7 billion shares of Wynn Resorts stock by a round
 14 30%.

15 **E. The Timing of the Redemption Suggests Wynn Resorts Traded on**
 16 **Inside Information**

17 161. On March 2, 2012, Wynn Resorts released two Form 8-Ks.

18 162. The first Form 8-K purported to disclose positive news regarding Wynn
 19 Resorts' efforts in Macau to receive certain land concessions related to Cotai:

20 As previously disclosed . . . Wynn Macau, Limited ("WML"),
 21 an indirect subsidiary of the Registrant with ordinary shares of
 22 its common stock listed on The Stock Exchange of Hong
 23 Kong Limited, announced that Palo Real Estate Company
 24 Limited ("Palo") and Wynn Resorts (Macau) S.A. ("Wynn
 25 Macau"), each an indirect subsidiary of the Registrant,
 26 formally accepted the terms and conditions of a land
 27 concession contract (the "Land Concession Contract") from
 28 the government (the "Macau Government") of the Macau
 Special Administrative Region of the People's Republic of
 China ("Macau") in respect of approximately 51 acres of land
 in the Cotai area of Macau (the "Cotai Land"). The Land
 Concession Contract permits Palo and Wynn Macau to
 develop a resort containing a five-star hotel, gaming areas,
 retail, entertainment, food and beverage, spa and convention
 offerings on the Cotai Land.

1 The Land Concession Contract was published in the official
2 gazette of Macau (the "Gazette") on January [•] 2012.
3 Effective from such publication date, Palo will lease the Cotai
4 Land from the Macau Government for an initial term of 25
5 years with the right to renew the Land Concession Contract
6 for additional successive periods, subject to applicable
7 legislation. The Land Concession Contract also requires that
8 Wynn Macau, as a gaming concessionaire, operate and
9 manage gaming operations on the Cotai Land. In addition, as
10 previously disclosed in the Registrant's filings with the
11 Commission, on August 1, 2008, Palo and certain affiliates of
12 the Registrant entered into an agreement (the "Agreement")
13 with an unrelated third party to make a one-time payment in
14 the amount of US \$50 million in consideration of the latter's
15 relinquishment of certain rights in and to any future
16 development on the Cotai Land. The Agreement provides that
17 such payment be made within 15 days after the publication of
18 the Land Concession Contract in the Gazette.

19 The foregoing description of the Land Concession Contract is
20 qualified in its entirety by reference to the full English
21 translation of the Land Concession Contract (originally
22 published in the Gazette in traditional Chinese and
23 Portuguese), which is filed as Exhibit 10.1 hereto and
24 incorporated herein by reference. Dollar amounts in the Land
25 Concession Contract refer to Macau Patacas.

26 163. If true, such a land concession would be a significant positive development
27 for Wynn Resorts. In fact, Wynn Resorts' stock immediately spiked 6% on this news.
28 Shortly, thereafter, Wynn Resorts issued a corrective Form 8-K:

On March 2, 2012, a Current Report regarding the gazetting of
the Cotai Land Concession Contract on Form 8-K (the "Land
Concession 8-K") was filed by mistake by the Company's
agent. The filing was not authorized by the Company. The
Cotai Land Concession Contract has not been gazetted. The
purpose of this filing is to retract the Land Concession 8-K in
its entirety.

164. Wynn Resorts blamed a clerical error at its outside law firm for the
accidental filing of the detailed Form 8-K. To the extent any positive developments in
Macau (or elsewhere in Wynn Resorts operational sphere) was imminent and known, and
to the extent redemption happened, Wynn Resorts and its directors traded on inside
information when it allegedly purchased Aruze USA's stock.

CLAIMS FOR RELIEF

COUNT I

Declaratory Relief

(By Aruze USA and Universal Against Wynn Resorts and the Wynn Directors)

165. Aruze USA and Universal reassert and reallege Paragraphs 4 through 164 above as if set forth in full below.

166. Aruze USA and Universal seek a judicial declaration that the purported redemption of Aruze USA's shares is void *ab initio*, and that Aruze USA is the owner of 24,549,222 shares or 19.66% of the total outstanding common stock of Wynn Resorts, with all rights and privileges appurtenant thereto (including, but not limited to, payment of dividends and voting rights). This declaration is appropriate because, as alleged above: (1) the redemption provision in the Articles of Incorporation is inapplicable to the Wynn Resorts stock owned by Aruze USA because Aruze USA entered into the Contribution Agreement, which prevented any further restrictions without agreement of the parties, before the enactment of the redemption provision, and Wynn Directors' acts were *ultra vires*; (2) the redemption provision in the Articles of Incorporation is inconsistent with Nevada law and public policy, and thus void; (3) the Stockholders Agreement bars redemption of the Wynn Resorts stock owned by Aruze USA; (4) the Board lacked a sufficient basis for a finding of "unsuitability" or for redemption; and/or, (5) the redemption provision as written and as applied is unconscionable.

167. In addition or alternatively, Aruze USA and Universal seek a judicial declaration that the redemption provision in Wynn Resorts' Articles of Incorporation is invalid as a matter of law because it is impermissibly vague, contrary to law and public policy, and/or unconscionable. This declaration is appropriate because, among other things, Nevada gaming regulators are given the authority under the laws of Nevada to make determinations regarding "suitability." The redemption provision in Wynn Resorts' Articles of Incorporation purportedly relied on here by the Wynn Directors improperly

1 and illegally usurps that authority. Furthermore, if and when Nevada gaming regulators
2 were to make such a determination, redemption that simply replaces equity with debt is
3 ineffective to effect a disassociation; it, therefore, would not comply with Nevada law.

4 168. In addition or alternatively, Aruze USA and Universal seek a judicial
5 declaration that the Board resolution finding Aruze USA, Universal, and Mr. Okada
6 “unsuitable” was procedurally and/or substantively defective and contrary to the Articles
7 of Incorporation and/or Nevada law. As alleged in detail above, this declaration is
8 appropriate because the Wynn Directors’ finding that there was a likely jeopardy to Wynn
9 Resorts’ gaming licenses lacked a sound foundation and was made without a thorough and
10 complete review of relevant law, facts, and evidence.

11 169. In addition or alternatively, Aruze USA and Universal seek a judicial
12 declaration that the Board resolution to redeem Aruze USA’s shares was procedurally
13 and/or substantively defective, and contrary to law and public policy. As alleged in detail
14 above, this declaration is appropriate because (1) the Stockholders Agreement bars
15 redemption of the Wynn Resorts stock owned by Aruze USA; (2) the redemption
16 provision in the Articles of Incorporation is inapplicable to the Wynn Resorts stock owned
17 by Aruze USA because Aruze USA entered into the Contribution Agreement, which
18 prevented any further restrictions without agreement of the parties, before the enactment
19 of the redemption provision, and Wynn Directors’ acts were *ultra vires*; (3) the Board
20 lacked a sufficient basis for a finding of “unsuitability” or redemption and made its
21 findings without a thorough and complete review of relevant law, facts, and evidence; (4)
22 the redemption provision in the Articles of Incorporation is inconsistent with Nevada law
23 and public policy, and thus void; and, (5) the redemption provision, as written and as
24 applied, is unconscionable.

25 170. Alternatively, to the extent that redemption is not otherwise barred, Aruze
26 USA and Universal seek a judicial declaration that the form and amount of compensation
27 paid for Aruze USA’s shares was improper and/or inadequate and that Aruze USA is
28 entitled to cash in an amount equivalent to at least the closing price of the stock on

1 February 17, 2012. As alleged in detail above, this declaration is appropriate because
2 simply converting Wynn Resorts' largest shareholder to Wynn Resorts' largest creditor
3 serves no valid legal purpose. Furthermore, the valuation by Moelis was not objective,
4 independent, or the product of sound financial analysis, and, among other things, did not
5 consider material non-public information available to Wynn Resorts that would militate in
6 favor of a higher valuation, did not account for the premium that would be applied to such
7 a large block of shares, and did not consider the extent to which transfer restrictions were
8 not valid as to Aruze USA.

9 171. Aruze USA and Universal bring this claim within the relevant statute of
10 limitations under Nevada law, having discovered facts giving rise to this claim, including
11 injury arising from the purported redemption of Aruze USA's shares of Wynn Resorts'
12 stock, on or about February 18, 2012. Despite having exercised reasonable diligence,
13 Aruze USA and Universal did not and could not reasonably have discovered earlier the
14 facts giving rise to this claim.

15 172. An actual justifiable controversy has now arisen between the parties whose
16 interests are adverse, and the dispute is ripe for adjudication. Wynn Resorts acted
17 unlawfully when it purported to "redeem" Aruze USA's equity interest in Wynn Resorts.

18 173. It has been necessary for Aruze USA and Universal to retain the services of
19 attorneys to prosecute this action, and Aruze USA and Universal are entitled to an award
20 of the reasonable value of said services performed and to be performed in a sum to be
21 determined.

22 COUNT II

23 **Permanent Prohibitory Injunction**

24 **(By Aruze USA Against Wynn Resorts and the Wynn Directors)**

25 174. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set
26 forth in full below.

27 175. Aruze USA seeks a permanent injunction enjoining and restraining Wynn
28

1 Resorts and the Wynn Directors, their agents, servants, employees, attorneys, and all those
2 acting in concert or in active participation with Wynn Resorts, from enforcing a
3 redemption notice upon Aruze USA, and from engaging in any efforts to redeem Aruze
4 USA's equity holdings in Wynn Resorts, including but not limited to making any demands
5 that Aruze USA surrender its Wynn Resorts stock, instructing any transfer agent for Wynn
6 Resorts stock to effect any transfer or cancellation of Aruze USA's Wynn Resorts stock,
7 and/or making any other changes to Wynn Resorts' stock ledger regarding Aruze USA's
8 stock.

9 176. For the reasons alleged above, the purported redemption is invalid as a
10 matter of law and violated applicable contracts, and/or depends on provisions of contracts
11 that are unenforceable as a matter of law. Even if there were a potentially valid legal
12 mechanism to redeem Aruze USA's stock, which there is not, redemption would be
13 inappropriate in this case because the Board lacked sufficient basis to find Aruze USA or
14 any of its affiliates or employees "unsuitable."

15 177. Harm will result if relief is not granted because Aruze USA's interest in
16 Wynn Resorts is not fungible and Aruze USA's status as the largest shareholder in Wynn
17 Resorts cannot be fully remedied through damages.

18 178. Injunctive relief poses no appreciable risk of undue prejudice to Wynn
19 Resorts and the Wynn Directors.

20 179. Aruze USA brings this claim within the relevant statute of limitations under
21 Nevada law, having discovered facts giving rise to this claim, including injury arising
22 from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or
23 about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did
24 not and could not reasonably have discovered earlier the facts giving rise to this claim.

25 180. It has been necessary for Aruze USA to retain the services of attorneys to
26 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
27 said services performed and to be performed in a sum to be determined.
28

COUNT III

Permanent Mandatory Injunction

(By Aruze USA Against Wynn Resorts and the Wynn Directors)

181. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

182. To the extent it might be determined that Wynn Resorts' purported redemption has already occurred, Aruze USA seeks a permanent mandatory injunction directing Wynn Resorts and the Wynn Directors, their agents, servants, employees, attorneys, and all those acting in concert or in active participation with Wynn Resorts, to restore Aruze USA's ownership interest in Wynn Resorts. The injunction sought should restore both Aruze USA's ownership interest, as well as the value of Aruze USA's stock, and all dividends and other rights and privileges accruing to the shares.

183. For the reasons alleged above, the purported redemption was contrary to law and violated applicable contracts, and/or depends on provisions of contracts that are unenforceable as a matter of law. Even if there were a potentially valid legal mechanism to redeem Aruze USA's stock, redemption would be inappropriate in this case because the Board lacked sufficient basis to find Aruze USA or any of its affiliates or employees unsuitable.

184. Harm will result if relief is not granted because Aruze USA's interest in Wynn Resorts is not fungible and Aruze USA's status as the largest shareholder in Wynn Resorts cannot be fully remedied through damages.

185. Injunctive relief poses no appreciable risk of undue prejudice to Wynn Resorts and the Wynn Directors.

186. To the extent that Aruze USA cannot be restored to its status and/or its full rights as a Wynn Resorts shareholder, and to the extent further compensation is warranted or punitive or exemplary damages are warranted, Aruze USA seeks damages from Wynn Resorts in an amount to make Aruze USA whole, as alleged in multiple damages counts below.

187. Aruze USA brings this claim within the relevant statute of limitations under Nevada law, having discovered facts giving rise to this claim, including injury arising from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did not and could not reasonably have discovered earlier the facts giving rise to this claim.

188. It has been necessary for Aruze USA to retain the services of attorneys to prosecute this action, and Aruze USA is entitled to an award of the reasonable value of said services performed and to be performed in a sum to be determined.

COUNT IV

**Breach of Contract in Connection with Wynn Resorts' Involuntary Redemption
(By Aruze USA Against Wynn Resorts)**

189. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

190. The Contribution Agreement, the Stockholders Agreement, and the Articles of Incorporation form a contractual relationship and understanding (the “Agreement”) between Aruze USA, Wynn Resorts, Mr. Wynn, and Elaine Wynn.

191. The Agreement between Aruze USA, Wynn Resorts, Mr. Wynn, and Elaine Wynn does not permit Wynn Resorts to redeem Aruze USA's shares of Wynn Resorts stock.

192. Aruze USA's purchase of Wynn Resorts' shares under the Contribution Agreement did not impose any condition of redemption on Aruze USA, and therefore Wynn Resorts had no right to redeem Aruze USA's shares under the Agreement.

193. Moreover, if the Stockholders Agreement is enforceable, Wynn Resorts' involuntary redemption (*i.e.*, transfer) of Aruze USA's shares is expressly prohibited under the terms of the Stockholders Agreement.

194. Wynn Resorts' involuntary redemption of Aruze USA's shares is therefore a breach of the Agreement between Aruze USA, Wynn Resorts, Mr. Wynn, and Elaine

Wynn.

195. Aruze USA has been damaged in an amount greater than \$10,000.

196. Aruze USA brings this claim within the relevant statute of limitations under Nevada law, having discovered facts giving rise to this claim, including injury arising from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did not and could not reasonably have discovered earlier the facts giving rise to this claim.

197. It has been necessary for Aruze USA to retain the services of attorneys to prosecute this action, and Aruze USA is entitled to an award of the reasonable value of said services performed and to be performed in a sum to be determined.

COUNT V

Breach of Articles of Incorporation/Breach of Contract in Connection with Wynn Resorts' Discounting Method of Involuntary Redemption (By Aruze USA Against Wynn Resorts)

198. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

199. The Contribution Agreement, the Stockholders Agreement, and the Articles of Incorporation form a contractual relationship and understanding (the "Agreement") between Aruze USA, Wynn Resorts, Mr. Wynn, and Elaine Wynn.

200. To the extent that the redemption provision in the Articles of Incorporation applies to Aruze USA's shares (despite the parties' understanding under the Agreement), Wynn Resorts' involuntary redemption breaches the terms of the Agreement.

201. Wynn Resorts' Articles of Incorporation provides that fair value will be provided for shares redeemed under its provisions.

202. On or about February 18, 2012, Wynn Resorts purportedly redeemed Aruze USA's shares for far less than the value of the shares, *e.g.*, as reflected by the closing market price of Wynn Resorts' stock on NASDAQ.

203. Wynn Resorts improperly discounted the fair value of the Aruze USA stock to the extent the Stockholders Agreement between Mr. Wynn, Elaine Wynn, and Aruze USA is not enforceable for any reason, including that it imposes an unreasonable restraint on alienation and are therefore unenforceable.

204. In the alternative, if the Stockholders Agreement is enforceable, Wynn Resorts used an excessive discount amount and failed to provide fair value for Aruze USA's stock.

205. Among other things, although known to Wynn Resorts, Wynn Resorts did not take into account material non-public information concerning positive developments for Wynn Resorts regarding the Cotai land concession in Macau, as well as other positive non-public information, when redeeming Aruze USA's shares for far less than the value of the shares. Furthermore, Wynn Resorts' unilateral valuation did not account for the premium that would be applied to such a large block of shares.

206. Aruze USA has been damaged in an amount greater than \$100,000.

207. Aruze USA brings this claim within the relevant statute of limitations under Nevada law, having discovered facts giving rise to this claim, including injury arising from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did not and could not reasonably have discovered earlier the facts giving rise to this claim.

208. It has been necessary for Aruze USA to retain the services of attorneys to prosecute this action, and Aruze USA is entitled to an award of the reasonable value of said services performed and to be performed in a sum to be determined.

COUNT VI

Breach of Fiduciary Duty

(By Aruze USA Against the Wynn Directors)

209. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

1 210. Directors of a corporation owe a fiduciary duty to the corporation and to its
2 shareholders, including a duty of care and a duty of loyalty toward the corporation and
3 each shareholder.

4 211. Under Nevada law, directors of a corporation are individually liable to a
5 stockholder for any act or failure to act that constitutes a breach of fiduciary duty.

6 212. The terms of the Wynn Resorts' Articles of Incorporation purported to
7 define an "Unsuitable Person" as a person who "in the sole discretion of the board of
8 directors of the [Wynn Resorts], is deemed likely to jeopardize [Wynn Resorts'] or any
9 Affiliated Company's . . . right to the use of, or entitlement to, any Gaming Licenses."

10 213. The Wynn Directors abused their discretion in finding Aruze USA,
11 Universal, and Mr. Okada "unsuitable" and resolving to have the Company cause the
12 purported redemption of Aruze USA's shares of Wynn Resorts' stock. The outcome of
13 the Compliance Committee's "investigation" was already determined prior to engaging a
14 supposedly "independent" investigator, which then openly acted as an advocate against
15 Aruze USA, Universal, and Mr. Okada rather than providing an objective, balanced, and
16 fully informed review of the facts and law. Despite the fact that Freeh Sporkin informed
17 the Board that further investigation would be required with respect to matters
18 encompassed by its report, and despite assurances that Aruze USA, Mr. Okada, and
19 Universal would be permitted to respond substantively to the report, the Wynn Directors
20 deprived them of an opportunity to understand and to present any information to address
21 the allegations against them prior to the vote on redemption.

22 214. On information and belief, the Wynn Directors acted at the direction of Mr.
23 Wynn and abandoned their own independence and objectivity in evaluating the
24 allegations. The Wynn Directors failed to conduct a fair, comprehensive, and thoughtful
25 investigation, and failed to ensure that they were properly and adequately informed before
26 acting.

27 215. Wynn Resorts, at the direction of Mr. Wynn, conducted an "investigation"
28 that was hurried, incomplete, one-sided, and unfair to Aruze USA, with a result that was

1 preordained by Mr. Wynn and his cohorts before the “investigator” was even hired. Aruze
2 USA was not given an opportunity to review the allegations against it or rebut or address
3 any findings of improper conduct or any other supposed basis for redemption. The entire
4 process was tainted by the desire to serve Mr. Wynn’s pretextual goals of removing Aruze
5 USA as the largest single shareholder of the Company, silencing Mr. Okada, and
6 consolidating and maintaining Mr. Wynn’s control over Wynn Resorts. Such actions do
7 not withstand any standard of fundamental fairness or due process.

8 216. Further, the purported redemption was voted on by persons with
9 irreconcilable conflicts of interest, including breaches of the duty of loyalty, the duty of
10 care, and the duty of good faith.

11 217. Through their acts, the Wynn Directors have acted in a manner that seeks to
12 deprive Aruze USA alone from its right to vote its shares, receive dividends, elect
13 directors and other benefits of stock ownership.

14 218. Harm will result if relief is not granted because Aruze USA’s more than
15 \$2.7 billion equity stake in Wynn Resorts will be instantaneously and irreversibly
16 damaged by the Company’s purported action to convert Aruze USA’s substantial
17 ownership interest into a wholly subordinated ten-year promissory note in a principal
18 amount 30% less than the fair market value of the stock, and paying a mere 2% percent
19 interest, without providing Aruze USA any voting rights or rights to dividends.

20 219. As a further direct and proximate result of the wrongful conduct by the
21 Wynn Directors, as alleged herein, Aruze USA was and continues to be damaged in an
22 amount in excess of \$100,000 to be proven at trial.

23 220. Aruze USA brings this claim within the relevant statute of limitations under
24 Nevada law, having discovered facts giving rise to this claim, including injury arising
25 from the purported redemption of Aruze USA’s shares of Wynn Resorts’ stock, on or
26 about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did
27 not and could not reasonably have discovered earlier the facts giving rise to this claim.

28 221. It has been necessary for Aruze USA to retain the services of attorneys to

1 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
2 said services performed and to be performed in a sum to be determined.

3
4 **COUNT VII**

5 **Imposition of a Constructive Trust and Unjust Enrichment**

6 **(By Aruze USA Against Wynn Resorts)**

7 222. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set
8 forth in full below.

9 223. By engaging the in the wrongful conduct alleged herein, Wynn Resorts
10 purportedly redeemed Aruze USA's stock in exchange for a wholly subordinated ten-year
11 promissory note in a principal amount at least 30% less than the fair value of Aruze
12 USA's stock, and paying a mere 2% interest, without providing Aruze USA any voting
13 rights or rights to dividends.

14 224. As a result of the relationship between the parties and the facts stated above,
15 Wynn Resorts will be unjustly enriched if it is permitted to retain Aruze USA's stock and
16 dividends and, therefore, a constructive trust should be established over Aruze USA's
17 stock, and all dividends that would be paid on such shares if held by Aruze USA. These
18 shares and dividends are traceable to Wynn Resorts.

19 225. Aruze USA brings this claim within the relevant statute of limitations under
20 Nevada law, having discovered facts giving rise to this claim, including injury arising
21 from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or
22 about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did
23 not and could not reasonably have discovered earlier the facts giving rise to this claim.

24 226. It has been necessary for Aruze USA to retain the services of attorneys to
25 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
26 said services performed and to be performed in a sum to be determined.

COUNT VIII

Conversion

(By Aruze USA Against Wynn Resorts)

227. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

228. Wynn Resorts lacked a proper and sufficient basis to find that the allegations in the Freeh Sporkin report against Aruze USA, Mr. Okada, and Universal were activities that “were likely to jeopardize [the Company’s] or any Affiliated Company’s . . . right to the use of, or entitlement to any Gaming License.”

229. As a result, Wynn Resorts Board lacked a fair, proper, and sufficient basis for seizing Aruze USA’s stock.

230. Wynn Resorts wrongfully exercised dominion over Aruze USA’s stock.

231. Wynn Resorts’ dominion over Aruze USA’s stock without a valid basis for redemption is inconsistent with the Articles of Incorporation and Aruze USA’s rights in the stock under the Contribution Agreement and the Stockholders Agreement.

232. Wynn Resorts converted Aruze USA stock, damaging Plaintiff in an amount excess of \$100,000.

233. Aruze USA brings this claim within the relevant statute of limitations under Nevada law, having discovered facts giving rise to this claim, including injury arising from the purported redemption of Aruze USA’s shares of Wynn Resorts’ stock, on or about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did not and could not reasonably have discovered earlier the facts giving rise to this claim.

234. It has been necessary for Aruze USA to retain the services of attorneys to prosecute this action, and Aruze USA is entitled to an award of the reasonable value of said services performed and to be performed in a sum to be determined.

COUNT IX

**Violations Of Nevada's Racketeer Influenced And Corrupt Organizations Act
(RICO) (N.R.S. § 207.350, *Et. Seq.*)**

(By Aruze USA Against Steve Wynn And Kim Sinatra)

235. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

236. **The Enterprise.** As alleged above, Wynn Resorts is a corporation formed under the laws of Nevada. In a conspiracy with Ms. Sinatra, Mr. Wynn engaged in wrongful conduct to acquire or maintain, directly or indirectly, an interest in or control of Wynn Resorts in violation of N.R.S. § 207.400(1)(b) and (j). Moreover, Mr. Wynn and Ms. Sinatra were and are employed by Wynn Resorts and conducted or participated, directly or indirectly, in racketeering activity by and through the affairs of Wynn Resorts, and/or conducted or participated, directly or indirectly, in the affairs of Wynn Resorts through racketeering activity, in violation of N.R.S. § 207.400(1)(c) and (j). Mr. Wynn and Ms. Sinatra are separate and distinct persons from Wynn Resorts. Thus, Wynn Resorts is an "enterprise" within the meaning of N.R.S. § 207.380.

237. **Mr. Wynn and Ms. Sinatra engaged in at least two predicate acts related to racketeering.** Mr. Wynn and Ms. Sinatra have each engaged in at least two predicate acts related to racketeering that have the same or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated incidents, within the meaning of N.R.S. § 207.390.

238. Pursuant to N.R.S. § 207.360, a "crime related to racketeering" includes the commission of, attempt to commit, or conspiracy to commit securities fraud, "[o]btaining possession of money or property valued at \$250 or more, or obtaining a signature by means of false pretenses." Securities fraud occurs under N.R.S. § 90.570 when a person, in connection with the purchase or sale of a security, either directly or indirectly, employs any device, scheme or artifice to defraud, makes a material misstatement or omission with

1 the intent to decisive, and/or engages in any act, practice or course of business which
2 operates or would operate as a fraud or deceit. Under N.R.S. § 205.380, a person obtains
3 possession of money or property by false pretenses when he/she, with an intent to defraud,
4 makes a false representation (whether by direct or indirect conduct), that induces reliance
5 on that representation, and defrauds the victim. A person obtains a signature by false
6 pretenses under N.R.S. § 205.390 when he/she has an intent to defraud, obtains a signature
7 on a written interest, and uses a false representation (whether by direct or indirect conduct)
8 to obtain the signature.

9 239. In particular, Mr. Wynn and Ms. Sinatra engaged in a scheme to defraud
10 Aruze USA and, ultimately, forcibly take its ownership interest in Wynn Resorts. The
11 central purpose of their scheme to deceive and steal from Aruze USA was to allow Mr.
12 Wynn to consolidate, acquire, and maintain control of Wynn Resorts through a series of
13 fraudulent and deceptive acts.

14 240. In violation of N.R.S. § 207.400(1)(b), Mr. Wynn, through the above crimes
15 related to racketeering detailed herein, acquired and maintained control over Wynn
16 Resorts in connection with various agreements entered into by fraudulent means. Mr.
17 Wynn's control over Wynn Resorts has allowed him to use and operate, and transfer assets
18 obtained in connection with Wynn Resorts, to the financial detriment of Aruze USA.
19 Specifically, Mr. Wynn personally committed, among other acts, the following acts
20 constituting racketeering activity:

- 21 a. On or about June 11, 2002, Mr. Wynn obtained Aruze USA's signature
22 on the Contribution Agreement under false pretenses;
- 23 b. On or about May 16, 2011, Mr. Wynn obtained under false pretenses
24 Aruze USA's signature on a document entitled "Waiver, Consent and
25 Limited Release," relating to the transfer of Elaine Wynn's shares;
- 26 c. On or about February 18, 2012, Mr. Wynn purportedly caused Wynn
27 Resorts to redeem Aruze USA's shares of Wynn Resorts stock (*i.e.*, the
28 forced sale) through an ongoing fraudulent and deceptive scheme in

1 violation of N.R.S. § 90.570; and,

2 d. On or about February 18, 2012, Mr. Wynn caused Wynn Resorts to
3 purportedly redeem Aruze USA's shares under false pretenses, in
4 particular based on false, incomplete and/or misleading factual
5 allegations made in the Freeh Sporkin report, for the central purpose of
6 allowing Mr. Wynn to acquire and/or maintain control of Wynn
7 Resorts.

8 241. In violation of N.R.S. § 207.400(1)(c), Ms. Sinatra, who was employed by
9 or associated with Wynn Resorts, has participated in and conducted the racketeering
10 activity alleged in detail above through the affairs of Wynn Resorts. Wynn Resorts,
11 although ultimately controlled by Mr. Wynn, is separate and distinct from Mr. Wynn and
12 Ms. Sinatra. Specifically, Ms. Sinatra committed, among other acts, the following acts
13 constituting racketeering activity:

- 14 a. On or about May 16, 2011, in concert with Mr. Wynn, Ms. Sinatra
15 obtained under false pretenses Aruze USA's signature on a document
16 entitled "Waiver, Consent and Limited Release," relating to the
17 transfer of Elaine Wynn's shares;
- 18 b. On or about February 18, 2012, in concert with Mr. Wynn, Ms. Sinatra
19 purportedly caused Wynn Resorts to redeem Aruze USA's shares of
20 Wynn Resorts stock (*i.e.*, the forced sale) through an ongoing
21 fraudulent and deceptive scheme in violation of N.R.S. § 90.570; and,
- 22 c. On or about February 18, 2012, in concert with Mr. Wynn, Ms. Sinatra
23 caused Wynn Resorts to purportedly redeem Aruze USA's shares
24 under false caused Wynn Resorts to redeem Aruze USA's shares under
25 false pretenses, in particular based on false, incomplete and/or
26 misleading factual allegations made in the Freeh Sporkin report, for the
27 central purpose of allowing Mr. Wynn to acquire and/or maintain
28 control of Wynn Resorts.

1 242. In addition, Mr. Wynn and Ms. Sinatra have joined together to defraud
2 Aruze USA and forcibly take its Wynn Resorts shares, and agreed to commit the
3 racketeering activity detailed above. Mr. Wynn's and Ms. Sinatra's activities, as
4 demonstrated by the facts alleged above, establish Mr. Wynn's and Ms. Sinatra's
5 agreement to knowingly participate in a collective venture toward a common goal, and
6 thereby establish a conspiracy to commit the racketeering activity alleged in detail above
7 within the meaning of N.R.S. § 207.400(1)(b) and (c). Mr. Wynn's and Ms. Sinatra's
8 activities, therefore, violate N.R.S. § 207.400(1)(j), which prohibits a conspiracy to violate
9 N.R.S. § 207.400(1)(b) and (c).

10 243. **Aruze USA's damages.** As alleged above, each of Mr. Wynn and
11 Ms. Sinatra has engaged in at least two crimes related to racketeering activity in
12 connection with Wynn Resorts violation of N.R.S. § 207.400(1).

13 244. As a direct and proximate result of Mr. Wynn's and Ms. Sinatra's violations
14 of N.R.S. § 207.400(1)(b), (c), and (j), Aruze USA has suffered and continues to suffer
15 injuries to its property, most notably the fraudulent purported redemption of Aruze USA's
16 shares held in Wynn Resorts stock. Those shares, with a stock market value of more than
17 \$2.7 billion, were purportedly redeemed for a 10-year, \$1.9 billion promissory note.

18 245. Pursuant to N.R.S. § 207.400(1), Aruze USA is entitled to recover threefold
19 its actual damages, the costs of this action, and its reasonable attorneys' fees incurred in
20 the trial and appellate courts.

21 246. Aruze USA brings this claim within the relevant statute of limitations under
22 Nevada law, having discovered facts giving rise to this claim, including injury arising
23 from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or
24 about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did
25 not and could not reasonably have discovered earlier the facts giving rise to this claim.

26 247. It has been necessary for Aruze USA to retain the services of attorneys to
27 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
28 said services performed and to be performed in a sum to be determined.

COUNT X

**Fraud/Fraudulent Misrepresentation in Connection with Financing for Aruze USA
(By Aruze USA Against Wynn Resorts, Steve Wynn, and Kim Sinatra)**

248. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

249. Wynn Resorts, Mr. Wynn, and Ms. Sinatra made false and misleading statements and omissions of material facts to Aruze USA. Specifically, on or about May 16, 2011, and for months thereafter, Mr. Wynn and Ms. Sinatra made false and misleading statements and omissions concerning the ability of Wynn Resorts to loan money to Aruze USA, which Wynn Resorts, Mr. Wynn, and Ms. Sinatra agreed would be backed by shares of Wynn Resorts stock held by Aruze USA.

250. Mr. Wynn and Ms. Sinatra, acting in their individual capacity and as agents of Wynn Resorts, made these false and misleading statements and omissions knowingly or without sufficient basis of information because Wynn Resorts was not legally permitted to enter into such a lending transaction pursuant to the restrictions in Section 402 of SOX. As alleged above, Mr. Wynn and Ms. Sinatra engaged in this wrongful conduct for the purpose of maintaining Mr. Wynn's control over Wynn Resorts after Mr. Wynn's shares in the Company were split with Elaine Wynn following their divorce, and keeping alive the opportunity to later have Wynn Resorts seek to redeem Aruze USA's shares at a discount.

251. Furthermore, Mr. Wynn and Ms. Sinatra, acting in their individual capacity and as agents of Wynn Resorts, made these false and misleading statements and omissions knowingly or without sufficient basis of information regarding the immediate need for Elaine Wynn to transfer her shares under the Stockholders Agreement. On information and belief, Mr. Wynn and Ms. Sinatra knew or were without a sufficient basis to make those material statements

252. Aruze USA relied on the false and misleading statements and omissions made by Wynn Resorts, Mr. Wynn, and Ms. Sinatra. Aruze USA's reliance on the false

1 and misleading statements and omissions was reasonable and justifiable, especially in
2 light or Mr. Okada's trusting relationship with Mr. Wynn.

3 253. On information and belief, Wynn Resorts, Mr. Wynn, and Ms. Sinatra knew
4 that Aruze USA intended to rely on this information as a reason for Aruze USA to consent
5 to Elaine Wynn's transfer of shares under the Stockholders Agreement, and for Aruze
6 USA to not take steps to invalidate the purported restrictions on alienability contained in
7 the Stockholders Agreement. On information and belief, Wynn Resorts, Mr. Wynn, and
8 Ms. Sinatra further knew and intended that, in reliance on these misrepresentations, Aruze
9 USA would relinquish its own opportunity to liquidate its own shares of Wynn Resorts
10 stock to fund Universal's project in the Philippines or seek other financing. Therefore,
11 Aruze USA relied on the fact that Wynn Resorts was a committed lender to the project at
12 the expense of pursuing other financing options.

13 254. As a further direct and proximate result of the wrongful conduct by Wynn
14 Resorts, Mr. Wynn, and Ms. Sinatra, as alleged herein, Aruze USA was and continues to
15 be damaged in an amount in excess of \$100,000 to be proven at trial.

16 255. Pursuant to N.R.S. § 42.005, by reason of the fraudulent, reckless,
17 misleading, malicious, willful, and wanton misconduct of Wynn Resorts, Mr. Wynn, and
18 Ms. Sinatra, Aruze USA is entitled to punitive damages not to exceed three times the
19 amount of compensatory damages awarded.

20 256. Aruze USA brings this claim within the relevant statute of limitations under
21 Nevada law, having discovered facts giving rise to this claim, including injury arising
22 from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or
23 about September 30, 2012.

24 257. Aruze USA brings this claim within the relevant statute of limitations under
25 Nevada law, having discovered facts giving rise to this claim on or about September 30,
26 2011. Despite having exercised reasonable diligence, Aruze USA did not and could not
27 reasonably have discovered earlier the facts giving rise to this claim.

28 258. It has been necessary for Aruze USA to retain the services of attorneys to

1 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
2 said services performed and to be performed in a sum to be determined.

3
4 **COUNT XI**

5 **Negligent Misrepresentation in Connection with Financing for Aruze USA**
6 **(By Aruze USA Against Wynn Resorts, Steve Wynn, and Kim Sinatra)**

7 259. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set
8 forth in full below.

9 260. Wynn Resorts, Mr. Wynn, and Ms. Sinatra made false and misleading
10 statements and omissions of material facts to Aruze USA. Specifically, on or about May
11 16, 2011, and for months thereafter, Mr. Wynn and Ms. Sinatra made false and misleading
12 statements and omissions concerning the ability of Aruze USA to loan money from Wynn
13 Resorts, which Wynn Resorts, Mr. Wynn, and Ms. Sinatra agreed would be backed by
14 shares of Wynn Resorts stock held by Aruze USA.

15 261. The false statements of facts alleged herein were material because had Wynn
16 Resorts, Mr. Wynn, and Ms. Sinatra provided Aruze USA with truthful and correct
17 information, Aruze USA would not have consented to Elaine Wynn's transfer of shares
18 under the Stockholders Agreement, and would have taken steps to invalidate the purported
19 restrictions in the Shareholder Agreement.

20 262. Wynn Resorts, Mr. Wynn, and Ms. Sinatra failed to exercise reasonable care
21 or competence in obtaining or communicating the false statements of fact alleged herein.

22 263. Wynn Resorts, Mr. Wynn, and Ms. Sinatra made the false statements or
23 omissions of fact alleged herein with the intent to induce Aruze USA's to consent to
24 Elaine Wynn's transfer of shares under the Stockholders Agreement without selling or
25 pledging its own shares in a manner that would reduce Mr. Wynn's control over those
26 shares. Furthermore, Wynn Resorts, Mr. Wynn, and Ms. Sinatra made the false
27 statements of fact alleged herein with the intent of gaining their own financial advantage
28 to the disadvantage of Aruze USA, including, but not limited to, the opportunity to seek to

1 have Wynn Resorts redeem Aruze USA's shares at a discount.

2 264. Furthermore, Mr. Wynn and Ms. Sinatra, acting in their individual capacity
3 and as agents of Wynn Resorts, made these false and misleading statements and omissions
4 knowingly or without sufficient basis of information regarding the immediate need for
5 Elaine Wynn to transfer her shares under the Stockholders Agreement. On information
6 and belief, Mr. Wynn and Ms. Sinatra knew or were without a sufficient basis to make
7 those material statements.

8 265. Aruze USA relied upon the false statements of fact alleged in herein by
9 providing consent for Elaine Wynn to transfer her shares under the Stockholders
10 Agreement. Aruze USA's reliance on these representations and concealment of facts was
11 reasonable and justifiable, especially in light of Mr. Okada's trusting relationship with Mr.
12 Wynn.

13 266. Wynn Resorts, Mr. Wynn, and Ms. Sinatra aided and abetted each of the
14 others in making the false statements of fact set herein by each failing to exercise
15 reasonable care or competence in obtaining or communicating those statements.

16 267. Aruze USA has suffered and continues to suffer economic and non-
17 economic losses because of Wynn Resorts, Mr. Wynn, and Ms. Sinatra false statements of
18 fact. The amount of losses will be determined according to proof at trial, but damages are
19 in an amount in excess of \$100,000.

20 268. Pursuant to N.R.S. § 42.005, by reason of the fraudulent, reckless,
21 misleading, malicious, willful, and wanton misconduct of Wynn Resorts, Mr. Wynn, and
22 Ms. Sinatra, Aruze USA is entitled to punitive damages not to exceed three times the
23 amount of compensatory damages awarded.

24 269. Aruze USA brings this claim within the relevant statute of limitations under
25 Nevada law, having discovered facts giving rise to this claim on or about September 30,
26 2011. Despite having exercised reasonable diligence, Aruze USA did not and could not
27 reasonably have discovered earlier the facts giving rise to this claim.

28 270. It has been necessary for Aruze USA to retain the services of attorneys to

1 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
2 said services performed and to be performed in a sum to be determined.

3
4 **COUNT XII**

5 **Civil Conspiracy in Connection with Financing for Aruze USA**
6 **(By Aruze USA Against Steve Wynn and Kim Sinatra)**

7 271. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set
8 forth in full below.

9 272. Aruze USA, Mr. Wynn and Elaine Wynn entered into an agreement
10 regarding the disposition of shares pursuant to the January 6, 2010 Amended and Restated
11 Stockholders Agreement.

12 273. Ms. Sinatra, as General Counsel for Wynn Resorts, had knowledge of the
13 Stockholders Agreement and its restriction on transfer of shares.

14 274. On information and belief, Ms. Sinatra had knowledge that Mr. Wynn
15 needed Aruze USA to waive the restriction, permitting Elaine Wynn to transfer her shares.

16 275. On information and belief, Ms. Sinatra and Mr. Wynn agreed to persuade
17 Aruze USA to permit Elaine Wynn to transfer her shares without permitting Aruze USA
18 to transfer or pledge any shares to anyone outside the control of Mr. Wynn. In fact, upon
19 receiving an email from Aruze USA's representative on July 13, 2011 permitting the
20 immediate transfer of Elaine Wynn's shares, Ms. Sinatra expressed happiness for Mr.
21 Wynn, stating, "Thank you very much for this. I'm sure Mr. Wynn will be happy about
22 the clarification."

23 276. Wynn Resorts, Mr. Wynn, and Ms. Sinatra made false and misleading
24 statements and omissions of material facts to Aruze USA. Specifically, on or about May
25 16, 2011, and for months thereafter, Mr. Wynn and Ms. Sinatra made false and misleading
26 statements and omissions concerning Wynn Resorts' ability to loan money to Aruze USA,
27 which Wynn Resorts, Mr. Wynn, and Ms. Sinatra agreed would be backed by shares of
28 Wynn Resorts stock held by Aruze USA.

1 277. Mr. Wynn and Ms. Sinatra, acting in concert with Wynn Resorts, made
2 these false and misleading statements and omissions knowingly or without sufficient basis
3 of information because Wynn Resorts was not legally permitted to enter into such a
4 lending transaction pursuant to the restrictions in Section 402 of SOX. As alleged above,
5 Mr. Wynn and Ms. Sinatra engaged in this wrongful conduct for the purpose of
6 maintaining Mr. Wynn's control over Wynn Resorts after Mr. Wynn's shares in the
7 Company were split with Elaine Wynn following their divorce, and keeping alive the
8 opportunity to later have Wynn Resorts seek to redeem Aruze USA's shares at a discount.

9 278. Furthermore, Mr. Wynn and Ms. Sinatra, acting in their individual capacity
10 and as agents of Wynn Resorts, made these false and misleading statements and omissions
11 knowingly or without sufficient basis of information regarding the immediate need for
12 Elaine Wynn to transfer her shares under the Stockholders Agreement. On information
13 and belief, Mr. Wynn and Ms. Sinatra knew or were without a sufficient basis to make
14 those material statements.

15 279. Aruze USA relied on the false and misleading statements and omissions
16 made by Wynn Resorts, Mr. Wynn, and Ms. Sinatra. Aruze USA's reliance on the false
17 and misleading statements and omissions was reasonable and justifiable, especially in
18 light of Mr. Okada's trusting relationship with Mr. Wynn.

19 280. On information and belief, Wynn Resorts, Mr. Wynn, and Ms. Sinatra knew
20 that Aruze USA intended to rely on this information as a reason for Aruze USA to consent
21 to Elaine Wynn's transfer of shares under the Stockholders Agreement. On information
22 and belief, Wynn Resorts, Mr. Wynn, and Ms. Sinatra further knew and intended that, in
23 reliance on these misrepresentations, Aruze USA would relinquish its own opportunity to
24 liquidate its own shares of Wynn Resorts stock to fund Universal's project in the
25 Philippines or seek other financing. Therefore, Aruze USA relied on the fact that Wynn
26 Resorts was a committed lender to the project at the expense of pursuing other financing
27 options.

28 281. As a further direct and proximate result of the wrongful conduct by Wynn

1 Resorts, Mr. Wynn, and Ms. Sinatra, as alleged herein, Aruze USA was and continues to
2 be damaged in an amount in excess of \$100,000 to be proven at trial.

3 282. Aruze USA brings this claim within the relevant statute of limitations under
4 Nevada law, having discovered facts giving rise to this claim on or about September 30,
5 2011. Despite having exercised reasonable diligence, Aruze USA did not and could not
6 reasonably have discovered earlier the facts giving rise to this claim.

7 283. Pursuant to N.R.S. § 42.005, by reason of the fraudulent, reckless,
8 misleading, malicious, willful, and wanton misconduct of Wynn Resorts, Mr. Wynn, and
9 Ms. Sinatra, Aruze USA is entitled to punitive damages not to exceed three times the
10 amount of compensatory damages awarded.

11 284. It has been necessary for Aruze USA to retain the services of attorneys to
12 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
13 said services performed and to be performed in a sum to be determined.

14
15 **COUNT XIII**

16 **Fraud/Fraud in the Inducement of the Contribution Agreement**

17 **(By Aruze USA Against Wynn Resorts and Steve Wynn)**

18 285. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set
19 forth in full below.

20 286. On or about April 11, 2002, Aruze USA, Baron Asset Fund, and Mr. Wynn
21 entered into the Stockholders Agreement in recognition of their desire to form Wynn
22 Resorts. On June 3, 2002, Mr. Wynn caused Wynn Resorts to file its Articles of
23 Incorporation with Nevada's Secretary of State without including a redemption provision.

24 287. On behalf of Aruze USA, on or about June 11, 2002, Mr. Wynn caused
25 Aruze USA to enter into a Contribution Agreement between Aruze USA, Mr. Wynn, and
26 Wynn Resorts. The Contribution Agreement committed Aruze USA's LLC interests in
27 Valvino in exchange for Wynn Resorts common stock.

28 288. Prior to causing the contribution to occur, on or about September 16, 2002,

1 Mr. Wynn filed amended Articles of Incorporation that included the redemption provision.
2 On information and belief, Mr. Wynn deliberately delayed in causing the contribution in
3 order to allow Mr. Wynn to amend the Articles of Incorporation without affording Aruze
4 USA a shareholder vote as would have been required pursuant to N.R.S. § 78.390. At the
5 time of the amendment, Mr. Wynn was the sole stockholder of Wynn Resorts.

6 289. On or about September 28, 2002, over three months after Aruze USA
7 entered into the Contribution Agreement, and twelve days after Mr. Wynn amended the
8 Articles of Incorporation, Mr. Wynn caused the contribution of Aruze USA's LLC
9 interests in Valvino to Wynn Resorts in exchange for Wynn Resorts common stock.

10 290. In entering into the Contribution Agreement, Wynn Resorts and Mr. Wynn
11 made materially false and/or misleading representations to Aruze USA regarding Wynn
12 Resorts' stockholder obligations under the Articles of Incorporation. Mr. Wynn and
13 Wynn Resorts misrepresented and/or failed to disclose that Wynn Resorts' Articles of
14 Incorporation would seek to impose substantial financial risk on Aruze USA by providing
15 Wynn Resorts' Board – which was controlled by Mr. Wynn – purported discretion to
16 redeem Aruze USA's stock on potentially onerous terms.

17 291. The misrepresentations and concealment of facts alleged herein were
18 material because, had Wynn Resorts and Mr. Wynn provided Aruze USA with truthful
19 and correct information, Aruze USA would not have entered into the Contribution
20 Agreement.

21 292. Wynn Resorts and Mr. Wynn knew the misrepresentations and concealment
22 of facts alleged herein were false, or alternatively, made misrepresentations of facts with
23 reckless disregard for whether those representations were true.

24 293. Wynn Resorts and Mr. Wynn made the misrepresentations and concealed
25 facts as set forth herein with the intent to induce Aruze USA's to enter into the
26 Contribution Agreement. Furthermore, Wynn Resorts and Mr. Wynn made the
27 misrepresentations and concealment of facts alleged herein with the intent of gaining their
28 own financial advantage to the disadvantage of Aruze USA.

1 294. Aruze USA relied upon made the misrepresentations and concealment of
2 facts set made by Wynn Resorts and Mr. Wynn regarding Wynn Resorts' common stock
3 at the time Aruze USA entered into the Contribution Agreement. Aruze USA's reliance
4 on these representations and concealment of facts was reasonable and justifiable,
5 especially in light of Mr. Okada's trusting relationship with Mr. Wynn.

6 295. Wynn Resorts and Mr. Wynn aided and abetted each other in making the
7 false statements of facts alleged herein by each failing to exercise reasonable care or
8 competence in obtaining or communicating those statements.

9 296. Aruze USA has suffered and continues to suffer injury because of Wynn
10 Resorts' and Mr. Wynn's misrepresentations and concealment of facts set forth herein. As
11 a direct and proximate result of Wynn Resorts' and Mr. Wynn's wrongful conduct, Aruze
12 USA suffered injury when the redemption provision was purportedly invoked by Wynn
13 Resorts' Board on or about February 18, 2012.

14 297. As a remedy for Wynn Resorts' and Mr. Wynn's fraudulent inducement,
15 Aruze USA seeks imposition of a constructive trust over Aruze USA's Wynn Resorts
16 shares purportedly redeemed by the Board, or, in the alternative, recovery of unjust
17 enrichment/restitution.

18 298. Aruze USA brings this claim within the relevant statute of limitations under
19 Nevada law, having discovered facts giving rise to this claim, including injury arising
20 from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or
21 about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did
22 not and could not reasonably have discovered earlier the facts giving rise to this claim.

23 299. It has been necessary for Aruze USA to retain the services of attorneys to
24 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
25 said services performed and to be performed in a sum to be determined.

26
27
28

COUNT XIV

Negligent Misrepresentation in Connection with the Contribution Agreement

(By Aruze USA Against Wynn Resorts and Steve Wynn)

300. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

301. On or about April 11, 2002, Aruze USA, Baron Asset Fund, and Mr. Wynn entered into the Stockholders Agreement in recognition of their desire to form Wynn Resorts. On June 3, 2002, Mr. Wynn caused Wynn Resorts to file its Articles of Incorporation with Nevada's Secretary of State without including a redemption provision.

302. On behalf of Aruze USA, on or about June 11, 2002, Mr. Wynn caused Aruze USA to enter into a Contribution Agreement between Aruze USA, Mr. Wynn, and Wynn Resorts. The Contribution Agreement committed Aruze USA's LLC interests in Valvino in exchange for Wynn Resorts common stock.

303. Prior to causing the contribution to occur, on or about September 16, 2002, Mr. Wynn filed amended Articles of Incorporation that included the redemption provision. On information and belief, Mr. Wynn deliberately delayed in causing the contribution in order to allow Mr. Wynn to amend the Articles of Incorporation without affording Aruze USA a shareholder vote as would have been required pursuant to N.R.S. § 78.390. At the time of the amendment, Mr. Wynn was the sole stockholder of Wynn Resorts.

304. On or about September 28, 2002, over three months after Aruze USA entered into the Contribution Agreement, and twelve days after Mr. Wynn amended the Articles of Incorporation, Mr. Wynn caused the contribution of Aruze USA's LLC interests in Valvino to Wynn Resorts in exchange for Wynn Resorts common stock.

305. In entering into the Contribution Agreement, Wynn Resorts and Mr. Wynn made materially false representations and/or omissions to Aruze USA regarding Wynn Resorts' stockholder obligations under Articles of Incorporation. Mr. Wynn and Wynn Resorts misrepresented and/or failed to disclose that Wynn Resorts' Articles of Incorporation would seek to impose substantial financial risk to Aruze USA by providing

1 Wynn Resorts' Board (which was controlled by Mr. Wynn) purported discretion to
2 redeem Aruze USA's stock on potentially onerous terms.

3 306. The false statements and/or omissions of facts alleged herein were material
4 because, had Wynn Resorts and Mr. Wynn provided Aruze USA with truthful and correct
5 information, Aruze USA would not have entered into the Contribution Agreement.

6 307. Wynn Resorts and Mr. Wynn failed to exercise reasonable care or
7 competence in obtaining or communicating the false statements of fact alleged herein.

8 308. Aruze USA relied on the false and misleading statements and omissions
9 made by Wynn Resorts and Mr. Wynn regarding Wynn Resorts' common stock at the
10 time Aruze USA entered into the Contribution Agreement. Aruze USA's reliance on the
11 false and misleading statements and omissions was reasonable and justifiable, especially
12 in light of Mr. Okada's trusting relationship with Mr. Wynn.

13 309. On information and belief, Wynn Resorts and Mr. Wynn knew that Aruze
14 USA intended to rely on this information as a reason for Aruze USA to enter into the
15 Contribution Agreement.

16 310. Aruze USA has suffered and continues to suffer injury because of Wynn
17 Resorts' and Mr. Wynn's false and misleading statements and omissions alleged herein.
18 As a direct and proximate result of Wynn Resorts' and Mr. Wynn's wrongful conduct,
19 Aruze USA suffered injury when the redemption provision was purportedly invoked by
20 Wynn Resorts' Board on or about February 18, 2012.

21 311. As a remedy for Wynn Resorts' and Mr. Wynn's fraudulent inducement,
22 Aruze USA seeks imposition of a constructive trust over Aruze USA's Wynn Resorts
23 shares purportedly redeemed by the Board, or, in the alternative, unjust enrichment/
24 restitution.

25 312. Aruze USA brings this claim within the relevant statute of limitations under
26 Nevada law, having discovered facts giving rise to this claim, including injury arising
27 from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or
28 about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did

1 not and could not reasonably have discovered earlier the facts giving rise to this claim.

2 313. It has been necessary for Aruze USA to retain the services of attorneys to
3 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
4 said services performed and to be performed in a sum to be determined.

5
6 **COUNT XV**

7 **Breach of Contract in Connection with the Stockholders Agreement**

8 **(By Aruze USA Against Steve Wynn)**

9 314. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set
10 forth in full below.

11 315. Mr. Wynn, Elaine Wynn, and Aruze USA are parties to the Stockholders
12 Agreement.

13 316. Section 2(a) of the Stockholders Agreement provides that Mr. Wynn must
14 endorse and vote for Aruze USA's proposed slate of directors so long as the resulting
15 Board is composed of a majority of directors selected by Mr. Wynn.

16 317. Aruze USA has designated three nominees for election to the Board. If the
17 stockholders of the Company elect the Aruze USA director candidates, the resulting Board
18 shall be comprised of at least nine (9) of the directors nominated by Mr. Wynn, a clear
19 majority.

20 318. Mr. Wynn has failed and refused to endorse Aruze USA's slate of directors
21 in violation of his obligations under the Stockholders Agreement and failed and refused to
22 provide assurances of his intent to vote his and Elaine Wynn's stock in favor of those
23 nominees.

24 319. Mr. Wynn has materially breached the Stockholders Agreement without
25 justification and has frustrated the essential purpose of the Stockholders Agreement.

26 320. The Stockholders Agreement provides that each of the parties to it
27 recognizes and acknowledges that a breach by any party of any covenants or agreements
28 contained in the Agreement will cause the other parties to sustain damages for which they

1 would not have an adequate remedy at law for money damages, and therefore each of the
2 parties agrees that in the event of any such breach the parties shall be entitled to
3 appropriate equitable relief.

4 321. On account of Mr. Wynn's material breach of the Stockholders Agreement,
5 Aruze USA is entitled to be excused and completely discharged from any further
6 performance of its obligations contained therein.

7 322. Further, the breaches by Mr. Wynn have frustrated the entire purpose of the
8 Stockholders Agreement, and have instead served to further entrench Mr. Wynn's control
9 over the Company to the detriment of the other parties to the Agreement. Thus, the
10 appropriate equitable relief for Mr. Wynn's breach is rescission of the Stockholders
11 Agreement.

12 323. Aruze USA brings this claim within the relevant statute of limitations under
13 Nevada law, having discovered facts giving rise to this claim, including injury arising
14 from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or
15 about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did
16 not and could not reasonably have discovered earlier the facts giving rise to this claim.

17 324. It has been necessary for Aruze USA to retain the services of attorneys to
18 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
19 said services performed and to be performed in a sum to be determined.

20
21 **COUNT XVI**

22 **Breach of Covenant of Good Faith and Fair Dealing in Stockholders Agreement**
23 **(By Aruze USA Against Steve Wynn)**

24 325. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set
25 forth in full below.

26 326. In every contract, there exists an implied covenant of good faith and fair
27 dealing.

28 327. Aruze USA and Mr. Wynn are parties to the Stockholders Agreement,

1 between Mr. Wynn, Elaine Wynn, and Aruze USA.

2 328. Aruze USA has properly sought to exercise its rights under the Stockholders
3 Agreement in seeking to designate directors for endorsement by Mr. Wynn while
4 complying with the contractual condition that the Board will consist of a majority of
5 directors nominated by Mr. Wynn.

6 329. Mr. Wynn has materially breached the Stockholders Agreement by failing to
7 endorse Aruze USA's slate of nominees for directors to the Wynn Resorts Board and by
8 failing to confirm his intent to vote his and Elaine Wynn's stock in favor of those
9 nominees, thereby frustrating the essential purpose of the Stockholders Agreement.

10 330. Mr. Wynn has breached the reasonable and justifiable expectations of Aruze
11 USA with respect to Aruze USA's ability to successfully designate director candidates, an
12 essential purpose of the Stockholders Agreement.

13 331. Mr. Wynn also has breached the reasonable and justifiable expectations of
14 Aruze USA by unreasonably withholding his consent for Aruze USA to liquidate stock,
15 and by falsely promising financing in order to persuade Aruze USA to delay its demands
16 for liquidity.

17 332. Accordingly, Mr. Wynn's conduct has breached the covenant of good faith
18 and fair dealing. On account of Mr. Wynn's material breach, Aruze USA is entitled to
19 contract damages, or in the alternative, Aruze USA is entitled being excused and
20 discharged from its obligations under the Stockholders Agreement. Aruze USA is also
21 entitled to rescission of the Stockholders Agreement.

22 333. By virtue of his purported position as power of attorney under the
23 Stockholders Agreement, Mr. Wynn owed fiduciary duties to Aruze USA. Given the
24 existence of this "special relationship" between Mr. Wynn and Aruze USA, Mr. Wynn is
25 also liable for a tortious breach of the implied duty of good faith and fair dealing and the
26 accompanying tort damages.

27 334. Aruze USA brings this claim within the relevant statute of limitations under
28 Nevada law, having discovered facts giving rise to this claim, including injury arising

1 from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or
2 about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did
3 not and could not reasonably have discovered earlier the facts giving rise to this claim.

4 335. It has been necessary for Aruze USA to retain the services of attorneys to
5 prosecute this action, and Aruze USA is entitled to an award of the reasonable value of
6 said services performed and to be performed in a sum to be determined.

7
8 **COUNT XVII**

9 **Claim for Violations of Section 10(b) of the Securities Exchange Act of 1934**
10 **and SEC Rule 10b-5(a) Promulgated Thereunder**

11 **(By Aruze USA Against Wynn Resorts and Steve Wynn)**

12 336. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set
13 forth in full below.

14 337. Wynn Resorts has claimed publicly and Wynn Resorts has alleged in its
15 Complaint in this action that it has redeemed Aruze USA's shares of Wynn Resorts' stock.
16 Aruze USA brings this claim in the alternative to Aruze USA's claims that assert the
17 purported redemption by Wynn Resorts is void *ab initio*.

18 338. Since at least the beginning of 2011, Wynn Resorts and Mr. Wynn have
19 committed a series of manipulative or deceptive acts in furtherance of a device, scheme,
20 and/or artifice to defraud Aruze USA, which they knew or deliberately disregarded would
21 perpetrate a fraud.

22 339. In particular, as alleged in detail above, Wynn Resorts and Mr. Wynn caused
23 an illegal redemption (*i.e.*, a forced "sale" under the securities laws) of Aruze USA's more
24 than \$2.7 billion interest in Wynn Resorts by:

- 25 • Undertaking a series of acts in 2011 to prevent Aruze USA from selling or
26 pledging its securities, including acts by Mr. Wynn and Ms. Sinatra
27 dissuading Aruze USA from selling or pledging its shares of Wynn Resorts
28 and holding out a false promise of financing by Wynn Resorts, while

- 1 knowing that Wynn Resorts was secretly investigating Mr. Okada to create a
2 pretext for redemption;
- 3 • Causing a redemption based on the Freeh Sporkin report, which among
4 other things:
- 5 • was incomplete;
- 6 • contained false and misleading statements;
- 7 • failed to address or include exculpatory facts and evidence;
- 8 • relied upon an inaccurate and incomplete understanding the FCPA;
9 and,
- 10 • relied upon an inaccurate and incomplete understanding of Philippine
11 law and related facts.
- 12 • Causing a redemption without evidence of any bona fide jeopardy to any
13 Wynn Resorts gaming license;
- 14 • Causing a redemption in the absence of a finding by the Nevada Gaming
15 Commission, or any other gaming regulator, that Aruze USA or its affiliates
16 is unsuitable;
- 17 • Causing Aruze USA not to apply for injunctive relief prior to the Board's
18 consideration of redemption, by falsely representing through Mr. Freeh that
19 Aruze USA and Mr. Okada would have an opportunity to review the Freeh
20 Sporkin report and present responsive facts and evidence;
- 21 • Excluding Mr. Okada and his counsel from Wynn Resorts' Board meetings
22 discussing redemption;
- 23 • Denying Aruze USA access to investigative materials, by falsely invoking
24 attorney-client privilege;
- 25 • Falsely invoking "confidentiality" in an attempt to get Aruze USA to sign
26 away legal rights in exchange for reviewing the Freeh Sporkin report;
- 27 • Setting a redemption price for Aruze USA's shares of Wynn Resorts stock
28 that was not the product of independent assessment;

- 1 • Setting a redemption price that does not reflect, among other things, fair
- 2 value and that failed to consider:
- 3 • the lack of applicability of the Stockholders Agreement to a
- 4 redemption;
- 5 • developments in Cotai and other positive inside information; and,
- 6 • a premium for the volume of stock transacted.

7 340. The deliberate, intentional, and/or reckless aim of the above scheme by
8 Wynn Resorts and Mr. Wynn was to force the illegal sale of Aruze USA's shares of Wynn
9 Resorts stock to Wynn Resorts at a price well below the fair value of the shares. As
10 alleged in detail above, Wynn Resorts and Mr. Wynn's acts were carefully orchestrated to
11 secure Aruze USA's continued acceptance of the Stockholders Agreement and to dissuade
12 legal action to enjoin enforcement of the Stockholders Agreement or otherwise challenge
13 the restraint on alienation purportedly contained therein. At the same time as Wynn
14 Resorts and Mr. Wynn were promising Aruze USA financing secured by Aruze USA's
15 stock in Wynn Resorts, Wynn Resorts and Mr. Wynn were secretly conspiring to force a
16 sale of Aruze USA's interest in Wynn Resorts based on false, misleading, and incomplete
17 allegations. This scheme was deliberately calculated to perpetuate and consolidate Mr.
18 Wynn's control over Wynn Resorts and to enable the forced sale of Aruze USA's shares
19 of Wynn Resorts stock at this steep discount. Wynn Resorts and Mr. Wynn took steps to
20 conceal all aspects of the investigation from Aruze USA and its representatives in order to
21 prevent scrutiny or rebuttal and to prevent legal action that would interrupt the scheme to
22 take Aruze USA's stock at a vast discount. In order to bring the scheme to fruition, Wynn
23 Resorts and Mr. Wynn fashioned a rushed and wholly inadequate determination that
24 Aruze USA, Mr. Okada, and Universal are "unsuitable." This determination necessarily
25 depended on false information, unreliable innuendo, an incorrect understanding of the
26 FCPA and the laws of the Philippines, and a flawed process that failed to (1) investigate
27 or consider obvious exculpatory evidence; (2) provide any reasonable opportunity for
28 Aruze USA, Mr. Okada, and Universal to respond to the allegations; or (3) consider the

1 unprecedented nature of the determination and the utter lack of any bona fide jeopardy to
2 Wynn Resorts' gaming licenses.

3 341. The determinations of unsuitability and subsequent redemption were aided
4 by actions deliberately calculated to prevent an application for injunctive relief or other
5 steps by Aruze USA to intervene and prevent a redemption, including but not limited to:
6 (1) false promises that Aruze USA, Mr. Okada, and Universal would have an opportunity
7 to respond, (2) false assertions of privilege, (3) exclusion of English speaking persons and
8 counsel from Board proceedings (so that Aruze USA could understand the proceedings
9 and/or respond appropriately or effectively), and (4) false assertions of confidentiality and
10 imposing onerous waivers of legal rights in order to see documents that were not
11 confidential because they were leaked to the *Wall Street Journal* and filed in Court at or
12 about the time Mr. Wynn and Wynn Resorts' asserted they were confidential. Finally,
13 Wynn Resorts and Mr. Wynn conspired to ensure that the redemption price was set well
14 below fair value, by relying on one biased appraisal that relied centrally on an incorrect
15 premise of the enforceability of the restraint of sale in the Stockholders Agreement and
16 failed to account for inside information available to Mr. Wynn and Wynn Resorts.

17 342. In the absence of the wrongful conduct of Wynn Resorts and Mr. Wynn, no
18 redemption would have occurred, let alone a redemption of Aruze USA's shares in Wynn
19 Resorts at a price well below fair value or market value.

20 343. Under the "forced seller" or "fundamental change" doctrine, reliance is not
21 an element of a scheme liability claim alleging an involuntary sale, such as the purported
22 redemption in this case. The forced seller doctrine provides a cause of action under the
23 federal securities laws, because Aruze USA was forced by Wynn Resorts and Mr. Wynn
24 to convert its stock for money or other consideration, and/or because Aruze USA was
25 forced by Wynn Resorts and Mr. Wynn to fundamentally change the nature of its
26 investments as part of the fraudulent scheme. No volitional act was necessary by
27 Aruze USA to complete the transaction – and, in fact, Aruze USA did not want the sale to
28 occur.

344. As a direct consequence of the wrongful conduct of Wynn Resorts and Mr. Wynn, Aruze USA suffered injury that resulted in the sale of its stock for more than \$1 billion below fair value.

345. Aruze USA brings this claim within the relevant statute of limitations under federal law, having discovered facts giving rise to this claim, including injury arising from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did not and could not reasonably have discovered earlier the facts giving rise to this claim.

COUNT XVIII

Claim for Violations of Section 10(b) of the Securities Exchange Act of 1934

and SEC Rule 10b-5(c) Promulgated Thereunder

(By Aruze USA Against Wynn Resorts and Steve Wynn)

346. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

347. Wynn Resorts has claimed publicly and Wynn Resorts has alleged in its Complaint in this action that it has redeemed Aruze USA's shares of Wynn Resorts' stock. Aruze USA brings this claim in the alternative to Aruze USA's claims that assert the purported redemption by Wynn Resorts is improper, illegal, and void *ab initio*.

348. Since the beginning of 2011, Wynn Resorts and Mr. Wynn have engaged in a series of acts, practices, of courses of business, which Wynn Resorts and Mr. Wynn knew or deliberately disregarded would operate as a fraud and/or deceit upon Aruze USA, in connection with the redemption of Aruze's shares in Wynn Resorts.

349. In particular, as alleged in detail above, Wynn Resorts and Mr. Wynn caused an illegal redemption (*i.e.*, a forced “sale” under the securities laws) of Aruze USA’s more than \$2.7 billion interest in Wynn Resorts by:

- Undertaking a series of acts in 2011 to prevent Aruze USA from selling or pledging its securities, including acts by Mr. Wynn and Ms. Sinatra

1 dissuading Aruze USA from selling or pledging its shares of Wynn Resorts
2 and holding out a false promise of financing by Wynn Resorts, while
3 knowing that Wynn Resorts was secretly investigating Mr. Okada to create a
4 pretext for redemption;

- 5 • Causing a redemption based on the Freeh Sporkin report, which, among
6 other things:
 - 7 • was incomplete;
 - 8 • contained false and misleading statements;
 - 9 • failed to address or include exculpatory facts and evidence;
 - 10 • relied upon an inaccurate and incomplete understanding the FCPA;
 - 11 and,
 - 12 • relied upon an inaccurate and incomplete understanding of Philippine
13 law and related facts.
- 14 • Causing a redemption without evidence of any bona fide jeopardy to any
15 Wynn Resorts gaming license;
- 16 • Causing a redemption in the absence of a finding by the Nevada Gaming
17 Commission, or any other gaming regulator, that Aruze USA or its affiliates
18 is unsuitable;
- 19 • Causing Aruze USA not to apply for injunctive relief prior to the Board's
20 consideration of redemption, by falsely representing through Mr. Freeh that
21 Aruze USA and Mr. Okada would have an opportunity to review the Freeh
22 Sporkin report and present responsive facts and evidence;
- 23 • Excluding Mr. Okada and his counsel from Wynn Resorts' Board meetings
24 discussing redemption;
- 25 • Denying Aruze USA access to investigative materials, by falsely invoking
26 attorney-client privilege;
- 27 • Falsely invoking "confidentiality" in an attempt to get Aruze USA to sign
28 away legal rights in exchange for reviewing the Freeh Sporkin report;

- 1 • Setting a redemption price for Aruze USA's shares of Wynn Resorts stock
- 2 that was not the product of independent assessment;
- 3 • Setting a redemption price that does not reflect, among other things, fair
- 4 value and that failed to consider:
- 5 • the lack of applicability of the Stockholders Agreement to a
- 6 redemption;
- 7 • developments in Cotai and other positive inside information; and,
- 8 • a premium for the volume of stock transacted.

9 350. The deliberate, intentional, and/or reckless aim of the above scheme by
10 Wynn Resorts and Mr. Wynn was to force the illegal sale of Aruze USA's shares of Wynn
11 Resorts stock to Wynn Resorts at a price well below the fair value of the shares. As
12 alleged in detail above, Wynn Resorts and Mr. Wynn's acts were carefully orchestrated to
13 secure Aruze USA's continued acceptance of the Stockholders Agreement and to dissuade
14 legal action to enjoin enforcement of the Stockholders Agreement or otherwise challenge
15 the restraint on alienation purportedly contained therein. At the same time as Wynn
16 Resorts and Mr. Wynn were promising Aruze USA financing secured by Aruze USA's
17 stock in Wynn Resorts, Wynn Resorts and Mr. Wynn were secretly conspiring to force a
18 sale of Aruze USA's interest in Wynn Resorts based on false, misleading, and incomplete
19 allegations. This scheme was deliberately calculated to perpetuate and consolidate Mr.
20 Wynn's control over Wynn Resorts and to enable the forced sale of Aruze USA's shares
21 of Wynn Resorts stock at this steep discount. Wynn Resorts and Mr. Wynn took steps to
22 conceal all aspects of the investigation from Aruze USA and its representatives in order to
23 prevent scrutiny or rebuttal and to prevent legal action that would interrupt the scheme to
24 take Aruze USA's stock at a vast discount. In order to bring the scheme to fruition, Wynn
25 Resorts and Mr. Wynn fashioned a rushed and wholly inadequate determination that
26 Aruze USA, Mr. Okada, and Universal are "unsuitable." This determination necessarily
27 depended on false information, unreliable innuendo, an incorrect understanding of the
28 FCPA and the laws of the Philippines, and a flawed process that failed to (1) investigate

1 or consider obvious exculpatory evidence; (2) provide any reasonable opportunity for
2 Aruze USA, Mr. Okada, and Universal to respond to the allegations; or (3) consider the
3 unprecedented nature of the determination and the utter lack of any bona fide jeopardy to
4 Wynn Resorts' gaming licenses.

5 351. The determinations of unsuitability and subsequent redemption were aided
6 by actions deliberately calculated to prevent an application for injunctive relief or other
7 steps by Aruze USA to intervene and prevent a redemption, including but not limited to:
8 (1) false promises that Aruze USA, Mr. Okada, and Universal would have an opportunity
9 to respond, (2) false assertions of privilege, (3) exclusion of English speaking persons and
10 counsel from Board proceedings (so that Aruze USA could understand the proceedings
11 and/or respond appropriately or effectively), and (4) false assertions of confidentiality and
12 imposing onerous waivers of legal rights in order to see documents that were not
13 confidential because they were leaked to the *Wall Street Journal* and filed in Court at or
14 about the time Mr. Wynn and Wynn Resorts' asserted they were confidential. Finally,
15 Wynn Resorts and Mr. Wynn conspired to ensure that the redemption price was set well
16 below fair value, by relying on one biased appraisal that relied centrally on an incorrect
17 premise of the enforceability of the restraint of sale in the Stockholders Agreement and
18 failed to account for inside information available to Mr. Wynn and Wynn Resorts.

19 352. In the absence of the wrongful conduct of Wynn Resorts and Mr. Wynn, no
20 redemption would have occurred, let alone a redemption of Aruze USA's shares in Wynn
21 Resorts at a price well below fair value or market value.

22 353. Under the "forced seller" or "fundamental change" doctrine, reliance is not
23 an element of a scheme liability claim alleging an involuntary sale, such as the purported
24 redemption in this case. The forced seller doctrine provides a cause of action under the
25 federal securities laws, because Aruze USA was forced by Wynn Resorts and Mr. Wynn
26 to convert its stock for money or other consideration, and/or because Aruze USA was
27 forced by Wynn Resorts and Mr. Wynn to fundamentally change the nature of its
28 investments as part of the fraudulent scheme. No volitional act was necessary by

1 Aruze USA to complete the transaction – and, in fact, Aruze USA did not want the sale to
2 occur.

3 354. As a direct consequence of the wrongful conduct of Wynn Resorts and
4 Mr. Wynn, Aruze USA suffered injury that resulted in the sale of its stock for more than
5 \$1 billion below fair value.

6 355. Aruze USA brings this claim within the relevant statute of limitations under
7 federal law, having discovered facts giving rise to this claim, including injury arising from
8 the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or about
9 February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did not
10 and could not reasonably have discovered earlier the facts giving rise to this claim.

11
12 **COUNT XIX**

13 **Claim for Violations of Section 10(b) of the Securities Exchange Act of 1934**

14 **and SEC Rule 10b-5(b) Promulgated Thereunder**

15 **(By Aruze USA Against Wynn Resorts and Steve Wynn)**

16 356. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set
17 forth in full below.

18 357. Wynn Resorts has claimed publicly and Wynn Resorts has alleged in its
19 Complaint in this action that it has redeemed Aruze USA's shares of Wynn Resorts' stock.
20 Aruze USA brings this claim in the alternative to Aruze USA's claims that assert the
21 purported redemption by Wynn Resorts is improper, illegal, and void *ab initio*.

22 358. Furthermore, this claim under SEC Rule 10b-5(b) is made in the alternative
23 to the prior claims under Rule 10b-5(a) and Rule 10b-5(c). While Aruze USA believes the
24 allegations are more properly brought under Rule 10b-5(a) and Rule 10b-5(c) because the
25 claims encompass conduct beyond mere misrepresentations and/or omissions, Aruze USA
26 makes this alternate claim under Rule 10b-5(b) to the extent a Court might find certain
27 allegations of wrongdoing are misstatements or omissions, and not: (i) devices, schemes,
28 or artifices under Rule 10b-5(a); (ii) acts, practices, of courses of business under Rule 10b-

1 5(c); or (iii) fraudulent statements that sound under Rule 10b-5(a) or (c) because they were
2 intended to deceive third parties in furtherance of a scheme to defraud Aruze USA.

3 359. Since the beginning of 2011, Wynn Resorts and Mr. Wynn have made a
4 series of untrue statements of material fact and/or have omitted to state material facts
5 necessary in order to make the statements made, in light of the circumstances under which
6 they were made, not misleading.

7 360. In particular, as alleged in detail above, Wynn Resorts and Mr. Wynn caused
8 an illegal redemption (*i.e.*, a forced “sale” under the securities laws) of Aruze USA’s more
9 than \$2.7 billion interest in Wynn Resorts by:

- 10 • Making false statements by Mr. Wynn and Ms. Sinatra to dissuade Aruze
11 USA from selling or pledging its shares of Wynn Resorts and holding out a
12 false promise of financing by Wynn Resorts, while knowing that Wynn
13 Resorts was secretly investigating Mr. Okada to create a pretext for
14 redemption;
- 15 • Causing a redemption based on the Freeh Sporkin report, which, as alleged
16 in detail above, contained numerous false and misleading statements, and
17 omitted to state numerous facts material facts necessary in order to make the
18 statements made, in light of the circumstances under which they were made,
19 not misleading;
- 20 • Making untrue statements that Mr. Okada and Aruze USA would have an
21 opportunity to review the Freeh Sporkin report and present responsive facts
22 and evidence, with the intent of inducing Aruze USA not to apply for
23 injunctive relief prior to the Board’s consideration of redemption;
- 24 • Making false statements invoking attorney-client privilege to deny
25 Aruze USA access to investigative materials and impede Aruze USA’s
26 ability to present arguments against and/or enjoin the redemption;
- 27 • Making false statements claiming that the Freeh Sporkin report was
28 “confidential” in an attempt to (i) delay Aruze USA’s access to the report

- 1 and thereby impede Aruze USA's ability to argue against the Board's action
2 and/or seek injunctive relief prior to redemption, and (ii) deceive Aruze
3 USA into signing away legal rights in exchange for reviewing the report;
- 4 • Making false statements regarding the "fair value" or market value of Aruze
5 USA's shares in Wynn Resorts that failed to account for:
 - 6 • the lack of applicability of the Stockholders Agreement to a
7 redemption;
 - 8 • developments in Cotai and other positive inside information; and,
 - 9 • a premium for the volume of stock transacted;
 - 10 • Making false statements that Aruze USA, Universal Entertainment, and Mr.
11 Okada are unsuitable; and
 - 12 • Making false statements that there was any bona fide jeopardy to Wynn
13 Resorts gaming license.

14 361. The deliberate, intentional, and/or reckless aim of the above
15 misrepresentations and omissions by Mr. Wynn and Wynn Resorts was to force the illegal
16 sale of Aruze USA's shares of Wynn Resorts stock to Wynn Resorts at a price well below
17 the fair value of the shares. As alleged in detail above, Wynn Resorts and Mr. Wynn's
18 misrepresentations and omissions were carefully orchestrated to secure Aruze USA's
19 continued acceptance of the Stockholders Agreement and to dissuade legal action to
20 enjoin enforcement of the Stockholders Agreement or otherwise challenge the restraint on
21 alienation purportedly contained therein. At the same time as Wynn Resorts and Mr.
22 Wynn were holding out a false promise of financing to Aruze USA secured by Aruze
23 USA's stock in Wynn Resorts, Wynn Resorts and Mr. Wynn were secretly conspiring to
24 force a sale of Aruze USA's interest in Wynn Resorts based on false, misleading, and
25 incomplete allegations. Mr. Wynn and Wynn Resorts' misrepresentations and omissions
26 were deliberately calculated to perpetuate and consolidate Mr. Wynn's control over Wynn
27 Resorts and to enable the forced sale of Aruze USA's shares of Wynn Resorts stock at a
28 vast discount.

1 362. In order to bring this to fruition, Wynn Resorts and Mr. Wynn fashioned a
2 rushed and wholly inadequate determination that Aruze USA, Mr. Okada, and Universal
3 were “unsuitable.” This determination necessarily depended on misrepresentations and
4 omissions regarding the facts and law. The misrepresentations concern facts resulting
5 from an incomplete investigation that omitted to include obvious exculpatory evidence
6 and false statements regarding purported jeopardy to Wynn Resorts’ gaming licenses.
7 The determinations of unsuitability and subsequent redemption were enabled by
8 misrepresentations and omissions, including but not limited to false promises that Aruze
9 USA, Mr. Okada, and Universal would have an opportunity to respond, false assertions of
10 privilege, and false assertions of confidentiality. Finally, Wynn Resorts and Mr. Wynn
11 misrepresented the fair value of the securities by relying on one biased appraisal that
12 failed to account for inside information available to Mr. Wynn and Wynn Resorts and
13 other relevant factors, including the lack of enforceability of the Stockholders Agreement.

14 363. In the absence of the wrongful conduct of Wynn Resorts and Mr. Wynn, no
15 redemption would have occurred, let alone a redemption of Aruze USA’s shares in Wynn
16 Resorts at a price well below fair value or market value.

17 364. Under the “forced seller” or “fundamental change” doctrine, reliance is not
18 an element of a securities fraud claim alleging an involuntary sale, such as the purported
19 redemption in this case. The forced seller doctrine provides a cause of action under the
20 federal securities laws, because Aruze USA was forced by Wynn Resorts and Mr. Wynn
21 to convert its stock for money or other consideration, and/or because Aruze USA was
22 forced by Wynn Resorts and Mr. Wynn to fundamentally change the nature of its
23 investments as part of the fraudulent scheme. No volitional act was necessary by
24 Aruze USA to complete the transaction – and, in fact, Aruze USA did not want the sale to
25 occur.

26 365. As a direct consequence of the wrongful conduct of Wynn Resorts and
27 Mr. Wynn, Aruze USA suffered losses that resulted in the sale of its stock for more than
28 \$1 billion below fair value.

366. Aruze USA brings this claim within the relevant statute of limitations under federal law, having discovered facts giving rise to this claim, including injury arising from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did not and could not reasonably have discovered earlier the facts giving rise to this claim.

COUNT XX

**Claim for Violations of Section 20(a) of the Securities Exchange Act of 1934
and SEC Rule 10b-5 Promulgated Thereunder**

(By Aruze USA Against Steve Wynn)

367. Aruze USA reasserts and realleges Paragraphs 4 through 164 above as if set forth in full below.

368. Mr. Wynn acted as a controlling person of Wynn Resorts within the meaning of Section 20(a) of the Exchange Act, as alleged herein. By reason of his positions as an officer and director of Wynn Resorts, and his ownership of Wynn Resorts stock, Mr. Wynn had the power and authority to cause Wynn Resorts to engage in the wrongful conduct complained of herein. Mr. Wynn controlled Wynn Resorts and all of its other employees.

369. By reason of such conduct, Mr. Wynn is liable pursuant to Section 20(a) of the Exchange Act.

370. Aruze USA brings this claim within the relevant statute of limitations under federal law, having discovered facts giving rise to this claim, including injury arising from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or about February 18, 2012. Despite having exercised reasonable diligence, Aruze USA did not and could not reasonably have discovered earlier the facts giving rise to this claim.

PRAYER FOR RELIEF

WHEREFORE, Aruze USA and Universal each expressly reserves its and their right to amend these Counterclaims before or at the time of the trial of this action to include all items of injury and damages not yet ascertained. Aruze USA and Universal pray that the Honorable Court enter judgment in favor of each of them, and against Wynn Resorts, Mr. Wynn, Ms. Sinatra, and the other Wynn Directors, and each of them, as follows:

- a. For general damages in an amount in excess of \$100,000;
- b. For consequential damages;
- c. For treble and statutory damages;
- d. For punitive damages three times the amount of compensatory damages awarded;
- e. For disgorgement of profits;
- f. For constructive trust and unjust enrichment;
- g. For injunctive and declaratory relief;
- h. For costs and expenses of this action, prejudgment and post-judgment interest, and reasonable attorneys' fees incurred herein; and,
- i. Any and all such other and further equitable and legal relief as this Court deems just and proper.

**ANSWER OF DEFENDANTS ARUZE USA, INC. AND UNIVERSAL
ENTERTAINMENT CORPORATION TO THE COMPLAINT**

Each of Aruze USA, Inc. and Universal (collectively referred hereafter as “Defendants”) hereby answers the allegations (the “Answer”) in the Complaint of Wynn Resorts in the above captioned action. Except as to those allegations that are expressly admitted in this Answer, all allegations in the Complaint, including any Headings, Footnotes, Tables and Exhibits, are hereby denied.

Defendants respond to the Paragraph captioned “Nature Of The Action” as follows:

This Paragraph asserts legal argument and conclusions to which no responsive pleading is required. To the extent any response is required, Defendants admit that Plaintiff has brought a lawsuit that purports to assert a claim for, among other things, breach of fiduciary duty, but deny that Plaintiff is entitled to any relief. To the extent Defendants have not otherwise responded to the allegations in the Paragraph captioned “Nature of the Action,” the allegations are denied.

Defendants respond to the enumerated paragraphs of the Complaint as follows:

1. Defendants admit the allegations contained in Paragraph 1 of the Complaint.
2. Defendants admit that Wynn Resorts is a developer of resort casinos. Defendants further admit that Wynn Resorts owns casinos through its wholly owned subsidiaries, Wynn Las Vegas, LLC and Wynn Macau, Limited. Except as so expressly admitted, Defendants deny each and every allegation contained in Paragraph 2 of the Complaint.
3. Defendants admit the allegations contained in Paragraph 3 of the Complaint.
4. Defendants admit the allegations contained in Paragraph 4 of the Complaint.
5. Defendants admit that Kazuo Okada (“Mr. Okada”) was and is a citizen of Japan. Defendants further admit that Mr. Okada is a member of the Board of Directors of Wynn Resorts and, from October 2002 through October 2011, Mr. Okada served as Vice

1 Chairman of Wynn Resorts. Defendants deny that Aruze USA ceased to be a shareholder
2 of Wynn Resorts on February 18, 2012. Defendants further aver that Aruze USA
3 continues to own and control approximately 19.66% of the common stock of Wynn
4 Resorts. Except as so expressly admitted and averred, Defendants deny each and every
5 allegation contained in Paragraph 5 of the Complaint.

6 6. Defendants admit that Aruze USA, Inc. is a corporation organized and
7 existing under the Laws of the State of Nevada, and is a wholly owned subsidiary of
8 Universal. Defendants further admit that Mr. Okada serves as a director, President,
9 Secretary, and Treasurer of Aruze USA. Except as so expressly admitted, Defendants
10 deny each and every allegation contained in Paragraph 6 of the Complaint.

11 7. Defendants admit the allegations contained in Paragraph 7 of the Complaint.

12 8. Defendants admit the allegations contained in Paragraph 8 of the Complaint.

13 9. Defendants admit that Wynn Resorts' Gaming Compliance Committee is an
14 internal committee chaired by Robert Miller and comprised of two additional members,
15 Marc Schorr and John Strzemp. Defendants further admit that Mr. Schorr is a director of
16 Wynn Resorts and its Chief Operating Officer. Defendants further admit that Mr.
17 Strzemp is Wynn Resorts' Executive Vice President and Chief Administrative Officer.
18 Defendants aver that the duties of Wynn Resorts' Compliance Committee as described in
19 Wynn Resorts' public filings speak for themselves, and deny any allegations in Paragraph
20 9 inconsistent therewith. Except as so expressly admitted and averred, Defendants deny
21 each and every allegation contained in Paragraph 9 of the Complaint.

22 10. Defendants admit, on information and belief, that Louis J. Freeh was the
23 director of the Federal Bureau of Investigation from 1993 to 2001 and that, before joining
24 the Federal Bureau of Investigation, Mr. Freeh was a United States District Court Judge.
25 Except as so expressly admitted, Defendants are without knowledge or information
26 sufficient to form a belief as to the truth of the remaining allegations, and Defendants
27 therefore deny each and every allegation contained in Paragraph 10 of the Complaint.

28 11. Defendants aver that the allegations contained in Paragraph 11 assert legal

1 conclusions and, therefore, no responsive pleading is required. To the extent any response
2 is required, Defendants deny each and every allegation in Paragraph 11 of the Complaint.

3 12. Defendants aver that the allegations contained in Paragraph 12 assert legal
4 conclusions and, therefore, no response is required. To the extent that this case were in the
5 Nevada state court, Defendants admit that it would be properly assigned to the Business
6 Docket. Except as so expressly admitted, Defendants deny each and every allegation in
7 Paragraph 12 of the Complaint.

8 13. The allegations contained in Paragraph 13 assert legal conclusions and,
9 therefore, no responsive pleading is required. To the extent that a response is required,
10 Defendants admit that, as a director of Wynn Resorts, Mr. Okada is subject to certain
11 Nevada gaming laws and regulations. Defendants further aver that the applicable laws,
12 rules and regulations speak for themselves, and Defendants deny any allegations in
13 Paragraph 13 inconsistent therewith. Except as so expressly admitted, Defendants deny
14 each and every allegation in Paragraph 13 of the Complaint.

15 14. Defendants admit that, on information and belief, Wynn Resorts recently
16 promulgated a Code of Business Conduct and Ethics (the "Code of Conduct"). Except as
17 so expressly admitted, Defendants deny each and every allegation contained in
18 Paragraph 14 of the Complaint.

19 15. Defendants deny each and every allegation contained in Paragraph 15 of the
20 Complaint.

21 16. Defendants deny each and every allegation contained in Paragraph 16 of the
22 Complaint.

23 17. Defendants admit that Mr. Okada discussed a development project in the
24 Philippines with Mr. Wynn. Except as so expressly admitted, Defendants deny each and
25 every allegation contained in Paragraph 17 of the Complaint.

26 18. Defendants admit that Universal maintains a city ledger at Wynn Resorts.
27 Except as so expressly admitted, Defendants deny each and every allegation contained in
28 Paragraph 18 of the Complaint.

1 19. Defendants deny each and every allegation contained in Paragraph 19 of the
2 Complaint.

3 20. Defendants aver that the laws, rules, and regulations governing the
4 Philippine Amusement and Gaming Corporation speak for themselves, and deny any
5 allegations contained in Paragraph 20 inconsistent therewith. Defendants aver that the
6 document titled "Provisional License," in connection with Tiger Resort, Leisure and
7 Entertainment, Inc., speaks for itself and Defendants deny any allegations contained in
8 Paragraph 20 inconsistent therewith. To the extent not so specifically averred and
9 admitted, Defendants deny each and every allegation contained in Paragraph 20 of the
10 Complaint.

11 21. Defendants are without knowledge or information sufficient to form a belief
12 as to the truthfulness of the allegations concerning what Wynn Resorts heard and these
13 allegations are, therefore, denied. Defendants deny each and every allegation contained in
14 Paragraph 21 of the Complaint.

15 22. Defendants are without knowledge or information sufficient to form a belief
16 as to the truthfulness of the allegations concerning Plaintiff's purported conduct of an
17 investigation and these allegations are, therefore, denied. Defendants deny each and every
18 allegation contained in Paragraph 22 of the Complaint.

19 23. Defendants admit that from time to time Mr. Okada and Mr. Wynn
20 discussed traveling to the Philippines. Except as so expressly admitted, Defendants deny
21 each and every allegation contained in Paragraph 23 of the Complaint.

22 24. Defendants admit that the Wynn Resorts' Board of Directors met on
23 February 24, 2011. Defendants further admit that Mr. Okada attended the meeting.
24 Defendants are without knowledge or information sufficient to form a belief as to the
25 truthfulness of the allegations concerning any Board discussions contained in Paragraph
26 24 and these allegations are, therefore, denied. Except as so expressly admitted,
27 Defendants deny each and every allegation contained in Paragraph 24 of the Complaint.

28 25. Defendants deny each and every allegation contained in Paragraph 25 of

1 the Complaint.

2 26. Defendants deny each and every allegation contained in Paragraph 26 of the
3 Complaint.

4 27. To the extent the allegations contained in Paragraph 27 refer to public
5 statements, such statements speak for themselves and Defendants deny each and every
6 allegation contained in Paragraph 27 inconsistent therewith. Defendants deny each and
7 every allegation contained in Paragraph 27 of the Complaint.

8 28. Defendants admit that on January 26, 2012, Universal held a
9 groundbreaking ceremony for its development project in the Philippines. Defendants
10 further aver that to the extent the allegations contained in Paragraph 28 refer to public
11 statements, such statements speak for themselves and Defendants deny each and every
12 allegation contained in Paragraph 28 inconsistent therewith. Except as so expressly
13 admitted, Defendants deny each and every allegation contained in Paragraph 28 of the
14 Complaint.

15 29. Defendants deny each and every allegation contained in Paragraph 29 of the
16 Complaint.

17 30. Defendants are without knowledge or information sufficient to form a belief
18 as to the truthfulness of the allegations concerning the purported meeting on July 28,
19 2011, and these allegations are, therefore, denied. Defendants deny each and every
20 allegation contained in Paragraph 30 of the Complaint.

21 31. Defendants admit that Wynn Resorts' Board of Directors held a meeting on
22 October 31, 2011 and November 1, 2011. Defendants further admit that Mr. Okada
23 received what is purported to be a version of the Wynn Resorts Code of Business Conduct
24 and Ethics and a version of a purported policy regarding payments to government
25 officials. Defendants are without knowledge or information sufficient to form a belief as
26 to the truthfulness of the allegations contained in Paragraph 31 concerning notice, and
27 these allegations are, therefore, denied. Defendants aver that Mr. Okada raised questions,
28 through counsel, regarding a version of the Code of Business Conduct and Ethics, and the

1 purported policy regarding payment to government officials he received and hereby
2 denies any allegations inconsistent therewith. Except as so expressly admitted and
3 averred, Defendants deny each and every allegation contained in Paragraph 31 of the
4 Complaint.

5 32. Defendants admit that Mr. Okada's assistant sent an email on September 15,
6 2011 stating that Mr. Okada intended to attend the two day Wynn Resorts Board meeting
7 on October 31, 2011 and November 1, 2011. Except as so expressly admitted, Defendants
8 deny each and every allegation contained in Paragraph 32 of the Complaint.

9 33. Defendants are without knowledge or information sufficient to form a belief
10 as to the truthfulness of the allegations concerning Plaintiff's purported conduct of an
11 investigation and these allegations are, therefore, denied. Defendants deny each and every
12 allegation contained in Paragraph 33 of the Complaint.

13 34. Defendants are without knowledge or information sufficient to form a belief
14 as to the truthfulness of the allegations concerning the Compliance Committee's purported
15 special meeting and these allegations are, therefore, denied. Defendants deny each and
16 every allegation contained in Paragraph 34 of the Complaint.

17 35. Defendants admit that on September 30, 2011, a meeting was held to discuss
18 Wynn Resorts' agreement to provide financing for Aruze USA. Defendants are without
19 information or belief as to the truthfulness of the allegations contained in Paragraph 35
20 concerning the Compliance Committee's concerns and these allegations are, therefore,
21 denied. Except as so expressly admitted, Defendants deny each and every allegation
22 contained in Paragraph 35 of the Complaint.

23 36. Defendants admit that counsel for Plaintiff and Mr. Okada communicated
24 during the month of October 2011. Defendants are without information or belief
25 sufficient to form a belief as to the truthfulness of the allegations contained in Paragraph
26 36 concerning the Wynn Resorts' concerns and these allegations are, therefore, denied.
27 Except as so expressly admitted, Defendants deny each and every allegation contained in
28 Paragraph 36 of the Complaint.

1 37. Defendants admit that Mr. Okada made requests to inspect the books and
2 records of Plaintiff. Except as so expressly admitted, Defendants deny each and every
3 allegation contained in Paragraph 37 of the Complaint.

4 38. Defendants admit that Mr. Okada requested that the training materials be
5 translated to Japanese. Defendants aver that he further requested the training be moved
6 until after the Board meeting on November 1, 2011, or rescheduled, because he could not
7 otherwise attend. Except as so expressly admitted and averred, Defendants deny each and
8 every allegations contained in Paragraph 38 of the Complaint.

9 39. Defendants are without knowledge or information sufficient to form a belief
10 as to the truthfulness of the allegations concerning Plaintiff's purported retention of Mr.
11 Freeh on October 29, 2011, and these allegations are, therefore, denied. Defendants deny
12 each and every allegation contained in Paragraph 39 of the Complaint.

13 40. Defendants are without knowledge or information sufficient to form a belief
14 as to the truthfulness of the allegations contained in Paragraph 40 concerning Mr. Freeh's
15 interviews of Plaintiff's Board of Directors and review of any materials, and these
16 allegations are, therefore, denied. Defendants deny each and every allegation contained in
17 Paragraph 40 of the Complaint.

18 41. Defendants are without knowledge or information sufficient to form a belief
19 as to the truthfulness of the allegations contained in Paragraph 41 concerning a purported
20 briefing of the Compliance Committee on February 6, 2012, and these allegations are,
21 therefore, denied. Defendants deny each and every allegation contained in Paragraph 41
22 of the Complaint.

23 42. Defendants admit that Mr. Okada participated in a full-day interview with
24 Mr. Freeh and his associates in Tokyo, Japan on February 15, 2012. Defendants admit
25 that Mr. Okada was accompanied by counsel during the interview. Except as so expressly
26 admitted, Defendants deny each and every allegation contained in Paragraph 42 of the
27 Complaint.

28 43. Defendants deny each and every allegation contained in Paragraph 43 of the

1 Complaint.

2 44. Defendants admit that Mr. Freeh made a presentation to Wynn Resorts'
3 Board of Directors on February 18, 2012. Except as so expressly admitted, Defendants
4 deny each and every allegation contained in Paragraph 44 of the Complaint.

5 45. Defendants are without knowledge or information sufficient to form a belief
6 as to the truthfulness of the allegations contained in Paragraph 45 concerning the Board's
7 deliberations and the allegations are, therefore, denied. Defendants deny each and every
8 allegation contained in Paragraph 45 of the Complaint.

9 46. Defendants deny each and every allegation contained in Paragraph 46 of the
10 Complaint.

11 47. In response to Paragraph 47, Defendants incorporate herein each and every
12 prior admission, denial, or other response to the allegations contained in Paragraphs 1
13 through and including 46 of the Complaint as if fully set forth herein.

14 48. Defendants deny each and every allegation contained in Paragraph 48 of the
15 Complaint.

16 49. Defendants deny each and every allegation contained in Paragraph 49 of the
17 Complaint.

18 50. Defendants deny each and every allegation contained in Paragraph 50 of the
19 Complaint.

20 51. Defendants deny each and every allegation contained in Paragraph 51 of the
21 Complaint.

22 52. Defendants deny each and every allegation contained in Paragraph 52 in the
23 Complaint.

24 53. Defendants deny each and every allegation contained in Paragraph 53 in the
25 Complaint.

26 54. Defendants deny each and every allegation contained in Paragraph 54 of the
27 Complaint.

28 55. Defendants deny each and every allegation contained in Paragraph 55 of the

1 Complaint.

2 56. Defendants admit that Mr. Okada is a director of Wynn Resorts, and as such
3 owes certain fiduciary duties to the Company and its shareholders to the extent they exist
4 under Nevada law and hereby denies any allegations contained in Paragraph 56 that are
5 inconsistent therewith. Except as so expressly admitted, Defendants deny each and every
6 allegation contained in Paragraph 56 of the Complaint.

7 57. Defendants admit that Mr. Okada is a director of Wynn Resorts. Defendants
8 aver that the allegations contained in Paragraph 57 assert legal conclusions to which no
9 responsive pleading is required. To the extent a response is required, Defendants admit
10 that Mr. Okada owes certain fiduciary duties to the Company and its shareholders to the
11 extent they exist under Nevada law and hereby denies any allegations contained in
12 Paragraph 57 that are inconsistent therewith. Except as so expressly admitted, Defendants
13 deny each and every allegation contained in Paragraph 57 of the Complaint.

14 58. Defendants deny each and every allegation contained in Paragraph 58 of the
15 Complaint.

16 59. Defendants deny each and every allegation contained in Paragraph 59 of the
17 Complaint.

18 60. Defendants deny each and every allegation contained in Paragraph 60 of the
19 Complaint.

20 61. Defendants deny each and every allegation contained in Paragraph 61 of the
21 Complaint.

22 62. Defendants deny each and every allegation contained in Paragraph 62 of the
23 Complaint.

24 63. Defendants deny each and every allegation contained in Paragraph 63 of the
25 Complaint.

26 64. In response to Paragraph 64, Defendants incorporate herein each and every
27 prior admission, denial, or other response to the allegations contained in Paragraphs 1
28 through and including 63 of the Complaint as if fully set forth herein.

1 65. Defendants admit that Mr. Okada is a director of Wynn Resorts. Defendants
2 aver that the allegations contained in Paragraph 65 assert a legal conclusion to which no
3 responsive pleading is required. To the extent a response is required, Defendants admit
4 that Mr. Okada owes certain fiduciary duties to the Company to the extent they exist
5 under Nevada law and hereby denies any allegations contained in Paragraph 65 that are
6 inconsistent therewith. Except as so expressly admitted, Defendants deny each and every
7 allegation contained in Paragraph 65 of the Complaint.

8 66. Defendants deny each and every allegation contained in Paragraph 66 of the
9 Complaint.

10 67. Defendants deny each and every allegation contained in Paragraph 67 of the
11 Complaint.

12 68. Defendants deny each and every allegation contained in Paragraph 68 of the
13 Complaint.

14 69. Defendants deny each and every allegation contained in Paragraph 69 of the
15 Complaint.

16 70. In response to Paragraph 70, Defendants incorporate herein each and every
17 prior admission, denial, or other response to the allegations contained in Paragraphs 1
18 through and including 69 of the Complaint as if fully set forth herein.

19 71. Defendants aver that the Nevada Gaming Regulations speak for themselves
20 and Defendants deny any allegations contained in Paragraph 71 of the Complaint
21 inconsistent therewith. Except as so expressly averred, Defendants deny each and every
22 allegation contained in Paragraph 71 of the Complaint.

23 72. Defendants aver that the Nevada Gaming Regulations speak for themselves
24 and Defendants deny any allegations contained in Paragraph 72 of the Complaint
25 inconsistent therewith. Except as so expressly averred, Defendants deny each and every
26 allegation contained in Paragraph 72 of the Complaint.

27 73. Defendants aver that the Nevada Gaming Regulations speak for themselves
28 and Defendants deny any allegations contained in Paragraph 73 of the Complaint

1 inconsistent therewith. Except as so expressly averred, Defendants deny each and every
2 allegation contained in Paragraph 73 of the Complaint.

3 74. Defendants aver that to the extent the allegations contained in Paragraph 74
4 refer to publicly filed documents, such documents speak for themselves and Defendants
5 deny any allegations contained in Paragraph 74 inconsistent therewith. Except as so
6 expressly averred, Defendants deny each and every allegation contained in Paragraph 74
7 of the Complaint.

8 75. Defendants aver that to the extent the allegations contained in Paragraph 75
9 refer to publicly filed documents, such documents speak for themselves and Defendants
10 deny any allegations contained in Paragraph 75 inconsistent therewith. Except as so
11 expressly averred, Defendants deny each and every allegation contained in Paragraph 75
12 of the Complaint.

13 76. Defendants are without knowledge or information sufficient to form a belief
14 as to the truthfulness of the allegations concerning what took place following Freeh's
15 presentation to the Wynn Resorts Board of Directors and these allegations are, therefore,
16 denied. Defendants deny each and every allegation contained in Paragraph 76 of the
17 Complaint.

18 77. Defendants deny each and every allegation contained in Paragraph 77 of the
19 Complaint.

20 78. Defendants deny each and every allegation contained in Paragraph 78 of the
21 Complaint.

22 79. Defendants deny each and every allegation contained in Paragraph 79 of the
23 Complaint.

24

25 **ANSWER TO PRAYER FOR RELIEF**

26 WHEREFORE, denying any basis exists to grant Plaintiff relief, Defendants
27 pray:

28 a. Plaintiff take nothing;

- 1 b. For a judgment dismissing the Complaint in its entirety with prejudice;
2 and,
3 c. The Court award to Defendants such additional relief as it deems
4 appropriate.

5
6 **AFFIRMATIVE DEFENSES**

7 Without undertaking any burden of proof not otherwise assigned to them by
8 law, Defendants, and each of them, assert the following separate and affirmative defenses:

9
10 **FIRST AFFIRMATIVE DEFENSE**

11 **(No Injury)**

12 Plaintiff's purported claims are barred in whole or in part because Plaintiff
13 has not sustained any cognizable injury.

14
15 **SECOND AFFIRMATIVE DEFENSE**

16 **(Failure to State a Claim)**

17 Plaintiff's purported claims are barred in whole or in part because the
18 Complaint, and each and every purported claim for relief alleged therein, fails to allege
19 facts sufficient to state a claim upon which relief may be granted.

20
21 **THIRD AFFIRMATIVE DEFENSE**

22 **(No Breach)**

23 Plaintiff's purported claims are barred in whole or in part because
24 Defendants did not breach any fiduciary duties to Wynn Resorts.

25
26 **FOURTH AFFIRMATIVE DEFENSE**

27 **(Standing)**

28 Plaintiff's purported claims are barred in whole or in part because Plaintiff

1 lacks standing to assert some or all of its claims.

2
3 **FIFTH AFFIRMATIVE DEFENSE**

4 **(Statute of Limitations)**

5 Plaintiff's purported claims are barred in whole or in part because of any
6 applicable statute of limitations.

7
8 **SIXTH AFFIRMATIVE DEFENSE**

9 **(Contributory Negligence)**

10 Plaintiff's purported claims are barred in whole or in part by its own actions,
11 omissions, negligence, and/or malfeasance.

12
13 **SEVENTH AFFIRMATIVE DEFENSE**

14 **(Comparative Negligence)**

15 Plaintiff's purported claims are barred in whole or in part because Plaintiff's
16 damages, if any, were caused or contributed to by Plaintiff's own negligence, and such
17 negligence was greater than any negligence, which is expressly denied, on the part of
18 Defendants.

19
20 **EIGHTH AFFIRMATIVE DEFENSE**

21 **(Superseding Cause)**

22 Plaintiff's purported claims are barred in whole or in part because Plaintiff's
23 alleged damages, if any, were the result of one or more intervening or superseding causes
24 or caused by the acts and/or failures to act of persons and/or entities other than
25 Defendants, and were not the result of any act or omission on the part of Defendants.

NINTH AFFIRMATIVE DEFENSE

(Good Faith)

Plaintiffs' claims are barred in whole or in part because Defendants at all times acted in good faith and did not directly or indirectly induce any act or acts constituting a cause of action arising under any law.

TENTH AFFIRMATIVE DEFENSE

(Speculative Damages)

Plaintiffs' damages claims are barred in whole or in part because they are speculative in nature and/or not otherwise recoverable under the law.

ELEVENTH AFFIRMATIVE DEFENSE

(No Causation)

Plaintiff's purported claims are barred in whole or in part because of a lack of causation. Plaintiff has not suffered any injury or harm as a result of any actions or omissions of Defendants.

TWELFTH AFFIRMATIVE DEFENSE

(Failure to Mitigate)

Plaintiff's purported claims are barred due to its failure to mitigate its damages.

THIRTEENTH AFFIRMATIVE DEFENSE

(Breach of Fiduciary Duty by Wynn Resorts' Board)

Plaintiff's purported claims are barred because the Board of Wynn Resorts breached its fiduciary duties in connection with its purported redemption of Aruze USA's shares of Wynn Resorts stock, and therefore the purported redemption was illegal and improper.

FOURTEENTH AFFIRMATIVE DEFENSE

(Improper Taking)

Plaintiff's purported claims are barred because the actions of the Board of Wynn Resorts were taken in violation of the Articles of Incorporation of Wynn Resorts.

FIFTEENTH AFFIRMATIVE DEFENSE

(Violation of Nevada and U.S. Law)

Plaintiff's purported claims are barred because the actions of the Board of Wynn Resorts were taken in violation of Nevada gaming regulations, Nevada state law, the Constitution of the State of Nevada, and the laws arising under the U.S. Constitution.

SIXTEENTH AFFIRMATIVE DEFENSE

(Lack of Subject Matter Jurisdiction)

Plaintiff's purported claims are barred because and to the extent that this Court lacks subject matter jurisdiction to resolve certain matters and claims alleged in the Complaint.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Fraudulent Inducement)

Plaintiff's declaratory relief claim is barred in whole or in part because Plaintiff and Steve Wynn fraudulently induced Aruze USA to acquire shares in Wynn Resorts by and through Plaintiff's and Steve Wynn's conduct of intentionally failing to inform Aruze USA that Plaintiff and Steve Wynn would unilaterally amend Plaintiff's Articles of Incorporation to include the shareholder redemption provision that Plaintiff now seeks to enforce against Aruze USA.

EIGHTEENTH AFFIRMATIVE DEFENSE

(Limitation on Liability)

Plaintiff's purported claims are barred in whole or in part because and to the extent that Defendants' liability, if any, is limited by Wynn Resorts' Articles of Incorporation, Bylaws, and N.R.S. § 78.138.

NINETEENTH AFFIRMATIVE DEFENSE

(Insufficient Pleadings)

Plaintiff's purported claims are barred in whole or in part because the Complaint fails to state the alleged claims with sufficient particularity to allow Defendants to respond with and to ascertain what other defenses may exist.

TWENTIETH AFFIRMATIVE DEFENSE

(Assumption of Risk)

Plaintiff's purported claims are barred in whole or in part because Plaintiff is not entitled to recover from Defendant because Plaintiff knew or should have known the risks associated with the conduct alleged in the Complaint.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(License)

Plaintiff's purported claims are barred in whole or in part because Plaintiff authorized Defendant's alleged wrongdoing.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Unclean Hands)

Plaintiff's purported claims are barred in whole or in part because it has "unclean hands."

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Estoppel)

Plaintiff's purported claims are barred in whole or in part because or based on the doctrine of estoppel.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(Laches)

Plaintiff's purported claims are barred in whole or in part based on the doctrine of laches.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Waiver)

Plaintiff's purported claims are barred in whole or in part because the Plaintiff has waived its right to seek damages.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

(Acquiescence)

Plaintiff's purported claims are barred in whole or in part because the Plaintiff has acquiesced to Defendants' actions.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(Ratification)

Plaintiff's purported claims barred in whole or in part because the Plaintiff has ratified Defendants' actions.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(Res Judicata)

Plaintiff's purported claims are barred in whole or in part because of the

1 doctrine of res judicata.

2
3 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

4 **(Unconscionability)**

5 Plaintiff's purported claims are barred in whole or in part because the
6 scheme of redemption as set forth in the Wynn Resorts Articles of Incorporation and as
7 executed by Wynn Resorts was and is unlawfully unconscionable.

8
9 **THIRTIETH AFFIRMATIVE DEFENSE**

10 **(Contrary to Public Policy)**

11 Plaintiff's purported claims are barred in whole or in part because the
12 scheme of redemption as set forth in the Wynn Resorts Articles of Incorporation and as
13 executed by Wynn Resorts was and is contrary to public policy.

14
15 **THIRTY-FIRST AFFIRMATIVE DEFENSE**

16 **(Illegal Penalty)**

17 Plaintiff's purported claims are barred in whole or in part because
18 redemption is an illegal and unenforceable penalty.

19
20 **THIRTY-SECOND AFFIRMATIVE DEFENSE**

21 **(Unlawful Forfeiture)**

22 Plaintiff's purported claims are barred in whole or in part because
23 redemption is an unlawful forfeiture.

24
25 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

26 **(Reserve All Rights)**

27 Defendants hereby reserve and assert all affirmative defenses available
28 under federal law and under any applicable state law. Defendants presently have

1 insufficient knowledge or information upon which to form a belief as to whether they may
2 have other, as yet unstated, affirmative defenses available. Therefore, Defendants reserve
3 the right to assert additional affirmative defenses in the event that discovery indicates that
4 it would be appropriate. Additionally, Defendants adopt by reference any applicable
5 defense asserted by any other defendant not expressly pleaded herein to the extent he may
6 share that defense.

7
8 **JURY DEMAND**

9 Defendants and Counterclaimants hereby demand a trial by jury on all
10 claims and issues so triable.

11 DATED: March 12, 2012.

Respectfully submitted,

12 LIONEL SAWYER & COLLINS

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** Pro hac vice application forthcoming*