EXHIBIT "I"

Docket 68439 Document 2015-21809

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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:

WYNN RESORTS FILES PRELIMINARY PROXY STATEMENT FOR SPECIAL MEETING OF STOCKHOLDERS TO VOTE ON REMOVAL OF KAZUO OKADA AS A DIRECTOR

LAS VEGAS—March 7, 2012 — Wynn Resorts, Limited (NASDAQ: WYNN) today filed with the United States Securities and Exchange Commission preliminary proxy materials for a Special Meeting of stockholders to be held for the purpose of voting on a proposal by Wynn Resorts to remove Kazuo Okada as a director. Wynn Resorts is taking this action in light of the determination by its Board of Directors on February 18, 2012 that Mr. Okada and certain of his affiliated entities are "Unsuitable Persons" as defined in Wynn Resorts' Articles of Incorporation.

Wynn Resorts stockholders of record at the close of business on March 30, 2012 will be entitled to notice of the Special Meeting and to vote on the proposal to remove Mr. Okada as a director. The date of the Special Meeting has not yet been set. Under Nevada law and Wynn Resorts' Bylaws, a director of Wynn Resorts may be removed from office by the affirmative vote of the holders of not less than two-thirds of the voting power of the issued and outstanding shares.

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

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Additional Information and Where to Find It

The Company has filed a preliminary proxy statement with the Securities and Exchange Commission (the "SEC") in connection with the special meeting. The definitive proxy statement is not currently available. INVESTORS ARE URGED TO READ THE PRELIMINARY PROXY STATEMENT AND, WHEN IT BECOMES AVAILABLE, THE DEFINITIVE PROXY STATEMENT, BECAUSE THESE DOCUMENTS CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION. You will be able to obtain the preliminary proxy statement, the definitive proxy statement (when available) as well as other relevant documents, free of charge, at the website maintained by the SEC at www.sec.gov. Copies of the proxy statement and other filings made by the Company with the SEC can also be obtained, free of charge, at www.wynnresorts.com or upon request by calling Wynn Resorts Investor Relations at 702-770-7555.

Participants in the Solicitation

The Company, its directors and executive officers and certain other persons may be deemed to be participants in the solicitation of proxies from the Company's stockholders in connection with the Removal Proposal. Information about the Company's directors and executive officers is set forth in its proxy statement for its 2011 Annual Meeting of Stockholders, which was filed with the SEC on April 7, 2011, and its Annual Report on Form 10-K for the year ended December 31, 2011, filed on February 29, 2012. Additional information regarding the participants in the solicitation of proxies in connection with the Removal Proposal is included in the preliminary proxy statement that the Company filed with the SEC on March 7, 2012. These documents are available free of charge at the SEC's website at www.sec.gov, at the Company's website at www.wynnresorts.com or upon request by calling Wynn Resorts Investor Relations at 702-770-7555.

EXHIBIT "J"

WYNN RESORTS, LIMITED
A NEVADA CORPORATION

FOURTH AMENDED AND RESTATED BYLAWS
EFFECTIVE AS OF
NOVEMBER 13, 2006

FOURTH AMENDED AND RESTATED BYLAWS
WYNN RESORTS, LIMITED
a Nevada corporation

ARTICLE I
OFFICES

Section 1.1 Principal Office. The principal office and place of business of Wynn Resorts, Limited (the "**Corporation**") shall be at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

Section 1.2 Other Offices. Other offices and places of business either within or without the State of Nevada may be established from time to time by resolution of the board of directors of the Corporation (the "**Board of Directors**") or as the business of the Corporation may require. The street address of the Corporation's resident agent is the registered office of the Corporation in Nevada.

ARTICLE II
STOCKHOLDERS

Section 2.1 Annual Meeting. The annual meeting of the stockholders of the Corporation shall be held on such date and at such time as may be designated from time to time by the Board of Directors. At the annual meeting, directors shall be elected and any other business may be transacted as may be properly brought before the meeting.

Section 2.2 Special Meetings.

(a) Subject to the rights of the holders of preferred stock, if any, special meetings of the stockholders may be called only by the chairman of the board, if any, or the chief executive officer, if any, or, if there be no chairman of the board and no chief executive officer, by the president, and shall be called by the secretary upon the written request of at least a majority of the authorized number of directors. Such request shall state the purpose or purposes of the meeting. Stockholders shall have no right to request or call a special meeting.

(b) No business shall be acted upon at a special meeting of stockholders except as set forth in the notice of the meeting.

Section 2.3 Place of Meetings. Any meeting of the stockholders of the Corporation may be held at the Corporation's registered office in the State of Nevada or at such other place in or out of the State of Nevada and United States as may be designated in the notice of meeting. A waiver of notice signed by all stockholders entitled to vote may designate any place for the holding of such meeting.

Section 2.4 Notice of Meetings; Waiver of Notice.

(a) The president, chief executive officer, if any, a vice president, the secretary, au assistant secretary or any other individual designated by the Board of Directors

shall sign and deliver or cause to be delivered to the stockholders written notice of any stockholders' meeting not less than ten (10) days, but not more than sixty (60) days, before the date of such meeting. The notice shall state the place, date and time of the meeting and the purpose or purposes for which the meeting is called. The notice shall contain or be accompanied by such additional information as may be required by *Nevada Revised Statutes* ("**NRS**"), including, without limitation, NRS 78.379, 92A.120 or 92A.410.

(b) In the case of an annual meeting, subject to Section 2.13 below, any proper business may be presented for action, except that (i) if a proposed plan of merger, conversion or exchange is submitted to a vote, the notice of the meeting must state that the purpose, or one of the purposes, of the meeting is to consider the plan of merger, conversion or exchange and must contain or be accompanied by a copy or summary of the plan; and (ii) if a proposed action creating dissenters' rights is to be submitted to a vote, the notice of the meeting must state that the stockholders are or may be entitled to assert dissenters' rights under NRS 92A.300 to 92A.500, inclusive, and be accompanied by a copy of those sections.

(c) A copy of the notice shall be personally delivered or mailed postage prepaid to each stockholder of record entitled to vote at the meeting at the address appearing on the records of the Corporation. Upon mailing, service of the notice is complete, and the time of the notice begins to run from the date upon which the notice is deposited in the mail. If the address of any stockholder does not appear upon the records of the Corporation or is incomplete, it will be sufficient to address any notice to such stockholder at the registered office of the Corporation.

(d) The written certificate of the individual signing a notice of meeting, setting forth the substance of the notice or having a copy thereof attached, the date the notice was mailed or personally delivered to the stockholders and the addresses to which the notice was mailed, shall be prima facie evidence of the manner and fact of giving such notice.

(e) Any stockholder may waive notice of any meeting by a signed writing, either before or after the meeting. Such waiver of notice shall be deemed the equivalent of the giving of such notice.

Section 2.5 Determination of Stockholders of Record.

(a) For the purpose of determining the stockholders entitled to notice of and to vote at any meeting of stockholders or any adjournment thereof, or entitled to receive payment of any distribution or the allotment of any rights, or entitled to exercise any rights in respect of any change, conversion, or exchange of stock or for the purpose of any other lawful action, the directors may fix, in advance, a record date, which shall not be more than sixty (60) days nor less than ten (10) days before the date of such meeting, if applicable.

(b) If no record date is fixed, the record date for determining stockholders: (i) entitled to notice of and to vote at a meeting of stockholders shall be at the close of business on the day next preceding the day on which notice is given, or, if notice is waived, at the close of business on the day next preceding the day on which the meeting is held; and (ii) for any other purpose shall be at the close of business on the day on which the Board of Directors adopts the resolution relating thereto. A determination of stockholders of

record entitled to notice of or to vote at any meeting of stockholders shall apply to any adjournment of the meeting; provided, however, that the Board of Directors may fix a new record date for the adjourned meeting and must fix a new record date if the meeting is adjourned to a date more than 60 days later than the date set for the original meeting.

Section 2.6 Quorum; Adjourned Meetings.

(a) Unless the Articles of Incorporation provide for a different proportion, stockholders holding at least a majority of the voting power of the Corporation'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. If, on any issue, voting by classes or series is required by the laws of the State of Nevada, the Articles of Incorporation or these Bylaws, at least a majority of the voting power, represented in person or by proxy (regardless of whether the proxy has authority to vote on all matters), within each such class or series is necessary to constitute a quorum of each such class or series.

(b) If a quorum is not represented, a majority of the voting power represented or the person presiding at the meeting may adjourn the meeting from time to time until a quorum shall be represented. At any such adjourned meeting at which a quorum shall be represented, any business may be transacted which might have been transacted as originally called. When a stockholders' meeting is adjourned to another time or place hereunder, notice need not be given of the adjourned meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. However, if a new record date is fixed for the adjourned meeting, notice of the adjourned meeting must be given to each stockholder of record as of the new record date. The stockholders present at a duly convened meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the departure of enough stockholders to leave less than a quorum of the voting power.

Section 2.7 Voting.

(a) Unless otherwise provided in the NRS, in the Articles of Incorporation, or in the resolution providing for the issuance of preferred stock adopted by the Board of Directors pursuant to authority expressly vested in it by the provisions of the Articles of Incorporation, each stockholder of record, or such stockholder's duly authorized proxy, shall be entitled to one (1) vote for each share of voting stock standing registered in such stockholder's name at the close of business on the record date.

(b) Except as otherwise provided herein, all votes with respect to shares standing in the name of an individual at the close of business on the record date (including pledged shares) shall be cast only by that individual or such individual's duly authorized proxy. With respect to shares held by a representative of the estate of a deceased stockholder, or a guardian, conservator, custodian or trustee, even though the shares do not stand in the name of such holder, votes may be cast by such holder upon proof of such representative capacity. In the case of shares under the control of a receiver, the receiver may cast votes carried by such shares even though the shares do not stand of record in the name of the receiver; provided, that the order of a court of competent jurisdiction which

appoints the receiver contains the authority to cast votes carried by such shares. If shares stand of record in the name of a minor, votes may be cast by the duly appointed guardian of the estate of such minor only if such guardian has provided the Corporation with written proof of such appointment.

(c) With respect to shares standing of record in the name of another corporation, partnership, limited liability company or other legal entity on the record date, votes may be cast: (i) in the case of a corporation, by such individual as the bylaws of such other corporation prescribe, by such individual as may be appointed by resolution of the Board of Directors of such other corporation or by such individual (including, without limitation, the officer making the authorization) authorized in writing to do so by the chairman of the board, if any, president, chief executive officer, if any, or any vice president of such corporation; and (ii) in the case of a partnership, limited liability company or other legal entity, by an individual representing such stockholder upon presentation to the Corporation of satisfactory evidence of his or her authority to do so.

(d) Notwithstanding anything to the contrary contained herein and except for the Corporation's shares held in a fiduciary capacity, the Corporation shall not vote, directly or indirectly, shares of its own stock owned by it; and such shares shall not be counted in determining the total number of outstanding shares entitled to vote.

(e) Any holder of shares entitled to vote on any matter may cast a portion of the votes in favor of such matter and refrain from casting the remaining votes or cast the same against the proposal, except in the case of elections of directors. If such holder entitled to vote does vote any of such stockholder's shares affirmatively and fails to specify the number of affirmative votes, it will be conclusively presumed that the holder is casting affirmative votes with respect to all shares held.

(f) With respect to shares standing of record in the name of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, voting trustees or otherwise and shares held by two or more persons (including proxy holders) having the same fiduciary relationship in respect to the same shares, votes may be cast in the following manner:

(i) If only one person votes, the vote of such person binds all.

(ii) If more than one person casts votes, the act of the majority so voting binds all.

(iii) If more than one person casts votes, but the vote is evenly split on a particular matter, the votes shall be deemed cast proportionately, as split.

(g) If a quorum is present, unless the Articles of Incorporation, these Bylaws, the NRS, or other applicable law provide for a different proportion, action by the stockholders entitled to vote on a matter, other than the election of directors, is approved by and is the act of the stockholders if the number of votes cast in favor of the action exceeds the number of votes cast in opposition to the action, unless voting by classes or series is required for any action of the stockholders by the laws of the State of Nevada, the Articles

of Incorporation or these Bylaws, in which case the number of votes cast in favor of the action by the voting power of each such class or series must exceed the number of votes cast in opposition to the action by the voting power of each such class or series.

(h) If a quorum is present, directors shall be elected by a plurality of the votes cast.

Section 2.8 Proxies. At any meeting of stockholders, any holder of shares entitled to vote may designate, in a manner permitted by the laws of the State of Nevada, another person or persons to act as a proxy or proxies. Every proxy shall continue in full force and effect until its expiration or revocation in a manner permitted by the laws of the State of Nevada.

Section 2.9 No Action Without A Meeting. No action shall be taken by the stockholders except at an annnal or special meeting of stockholders called and noticed in the manner required by these Bylaws. Prior to the completion of the initial public offering of the Corporation, the stockholders may take action by written consent. After the completion of the initial public offering of the Corporation, the stockholders may not in any circumstance take action by written consent.

Section 2.10 Organization.

(a) Meetings of stockholders shall be presided over by the chairman of the board, or, in the absence of the chairman, by the vice-chairman of the board, or in the absence of the vice-chairman, the president, or, in the absence of the president, by the chief executive officer, if any, or, in the absence of the foregoing persons, by a chairman designated by the Board of Directors, or, in the absence of such designation by the Board of Directors, by a chairman chosen at the meeting by the stockholders entitled to cast a majority of the votes which all stockholders present in person or by proxy are entitled to cast. The secretary, or in the absence of the secretary an assistant secretary, shall act as secretary of the meeting, but in the absence of the secretary and any assistant secretary the chairman of the meeting may appoint any person to act as secretary of the meeting. The order of business at each such meeting shall be as determined by the chairman of the meeting. The chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all such acts and things as are necessary or desirable for the proper conduct of the meeting, including, without limitation, the establishment of procedures for the maintenance of order and safety, limitation on the time allotted to questions or comments on the affairs of the Corporation, restrictions on entry to such meeting after the time prescribed for the commencement thereof and the opening and closing of the voting polls.

(b) The chairman of the meeting may appoint one or more inspectors of elections. The inspector or inspectors may (i) ascertain the number of shares outstanding and the voting power of each; (ii) determine the number of shares represented at a meeting and the validity of proxies or ballots; (iii) count all votes and ballots; (iv) determine any challenges made to any determination made by the inspector(s); and (v) certify the determination of the number of shares represented at the meeting and the count of all votes and ballots.

Section 2.11 Absentees' Consent to Meetings. Transactions of any meeting of the stockholders are as valid as though had at a meeting duly held after regular call and notice if a quorum is represented, either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not represented in person or by proxy (and those who, although present, either object at the beginning of the meeting to the transaction of any business because the meeting has not been lawfully called or convened or expressly object at the meeting to the consideration of matters not included in the notice which are legally or by the terms of these Bylaws required to be included therein), signs a written waiver of notice and/or consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents, and approvals shall be filed with the corporate records and made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of such meeting, except when the person objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called, noticed or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters not properly included in the notice if such objection is expressly made at the time any such matters are presented at the meeting. Neither the business to be transacted at nor the purpose of any regular or special meeting of stockholders need be specified in any written waiver of notice or consent, except as otherwise provided in these Bylaws.

Section 2.12 Director Nominations. Subject to the rights, if any, of the holders of preferred stock to nominate and elect directors, nominations of persons for election to the Board of Directors of the Corporation may be made by the Board of Directors, by a committee appointed by the Board of Directors, or by any stockholder of record entitled to vote in the election of directors who complies with the notice procedures set forth in Section 2.13 below.

Section 2.13 Advance Notice of Stockholder Proposals and Director Nominations by Stockholders. At any annual or special meeting of stockholders, proposals by stockholders and persons nominated for election as directors by stockholders shall be considered only if advance notice thereof has been timely given by the stockholder as provided herein and such proposals or nominations are otherwise proper for consideration under applicable law, the Articles of Incorporation and these Bylaws. Notice of any proposal to be presented by any stockholder or of the name of any person to be nominated by any stockholder for election as a director of the Corporation at any meeting of stockholders shall be delivered to the secretary of the Corporation at its principal office not less than sixty (60) nor more than ninety (90) days prior to the day of the meeting; provided, however, that if the date of the meeting is first publicly announced or disclosed (in a public filing or otherwise) less than seventy (70) days prior to the day of the meeting, such advance notice shall be given not more than ten (10) days after such date is first so announced or disclosed. Public notice shall be deemed to have been given more than seventy (70) days in advance of the annual meeting if the Corporation shall have previously disclosed, in these Bylaws or otherwise, that the annual meeting in each year is to be held on a determinable date, unless and until the Board of Directors determines to hold the meeting on a different date. For purposes of this Section, public disclosure of the date of a forthcoming meeting may be made by the Corporation not only by giving formal notice of the meeting, but also by notice to a national securities exchange, the Nasdaq National Market or the Nasdaq SmallCap Market (if a corporation's common stock is then listed on such exchange or

quoted on either such Nasdaq market), by filing a report under Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended (the "**Act**") (if the Corporation is then subject thereto), by mailing to stockholders, or by a general press release.

Any stockholder who gives notice of any such proposal shall deliver therewith the text of the proposal to be presented and a brief written statement of the reasons why such stockholder favors the proposal and setting forth such stockholder's name and address, the number and class of all shares of each class of stock of the Corporation beneficially owned by such stockholder and any material interest of such stockholder in the proposal (other than as a stockholder). Any stockholder desiring to nominate any person for election as a director of the Corporation shall deliver with such notice a statement, in writing, setting forth (a) the name of the person to be nominated; (b) the number and class of all shares of each class of stock of the Corporation beneficially owned by such person; (c) the information regarding such person required by paragraphs (a), (e) and (f) of Item 401 of Regulation S-K adopted by the Securities and Exchange Commission (the "**SEC**") (or the corresponding provisions of any regulation subsequently adopted by the SEC applicable to the Corporation), and any other information regarding such person which would be required to be included in a proxy statement filed pursuant to the proxy rules of the SEC, had such nominee been nominated, or intended to be nominated by the Board of Directors; (d) such person's signed consent to serve as a director of the Corporation if elected and to file an application for licensing or finding of suitability if the Nevada Gaming Commission or other gaming authority shall so require or the Board of Directors deems it necessary or advisable; (e) such stockholder's name and address and the number and class of all shares of each class of stock of the Corporation beneficially owned by such stockholder; (f) a representation that such stockholder is a holder of record of stock of the Corporation entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; and (g) a description of all arrangements or understandings between the stockholder and each nominee and any other person or persons (naming such person or persons) pursuant to which the nominations are to be made by the stockholder. As used herein, shares "**beneficially owned**" shall mean all shares as to which such person, together with such person's affiliates and associates (as defined in Rule 12b-2 under the Act), may be deemed to beneficially own pursuant to Rules 13d-3 and 13d-5 under the Act, as well as all shares as to which such person, together with such person's affiliates and associates, has a right to become the beneficial owner pursuant to any agreement or understanding, whereupon the exercise of warrants, options or rights to convert or exchange (whether such rights are exercisable immediately or only after the passage of time or the occurrence of conditions). The person presiding at the meeting shall determine whether such notice has been duly given and shall direct that proposals and nominees not be considered if such notice has not been duly given. Notwithstanding anything in these Bylaws to the contrary, no business shall be conducted at a meeting except in accordance with the procedures set forth in this Section. Notwithstanding the foregoing provisions hereof, a stockholder shall also comply with all applicable requirements of the Act, and the rules and regulations thereunder with respect to the matters set forth herein.

ARTICLE III
DIRECTORS

Section 3.1 General Powers; Performance of Duties. The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors, except as otherwise provided in Chapter 78 of the NRS or the Articles of Incorporation.

Section 3.2 Number, Tenure, and Qualifications. The Board of Directors of the Corporation shall consist of at least one (1) individual(s) and not more than thirteen (13) individuals. The number of directors within the foregoing fixed minimum and maximum may be established and changed from time to time by resolution adopted by the Board of Directors of the Corporation without amendment to these Bylaws or the Articles of Incorporation. Each director shall hold office until his or her successor shall be elected or appointed and qualified or until his or her earlier death, retirement, disqualification, resignation or removal. No reduction of the number of directors shall have the effect of removing any director prior to the expiration of his or her term of office. No provision of this Section shall be restrictive upon the right of the Board of Directors to fill vacancies or upon the right of the stockholders to remove directors as is hereinafter provided.

Section 3.3 Chairman of the Board. The Board of Directors shall elect a chairman of the board from the members of the Board of Directors who shall preside at all meetings of the Board of Directors and stockholders at which he or she shall be present and shall have and may exercise such powers as may, from time to time, be assigned to him or her by the Board of Directors, these Bylaws or as may be provided by law.

Section 3.4 Vice-Chairman of the Board. The Board of Directors shall elect a vice-chairman of the board from the members of the Board of Directors who shall preside at all meetings of the Board of Directors and stockholders at which he or she shall be present and the chairman is not present and shall have and may exercise such powers as may, from time to time, be assigned to him or her by the Board of Directors, these Bylaws or as may be provided by law.

Section 3.5 Classification and Elections. Upon the effectiveness of the Corporation's registration statement on Form S-1 with respect to its initial public offering of common stock, the directors shall be classified, with respect to the time for which they shall hold their respective offices, by dividing them into three classes, to be known as "Class I," "Class II" and "Class III." Directors of Class I shall hold office until the next annual meeting of stockholders after such effectiveness and until their successors are elected and qualified, directors of Class II shall hold office until the second annual meeting of stockholders after such effectiveness and until their successors are elected and qualified and directors of Class III shall hold office until the third annual meeting of stockholders after such effectiveness and until their successors are elected and qualified. At each annual meetiug of stockholders following such effectiveness, successors to the directors of the class whose term of office expires at such annual meeting shall be elected to hold office until the third succeeding annual meeting of stockholders, so that the term of office of only one class of directors shall expire at each annual meeting. The number of directors in each class, which shall be such that as near as possible to one-third and at least one-fourth (or such other fraction as required by the NRS) in number are elected at each annual meeting, shall be established from time to time by resolution of the board of directors and shall be increased or decreased by resolution of the board of directors, as may be appropriate whenever the total number of directors is increased or decreased.

Section 3.6 Removal and Resignation of Directors. Subject to any rights of the holders of preferred stock and except as otherwise provided in the NRS, any director 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 stock of the Corporation entitled to vote generally in the election of directors (voting as a single class) excluding stock entitled to vote only upon the happening of a fact or event unless such fact or event shall have occurred. In addition, the Board of Directors of the Corporation, by majority vote, may declare vacant the office of a director who has been declared incompetent by an order of a court of competent jurisdiction, convicted of a felony or found to be unsuitable to serve as a director of the Corporation by a Gaming Authority in any jurisdiction in which the Corporation or any of its Affiliates holds a gaming license. Any director may resign effective 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 the secretary, or in the absence of all of them, any other officer.

Section 3.7 Vacancies; Newly Created Directorships. Subject to any rights of the holders of preferred stock, any vacancies on the Board of Directors resulting from death, resignation, retirement, disqualification, removal from office, or other cause, and newly created directorships resulting from any increase in the authorized number of directors, may be filled by a majority vote of the directors then in office or by a sole remaining director, in either case though less than a quorum, and the director(s) so chosen shall hold office for a term expiring at the next annual meeting of stockholders at which the term of the class to which he or she has been elected expires, or until his or her earlier resignation or removal. No decrease in the number of directors constituting the Board of Directors shall shorten the term of any incumbent directors.

Section 3.8 Annual and Regular Meetings. Immediately following the adjournment of, and at the same place as, the annual or any special meeting of the stockholders at which directors are elected, the Board of Directors, including directors newly elected, shall hold its annual meeting without call or notice, other than this provision, to elect officers and to transact such further business as may be necessary or appropriate. The Board of Directors may provide by resolution the place, date, and hour for holding regular meetings between annual meetings.

Section 3.9 Special Meetings. Except as otherwise required by law, and subject to any rights of the holders of preferred stock, special meetings of the Board of Directors may be called only by the chairman of the board, if any, or if there be no chairman of the board, by any of the chief executive officer, if any, the president, or the secretary, and shall be called by the chairman of the board, if any, the president, the chief executive officer, if any, or the secretary upon the request of at least a majority of the authorized number of directors. If the chairman of the board, or if there be no chairman of the board, each of the president, chief executive officer, if any, and secretary, refuses or neglects to call such special meeting, a special meeting may be called by a written request signed by at least a majority of the authorized number of directors.

Section 3.10 Place of Meetings. Any regular or special meeting of the directors of the Corporation may be held at such place as the Board of Directors, or in the absence of

such designation, as the notice calling such meeting, may designate. A waiver of notice signed by the directors may designate any place for the holding of such meeting.

Section 3.11 Notice of Meetings. Except as otherwise provided in Section 3.8 above, there shall be delivered to each director at the address appearing for him or her on the records of the Corporation, at least twenty-four (24) hours before the time of such meeting, a copy of a written notice of any meeting (a) by delivery of such notice personally, (b) by mailing such notice postage prepaid, (c) by facsimile, (d) by overnight courier, (e) by telegram, or (f) by electronic transmission or electronic writing, including, but not limited to, email. If mailed to an address inside the United States, the notice shall be deemed delivered two (2) business days following the date the same is deposited in the United States mail, postage prepaid. If mailed to an address outside the United States, the notice shall be deemed delivered four (4) business days following the date the same is deposited in the United States mail, postage prepaid. If sent via facsimile, by electronic transmission or electronic writing, including, but not limited to, email, the notice shall be deemed delivered upon sender's receipt of confirmation of the successful transmission. If sent via overnight courier, the notice shall be deemed delivered the business day following the delivery of such notice to the courier. If the address of any director is incomplete or does not appear upon the records of the Corporation it will be sufficient to address any notice to such director at the registered office of the Corporation. Any director may waive notice of any meeting, and the attendance of a director at a meeting and oral consent entered on the minutes of such meeting shall constitute waiver of notice of the meeting unless such director objects, prior to the transaction of any business, that the meeting was not lawfully called, noticed or convened. Attendance for the express purpose of objecting to the transaction of business thereat because the meeting was not properly called or convened shall not constitute presence or a waiver of notice for purposes hereof.

Section 3.12 Quorum; Adjourned Meetings.

(a) A majority of the directors in office, at a meeting duly assembled, is necessary to constitute a quorum for the transaction of business.

(b) At any meeting of the Board of Directors where a quorum is not present, a majority of those present may adjourn, from time to time, until a quorum is present, and no notice of such adjournment shall be required. At any adjoumed meeting where a quorum is present, any business may be transacted which could have been transacted at the meeting originally called.

Section 3.13 Manner of Acting. Except as provided in Section 3.14 below, the affirmative vote of a majority of the directors present at a meeting at which a quorum is present is the act of the Board of Directors.

Section 3.14 Super-majority Approval. Notwithstanding anything to the contrary contained in these Bylaws or the Articles of Incorporation, the following actions may be taken by the Corporation only upon the approval of two-thirds of the directors present at a meeting at which a quorum is present is the act of the Board of Directors:

(a) any voluntary dissolution or liquidation of the Corporation.

(b) the sale of all or substantially all of the assets of the Corporation.

(c) the filing of a voluntary petition of bankruptcy by the Corporation.

Section 3.15 Telephonic Meetings. Members of the Board of Directors or of any committee designated by the Board of Directors may participate in a meeting of the Board of Directors or such committee by means of a telephone conference or video or similar method of communication by which all persons participating in such meeting can hear each other. Participation in a meeting pursuant to this Section 3.15 constitutes presence in person at the meeting.

Section 3.16 Action Without Meeting. Any action required or permitted to be taken at a meeting of the Board of Directors or of a committee thereof may be taken without a meeting if, before or after the action, a written consent thereto is signed by all of the members of the Board of Directors or the committee. The written consent may be signed in counterparts, including, without limitation, facsimile counterparts, and shall be filed with the minutes of the proceedings of the Board of Directors or committee.

Section 3.17 Powers and Duties.

(a) Except as otherwise restricted by the laws of the State of Nevada or the Articles of Incorporation, the Board of Directors has full control over the business and affairs of the Corporation. The Board of Directors may delegate any of its authority to manage, control or conduct the business of the Corporation to any standing or special committee, or to any officer or agent, and to appoint any persons to be agents of the Corporation with such powers, including the power to subdelegate, and upon such terms as may be deemed fit.

(b) The Board of Directors, in its discretion, or the officer of the Corporation presiding at a meeting of stockholders, in his discretion, may (i) require that any votes cast at such meeting shall be cast by written ballot, and/or (ii) submit any contract or act for approval or ratification at any annual meeting of the stockholders or any special meeting properly called and noticed for the purpose of considering any such contract or act, provided a quorum is present.

(c) The Board of Directors may, by resolution passed by a majority of the board, designate one or more committees, each committee to consist of one or more of the directors of the Corporation. The Board of Directors may designate one or more directors as alternate members of any committee, who may replace any absent or disqualified member at any meeting of the committee. In the absence or disqualification of a member of a committee, the member or members thereof present at any meeting and not disqualified from voting, whether or not he, she or they constitute a quorum, may unanimously appoint another member of the Board of Directors to act at the meeting in the place of any such absent or disqualified member. Subject to applicable law and to the extent provided in the resolution of the Board of Directors, any such committee shall have and may exercise all the powers of the Board of Directors in the management of the business and affairs of the Corporation. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board of Directors. The

committees shall keep regular minutes of their proceedings and report the same to the Board of Directors when required.

Section 3.18 Compensation. The Board of Directors, without regard to personal interest, may establish the compensation of directors for services in any capacity. If the Board of Directors establishes the compensation of directors pursuant to this subsection, such compensation is presumed to be fair to the Corporation unless proven unfair by a preponderance of the evidence.

Section 3.19 Organization. Meetings of the Board of Directors shall be presided over by the chairman of the board, or in the absence of the chairman of the board by the vice-chairman, or in his or her absence by a chairman chosen at the meeting. The secretary, or in the absence of the secretary an assistant secretary, shall act as secretary of the meeting, but in the absence of the secretary and any assistant secretary the chairman of the meeting may appoint any person to act as secretary of the meeting. The order of business at each such meeting shall be as determined by the chairman of the meeting.

ARTICLE IV
OFFICERS

Section 4.1 Election. The Board of Directors, at its annual meeting, shall elect and appoint a president, a secretary and a treasurer. Said officers shall serve until the next succeeding annual meeting of the Board of Directors and until their respective successors are elected and appointed and shall qualify or until their earlier resignation or removal. The Board of Directors may from time to time, by resolution, elect or appoint such other officers and agents as it may deem advisable, who shall hold office at the pleasure of the board, and shall have such powers and duties and be paid such compensation as may be directed by the board. Any individual may hold two or more offices.

Section 4.2 Removal; Resignation. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors with or without cause. Any officer may resign at any time upon written notice to the Corporation. Any such removal or resignation shall be subject to the rights, if any, of the respective parties under any contract between the Corporation and such officer or agent.

Section 4.3 Vacancies. Any vacancy in any office because of death, resignation, removal or otherwise may be filled by the Board of Directors for the unexpired portion of the term of such office.

Section 4.4 Chief Executive Officer. The Board of Directors may elect a chief executive officer who, subject to the supervision and control of the Board of Directors, shall have the ultimate responsibility for the management and control of the business and affairs of the Corporation, and shall perform such other duties and have such other powers which are delegated to him or her by the Board of Directors, these Bylaws or as may be provided by law.

Section 4.5 President. The president, subject to the supervision and control of the Board of Directors, shall in general actively supervise and control the business and affairs of the Corporation. The president shall keep the Board of Directors fully informed as the

Board of Directors may request and shall consult the Board of Directors concerning the business of the Corporation. The president shall perform such other duties and have such other powers which are delegated and assigned to him or her by the Board of Directors if any, these Bylaws or as may be provided by law.

Section 4.6 Vice Presidents. The Board of Directors may elect one or more vice presidents. In the absence or disability of the president, or at the president's request, the vice president or vice presidents, in order of their rank as fixed by the Board of Directors, and if not ranked, the vice presidents in the order designated by the Board of Directors, or in the absence of such designation, in the order designated by the president, shall perform all of the duties of the president, and when so acting, shall have all the powers of, and be subject to all the restrictions on the president. Each vice president shall perform such other duties and have such other powers which are delegated and assigned to him or her by the Board of Directors, the president, these Bylaws or as may be provided by law.

Section 4.7 Secretary. The secretary shall attend all meetings of the stockholders, the Board of Directors and any committees, and shall keep, or cause to be kept, the minutes of proceeds thereof in books provided for that purpose. He or she shall keep, or cause to be kept, a register of the stockholders of the Corporation and shall be responsible for the giving of notice of meetings of the stockholders, the Board of Directors and any committees, and shall see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law. The secretary shall be custodian of the corporate seal, the records of the Corporation, the stock certificate books, transfer books and stock ledgers, and such other books and papers as the Board of Directors or appropriate committee may direct. The secretary shall perform all other duties commonly incident to his or her office and shall perform such other duties which are assigned to him or her by the Board of Directors, the chief executive officer, if any, the president, these Bylaws or as may be provided by law.

Section 4.8 Assistant Secretaries. An assistant secretary shall, at the request of the secretary, or in the absence or disability of the secretary, perform all the duties of the secretary. He or she shall perform such other duties as are assigned to him or her by the Board of Directors, the chief executive officer, if any, the president, these Bylaws or as may be provided by law.

Section 4.9 Treasurer. The treasurer, subject to the order of the Board of Directors, shall have the care and custody of, and be responsible for, all of the money, funds, securities, receipts and valuable papers, documents and instruments of the Corporation, and all books and records relating thereto. The treasurer shall keep, or cause to be kept, full and accurate books of accounts of the Corporation's transactions, which shall be the property of the Corporation, and shall render financial reports and statements of condition of the Corporation when so requested by the Board of Directors, the chairman of the board, if any, the chief executive officer, if any, or the president. The treasurer shall perform all other duties commonly incident to his or her office and such other duties as may, from time to time, be assigned to him or her by the Board of Directors, the chief executive officer, if any, the president, these Bylaws or as may be provided by law. The treasurer shall, if required by the Board of Directors, give bond to the Corporation in such sum and with such security as shall be approved by the Board of Directors for the faithful performance of all the duties of the treasurer and for restoration to the Corporation, in the event of the treasurer's death,

resignation, retirement or removal from office, of all books, records, papers, vouchers, money and other property in the treasurer's custody or control and belonging to the Corporation. The expense of such bond shall be borne by the Corporation. If a chief financial officer of the Corporation has not been appointed, the treasurer may be deemed the chief financial officer of the Corporation.

Section 4.10 Assistant Treasurers. An assistant treasurer shall, at the request of the treasurer, or in the absence or disability of the treasurer, perform all the duties of the treasurer. He or she shall perform such other duties which are assigned to him or her by the Board of Directors, the chief executive officer, the president, the treasurer, these Bylaws or as may be provided by law. The Board of Directors may require an assistant treasurer to give a bond to the Corporation in such sum and with such security as it may approve, for the faithful performance of the duties of the assistant treasurer, and for restoration to the Corporation, in the event of the assistant treasurer's death, resignation, retirement or removal from office, of all books, records, papers, vouchers, money and other property in the assistant treasurer's custody or control and belonging to the Corporation. The expense of such bond shall be borne by the Corporation.

Section 4.11 Execution of Negotiable Instruments, Deeds and Contracts. All checks, drafts, notes, bonds, bills of exchange, and orders for the payment of money of the Corporation; all deeds, mortgages, proxies, powers of attorney and other written contracts, documents, instruments and agreements to which the Corporation shall be a party; and all assignments or endorsements of stock certificates, registered bonds or other securities owned by the Corporation shall be signed in the name of the Corporation by such officers or other persons as the Board of Directors may from time to time designate. The Board of Directors may authorize the use of the facsimile signatures of any such persons. Any officer of the Corporation shall be authorized to attend, act and vote, or designate another officer or an agent of the Corporation to attend, act and vote, at any meeting of the owners of any entity in which the Corporation may own an interest or to take action by written consent in lieu thereof. Such officer or agent, at any such meeting or by such written action, shall possess and may exercise on behalf of the Corporation any and all rights and powers incident to the ownership of such interest.

ARTICLE V
CAPITAL STOCK

Section 5.1 Issuance. Shares of the Corporation's authorized stock shall, subject to any provisions or limitations of the laws of the State of Nevada, the Articles of Incorporation or any contracts or agreements to which the Corporation may be a party, be issued in such manner, at such times, upon such conditions and for such consideration as shall be prescribed by the Board of Directors.

Section 5.2 Stock Certificates and Uncertified Shares. Every holder of stock in the Corporation shall be entitled to have a certificate signed by or in the name of the Corporation by the president, the chief executive officer, if any, or a vice president, and by the secretary or an assistant secretary, of the Corporation (or any other two officers or agents so authorized by the Board of Directors), certifying the number of shares of stock owned by him, her or it in the Corporation; provided, however, that the Board of Directors may

authorize the issuance of uncertificated shares of some or all of any or all classes or series of the Corporation's stock. Any such issuance of uncertificated shares shall have no effect on existing certificates for shares until such certificates are surrendered to the Corporation, or on the respective rights and obligations of the stockholders. Whenever such certificate is countersigned or otherwise authenticated by a transfer agent or a transfer clerk and by a registrar (other than the Corporation), then a facsimile of the signatures of any corporate officers or agents, the transfer agent, transfer clerk or the registrar of the Corporation may be printed or lithographed upon the certificate in lieu of the actual signatures. In the event that any officer or officers who have signed, or whose facsimile signatures have been used on any certificate or certificates for stock cease to be an officer or officers because of death, resignation or other reason, before the certificate or certificates for stock have been delivered by the Corporation, the certificate or certificates may nevertheless be adopted by the Corporation and be issued and delivered as though the person or persons who signed the certificate or certificates, or whose facsimile signature or signatures have been used thereon, had not ceased to be an officer or officers of the Corporation.

Within a reasonable time after the issuance or transfer of uncertificated shares, the Corporation shall send to the registered owner thereof a written statement certifying the number of shares owned by him, her or it in the Corporation and, at least annually thereafter, the Corporation shall provide to such stockholders of record holding uncertificated shares, a written statement confirming the information contained in such written statement previously sent. Except as otherwise expressly provided by law, the rights and obligations of the stockholders shall be identical whether or not their shares of stock are represented by certificates.

Each certificate representing shares shall state the following upon the face thereof: the name of the state of the Corporation's organization; the name of the person to whom issued; the number and class of shares and the designation of the series, if any, which such certificate represents; the par value of each share, if any, represented by such certificate or a statement that the shares are without par value. Certificates of stock shall be in such form consistent with law as shall be prescribed by the Board of Directors. No certificate shall be issued until the shares represented thereby are fully paid. In addition to the above, all certificates evidencing shares of the Corporation's stock or other securities issued by the Corporation shall contain such legend or legends as may from time to time be required by the NRS and/or the regulations of the Nevada Gaming Commission then in effect, or such other federal, state or local laws or regulations then in effect.

Section 5.3 Surrendered; Lost or Destroyed Certificates. All certificates surrendered to the Corporation, except those representing shares of treasury stock, shall be canceled and no new certificate shall be issued until the former certificate for a like number of shares shall have been canceled, except that in case of a lost, stolen, destroyed or mutilated certificate, a new one may be issued therefor. However, any stockholder applying for the issuance of a stock certificate in lieu of one alleged to have been lost, stolen, destroyed or mutilated shall, prior to the issuance of a replacement, provide the Corporation with his, her or its affidavit of the facts surrounding the loss, theft, destruction or mutilation and, if required by the Board of Directors, an indemnity bond in an amount not less than twice the current market value of the stock, and upon such terms as the treasurer or the Board of Directors shall require which shall indemnify the Corporation against any loss,

damage, cost or inconvenience arising as a consequence of the issuance of a replacement certificate.

Section 5.4 Replacement Certificate. When the Articles of Incorporation are amended in any way affecting the statements contained in the certificates for outstanding shares of capital stock of the Corporation or it becomes desirable for any reason, in the discretion of the Board of Directors, including, without limitation, the merger of the Corporation with another Corporation or the conversion or reorganization of the Corporation, to cancel any outstanding certificate for shares and issue a new certificate therefor conforming to the rights of the holder, the Board of Directors may order any holders of outstanding certificates for shares to surrender and exchange the same for new certificates within a reasonable time to be fixed by the Board of Directors. The order may provide that a holder of any certificate(s) ordered to be surrendered shall not be entitled to vote, receive distributions or exercise any other rights of stockholders of record until the holder has complied with the order, but the order operates to suspend such rights only after notice and until compliance.

Section 5.5 Transfer of Shares. No transfer of stock shall be valid as against the Corporation except on surrender and cancellation of the certificates therefor accompanied by an assignment or transfer by the registered owner made either in person or under assignment. Whenever any transfer shall be expressly made for collateral security and not absolutely, the collateral nature of the transfer shall be reflected in the entry of transfer in the records of the Corporation.

Section 5.6 Transfer Agent; Registrars. The Board of Directors may appoint one or more transfer agents, transfer clerks and registrars of transfer and may require all certificates for shares of stock to bear the signature of such transfer agents, transfer clerks and/or registrars of transfer.

Section 5.7 Miscellaneous. The Board of Directors shall have the power and authority to make such rules and regulations not inconsistent herewith as it may deem expedient concerning the issue, transfer, and registration of certificates for shares of the Corporation's stock.

Section 5.8 Inapplicability of Controlling Interest Statutes. Notwithstanding any other provision in these Bylaws to the contrary, and in accordance with the provisions of Section 78.378 of the Nevada Revised Statutes ("NRS"), the provisions of NRS Sections 78.378 to 78.3793, inclusive (or any successor statutes thereto), relating to acquisitions of controlling interests in the corporation do not apply to any and all acquisitions of shares of the corporation's common stock, par value $.01 per share, effected by Stephen A. Wynn, or any of his affiliates or Aruze USA or its affiliates.

ARTICLE VI
DISTRIBUTIONS

Distributions may be declared, subject to the provisions of the laws of the State of Nevada and the Articles of Incorporation, by the Board of Directors and may be paid in

cash, property, shares of corporate stock, or any other medium. The Board of Directors may fix in advance a record date, as provided in Section 2.5 above, prior to the distribution for the purpose of determining stockholders entitled to receive any distribution.

ARTICLE VII
RECORDS; REPORTS; SEAL; AND FINANCIAL MATTERS

Section 7.1 Records. All original records of the Corporation, shall be kept at the principal office of the Corporation by or under the direction of the secretary or at such other place or by such other person as may be prescribed by these Bylaws or the Board of Directors.

Section 7.2 Corporate Seal. The Board of Directors may, by resolution, authorize a seal, and the seal may be used by causing it, or a facsimile, to be impressed or affixed or reproduced or otherwise. Except when otherwise specifically provided herein, any officer of the Corporation shall have the authority to affix the seal to any document requiring it.

Section 7.3 Fiscal Year-End. The fiscal year-end of the Corporation shall be such date as may be fixed from time to time by resolution of the Board of Directors.

ARTICLE VIII
INDEMNIFICATION

Comment [B1]:

Section 8.1 Indemnification and Insurance.

(a) Indemnification of Directors and Officers.

(i) For purposes of this Article, (A) "**Indemnitee**" shall mean each director or officer who was or is a party to, or is threatened to be made a party to, or is otherwise involved in, any Proceeding (as hereinafter defined), by reason of the fact that he or she is or was a director or officer of the Corporation or member, manager or managing member of a predecessor limited liability company or affiliate of such limited liability company or is or was serving in any capacity at the request of the Corporation as a director, officer, employee, agent, partner, member, manager or fiduciary of, or in any other capacity for, another corporation or any partnership, joint venture, limited liability company, trust, or other enterprise; and (B) "**Proceeding**" shall mean any threatened, pending, or completed action, suit or proceeding (including, without limitation, an action, suit or proceeding by or in the right of the Corporation), whether civil, criminal, administrative, or investigative.

(ii) Each Indemnitee shall be indemnified and held harmless by the Corporation to the fullest extent permitted by Nevada law, against all expense, liability and loss (including, without limitation, attorneys' fees, judgments, fines, taxes, penalties, and amounts paid or to be paid in settlement) reasonably incurred or suffered by the Indemnitee in connection with any Proceeding; provided that such Indemnitee either is not liable pursuant to NRS 78.138 or acted in good faith and in a manner such Indemnitee reasonably believed to be in or not opposed to the best interests of the Corporation and, with respect to any Proceeding that is criminal in nature, had no reasonable cause to believe that his or her conduct was unlawful. The termination of any Proceeding by judgment, order, settlement, conviction or upon a plea of *nolo contendere* or its equivalent, does not, of itself, create a

presumption that the Indemnitee is liable pursuant to NRS 78.138 or did not act in good faith and in a manner in which he or she reasonably believed to be in or not opposed to the best interests of the Corporation, or that, with respect to any criminal proceeding he or she had reasonable cause to believe that his or her conduct was unlawful. The Corporation shall not indemnify an Indemnitee for any claim, issue or matter as to which the Indemnitee has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable to the Corporation or for any amounts paid in settlement to the Corporation, unless and only to the extent that the court in which the Proceeding was brought or other court of competent jurisdiction determines upon application that in view of all the circumstances of the case, the Indemnitee is fairly and reasonably entitled to indemnity for such amounts as the court deems proper. Except as so ordered by a court and for advancement of expenses pursuant to this Section, indemnification may not be made to or on behalf of an Indemnitee if a final adjudication establishes that his or her acts or omissions involved intentional misconduct, fraud or a knowing violation of law and was material to the cause of action. Notwithstanding anything to the contrary contained in these Bylaws, no director or officer may be indemnified for expenses incurred in defending any threatened, pending, or completed action, suit or proceeding (including without limitation, an action, suit or proceeding by or in the right of the Corporation), whether civil, criminal, administrative or investigative, that such director or officer incurred in his or her capacity as a stockholder, including, but not limited to, in connection with such person being deemed an Unsuitable Person (as defined in Article VII of the Articles of Incorporation).

(iii) Indemnification pursuant to this Section shall continue as to an Indemnitee who has ceased to be a director or officer of the Corporation or member, manager or managing member of a predecessor limited liability company or affiliate of such limited liability company or a director, officer, employee, agent, partner, member, manager or fiduciary of, or to serve in any other capacity for, another corporation or any partnership, joint venture, limited liability company, trust, or other enterprise aud shall inure to the benefit of his or her heirs, executors and administrators.

(iv) The expenses of Indemnitees must be paid by the Corporation or through insurance purchased and maintained by the Corporation or through other financial arrangements made by the Corporation, as they are incurred and in advance of the final disposition of the Proceeding, upon receipt of an undertaking by or on behalf of the director or officer to repay the amount if it is ultimately determined by a court of competent jurisdiction that he or she is not entitled to be indemnified by the Corporation. To the extent that a director or officer of the Corporation is successful on the merits or otherwise in defense of any Proceeding, or in the defense of any claim, issue or matter therein, the Corporation shall indemnify him or her against expenses, including attorneys' fees, actually and reasonably incurred in by him or her in connection with the defense.

(b) Indemnification of Employees and Other Persons. The Corporation may, by action of its Board of Directors and to the extent provided in such action, indemnify employees and other persons as though they were Indemnitees.

(c) Non-Exclusivity of Rights. The rights to indemnification provided in this Article shall not be exclusive of any other rights that any person may have or hereafter

acquire under any statute, provision of the Articles of Incorporation or these Bylaws, a agreement, vote of stockholders or directors, or otherwise.

(d) Insurance. The Corporation may purchase and maintain insurance or make other financial arrangements on behalf of any Indemnitee for any liability asserted against him or her and liability and expenses incurred by him or her in his or her capacity as a director, officer, employee, member, managing member or agent, or arising out of his or her status as such, whether or not the Corporation has the authority to indemnify him or her against such liability and expenses.

(e) Other Financial Arrangements. The other financial arrangements which may be made by the Corporation may include the following (i) the creation of a trust fund; (ii) the establishment of a program of self-insurance; (iii) the securing of its obligation of indemnification by granting a security interest or other lien on any assets of the Corporation; (iv) the establishment of a letter of credit, guarantee or surety. No financial arrangement made pursuant to this subsection may provide protection for a person adjudged by a court of competent jurisdiction, after exhaustion of all appeals therefrom, to be liable for intentional misconduct, fraud, or a knowing violation of law, except with respect to advancement of expenses or indemnification ordered by a court.

(f) Other Matters Relating to Insurance or Financial Arrangements. Any insurance or other financial arrangement made on behalf of a person pursuant to this Section may be provided by the Corporation or any other person approved by the Board of Directors, even if all or part of the other person's stock or other securities is owned by the Corporation. In the absence of fraud (i) the decision of the Board of Directors as to the propriety of the terms and conditions of any insurance or other financial arrangement made pursuant to this Section and the choice of the person to provide the insurance or other financial arrangement is conclusive; and (ii) the insurance or other financial arrangement is not void or voidable and does not subject any director approving it to personal liability for his action; even if a director approving the insurance or other financial arrangement is a beneficiary of the insurance or other financial arrangement.

Section 8.2 Amendment. The provisions of this Article VIII relating to indemnification shall constitute a contract between the Corporation and each of its directors and officers which may be modified as to any director or officer only with that person's consent or as specifically provided in this Section. Notwithstanding any other provision of these Bylaws relating to their amendment generally, any repeal or amendment of this Article which is adverse to any director or officer shall apply to such director or officer only on a prospective basis, and shall not limit the rights of an Indemnitee to indemnification with respect to any action or failure to act occurring prior to the time of such repeal or amendment. Notwithstanding any other provision of these Bylaws (including, without limitation, Article X below), no repeal or amendment of these Bylaws shall affect any or all of this Article VIII so as to limit or reduce the indemnification in any manner unless adopted by (a) the unanimous vote of the directors of the Corporation then serving, or (b) by the stockholders as set forth in Article X hereof; provided that no such amendment shall have a retroactive effect inconsistent with the preceding sentence.

ARTICLE IX
CHANGES IN NEVADA LAW

References in these Bylaws to Nevada law or the NRS or to any provision thereof shall be to such law as it existed on the date these Bylaws were adopted or as such law thereafter may be changed; provided that (a) in the case of any change which expands the liability of directors or officers or limits the indemnification rights or the rights to advancement of expenses which the Corporation may provide in Article VIII hereof, the rights to limited liability, to indemnification and to the advancement of expenses provided in the Articles of Incorporation and/or these Bylaws shall continue as theretofore to the extent permitted by law; and (b) if such change permits the Corporation, without the requirement of any further action by stockholders or directors, to limit further the liability of directors or limit the liability of officers or to provide broader indemnification rights or rights to the advancement of expenses than the Corporation was permitted to provide prior to such change, then liability thereupon shall be so limited and the rights to indemnification and the advancement of expenses shall be so broadened to the extent permitted by law.

ARTICLE X
AMENDMENT OR REPEAL

Section 10.1 Amendment of Bylaws.

(a) Board of Directors. In furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to adopt, repeal, alter, amend and rescind these Bylaws.

(b) Stockholders. Notwithstanding Section 10.1(a) above, these Bylaws may be rescinded, altered, amended or repealed in any respect by the affirmative vote of the holders of at least sixty-six and two-thirds percent (66⅔%) of the outstanding voting power of the Corporation, voting together as a single class.

CERTIFICATION

The undersigned, as the duly elected secretary of Wynn Resorts, Limited, a Nevada corporation (the "**Corporation**"), does hereby certify that the Board of Directors of the Corporation adopted the foregoing Bylaws on the 13th day of November, 2006.

_____

Kim Sinatra, Secretary

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EXHIBIT "K"

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

FORM 10-K/A
(Amendment No. 1)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2011

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the transition period to

Commission File No. 000-50028

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

NEVADA	46-0484987
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)

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

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

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

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

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

None

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

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

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

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a

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Program Overview

Element	*Role and Purpose*
Base salary	*Provide competitive foundation for total compensation*
	Recognize executive's demonstrated sustained performance, capabilities, job scope and experience
Annual incentives	*Motivate and reward achievement of annual EBITDA targets, which drive the valuation of our stock*
	Enforce accountability for individual performance through discretionary reductions in awards as deemed appropriate
Discretionary bonus	*Make periodic awards for superior contributions to the enterprise as determined in the discretion of the Committee*
Long-term incentives	*Align executives with stockholders*
(Stock options, restricted stock)	*Make periodic grants with long-term vesting to encourage a long-term value perspective and executive retention*
Deferred compensation	*Permit executives to participate in the Company's 401(k) plan to facilitate retirement savings*
Security benefits	*Consistent with the Board's requirement that Mr. Wynn travel privately for security reasons, provide him with access to Company aircraft for both personal and business travel, as well as a car and a driver (and security when necessary)*
Foreign living expenses	*Consistent with competitive practice in Macau, provide Ms. Chen with a car and driver, certain housing and living expenses and assistance with tax preparation*
Executive benefits	*Promote executive health through supplemental health benefits*
	Provide for executives' families in the event of death through supplemental life insurance policies
Executive perquisites	*Offer industry-competitive discounts and complimentary privileges with respect to the Company's resorts and aircraft as described below*

Role of Executive Officers in Setting Compensation

The Committee sets all elements of compensation for the Chief Executive Officer and Chief Operating Officer based upon consideration of their respective contributions to the development and operating performance of the Company. Annually, the Committee reviews compensation data of those with whom we compete for talent. The Committee considers the recommendations of the Chief Executive Officer and Chief Operating Officer in establishing compensation for all other named executive officers. The Chief Executive Officer and Chief Operating Officer perform annual reviews of all of our senior management and make recommendations to the Committee. The Committee reviews the recommendations and makes final decisions regarding compensation for all of our most senior management.

Compensation Consultant

The Compensation Committee has the authority to retain compensation consulting firms exclusively to assist it in the evaluation of executive officer and employee compensation and benefit programs. During 2011, the Committee retained Pay Governance LLC, a nationally-recognized independent compensation consulting firm, to assist in performing its duties. In 2011, Pay Governance assisted with a review of certain benefits accorded to our CEO and advised the Committee with respect to compensation trends and best practices, competitive pay levels, equity grant practices and competitive levels, and proxy disclosure. While our advisor regularly consults with management in performing work requested by the Committee, Pay Governance did not perform any separate additional services for management.

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Setting Executive Compensation

In determining base salary, target annual incentives and guidelines for equity awards, the Committee uses the named executive officers' current level of compensation as the starting point. Our compensation decisions consider the scope and complexity of the functions executives oversee, the contribution of those functions to our overall performance, their experience and capabilities, and individual performance, taking into consideration the compensation practices of our peers in order to obtain a general understanding of competitive compensation practices. In addition, wealth accumulation is considered when making equity grants to increase the alignment between the interest of our senior executives and those of our stockholders.

The Compensation Committee reviews total compensation annually, along with the value from past equity awards, to assess the need for change to current compensation. While cash bonuses and annual cash incentive compensation awards are considered annually on the basis of Company and individual performance, reviews of base salary and equity incentives are conducted only on a periodic basis or in recognition of notable contributions to value creation for Company stockholders. The Committee retains the discretion to adjust actual bonus amounts paid based on a variety of factors, including corporate, property level and individual performance, as well as general macroeconomic conditions.

The Committee believes that the companies in its Peer Group are those companies with which the Company competes for talent and stockholder investment. Please refer to the discussion below under "Peer Group" for a more detailed discussion of our use of Peer Group data.

2011 Advisory Resolution Approving Our Executive Compensation

At the May 17, 2011, Annual Meeting of Stockholders, our advisory resolution on executive compensation was approved by the stockholders. Although this approval was non-binding, the Board of Directors and the Compensation Committee considered the voting results in evaluating our executive compensation program for the current year. The Board of Directors and the Compensation Committee also consider the other factors discussed in this Compensation Discussion and Analysis. Following such consideration, the Board of Directors determined not to make any changes to our compensation program based on the advisory resolution voting result. In addition, at that same meeting, approximately 71% of the votes cast regarding the frequency proposal voted in favor of holding future advisory votes on executive compensation every three years. The Board has determined to follow this decision by stockholders. Accordingly, the next advisory resolution on executive compensation will be voted on by stockholders at the 2014 Annual Meeting of Stockholders.

Elements of Executive Compensation

We do not use a specific formula or weighting for allocating among the elements of our total compensation program including base salary, cash bonus awards, and long term compensation. Instead we offer what the Compensation Committee views to be effective for attracting and retaining key leaders while motivating management to maximize long term value of our Company for our stockholders.

Base Salary. Base salaries are established by employment contracts and reviewed and adjusted periodically if deemed necessary due to competitive reasons or to reflect sustained performance, capabilities, experience and changes in responsibility or other extraordinary circumstances. Companies in the gaming business typically have total compensation packages that may be higher than many of their non-gaming counterparts due to certain regulatory and other extraordinary demands. The Company's rapid expansion in the last six years and our operations in widely separated geographic locations has required that named executive officers provide extraordinary levels of financial, development and operating expertise. These efforts have resulted in industry-leading product and impressive financial performance, including returns to stockholders exceeding industry averages. Thus, in fulfilling the Company's goal of attracting and retaining high-quality and experienced executives, the Company has paid base salary levels for its named executive officers that may exceed the peer

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group median. Prior to an increase in 2011, Mr. Wynn's base salary had not been increased since 2008, other than restoring a 15% reduction that was applied to certain corporate executives in 2009 and 2010. Base salary increases for 2011 are indicated in the following table:

Executive	2011 Salary	2010 Salary	Increase
Stephen A. Wynn	$4,000,000	$3,250,000	23.1%
Matt Maddox	$1,000,000	$1,000,000	0%
Marc D. Schorr	$2,000,000	$2,000,000	0%
Linda Chen	$1,500,000	$1,500,000	0%
Kim Sinatra	$ 650,000	$ 650,000	0%

Annual Incentives. Our named executive officers participate in the Wynn Resorts, Limited Annual Performance-Based Incentive Plan for Executive Officers (the "Incentive Plan"). Within 90 days after the commencement of the year, the Compensation Committee identifies the executive officers who will participate in the Incentive Plan for that year and establishes the annual performance criteria. The Incentive Plan provides that the maximum annual incentive is 250% of base salary for Mr. Wynn and 200% of base salary for the other named executive officer participants.

For 2011, the Committee selected adjusted property EBITDA on a consolidated basis as the appropriate criterion and, in the course of such determination, concluded that the achievement of the performance criterion was substantially uncertain. Adjusted property EBITDA is a non-GAAP measure calculated at the segment level and reported in the footnotes to our audited consolidated financial statements. This criterion is a reflection on the operating performance of the Company's assets and directly influences return to stockholders. In addition, management and stockholders use adjusted property EBITDA to value the Company and its assets. Given the challenging economic environment an adjusted property EBITDA target of $1 billion on a consolidated basis was established for maximum Plan funding. Actual performance of $1.6 billion significantly exceeded the target and all participants were awarded the maximum incentive allowed under the Incentive Plan. While the Compensation Committee has the discretion to reduce individual awards from this maximum level based on other Company and individual performance and any other considerations it may deem appropriate, it did not exercise that discretion with respect to 2011 owing to the outstanding Company EBITDA results.

In addition, the Compensation Committee approved a $2 million discretionary bonus to Mr. Wynn outside the Incentive Plan awarded by the Wynn Macau Limited Board of Directors for his contribution to the extraordinary performance of Wynn Macau for 2011.

Long-term Incentives. The Company makes only periodic (not annual) equity grants to executives, with the last grant in 2009. The Committee uses grants under the 2002 Stock Plan to attract qualified individuals to work for the Company and align executives with the perspective of stockholders, and makes additional grants periodically to existing officers to reward extraordinary performance and encourage retention with the Company. Periodic grants to named executive officers are typically made with long term vesting dates to assure retention of talent deemed important to the Company's continued prosperity. From time to time, the Company also has granted long-term cash retention awards to reward extraordinary performance and encourage retention. The underlying philosophy behind this approach is to retain senior management for the long term, building a talent base to drive sustained Company performance and growth. As in 2010, the Compensation Committee determined not to make any grants during 2011 to the named executive officers in light of significant grants awarded to the Company's most senior officers in 2009.

Mr. Wynn, the founder, Chairman and Chief Executive Officer of the Company who owns 10% of the Company's outstanding stock, has not participated in the Company's equity incentive plans. This differs from the chief executive officer compensation at most of the companies included in the Peer Group.

In July 2011, Ms. Chen was granted a $10 million cash retention award which vests in full on July 27, 2021, subject to certain provisions. This retention award was awarded to Ms. Chen for her current and expected future

EXHIBIT "L"

EX-3.1 3 a2081691zex-3_1.htm EXHIBIT 3.1
QuickLinks -- Click here to rapidly navigate through this document

Exhibit 3.1

ARTICLES OF INCORPORATION

OF

WYNN RESORTS, LIMITED

The undersigned, for the purpose of forming a corporation pursuant to and by virtue of Chapter 78 of the Nevada Revised Statutes, hereby adopts and executes the following Articles of Incorporation.

ARTICLE I
NAME

The name of the corporation shall be "Wynn Resorts, Limited"

ARTICLE II
REGISTERED OFFICE

The name of the initial resident agent and the street address of the initial registered office in the State of Nevada where process may be served upon the corporation is Marc H. Rubinstein, 3145 Las Vegas Boulevard South, Las Vegas, Nevada 89109. The corporation may, from time to time, in the manner provided by law, change the resident agent and the registered office within the State of Nevada. The corporation may also maintain an office or offices for the conduct of its business, either within or without the State of Nevada.

ARTICLE III
CAPITAL STOCK

Section 1. *Authorized Shares.* The aggregate number of shares which the corporation shall have authority to issue shall consist of two thousand (2,000) shares of common stock, par value $0.01.

Section 2. *Assessment of Stock.* The capital stock of the corporation, after the amount of the subscription price has been fully paid in, shall not be assessable for any purpose, and no stock issued as fully paid shall ever be assessable or assessed. No stockholder of the corporation is individually liable for the debts or liabilities of the corporation.

ARTICLE IV
DIRECTORS AND OFFICERS

Section 1. *Number of Directors.* The members of the governing board of the corporation are styled as directors. The board of directors of the corporation shall be elected in such manner as shall be provided in the bylaws of the corporation. The initial board of directors shall consist of at least one (1) and not more than ten (10) individuals. The number of directors may be changed from time to time within this range in such manner as shall be provided in the bylaws of the corporation.

Section 2. *Initial Directors.* The name and post office box or street address of the director constituting the initial board of directors is:

Name	Address

Stephen A. Wynn 3145 Las Vegas Boulevard South
Las Vegas, Nevada 89109

Section 3. *Payment of Expenses.* In addition to any other rights of indemnification permitted by the laws of the State of Nevada or as may be provided for by the corporation in its bylaws or by agreement, the expenses of officers and directors incurred in defending a civil or criminal action, suit or proceeding, involving alleged acts or omissions of such officer or director in his or her capacity as an officer or director of the corporation, must be paid, by the corporation or through insurance purchased

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and maintained by the corporation or through other financial arrangements made by the corporation, as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the director or officer to repay the amount if it is ultimately determined by a court of competent jurisdiction that he or she is not entitled to be indemnified by the corporation.

Section 4. *Limitation on Liability.* The liability of directors and officers of the corporation shall be eliminated or limited to the fullest extent permitted by the Nevada Revised Statutes. If the Nevada Revised Statutes are amended to further eliminate or limit or authorize corporate action to further eliminate or limit the liability of directors or officers, the liability of directors and officers of the corporation shall be eliminated or limited to the fullest extent permitted by the Nevada Revised Statutes, as so amended from time to time.

ARTICLE V
REPEAL AND CONFLICTS

Any repeal or modification of Section 3 or 4 of Article IV above approved by the stockholders of the corporation shall be prospective only, and shall not adversely affect any limitation on the liability of a director or officer of the corporation existing as of the time of such repeal or modification. In the event of any conflict between Section 3 or 4 of Article IV and any other Article of the corporation's Articles of Incorporation, the terms and provisions of Sections 3 and/or 4 of Article IV shall control.

ARTICLE VI
COMBINATIONS WITH INTERESTED STOCKHOLDERS

At such time, if any, as the Corporation becomes a "resident domestic corporation", as that term is defined in NRS 78.427, the Corporation shall not be subject to, or governed by, any of the provisions in NRS 78.411 to 78.444, inclusive, as may be amended from time to time, or any successor statute.

ARTICLE VII
INCORPORATOR

The name and post office box or street address of the incorporator signing these Articles of Incorporation is:

Name	Address
Ellen Schulhofer, Esq.	300 S. Fourth Street, Ste. 1200 Las Vegas, Nevada 89101

IN WITNESS WHEREOF, I have executed these Articles of Incorporation this 3rd day of June, 2002.

/s/ Ellen Schulhofer

Ellen Schulhofer, Esq.

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**CERTIFICATE OF ACCEPTANCE OF APPOINTMENT
BY RESIDENT AGENT
IN THE MATTER OF WYNN RESORTS, LIMITED**

1. The undersigned, Marc H. Rubinstein, hereby certifies that on the 3rd day of June, 2002, he accepted the appointment as resident agent of the above-referenced corporation.

2. The registered office of the corporation in the State of Nevada is located at 3145 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of June, 2002.

RESIDENT AGENT,

By: /s/ Marc. H. Rubinstein

Marc H. Rubinstein, Esq.

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QuickLinks

EXHIBIT "M"

STATE OF NEVADA

ROSS MILLER
Secretary of State

SCOTT W. ANDERSON
Deputy Secretary
for Commercial Recordings

OFFICE OF THE
SECRETARY OF STATE

Certified Copy

March 29, 2012

Job Number: C20120329-0775
Reference Number: 00003481120-69
Expedite:
Through Date:

The undersigned filing officer hereby certifies that the attached copies are true and exact copies of all requested statements and related subsequent documentation filed with the Secretary of State's Office, Commercial Recordings Division listed on the attached report.

Document Number(s)	Description	Number of Pages
C14059-2002-001	Articles of Incorporation	4 Pages/1 Copies
C14059-2002-003	Amendment	13 Pages/1 Copies
C14059-2002-004	Amendment	12 Pages/1 Copies

Respectfully,

ROSS MILLER
Secretary of State

Certified By: Chris Thomann
Certificate Number: C20120329-0775
You may verify this certificate
online at **http://www.nvsos.gov/**

Commercial Recording Division
202 N. Carson Street
Carson City, Nevada 89701-4069
Telephone (775) 684-5708
Fax (775) 684-7138

DEAN HELLER
Secretary of State

202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684 5708

Certificate to Accompany
Restated Articles
(PURSUANT TO NRS
78.403 and 82.371)

FILED: C14059-02

SEP 10 2002

IN THE OFFICE OF
DEAN HELLER SECRETARY OF STATE

Important: Read attached instructions before completing

This Form is to Accompany Restated Articles of Incorporation
(Pursuant to NRS 78.403 or 82.371)
(This form may also be used to accompany Restated Articles for Limited-Liability Companies and Certificates of Limited Partnership and Business Trusts)
- Remit in Duplicate -

1. Name of Nevada entity as last recorded in this office:
WYNN RESORTS, LIMITED

2. Indicate what changes have been made by checking the appropriate spaces.*

- ☐ The entity name has been amended.
- ☐ The resident agent has been changed. (attach Certificate of Acceptance from new resident agent)
- ☐ The purpose of the entity has been amended.
- ☑ The authorized shares have been amended.
- ☐ The directors, managers or general partners have been amended.
- ☐ The duration of the entity has been amended.
- ☐ IRS tax language has been added.
- ☑ Articles have been added to the articles or certificate.
- ☐ Articles have been deleted from the articles or certificate.
- ☐ None of the above apply. The articles or certificate have been amended as follows: (provide article numbers, if available)

SEE ATTACHMENT 1 INCORPORATED HEREIN BY THIS REFERENCE.

* This form is to accompany Restated Articles which contain newly altered or amended articles. The Restated Articles must contain all of the requirements as set forth in the statutes for amending or altering Articles of Incorporation, Articles of Organization or Certificates of Limited Partnership.

IMPORTANT: Failure to include any of the above information and remit the proper fees may cause this filing to be rejected.

AMENDED AND RESTATED ARTICLES OF INCORPORATION

FILED # C14059-02

OF

WYNN RESORTS, LIMITED

SEP 10 2002

IN THE OFFICE OF
DEAN HELLER SECRETARY OF STATE

WYNN RESORTS, LIMITED (the "Corporation"), a corporation organized under the laws of the State of Nevada, by its President does hereby certify that:

1. Pursuant to the provisions of Sections 78.390 and 78.403 of *Nevada Revised Statutes* ("NRS") the Corporation hereby amends and restates its articles of incorporation as follows:

2. The amendment and restatement of the Articles of Incorporation as set forth below was adopted by the Corporation's board of directors by the unanimous written consent on September 10, 2002 in accordance with the provisions of NRS 78.315 and NRS 78.390.

3. The amendment and restatement of the Articles of Incorporation as set forth below was approved by the unanimous written consent of the stockholders on September 10, 2002.

4. That the undersigned officer has been authorized and directed by the board of directors to execute and file this certificate setting forth the text of the Articles of Incorporation of the Corporation as amended and restated in its entirety to this date as follows:

ARTICLE I
NAME

The name of the corporation is Wynn Resorts, Limited (the "Corporation").

ARTICLE II
CAPITAL STOCK

Section 1. Authorized Shares. The aggregate number of shares which the Corporation shall have authority to issue is four hundred and forty million (440,000,000) shares, consisting of two classes to be designated, respectively, "Common Stock" and "Preferred Stock," with all of such shares having a par value of $.01 per share. The total number of shares of Common Stock that the Corporation shall have authority to issue is four hundred million (400,000,000) shares. The total number of shares of Preferred Stock that the Corporation shall have authority to issue is forty million (40,000,000) shares. The Preferred Stock may be issued in one or more series, each series to be appropriately designated by a distinguishing letter or title, prior to the issuance of any shares thereof. The voting powers, designations, preferences, limitations, restrictions, and relative, participating, optional and other rights, and the qualifications, limitations, or restrictions thereof, of the Preferred Stock shall hereinafter be prescribed by resolution of the board of directors pursuant to Section 3 of this Article II.

Section 2. Common Stock.

(a) Dividend Rate. Subject to the rights of holders of any Preferred Stock having preference as to dividends and except as otherwise provided by these Articles of Incorporation, as amended from time to time (hereinafter, the "Articles") or the NRS, the holders of Common Stock shall be entitled to receive dividends when, as and if declared by the board of directors out of assets legally available therefor.

(b) Voting Rights. Except as otherwise provided by the NRS, the holders of the issued and outstanding shares of Common Stock shall be entitled to one vote for each share of Common Stock. No holder of shares of Common Stock shall have the right to cumulate votes.

(c) Liquidation Rights. In the event of liquidation, dissolution, or winding up of the affairs of the Corporation, whether voluntary or involuntary, subject to the prior rights of holders of Preferred Stock to share ratably in the Corporation's assets, the Common Stock and any shares of Preferred Stock which are not entitled to any preference in liquidation shall share equally and ratably in the Corporation's assets available for distribution after giving effect to any liquidation preference of any shares of Preferred Stock. A merger, conversion, exchange or consolidation of the Corporation with or into any other person or sale or transfer of all or any part of the assets of the Corporation (which shall not in fact result in the liquidation of the Corporation and the distribution of assets to stockholders) shall not be deemed to be a voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

(d) No Conversion, Redemption, or Preemptive Rights. The holders of Common Stock shall not have any conversion, redemption, or preemptive rights.

(e) Consideration for Shares. The Common Stock authorized by this Article shall be issued for such consideration as shall be fixed, from time to time, by the board of directors.

Section 3. Preferred Stock.

(a) Designation. The board of directors is hereby vested with the authority from time to time to provide by resolution for the issuance of shares of Preferred Stock in one or more series not exceeding the aggregate number of shares of Preferred Stock authorized by these Articles, and to prescribe with respect to each such series the voting powers, if any, designations, preferences, and relative, participating, optional, or other special rights, and the qualifications, limitations, or restrictions relating thereto, including, without limiting the generality of the foregoing: the voting rights relating to the shares of Preferred Stock of any series (which voting rights, if any, may be full or limited, may vary over time, and may be applicable generally or only upon any stated fact or event); the rate of dividends (which may be cumulative or noncumulative), the condition or time for payment of dividends and the preference or relation of such dividends to dividends payable on any other class or series of capital stock; the rights of holders of Preferred Stock of any series in the event of liquidation, dissolution, or winding up of the affairs of the Corporation; the rights, if any, of holders of Preferred Stock of any series to convert or exchange such shares

of Preferred Stock of such series for shares of any other class or series of capital stock or for any other securities, property, or assets of the Corporation or any subsidiary (including the determination of the price or prices or the rate or rates applicable to such rights to convert or exchange and the adjustment thereof, the time or times during which the right to convert or exchange shall be applicable, and the time or times during which a particular price or rate shall be applicable); whether the shares of any series of Preferred Stock shall be subject to redemption by the Corporation (in addition to any right of redemption pursuant to Article VII of these Articles) and if subject to redemption, the times, prices, rates, adjustments and other terms and conditions of such redemption. The powers, designations, preferences, limitations, restrictions and relative rights may be made dependent upon any fact or event which may be ascertained outside the Articles or the resolution if the manner in which the fact or event may operate on such series is stated in the Articles or resolution. As used in this section "fact or event" includes, without limitation, the existence of a fact or occurrence of an event, including, without limitation, a determination or action by a person, government, governmental agency or political subdivision of a government. The board of directors is further authorized to increase or decrease (but not below the number of such shares of such series then outstanding) the number of shares of any series subsequent to the issuance of shares of that series. Unless the board of directors provides to the contrary in the resolution which fixes the characteristics of a series of Preferred Stock, neither the consent by series, or otherwise, of the holders of any outstanding Preferred Stock nor the consent of the holders of any outstanding Common Stock shall be required for the issuance of any new series of Preferred Stock regardless of whether the rights and preferences of the new series of Preferred Stock are senior or superior, in any way, to the outstanding series of Preferred Stock or the Common Stock.

(b) Certificate. Before the Corporation shall issue any shares of Preferred Stock of any series, a certificate of designation setting forth a copy of the resolution or resolutions of the board of directors, and establishing the voting powers, designations, preferences, the relative, participating, optional, or other rights, if any, and the qualifications, limitations, and restrictions, if any, relating to the shares of Preferred Stock of such series, and the number of shares of Preferred Stock of such series authorized by the board of directors to be issued shall be made and signed by an officer of the corporation and filed in the manner prescribed by the NRS.

Section 4. Non-Assessment of Stock. The capital stock of the Corporation, after the amount of the subscription price has been fully paid, shall not be assessable for any purpose, and no stock issued as fully paid shall ever be assessable or assessed, and the Articles shall not be amended in this particular. No stockholder of the Corporation is individually liable for the debts or liabilities of the Corporation.

ARTICLE III
ACTION OF STOCKHOLDERS

Prior to the completion of the initial public offering of the Corporation, the stockholders may take action by written consent. After the completion of the initial public offering of the Corporation, the stockholders may not in any circumstance take action by written consent.

ARTICLE IV
DIRECTORS AND OFFICERS

Section 1. Number of Directors. The members of the governing board of the Corporation are styled as directors. The board of directors of the Corporation shall be elected in such manner as shall be provided in the bylaws of the Corporation. The board of directors shall consist of at least one (1) individual and not more than thirteen (13) individuals. The number of directors may be changed from time to time in such manner as shall be provided in the bylaws of the Corporation.

Section 2. Classified Board. Commencing with the election of directors at the first annual meeting of stockholders following the initial public offering of the Corporation's common stock, the directors shall be classified, with respect to the time for which they shall hold their offices, by dividing them into three classes, to be known as "Class I," "Class II" and "Class III." At such first annual meeting of stockholders following the initial public offering of the Corporation's common stock, directors of Class I shall be elected for terms of one (1) year, directors of Class II shall be elected for terms of two (2) years and directors of Class III shall be elected for terms of three (3) years. At each annual meeting thereafter, successors to the directors of the class whose term of office expires in that year shall be elected to hold office until the third succeeding annual meeting of stockholders, so that the term of office of only one class of directors shall expire in each year. The number of directors in each class, which shall be such that at least one-fourth (or such other fraction as required by the NRS) in number are elected annually, shall be established from time to time by resolution of the board of directors and shall be increased or decreased by resolution of the board of directors, as may be appropriate whenever the total number of directors is increased or decreased.

Section 3. Limitation of Liability. The liability of directors and officers of the Corporation shall be eliminated or limited to the fullest extent permitted by the NRS. If the NRS is amended to further eliminate or limit or authorize corporate action to further eliminate or limit the liability of directors or officers, the liability of directors and officers of the Corporation shall be eliminated or limited to the fullest extent permitted by the NRS, as so amended from time to time.

Section 4. Payment of Expenses. In addition to any other rights of indemnification permitted by the laws of the State of Nevada or as may be provided for by the Corporation in its bylaws or by agreement, the expenses of officers and directors incurred in defending any threatened, pending, or completed action, suit or proceeding (including without limitation, an action, suit or proceeding by or in the right of the Corporation), whether civil, criminal, administrative or investigative, involving alleged acts or omissions of such officer or director in his or her capacity as an officer or director of the Corporation or member, manager, or managing member of a predecessor limited liability company or affiliate of such limited liability company or while serving in any capacity at the request of the Corporation as a director, officer, employee, agent, member, manager, managing member, partner, or fiduciary of, or in any other capacity for, another corporation or any partnership, joint venture, trust, or other enterprise, must be paid by the Corporation or through insurance purchased and maintained by the Corporation or through other financial arrangements made by the Corporation, as they are incurred and in advance of the final disposition of the action,

suit or proceeding, upon receipt of an undertaking by or on behalf of the officer or director to repay the amount if it is ultimately determined by a court of competent jurisdiction that he or she is not entitled to be indemnified by the Corporation. To the extent that an officer or director is successful on the merits in defense of any such action, suit or proceeding, or in the defense of any claim, issue or matter therein, the Corporation shall indemnify him or her against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense. Notwithstanding anything to the contrary contained herein or in the bylaws, no director or officer may be indemnified for expenses incurred in defending any threatened, pending, or completed action, suit or proceeding (including without limitation, an action, suit or proceeding by or in the right of the Corporation), whether civil, criminal, administrative or investigative, that such director or officer incurred in his or her capacity as a stockholder, including, but not limited to, in connection with such person being deemed an Unsuitable Person (as defined in Article VII hereof).

Section 5. Repeal And Conflicts. Any repeal or modification of Sections 3 or 4 above approved by the stockholders of the Corporation shall be prospective only, and shall not adversely affect any limitation on the liability of a director or officer of the Corporation existing as of the time of such repeal or modification. In the event of any conflict between Sections 3 or 4 above and any other Article of the Articles, the terms and provisions of Sections 3 or 4 above shall control.

ARTICLE V
VOTING ON CERTAIN TRANSACTIONS

Section 1. Amendment of Articles. The Corporation reserves the right to amend, alter, change or repeal any provision contained in the Articles, in the manner now or hereafter prescribed by the NRS, and all rights conferred on stockholders herein are granted subject to this reservation; provided, however, that no amendment, alteration, change or repeal may be made to: (a) Article III, (b) Sections 3 and 4 of Article IV, or (c) this Article V without the affirmative vote of the holders of at least sixty-six and two-thirds percent (66⅔%) of the issued and outstanding shares of stock of the Corporation entitled to vote in the election of directors excluding stock entitled to vote only upon the happening of a fact or event unless such fact or event shall have occurred, considered for the purposes of this section as one class.

Section 2. Additional Vote Required. Any affirmative vote required by this Article V shall be in addition to the vote of the holders of any class or series of stock of the Corporation otherwise required by law, the Articles, the resolutions of the board of directors providing for the issuance of such class or series and any agreement between the Corporation and any securities exchange or over-the-counter market upon which the Corporation's shares are listed or designated for trading.

ARTICLE VI
COMBINATIONS WITH INTERESTED STOCKHOLDERS

At such time, if any, as the Corporation becomes a "resident domestic corporation," as that term is defined in NRS 78.427, the Corporation shall not be subject to, or governed

by, any of the provisions in NRS 78.411 to 78.444, inclusive, as may be amended from time to time, or any successor statutes.

ARTICLE VII
COMPLIANCE WITH GAMING LAWS

Section 1. Definitions. For purposes of this Article VII, the following terms shall have the meanings specified below:

(a) "Affiliate" shall mean a Person who, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with, a specified Person. For the purpose of this Section 1(a) of Article VII, "control," "controlled by" and "under common control with" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract, or otherwise. "Affiliated Companies" shall mean those partnerships, corporations, limited liability companies, trusts or other entities that are Affiliates of the Corporation, including, without limitation, subsidiaries, holding companies and intermediary companies (as those and similar terms are defined in the Gaming Laws of the applicable Gaming Jurisdictions) that are registered or licensed under applicable Gaming Laws.

(b) "Gaming" or "Gaming Activities" shall mean the conduct of gaming and gambling activities, or the use of gaming devices, equipment and supplies in the operation of a casino or other enterprise, including, without limitation, race books, sports pools, slot machines, gaming devices, gaming tables, cards, dice, gaming chips, player tracking systems, cashless wagering systems and associated equipment and supplies.

(c) "Gaming Authorities" shall mean all international, foreign, federal, state, local and other regulatory and licensing bodies and agencies with authority over Gaming within any Gaming Jurisdiction. "Gaming Jurisdictions" shall mean all jurisdictions, domestic and foreign, and their political subdivisions, in which Gaming Activities are lawfully conducted.

(d) "Gaming Laws" shall mean all laws, statutes, ordinances and regulations pursuant to which any Gaming Authority possesses regulatory and licensing authority over Gaming within any Gaming Jurisdiction, and all orders, decrees, rules and regulations promulgated by such Gaming Authority thereunder.

(e) "Gaming Licenses" shall mean all licenses, permits, approvals, authorizations, registrations, findings of suitability, franchises, concessions and entitlements issued by a Gaming Authority necessary for or relating to the conduct of Gaming Activities.

(f) "Own," "Ownership," or "Control," (and derivatives thereof) shall mean (i) ownership of record, (ii) "beneficial ownership" as defined in Rule 13d-3 promulgated by the United States Securities and Exchange Commission (as now or hereafter amended), or (iii) the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person or the disposition of Securities, by agreement, contract, agency or other manner.

(g) "Person" shall mean an individual, partnership, corporation, limited liability company, trust or any other entity.

(h) "Redemption Date" shall mean the date specified in the Redemption Notice as the date on which the shares of the Securities Owned or Controlled by an Unsuitable Person or an Affiliate of an Unsuitable Person are to be redeemed by the Corporation.

(i) "Redemption Notice" shall mean that notice of redemption given by the Corporation to an Unsuitable Person or an Affiliate of an Unsuitable Person pursuant to this Article VII. Each Redemption Notice shall set forth (i) the Redemption Date, (ii) the number and type of shares of the Securities to be redeemed, (iii) the Redemption Price and the manner of payment therefor, (iv) the place where any certificates for such shares shall be surrendered for payment, and (v) any other requirements of surrender of the certificates, including how they are to be endorsed, if at all.

(j) "Redemption Price" shall mean the price to be paid by the Corporation for the Securities to be redeemed pursuant to this Article VII, which shall be that price (if any) required to be paid by the Gaming Authority making the finding of unsuitability, or if such Gaming Authority does not require a certain price to be paid, that amount determined by the board of directors to be the fair value of the Securities to be redeemed; provided, however, that the price per share represented by the Redemption Price shall in no event be in excess of the closing sales price per share of shares on the principal national securities exchange on which such shares are then listed on the trading date on the day before the Redemption Notice is deemed given by the Corporation to the Unsuitable Person or an Affiliate of an Unsuitable Person or, if such shares are not then listed for trading on any national securities exchange, then the closing sales price of such shares as quoted in the Nasdaq National Market or SmallCap Market or, if the shares are not then so quoted, then the mean between the representative bid and the ask price as quoted by any other generally recognized reporting system. The Redemption Price may be paid in cash, by promissory note, or both, as required by the applicable Gaming Authority and, if not so required, as the board of directors determines. Any promissory note shall contain such terms and conditions as the board of directors determines necessary or advisable, including without limitation, subordination provisions, to comply with any law or regulation then applicable to the Corporation or any Affiliate of the Corporation or to prevent a default under, breach of, event of default under or acceleration of any loan, promissory note, mortgage, indenture, line of credit, or other debt or financing agreement of the Corporation or any Affiliate of the Corporation. Subject to the foregoing, the principal amount of the promissory note together with any unpaid interest shall be due and payable no later than the tenth anniversary of delivery of the note and interest on the unpaid principal thereof shall be payable annually in arrears at the rate of 2% per annum.

(k) "Securities" shall mean the capital stock of the Corporation.

(l) "Unsuitable Person" shall mean a Person who (i) is determined by a Gaming Authority to be unsuitable to Own or Control any Securities or unsuitable to be connected or affiliated with a Person engaged in Gaming Activities in a Gaming Jurisdiction, or (ii) causes the Corporation or any Affiliated Company to lose or to be

threatened with the loss of any Gaming License, or (iii) 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.

Section 2. Finding of Unsuitability.

(a) The 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 Redemption Price set forth in the Redemption Notice. From and after the Redemption Date, such Securities shall no longer be deemed to be outstanding, such Unsuitable Person or any Affiliate of such Unsuitable Person shall cease to be a stockholder with respect to such shares and all rights of such Unsuitable Person or any Affiliate of such Unsuitable Person therein, other than the right to receive the Redemption Price, shall cease. Such Unsuitable Person or its Affiliate shall surrender the certificates representing any shares to be redeemed in accordance with the requirements of the Redemption Notice.

(b) Commencing on the date that a Gaming Authority serves notice of a determination of unsuitability or the board of directors determines that a Person is an Unsuitable Person, and until the Securities Owned or Controlled by such Person are Owned or Controlled by a Person who is not an Unsuitable Person, the Unsuitable Person or any Affiliate of an Unsuitable Person shall not be entitled: (i) to receive any dividend or interest with regard to the Securities, (ii) to exercise, directly or indirectly or through any proxy, trustee, or nominee, any voting or other right conferred by such Securities, and such Securities shall not for any purposes be included in the shares of capital stock of the Corporation entitled to vote, or (iii) to receive any remuneration in any form from the Corporation or any Affiliated Company for services rendered or otherwise.

Section 3. Notices. All notices given by the Corporation pursuant to this Article, including Redemption Notices, shall be in writing and may be given by mail, addressed to the Person at such Person's address as it appears on the records of the Corporation, with postage thereon prepaid, and such notice shall be deemed given at the time deposited in the United States mail. Written notice may also be given personally or by telegram, facsimile, telex or cable and such notice shall be deemed to be given at the time of receipt thereof, if given personally, or at the time of transmission thereof, if given by telegram, facsimile, telex or cable.

Section 4. Indemnification. Any Unsuitable Person and any Affiliate of an Unsuitable Person shall indemnify and hold harmless the Corporation and its Affiliated Companies for any and all losses, costs, and expenses, including attorneys' fees, incurred by the Corporation and its Affiliated Companies as a result of, or arising out of, such

Unsuitable Person's or Affiliate's continuing Ownership or Control of Securities, the neglect, refusal or other failure to comply with the provisions of this Article VII, or failure to promptly divest itself of any Securities when required by the Gaming Laws or this Article VII.

Section 5. Injunctive Relief. The Corporation is entitled to injunctive or other equitable relief in any court of competent jurisdiction to enforce the provisions of this Article VII and each holder of the Securities of the Corporation shall be deemed to have acknowledged, by acquiring the Securities of the Corporation, that the failure to comply with this Article VII will expose the Corporation to irreparable injury for which there is no adequate remedy at law and that the Corporation is entitled to injunctive or other equitable relief to enforce the provisions of this Article.

Section 6. Non-exclusivity of Rights. The Corporation's rights of redemption provided in this Article VII shall not be exclusive of any other rights the Corporation may have or hereafter acquire under any agreement, provision of the bylaws or otherwise.

Section 7. Further Actions. Nothing contained in this Article VII shall limit the authority of the board of directors to take such other action to the extent permitted by law as it deems necessary or advisable to protect the Corporation or its Affiliated Companies from the denial or threatened denial or loss or threatened loss of any Gaming License of the Corporation or any of its Affiliated Companies. Without limiting the generality of the foregoing, the board of directors may conform any provisions of this Article VII to the extent necessary to make such provisions consistent with Gaming Laws. In addition, the board of directors may, to the extent permitted by law, from time to time establish, modify, amend or rescind bylaws, regulations, and procedures of the Corporation not inconsistent with the express provisions of this Article VII for the purpose of determining whether any Person is an Unsuitable Person and for the orderly application, administration and implementation of the provisions of this Article VII. Such procedures and regulations shall be kept on file with the Secretary of the Corporation, the secretary of its Affiliated Companies and with the transfer agent, if any, of the Corporation and any Affiliated Companies, and shall be made available for inspection by the public and, upon request, mailed to any holder of Securities. The board of directors shall have exclusive authority and power to administer this Article VII and to exercise all rights and powers specifically granted to the board of directors or the Corporation, or as may be necessary or advisable in the administration of this Article VII. All such actions which are done or made by the board of directors in good faith shall be final, conclusive and binding on the Corporation and all other Persons; provided, however, that the board of directors may delegate all or any portion of its duties and powers under this Article VII to a committee of the board of directors as it deems necessary or advisable.

Section 8. Severability. If any provision of this Article VII or the application of any such provision to any Person or under any circumstance shall be held invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Article VII.

Section 9. Termination and Waivers. Except as may be required by any applicable Gaming Law or Gaming Authority, the board of directors may waive any of the rights of the

Corporation or any restrictions contained in this Article VII in any instance in which the board of directors determines that a waiver would be in the best interests of the Corporation. The board of directors may terminate any rights of the Corporation or restrictions set forth in this Article VII to the extent that the board of directors determines that any such termination is in the best interests of the Corporation. Except as may be required by a Gaming Authority, nothing in this Article VII shall be deemed or construed to require the Corporation to repurchase any Securities Owned or Controlled by an Unsuitable Person or an Affiliate of an Unsuitable Person.

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IN WITNESS WHEREOF, Wynn Resorts, Limited has caused these amended and restated articles of incorporation to be executed in its name by its Chief Executive Officer this 10th day of September, 2002.

Stephen A. Wynn

Attachment 1

The articles of incorporation have been amended as follows:

Article II: to increase the authorized capital stock to 440,000,000 shares, 400,000,000 of which shares are common stock and 40,000,000 of which shares are preferred stock

Article III: to prohibit stockholders from taking action by written consent after the initial public offering

Article IV: to change the size of the board of directors and to create a classified board of directors

Article V: to impose new voting requirements with respect to amendments to certain articles of these amended and restated articles of incorporation

Article VII: to institute redemption procedures if a stockholder is deemed to be an unsuitable person for purposes of the gaming laws

EXHIBIT "N"

Aruze USA, Inc.
745 Grier Drive, Las Vegas, Nevada 89119

January 18, 2012

Wynn Resorts, Limited
Nominating and Corporate Governance Committee
c/o Corporate Secretary
3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109

Ladies and Gentlemen of the Committee,

Aruze USA, Inc. ("Aruze") is the largest single stockholder of Wynn Resorts, Limited (the "Company"), holding 24,549,222 shares of Company common stock, which is approximately 19.66% of the outstanding common stock and has held such shares since 2002. Aruze hereby submits this letter of nomination to the Nominating and Corporate Governance Committee of the Company (the "Committee") to designate up to four individuals introduced below as candidates (the "candidates") to be considered for nomination by the Committee for election as directors of the Company and included in the Company's proxy statement relating to the Company's 2012 annual meeting of stockholders or any stockholder meeting held for the purpose of electing Class I directors ("2012 Annual Meeting").

As a founder and the largest stockholder of the Company, Aruze strongly believes the interests of stockholders should be better protected by greater independent representation on the Company's Board of Directors. Aruze is submitting these candidates for nomination to the Company's Board of Directors in order to strengthen the Board and to provide strong, independent directors to help lead the Company and drive its business goals. Aruze believes that the addition of these independent, highly credentialed and experienced directors is essential to enhancing the Company's corporate governance and future success.

Aruze is party to the Amended and Restated Stockholders Agreement, dated January 6, 2011 among Aruze, Mr. Stephen A. Wynn ("Mr. Wynn") and Ms. Elaine P. Wynn ("Ms. Wynn") (the "Stockholder Agreement"). Pursuant to Section 2(a) of the Stockholder Agreement, Mr. Wynn is required to endorse and vote his shares and Ms. Wynn's shares in favor of the candidates designated by Aruze that represent a minority of the Company's board. Simultaneous to the submission of these candidates for your approval, Aruze is submitting the candidates to Mr. Wynn for his endorsement as required by the Stockholders Agreement. As a result, these candidates will be endorsed and supported by nearly 36% of the voting ownership of the Company. Accordingly, Aruze believes that the Committee should nominate these candidates for election to the Company's Board of Directors.

There are four Class I directors whose terms expire this year. Aruze is hereby designating three candidates, , and , to be considered for nomination by the Company to stand for election at the 2012 Annual Meeting. Ms. Wynn is currently a Class I director. Pursuant to the Stockholders Agreement, Mr. Wynn

REDACTED

is required to endorse Ms. Wynn as a nominee, subject to limited exceptions. In the event that Ms. Wynn decides not to stand for reelection as a director of the Company, Aruze hereby designates , as a fourth nominee. Please note that each of these individuals are independent of the Company, Aruze and any of Aruze's affiliates (including Company founder and board member, Mr. Kazuo Okada) and each would qualify as independent under Rule 5605 of Nasdaq's listing standards.

Enclosed with this letter is biographical information for each of the four designees to be nominated by the Company to the Company's Board of Directors. You will see that the four candidates designated by Aruze are each exceptionally qualified individuals, highly experienced in the oversight and management of public companies with a variety of industry backgrounds. Each of these individuals will provide much needed diversity and independence on the Board of Directors.

The depth and breadth of experience that these candidates possess will enhance the independence, diversity, skill and experience of the Company's Board of Directors. Each of these candidates has extensive experience serving on the boards of public companies, and in particular, has extensive experience in Asia, a valuable characteristic given the Company's business plans. Aruze believes that the nomination of these individuals to the Company's Board of Directors, for election at the 2012 Annual Meeting, will strengthen the Board of Directors as the independent oversight body of the Company and will benefit the Company, its stockholders, customers, employees and other individuals and organizations that depend on the Company.

The disclosure regarding Aruze's ownership of its shares and each of the candidates attached as Annex A contains the information required pursuant to the 2011 Corporate Governance Guidelines and in the Committee's procedures set forth in the Company's proxy statement for its 2011 annual meeting. The candidates are available, upon your request, to discuss their background and qualifications to serve as directors on the Company's Board of Directors.

REDACTED

We strongly encourage the Committee to thoroughly consider each of these candidates and to join the Company's largest stockholder, with the required support of Mr. Wynn, in nominating them and supporting their election to the Company's Board of Directors.

Please direct all questions to the undersigned.

Sincerely,

Aruze USA, Inc.
By Kazuo Okada
President

cc: Kimberly Sinatra, General Counsel
Wynn Resorts, Limited
Elaine Wynn

EXHIBIT "O"

Aruze USA, Inc.
745 Grier Drive, Las Vegas, Nevada 89119

January 18, 2012

Stephen A. Wynn
c/o Wynn Resorts, LLC
3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
Facsimile: 702-770-1100

Dear Mr. Wynn,

Aruze USA, Inc. ("Aruze"), a company indirectly controlled by Mr. Kazuo Okada and a 19.66% stockholder of Wynn Resorts, Limited (the "Company"), has submitted a letter dated as of today's date, to the Nominating and Corporate Governance Committee of the Company (the "Committee"), designating the four individuals introduced below as candidates (the "candidates") to be considered for nomination by the Committee for election as directors of the Company and included in the Company's proxy statement relating to the Company's 2012 annual meeting of the stockholders or any stockholder meeting held for the purpose of electing Class I directors (the "2012 Annual Meeting"). The letter to the Committee has been submitted in accordance with the requirements of the Company's corporate governance policies and the Committee's procedures contained in the Company's 2011 proxy statement. A copy of such letter is attached as an annex hereto.

As you are aware, Aruze is party to the Amended and Restated Stockholders Agreement, dated January 6, 2010 among Aruze, yourself and Ms. Elaine P. Wynn ("Ms. Wynn") (the "Stockholders Agreement"). Pursuant to Section 2(a) of the Stockholders Agreement, Aruze has the right to designate a slate of candidates to the Board of Directors of the Company representing a minority of the Board of Directors. Following such designation by Aruze, you are required under the Stockholders Agreement to endorse the designees of Aruze for nomination to the Company's Board of Directors and to vote your shares and Ms. Wynn's shares in favor of Aruze's candidates.

There are four Class I directors whose terms expire this year. Aruze is designating three nominees, , and , which represent a minority of the Board, to be considered for nomination by the Company to stand for election at the 2012 Annual Meeting. In the event that Ms. Wynn, a Class I director, decides not to stand for reelection, Aruze hereby designates ; as a fourth candidate in its slate of directors. Each of these individuals are independent of the Company, Aruze and any of Aruze's affiliates (including Mr. Okada) and each would qualify as independent under Rule 5605 of the Nasdaq listing standards.

Enclosed with this letter is biographical information for each of the four candidates to the Company's Board of Directors. You will see that the four nominees designated by Aruze are each exceptionally qualified individuals, highly experienced in the oversight and

REDACTED

management of public companies and have a variety of industry backgrounds, some possessing significant experience in the Company's strategic Asian markets. The depth and breadth of experience that these candidates possess will enhance the independence, diversity, skill and experience of the Company's Board of Directors. Aruze believes that the nomination of these individuals to the Company's Board of Directors, for election at the 2012 Annual Meeting, will strengthen the Board of Directors as the independent oversight body of the Company and will benefit the Company, its stockholders, customers, employees and other individuals and organizations that depend on the Company.

The disclosure regarding each of the candidates attached as Annex A contains the information required pursuant to the 2011 Corporate Governance Guidelines and the Committee's procedures set forth in the Company's 2011 annual meeting proxy statement. Each of these candidates is available at any time to discuss their background and qualifications to serve as directors on the Company's Board of Directors.

Please provide your endorsement of this minority slate of candidates, pursuant to the Stockholders Agreement, to the Committeepromptly so their nominations will be given immediate credence and strong consideration by the Committee. Please send us written acknowledgement of such endorsement promptly.

Sincerely,

Aruze USA, Inc.

Kazuo Okada
President

cc: Kimberly Sinatra General Counsel
Wynn Resorts, Limited
Elaine Wynn

EXHIBIT "P"

WYNN RESORTS

STEPHEN A. WYNN
chairman and chief executive officer

February 8, 2012

Via Email and Hand Delivery

Mr. Kazuo Okada
Aruze USA, Inc.
745 Grier Drive
Las Vegas, Nevada 89119

Dear Mr. Okada:

I am in receipt of your letters dated January 18 and February 3, 2012. I am also aware that Ms. Sinatra previously replied to the first letter and advised you to resubmit your director nominations in compliance with the Company's 2011 Proxy. I agree with that directive. Rest assured, all appropriate director nominations will be handled in the normal course.

Sincerely,

Stephen A. Wynn

cc: Kim Sinatra
Robert Miller
Elaine Wynn

EXHIBIT "Q"

SUMM

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Attorneys for Wynn Resorts, Limited

RECEIVED
SIERRA CORPORATE SERVICE
Date: 2/21/12
Received By: AJH/Sandi M

PISANELLI BICE PLLC
3883 HOWARD HUGHES PARKWAY, SUITE 800
LAS VEGAS, NEVADA 89169

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED,, a Nevada Corporation, Plaintiff, vs. KAZUO OKADA, an individual, ARUZE USA, INC., a Nevada corporation, UNIVERSAL ENTERTAINMENT CORP., a Japanese corporation, Defendants.	Case No.: Dept. No.:

SUMMONS – CIVIL

EXHIBIT 1

REPORT
Attorney – Client / Work Product / Privileged and Confidential

I. Introduction

Wynn Resorts, Limited ("Wynn Resorts"), a publicly traded company incorporated in the State of Nevada, on behalf of its Compliance Committee, retained Freeh Sporkin & Sullivan, LLP ("FSS") on November 2, 2011 to conduct an independent investigation. That independent investigation has been conducted under the sole direction of the Compliance Committee. The purpose of the investigation was to determine whether there is evidence that Mr. Kazuo Okada, a member of the Wynn Resorts Board of Directors, may have: (i) breached his fiduciary duties to Wynn Resorts; (ii) engaged in conduct that potentially could jeopardize the gaming licenses of Wynn Resorts; and/or, (iii) violated the Wynn Resorts compliance policy. Specifically, FSS has been asked to examine Mr. Okada's efforts in connection with the creation of a gaming establishment in the Republic of the Philippines.

This is the Report to the Compliance Committee Chairman on the results of FSS' investigation. As set forth with greater detail in the attached appendix, FSS has performed its investigation by interviewing dozens of individuals and by reviewing thousands of documents, electronic emails, corporate and public records.

II. Summary

The investigation has produced substantial evidence that:

1. Despite being advised by the Wynn Resorts Board of Directors and Wynn Resorts attorneys on the strict US anti-bribery laws which govern Wynn Resorts and its board, Mr. Okada strongly believes and asserts that when doing business in Asia, he should be able to provide gifts and things of value to foreign government officials, whether directly or by the use of third party intermediaries or consultants.

2. Mr. Okada, his associates and companies have arranged and designed his corporate gaming business and operations in the Philippines in a manner which appears to contravene Philippine Constitutional provisions and statutes that require 60% ownership by Philippine nationals, as well as a Philippine criminal statute.

3. Mr. Okada, his associates and companies appear to have engaged in a longstanding practice of making payments and gifts to his two (2) chief gaming regulators at the Philippines Amusement and Gaming Corporation ("PAGCOR"), who directly oversee and regulate Mr. Okada's Provisional Licensing Agreement to operate in that country. Since 2008, Mr. Okada and his associates have made multiple payments to and on behalf of these chief regulators, former PAGCOR Chairman Efraim Genuino and Chairman Cristino Naguiat (his current chief regulator), their families and PAGCOR associates, in an amount exceeding US 110,000. At times, Mr. Okada, his

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.

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

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[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]

name to Universal Entertainment Corporation in November 2009. Universal is listed on the JASDAQ stock exchange and is engaged in the manufacture and sale of pachinko and gaming machines and related business activities. As of September 2011, Okada Holdings Godokaisha was Universal Entertainment's major shareholder, with 67.90% of the issued shares.

The Nevada Gaming Commission has approved Universal Entertainment's suitability as the 100% shareholder for a subsidiary, Aruze USA, Inc.

C. **Aruze USA, Inc.**

Aruze USA, Inc. ("Aruze USA") is a wholly owned subsidiary of Universal Entertainment. Aruze USA is a US company and was incorporated in the State of Nevada on June 9, 1999. Mr. Okada is a Director of Aruze USA and serves as its President, Secretary, and Treasurer.

Aruze USA has been found suitable by the Nevada Gaming Commission as a major shareholder of Wynn Resorts.

D. **Aruze Gaming America, Inc.**

Aruze Gaming America, Inc. is a private company that is 100% personally owned by Mr. Okada. He currently serves as a Director, Secretary, and Treasurer of the company. Aruze Gaming America, Inc. is a US company and was incorporated on February 7, 1983. The company changed its name from Universal Distributing of Nevada, Inc. to Aruze Gaming America, Inc. on January 6, 2006. Aruze Gaming America, Inc. shares a common business address with Aruze USA, Inc. in Las Vegas, Nevada.

E. **Business Interests in the Republic of the Philippines**

Since 2008, Mr. Okada has been involved with a variety of corporate entities and with various business associates in the creation of a gaming establishment in an area of the Philippines known as Entertainment City Manila.[3] In furtherance of this endeavor, Mr. Okada and his associates have procured land and a provisional gaming license in the Philippines. A more detailed review of Mr. Okada's corporate entities and business associates in the Philippines is set forth in Section V(2)(A) below.

F. **Business Interests in the Republic of Korea**

Mr. Okada has recently pursued development of a casino resort complex in the Incheon Free Economic Zone in the Republic of Korea. A more detailed review of Mr. Okada's activities in Korea is set forth in Section V(4) below.

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[3] On the Universal Entertainment website (viewed January 30, 2012) this project is referenced as "Manila Bay Resorts." [See Appendix]

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 concern[4] and United States person[5] 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)

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[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).

(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]

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[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]

- 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

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[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.hidetsugu@hq.universal-777.com on the 5th of each month for the prior month [sic] activity." [See Appendix]

[13] For further advice regarding suitability, please consult directly with David 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]

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

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."

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[14] Wynn Resorts Code of Business Conduct and Ethics dated May 4, 2004, page 7. [See Appendix]

Bribery of Government Officials

"The Company's Policy Regarding Payments to Foreign Officials, the U.S. Foreign Corrupt Practices Act (the "FCPA"), and the laws of many other countries prohibit the Company and its officers, employees and agents from giving or offering to give money or anything of value to a foreign official, a foreign political party, a party official or a candidate for political office in order to influence official acts or decisions of that person or entity, to obtain or retain business, or to secure any improper advantage. Please refer to the Company's Policy Regarding Payments to Foreign Officials for more details regarding prohibited payments to foreign government officials."

Discipline for Violations:

"The Company intends to use every reasonable effort to prevent the occurrence of conduct not in compliance with its Code and to halt any such conduct that may occur as soon as reasonably possible after its discovery. Subject to applicable laws and agreements, Company personnel who violate this Code and other Company policies and procedures may be subject to disciplinary action, up to and including discharge." (Emphasis added.)

The Code has since been revised twice, once in 2009 and then again on November 1, 2011. Although the above sections have been expanded in these later editions, for the purpose of this investigation and the dates in question the substance has remained basically the same and the FCPA has continued to be a point of emphasis.

V. Report of Investigation

1. Mr. Okada's Attitude Toward Wynn Resorts Compliance Requirements

Mr. Okada's prima facie violations of FCPA, involving both his government regulators in the Philippines and possibly in Korea, do not appear to be accidental or based upon a misunderstanding of anti-bribery laws. Conversely, despite being advised by fellow Wynn Resorts Board members and Wynn Resorts counsel that payments and gifts to foreign government officials are strictly prohibited, Mr. Okada has insisted that there is nothing wrong with this practice in Asian countries. Mr. Okada has stated his personal rejection of Wynn Resorts anti-bribery rules and regulations, as well as legal prohibitions against making such payments to government officials, to fellow Wynn Resorts Board members.

In a February 24, 2011 Wynn Resorts Board of Directors ("Board") meeting at which Mr. Okada was present, after a lengthy discussion by the Board of the FCPA,[15] including specifically the Universal project in the Philippines and potential Wynn Resorts' involvement, "[t]he

[15] In an email from Kim Sinatra to Michiaki Tanaka, dated February 26, 2011, Ms. Sinatra referenced a meeting with Mr. Okada in which she furnished FCPA policy and training materials and reiterated the importance of strict compliance with the FCPA. [See Appendix]

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.

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[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]

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]

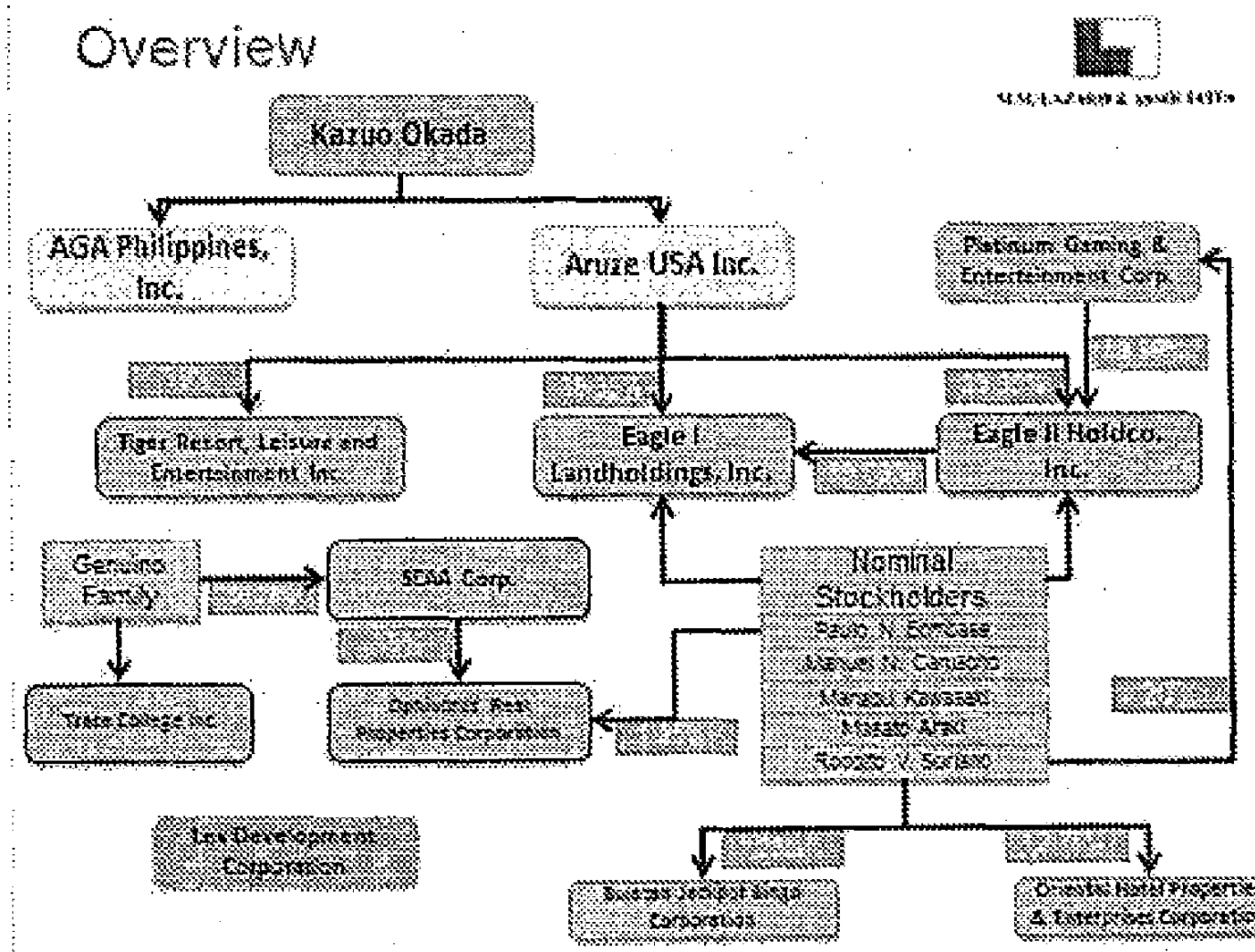
between Mr. Okada, his former Philippine gaming regulator, and the regulator's associates is not known.

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]



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]

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[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

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.

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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]

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

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[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]

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.

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[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]

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]

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[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]

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.

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[64] Ibid, p. 16. [See Appendix]
[65] Ibid, pp. 16-17. [See Appendix]
[66] Ibid, p. 17. [See Appendix]

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 Suzzanne 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
Suzzanne 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 "Suzzanne 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 Suzzanne Bangsil's reservation. Therefore, this US 50,523.22 was paid for Chairman Naguiat's benefit.

"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]

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.

PAGCOR officials, employees, consultants, their associates and family members, exceed USD 110,000.[73]

FSS investigators interviewed members of the Wynn Macau management team, who furnished the following relevant information regarding a visit to that property in September 2010 by then and current PAGCOR Chairman and CEO Cristino L. Naguiat, Jr., his wife, three children, nanny and other PAGCOR officials, whose four-day stay at Wynn Macau was paid for via the Aruze City Ledger Account:

- September 20, 2010: Yoshiyuki Shoji of Universal, in an e-mail to Angela Lai of Wynn Macau, requests reservations for "Rogelio Bangsil (Guest Representative) & Others." Mr. Shoji requests Encore Suite or "more gorgeous room, such as Villa," and "the best butler" for unnamed person in group, who is "VIP for Universal." Mr. Shoji states that guests other than Bangsil should not be registered, that all charges should be posted to Universal's City Ledger,[74] and that "Mr. Okada would like them to experience the best accommodations and services at Wynn Macau."[75] The communication makes no reference to PAGCOR or the government affiliation of the guests.

- September 20, 2010: In an e-mail to Wynn Macau President Ian Coughlan and others, Ms. Lai informs Mr. Coughlan of the reservation and that checks of websites indicate that Mr. Bangsil is in charge of PAGCOR's gaming department.[76]

- September 20, 2010: In an e-mail to Mr. Shoji, Ms. Lai advises that Wynn Macau is checking on availability of the requested upgrade and that Macau law requires that all room occupants be registered, and requests that all guest names be furnished in advance of or at the time of registration.[77]

- September 22, 2010: In an e-mail to Wynn Macau President Ian Coughlan, Wynn Macau Senior Vice-President – Legal Jay M. Schall advises Mr. Coughlan of

[73] See City Ledger Account. [See Appendix]
[74] When Mr. Shoji set up the City Ledger Account for Mr. Okada in 2008, he asked whether the customer name and amount paid would be made public. He was advised that such information would not become public. Email response from Kim Sinatra to Shoji, dated February 8, 2008. [See Appendix]
[75] E-mail from Y. Shoji to A. Lai, September 20, 2010 [See Appendix]; interview of A. Lai, January 4, 2012.
[76] E-mail from A. Lai to I. Coughlan, September 20, 2011 [See Appendix]; interview of A. Lai, January 4, 2012; interview of I. Coughlan, December 29, 2011. It should be noted that according to an article in Manilatimes.net, published February 2, 2012, Rogelio Bangsil has recently been transferred to the PAGCOR international marketing department after a probe that found the government losing PHP 160 million in government run casinos to a Mr. Liu. [See Appendix]
[77] E-mail from A. Lai to Y. Shoji, September 20, 2010 [See Appendix]; interview of A. Lai, January 4, 2012.

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]

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[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]

- 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 80,000[86] (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

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[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.

Chairman Naguiat's party] are very important to Universal, and that Mr. Okada wants Mr. Couglan 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]

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[90] Interviews of Ian Coughlan, January 5, 2012 and February 2, 2012.
[91] Interview of B. Yeung, January 4, 2012; Wynn Macau Manager – Encore Logbook, September 24, 2010. [See Appendix]
[92] Interview of B. Yeung, January 4, 2012; Wynn Macau Manager – Encore Logbook, September 25, 2010. [See Appendix]
[93] Wynn Macau Manager – Encore Logbook, September 25, 2010. [See Appendix]
[94] Interview of B. Yeung, January 4, 2012; Wynn Macau Manager – Encore Logbook, September 25, 2010 [See Appendix]; Wynn Macau "Miscellaneous Disbursement" record #013066, dated September 25, 2010. [See Appendix]
[95] E-mail from B. Yeung to I. Coughlan, September 27, 2010 [See Appendix]; Wynn Macau Manager – Encore Logbook, September 26, 2010 [See Appendix]; handwritten and signed note dated "9/26/10" with notation "MOP 4.100". [See Appendix]. The returned funds were equal to approximately US 503.07 returned out of a total of approximately US 19,632 provided.
[96] Interview of B. Yeung, January 4, 2012; Wynn Macau Manager – Encore Logbook, September 26, 2010. [See Appendix]

- November 10, 2010: Mr. Shoji advises Mr. Coughlan in an e-mail of receipt of Wynn Macau's invoice for the late September 2010 visit, in which the Villa [for Chairman Naguiat] was charged at the amount of MOP 48,000. Mr. Shoji states that "I understand that Mr. Okada explained to you in Macau that they were our business guests and we made reservations for them and all charges are billed to our company. While some of charges [sic] will be reimbursed by them, room charges were planned to be borne by us as ordinary business expenses. Since the amount charged is too much and beyond the ordinary room charge, our company will be put in a very difficult position to give reasonable explanations if we are inquired by someone. I would appreciate if you would reconsider this matter and charge us the original rate (free upgrade to Villa) since the party directly dealing with [sic] on this matter is our company rather than the each [sic] individual guest."(Emphasis added.)[97]

- On or about December 10, 2010: After e-mails and phone messages following Mr. Shoji's September 20, 2010 e-mail, Mr. Coughlan has a phone conversation with Mr. Shoji, in which he advises Mr. Shoji that, after internal Wynn Macau discussions, the final decision was that Wynn Macau would not provide the requested free upgrade for the Villa occupied during the September 2010 visit.[98]

The foregoing recitation of facts surrounding the September 2010 visit of Chairman Naguiat and his party to Wynn Macau demonstrates several significant elements of that visit:

- Mr. Okada considered these guests to be very important to his company.

- An effort was made from the outset to conceal Chairman Naguiat's identity and official status, to the point of not even wanting to advise Wynn Macau management and staff.

- With Mr. Okada's knowledge, Chairman Naguiat and his family were provided with approximately US 20,000 cash to use for gaming and also shopping

- Mr. Okada's representative sought to have Wynn Resorts fund a portion of the expenses incurred by Chairman Naguiat and his party, i.e., the free upgrade to a Villa.

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[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, 201 land 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]

- 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]

2008,[101]2009[102] and 2010.[103] The 2010 Annual report features photos and messages from Chairman Naguiat, and several other members of the new PAGCOR leadership. The 2010 Annual report makes it clear that two of the proponents, Bloomsbury and the SM Consortium, are constructing their resorts and are expected to complete their first phase within 2014. The other two proponents (one of which is Tiger, the provisional licensee for Mr. Okada's casino project) are in the initial design stages and are expected to break ground in 2012.

The continuing coverage of Mr. Okada's Manila Bay Resorts project in PAGCOR's annual reports indicates that PAGCOR's interest in and oversight of this project did not stop with the granting of the Provisional Licensing Agreement in 2008. Indeed, the very nature of the Provisional Licensing Agreement requires continued oversight by PAGCOR officials. As Lazaro advised, the Provisional Licensing Agreement was issued in relation to the "Bagong Nayong Philipino Manila Bay Tourism City" project, which is also referred to as "PAGCOR City." PAGCOR City is envisioned to be a Las Vegas-style gaming and entertainment complex. The project was designed to attract proponents with established experience in the hotel and gaming business. PAGCOR released the "Terms of Reference," which detailed a list of requirements to which project proponents must conform in order to qualify for a PAGCOR license to operate within PAGCOR City.

The "Terms of Reference" section provides, in pertinent part, a mandatory Minimum Investment of US 1 Billion, consisting of both equity and debt, and the submission of an associated Project Implementation Plan within 120 days from signing of the Provisional License and approval by PAGCOR (Paragraph 4, Section II, Terms of Reference). Furthermore, within 30 days of signing of the Provisional License, proponents are required to submit a Performance Assurance Bond in the amount of PHP 100 Million to guarantee the completion of the project (Paragraph 8, Section II, Terms of Reference). Within 15 days of signing of the Provisional License, proponents are also required to open an Escrow Account (with an initial deposit of at least US 100 Million) through which funds for the project will pass. This Escrow Account must maintain a balance of at least US 50 Million. (Paragraph 9, Section II, Terms of Reference).

Specifically, paragraph 13 of the Terms of Reference states the following in relation to achieving a regular, non-provisional, Casino Gaming license:

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[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]

"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.

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

[106] http://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]

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]

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 Acknowledgement 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 Acknowledgement 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.

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[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]

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.)

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[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]

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_e_pr2.pdf. [See Appendix]
[119] Attributions from Mr. Okada's interview are based on FSS contemporaneous notes.

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 Interview[120]

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]

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. <u>Mr. Okada's Knowledge of and Response to Chairman Naguiat's September 2010 stay</u>

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

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. <u>Mr. Okada stated that he was aware of only one other guest stay at Wynn Macau that he believed was improperly paid by Universal.</u>

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

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.

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. <u>Doing Business in the Philippines</u>

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.

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.

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

stays at Wynn Macau and Wynn Las Vegas were paid by Universal from 2008 – 2011, Mr. Okada denied any knowledge of these events. However, Mr. Okada stated that "everything I believe [FSS] mentioned matches with what Mr. Tokuda is investigating right now. And I will have him write a paper that lists all the countermeasures and a progress report and what has been wrapped up and so forth."

Mr. Okada stated that in approximately December 2011, he "clearly instructed" Mr. Tokuda to conduct an investigation about these matters. At the end of the interview, Mr. Okada stated that "I will look into all the expense that you have asked about and if it is someone who has an existing relationship I will for sure bill that person."

VII. Conclusions

The investigation has produced substantial evidence that directly relates to Mr. Okada's suitability under Nevada law as both a major shareholder and director of Wynn Resorts.

Nevada Gaming Commission Regulations regarding individual suitability issues encompass, among other things, a person's "good character, honesty and integrity," and whether a person's "background, reputation and associations will not result in adverse publicity for the State of Nevada and its gaming industry" (Section 3.090 of the NRS). The NRS also require that a covered person satisfy the Commission that such person has "adequate business probity" (Section 463.170, paragraph 3).

Both Aruze USA , a Nevada corporation, and Mr. Okada personally, as a Director, President, Secretary and Treasurer of Aruze Inc., are covered parties under the jurisdiction of the FCPA.

As set forth above, the investigation has produced substantial evidence that Mr. Okada, his associates and companies have apparently been engaging in a longstanding practice and pattern of committing prima facie violations of anti-bribery laws, particularly the FCPA.

The testimonial and documentary evidence appear to prove that, since at least 2008, Mr. Okada, his associates and companies have made over US 110,000 in payments to his chief gaming regulators (2) in the Philippines (PAGCOR), their families and associates. Mr. Okada is building a multi-billion dollar gaming business and operation in the Philippines.

The practice and means of making these payments varied slightly but were regularly and repeatedly arranged in the same manner. For example, between June 2008 and August 2010, former PAGCOR Chairman Efraim Genuino (February 2001 – June 30, 2010), his son and other PAGCOR government officials, were hosted by Mr. Okada, his associates and companies at either Wynn Resorts Las Vegas or Wynn Resorts Macau. Mr. Okada, his associates and companies would arrange and pay thousands of dollars to cover the expenses of Chairman

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 approximately13 others). The US 1,673.07 cost of this dinner was charged to Mr. Okada's room.

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

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.

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 "R"

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DISTRICT COURT

CLARK COUNTY, NEVADA

KAZUO OKADA, an individual, Petitioner, V. WYNN RESORTS, LIMITED, a Nevada corporation, Respondent.	Case No.: A-12-654522-B Dept. No.: XI **RESPONDENT'S OPPOSITION TO PETITION FOR A WRIT OF MANDAMUS** Date: February 9, 2012 Time: 9:00 a.m.

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

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

DATED this 27th day of January, 2012.

By: _____

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

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

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

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

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

II. BRIEF FACTUAL BACKGROUND

A. Wynn's Formation, Ownership And Leadership.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- All books and records related to how [*sic*] the manner in which the $120 million invested by Aruze in April 2002 was spent;
- All books and records related to a HK $1 billion pledge (and partial donation) by Wynn and its affiliates to the University of Macau;
- 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;
- Books and records of Wynn and its predecessor entities for the years 2000 through 2002; and
- All evidence regarding negotiation, drafting, and execution of the Amended and Restated Stockholders Agreement dated January 6, 2010 between Mr. Wynn, Ms. Wynn and Aruze.

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

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

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

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

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

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

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

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

III. DISCUSSION

A. Legal Standard For Writ Of Mandamus.

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

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

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

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

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

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

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

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

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

In a similar fashion, and without explanation, Okada requests that Wynn make available "[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).) However, Mr. Wynn, Ms. Wynn and Aruze are neither parties to this action nor under the control of Wynn. As such, the "Amended [*sic*] and Restated Stockholders Agreement dated January 6, 2010" between those parties is extraneous and completely outside of the realm of even an (inappropriate) stockholder request upon Wynn. Nevertheless, at the very minimum, Okada's request for books and records related to this stockholders agreement is grounded in his beneficial ownership of Aruze, and Aruze's ownership interest in Wynn.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Along those lines, there are additional limitations on a director's right to inspect books and records under Delaware law. First, and most importantly, directors are only entitled to a corporation's books and records where "actually deprived of information to which they are entitled . . . [or] hindered in the performance of their directorial duties." *Haseotes v. Bentas*, No. 19155 NC, 2002 Del. Ch. Lexis 106, at *23–24 (Del. Ch. Sept. 3, 2002); *see also Hall v. Search*

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corporation would be left to guesswork and ever shifting targets. The point here is that Okada does not provide any purpose whatsoever for his inspection requests.

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

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

Even if the Court elected to apply Delaware law in this case – and to create an inherent legal right in the absence of a Nevada statute – Okada's request for Wynn's books and records still falls short. Not only does Okada request the very documents that he, along with all of the other Directors of the Wynn Board and Wynn Macau Board, already received and reviewed when voting on whether to make the donation, he also fails to state any purpose or justification for making the request. In fact, from his Petition, it would appear that Okada's sole reason for requesting "[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" is his status as a Wynn Director. Stated differently, Okada has no concerns of wrongdoing, he simply wants to flex his muscles—just because he thinks he can. Unfortunately for Okada, neither Nevada nor Delaware law permit him

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

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

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

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IV. CONCLUSION

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

DATED this 27th day of January, 2012.

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CERTIFICATE OF SERVICE

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

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EXHIBIT "S"

EX-3.1 3 a2089719zex-3_1.htm EXHIBIT 3.1
QuickLinks -- Click here to rapidly navigate through this document

Exhibit 3.1

SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF

WYNN RESORTS, LIMITED

WYNN RESORTS, LIMITED (the "**Corporation**"), a corporation organized under the laws of the State of Nevada, by its Chief Executive Officer does hereby certify that:

1. Pursuant to the provisions of Sections 78.390 and 78.403 of *Nevada Revised Statutes* ("**NRS**") the Corporation hereby amends and restates its articles of incorporation as follows:

2. The amendment and restatement of the Articles of Incorporation as set forth below was adopted by the Corporation's board of directors by the unanimous written consent as of September 16, 2002 in accordance with the provisions of NRS 78.315 and NRS 78.390.

3. The amendment and restatement of the Articles of Incorporation as set forth below was approved by the written consent of the sole stockholder on September 16, 2002.

4. That the undersigned officer has been authorized and directed by the board of directors to execute and file this certificate setting forth the text of the Articles of Incorporation of the Corporation as amended and restated in its entirety to this date as follows:

ARTICLE I
NAME

The name of the corporation is Wynn Resorts, Limited (the "**Corporation**").

ARTICLE II
CAPITAL STOCK

Section 1. *Authorized Shares.* The aggregate number of shares which the Corporation shall have authority to issue is four hundred and forty million (440,000,000) shares, consisting of two classes to be designated, respectively, "Common Stock" and "Preferred Stock," with all of such shares having a par value of $.01 per share. The total number of shares of Common Stock that the Corporation shall have authority to issue is four hundred million (400,000,000) shares. The total number of shares of Preferred Stock that the Corporation shall have authority to issue is forty million (40,000,000) shares. The Preferred Stock may be issued in one or more series, each series to be appropriately designated by a distinguishing letter or title, prior to the issuance of any shares thereof. The voting powers, designations, preferences, limitations, restrictions, and relative, participating, optional and other rights, and the qualifications, limitations, or restrictions thereof, of the Preferred Stock shall hereinafter be prescribed by resolution of the board of directors pursuant to Section 3 of this Article II.

Section 2. *Common Stock.*

(a) *Dividend Rate.* Subject to the rights of holders of any Preferred Stock having preference as to dividends and except as otherwise provided by these Articles of Incorporation, as amended from time to time (hereinafter, the "**Articles**") or the NRS, the holders of Common Stock shall be entitled to receive dividends when, as and if declared by the board of directors out of assets legally available therefor.

(b) *Voting Rights.* Except as otherwise provided by the NRS, the holders of the issued and outstanding shares of Common Stock shall be entitled to one vote for each share of Common Stock. No holder of shares of Common Stock shall have the right to cumulate votes.

IN THE SUPREME COURT OF THE STATE OF NEVADA

WYNN RESORTS LIMITED, Petitioners, vs. THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA, IN AND FOR THE COUNTY OF CLARK; AND THE HONORABLE ELIZABETH GONZALEZ, DISTRICT JUDGE, DEPT. XI, Respondent, and KAZUO OKADA, UNIVERSAL ENTERTAINMENT CORP. AND ARUZE USA, INC.. Real Parties in Interest.	Case No. _____ **APPENDIX IN SUPPORT OF PETITIONER WYNN RESORTS LIMITED'S PETITION FOR WRIT OF PROHIBITION OR ALTERNATIVELY, MANDAMUS** **VOLUME 2 OF 17**

Electronically Filed
Jul 20 2015 10:56 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

DATED this 17th day of July, 2015.

PISANELLI BICE PLLC

By: /s/ Todd L. Bice
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Docket 68439 Document 2015-21809

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 17th day of July, 2015, I electronically filed and served by electronic mail and United States Mail a true and correct copy of the above and foregoing **APPENDIX IN SUPPORT OF PETITIONER WYNN RESORTS LIMITED'S PETITION FOR WRIT OF PROHIBITION OR ALTERNATIVELY, MANDAMUS** properly addressed to the following:

SERVED VIA U.S. MAIL

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SERVED VIA HAND-DELIERY

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

/s/ Cinda Towne
An employee of PISANELLI BICE PLLC

7.8. *Compliance with Gaming Laws.* Notwithstanding anything to the contrary set forth in this Agreement, if at any time the Company holds a Gaming License or is the holder of an interest or shares in an entity which holds a Gaming License, no Capital Contributions shall be made by any Person to or accepted by the Company or credited to the Capital Account of a Member, no Interest or

Shares shall be issued or transferred or Voting Interest or Percentage Interest adjusted, no Person shall be admitted as a Member, and no Upstream Ownership Interest shall be Transferred or issued, except in compliance with, and upon the receipt of all approvals, consents, licenses, permits, registrations and findings of suitability that may be required under, the provisions of applicable Gaming Laws.

7.9. *Company's Option To Purchase Bankrupt Member's Interest.* Upon the institution of a Bankruptcy by or against a Member, the Company shall have the option (the "Purchase Option"), exercisable by written notice to all Members, within one hundred and twenty (120) days of the date the Bankruptcy petition is filed by or against the Bankrupt Member, to purchase the Bankrupt Member's Interest for a price agreed upon by the Members, not including the Bankrupt Member, on the one hand, and the Bankrupt Member, on the other hand, or if no price can be agreed upon, for the fair market value of such Interest at the time of such Bankruptcy as determined by an Independent Qualified Appraiser. If the Company elects to exercise the Purchase Option, it shall pay the agreed price or the fair market value of the Bankrupt Member's Interest to the Bankrupt Member, in cash or its equivalent, within such 120-day period. If the Company elects to not exercise the Purchase Option, the Company shall notify the Members including the Bankrupt Member of its decision in writing (the "Non-Exercise Notice"), within such 120-day period.

7.10. *Members' Option to Purchase Bankrupt Member's Interest.* Upon the institution of a Bankruptcy by or against a Member, if the Company does not exercise the Purchase Option, the Members not including the Bankrupt Member shall have the right to purchase the Bankrupt Member's Interest for a price agreed upon by the Members, not including the Bankrupt Member, on the one hand, and the Bankrupt Member, on the other hand, or if no price can be agreed upon, for the fair market value of such Interest at the time of such Bankruptcy as determined by an Independent Qualified Appraiser. The Members wishing to purchase all or a part of the Interest of the Bankrupt Member (the "Purchasing Members") shall pay the agreed price or the fair market value of such Interest to the Bankrupt Member, in cash or its equivalent, by the earlier of (a) one hundred and twenty (120) days after the Company delivers the Non-Exercise Notice to the Members, and (b) two hundred and forty (240) days after the date the Bankruptcy petition is filed by or against the Bankrupt Member. Each Purchasing Member must notify the other Members of such Purchasing Member's desire to purchase all or a portion of the Bankrupt Member's Interest in writing by the earlier of (x) twenty (20) days after the Company delivers the Non-Exercise Notice to the Members, and (y) one hundred and forty (140) days after the date the Bankruptcy petition is filed by or against the Bankrupt Member. Unless they agree otherwise, if there is more than one Purchasing Member, each Purchasing Member may purchase the proportion of the Bankrupt Member's Interest that such Purchasing Member's Percentage Interest bears to the aggregate Percentage Interests of all Purchasing Members. If no remaining Member wishes to purchase the Bankrupt Member's Interest, or the Purchasing Members do not purchase the Bankrupt Member's Interest within the earlier of the time periods set forth above, then all rights to purchase the Bankrupt Member's Interest pursuant to this Section shall terminate.

ARTICLE VIII.

MANAGING MEMBER; BOARD OF MEMBER REPRESENTATIVES

8.1. *Managing Member.* Except for matters expressly requiring the approval of the Members or the Board pursuant to this Agreement or the Act, the business and affairs of the Company shall be managed by the Managing Member, pursuant to this Article VIII. The Managing Member shall be responsible for and shall make any and all decisions relating to the operations of the Company and shall have general supervision, direction and control of the business of the Company and its employees. The Managing Member shall have all powers and duties necessary, advisable or convenient to administer and operate the business, conduct the affairs and pursue the objectives of the Company, and such other powers and duties as may be prescribed by the Members or implied by law. The Managing

Member shall have all powers and authority to conduct the business and affairs of the Company that are not expressly reserved under this Agreement to the Members or the Board, to the maximum extent permitted under applicable law. Wynn shall be the Managing Member, unless removed for Cause by a unanimous vote of the Members (including Wynn).

8.2. *Certain Powers of the Managing Member.* Without limiting the generality of Section 8.1, the Managing Member shall have the power and authority, on behalf of the Company to:

(a) enter into, execute, deliver and commit to, or authorize any individual manager, officer or other Person to enter into, execute, deliver and commit to, or take any action pursuant to or in respect of any contract, agreement, instrument, deed, mortgage or obligation on behalf of the Company for any Company purpose;

(b) select and remove all officers, employees, agents, consultants and advisors of the Company, prescribe such powers and duties for them as may be consistent with law, the Articles and this Agreement and fix their compensation and terms of employment;

(c) employ accountants, legal counsel, agents or experts to perform services for the Company and to compensate them from Company funds;

(d) borrow money and incur indebtedness on behalf of the Company for the purposes of the Company, and to cause to be executed and delivered in the name of the Company, or to authorize any individual manager, officer or other Person to execute and deliver in the name of the Company, promissory notes, bonds, debentures, deeds of trust, pledges, hypothecations or other evidence of debt and security interests; and

(e) invest any funds of the Company in (by way of example but not limitation) time deposits, short-term governmental obligations, commercial paper or other investments;

(f) change the principal office and Records Office of the Company to other locations within Nevada and establish from time to time one or more subsidiary offices of the Company;

(g) attend, act and vote, or designate another officer or an agent of the Company to attend, act and vote, at any meetings of the owners of any entity in which the Company may own an interest or to take action by written consent in lieu thereof;

(h) execute (i) proxies and powers of attorney appointing other entities the agent of the Company, (ii) all checks, drafts, notes, bonds, bills of exchange, and orders for the payment of money of the Company, (iii) all deeds, mortgages and other written contracts, documents, instruments and agreements to which the Company shall be a party, and (iv) all assignments or endorsements of stock certificates, registered bonds or other securities owned by the Company;

(i) purchase the Aircraft at its original acquisition cost or make such other arrangement for the transfer of all or part of the Aircraft in a manner that, in the judgment of the Managing Member, will allow the continued operation of the aircraft under a charter certificate;

(j) pay or pre-pay all or part of the outstanding principal and interest under the loan from Deutsche Bank to the Company with the proceeds of Aruze's Capital Contribution;

(k) alter the organizational form of the Company (including by incorporating the Company or its businesses) to facilitate the financing or operation of the Company's business (including for the purpose of making a public offering of securities of the Company or its successor);

(l) admit additional investors as Members 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%), and whose Percentage Interests and Voting Interests shall dilute and reduce the Percentage Interest and Voting Interest of Aruze and Wynn equally; such Interests shall be issued in exchange for such consideration and 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.

(m) do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

8.3. *Subsequent Capital Contributions; Pre-emptive Rights.*

(a) The Managing Member may propose additional capital contributions to the Company by the Members in exchange for additional Common Shares (a "Subsequent Contribution"). The Managing Member shall determine whether such shares shall be designated as an additional class of shares, and shall determine the specific rights and preferences of such Shares. The proposal of a Subsequent Contribution shall be made by *written* notice to each of the Members at least thirty (30) days prior to the proposed date of such Subsequent Contribution, and shall include (i) the aggregate amount of the proposed contribution, and (ii) a description of the class designation, rights and preferences of the Shares proposed to be issued in exchange for the Subsequent Contribution.

(b) No member shall be required to participate in any Subsequent Contribution. Each of the Members shall have the right to contribute its pro rata portion of a Subsequent Contribution, based on such Member's Percentage Interest. Any Member exercising its right to contribute its pro rata portion shall inform the Managing Member by written notice at least fifteen (15) days prior to the proposed date of such Subsequent Contribution. If any Member does not provide such notice of its intent to contribute its pro rata portion, that Member shall have no further right to contribute its pro rata portion of the proposed Subsequent Contribution and the Managing Member may determine to obtain such portion of the Subsequent Contribution from other Members or from a new Member.

8.4. *Approval of the Board.* Notwithstanding any other provision of this Agreement, the Managing Member shall not cause or commit the Company to do any of the following without approval of the Board:

(a) incur or refinance any indebtedness for money borrowed by the Company, whether secured or unsecured and including any indebtedness for money borrowed from a Member if, after such financing, the aggregate indebtedness of the Company would exceed $50,000,000; provided, however, no approval of the board shall be required with respect incurring or refinancing any indebtedness related to the development of a hotel-casino and related projects on the Real Property;

(b) sell any part of the assets of the Company in a single transaction in an amount exceeding $50,000,000;

(c) acquire a new location for the Company's business that requires construction of capital improvements in an amount in excess of $50,000,000;

(d) adopt any Project budget or, for the period between the date of this Agreement and the adoption of the first casino/hotel Project budget, any interim operating budget; or

(e) cause the Company to make a public offering of securities on such terms and at such time as the Board determines to be appropriate.

8.5. *Number, Tenure, Election and Qualification.* (a) Subject to the remaining provisions of this Section 8.5, the Members shall appoint four (4) representatives to the Board as follows: (i) Wynn shall appoint two (2) representatives of the Board and (ii) Aruze shall appoint two (2) representatives of the Board. On the date hereof, the members of the Board shall be: Wynn and Elaine Wynn as Wynn appointees, and Okada and Sachio Togo as Aruze appointees. Each of Wynn and Aruze shall have the right to have one of the representatives of the Board appointed by it on any committee of the Board.

(b) The number of representatives comprising the Board may be expanded to six (6) or eight (8) members from

time to time (without the need for an amendment of this Agreement) by the vote of a Majority, subject to the right of each of Wynn and Aruze to appoint an equal number of the additional representatives. Each representative serving on the Board shall hold office until such representative shall resign or until such representative is removed by the Member who appointed him or her or until the representative's successor shall be elected by the appointing Member. If any Person elected to serve as a representative is found to be an Unsuitable Person, such Person shall immediately be removed as a representative by the Members and shall thereupon automatically cease to be a representative.

(c) If at any time either Wynn or Aruze shall own less than a 40% Percentage Interest, Wynn or Aruze shall have the right to appoint one (1) less representative, and the number of representatives comprising the Board shall be reduced by a corresponding amount. If Wynn or Aruze shall at any time own less than a 20% Percentage Interest, the number of representatives comprising the Board shall be reduced by the number of representatives at that time appointed by Wynn or Aruze, and Wynn or Aruze shall no longer have the right to appoint any representatives. In computing Wynn's Percentage Interest for the purpose of this subsection 8.5(c), Wynn's Percentage Interest shall include all Common Shares held by (i) employees and consultants of the Company and its Affiliates and (ii) members of Wynn's immediate family.

8.6. *Removal, Resignation and Vacancies.* Any Member appointing a representative may remove such representative, with or without cause. Any representative may resign at any time by giving written notice to the remaining representatives or, if no remaining representative, to the Members. Any such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any vacancy in the office of any representative may be filled by the appointment of a successor representative by the Member that appointed such representative and such successor shall hold the office until such representative resigns or is removed or otherwise disqualified to serve.

8.7. *Meetings of the Board.*

(a) *Frequency and Content.* The Board shall meet no less frequently than monthly. Each meeting of the Board shall include without limitation a review of the Company's financial statements and business plan, including any Project pro-formas, and a report of all actions taken since the last Board meeting by the Managing Member under the authority of Subsections 8.2(a), (d), (e), (i), (j), (k), and (l) of this Agreement.

(b) *Place of Meetings.* The meetings of the Board shall be held at the Records Office, unless the Managing Member noticing the meeting designates another convenient location in the notice of the meeting.

(c) *Notice.* Meetings of the Board for any purpose may be called at any time by the Managing Member or a representative. Written notice of the meeting shall be personally delivered to each representative by hand to such representative's last known address as it is shown on the records of the Company, or personally communicated to each representative by the Managing Member or officer of the Company by telephone, telegraph or facsimile transmission, at least forty-eight (48) hours prior to the meeting. All meeting notices shall specify the place, date and time of the meeting, as well as the purpose or purposes for which the meeting is called.

(d) *Waiver of Notice.* The transactions carried out at any meeting of the Board, however called and noticed or wherever held, shall be as valid as though had at a meeting regularly called and noticed if (a) all of the representatives are present at the meeting, or (b) a quorum of the representatives is present and if, either before or after the meeting, each of the representatives not present signs a written waiver of notice or a consent to holding such meeting or an approval of the

minutes thereof, which waiver, consent or approval shall be filed with the other records of the Company or made a part of the minutes of the meeting, provided that no representative attending such a meeting without notice protests prior to the meeting or at its commencement that notice was not given to such representative.

(e) *Quorum and Action of the Board.* One representative shall be designated pursuant to Section 6.5 as the "Board Chairman." Two representatives one of which is designated as the Board Chairman, or all of the

representatives, present in person or by proxy, shall constitute a quorum for the transaction of business, and the action of a majority of the representatives present at any meeting at which there is a quorum, when duly assembled, is valid. In the event of any deadlock among the members of the Board on any matter before the Board, the representative designated as the Board Chairman shall decide the matter before the Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal from the meeting of any representative, if any action taken is approved by a majority of the required quorum at such meeting.

(f) *Action by Written Consent.* Any action which may be taken by the Board at a meeting may be taken without a meeting if authorized by the written consent of all, and not less than all, of the representatives. Whenever action is taken by written consent, a meeting of the Board need not be called or notice given. The written consent may be executed in one or more counterparts and by facsimile, and each such consent so executed shall be deemed an original. All written consents shall be filed with the other records of the Company.

(g) *Telephonic Meetings.* Representatives may participate in a meeting of the Board by means of a telephone conference or similar method of communication by which all individuals participating in the meeting can hear each other. Participation in a meeting pursuant to this Section 8.7 constitutes presence in person at the meeting.

8.8. *Appointment of Officers.* Subject to the Gaming Laws, if applicable, the Managing Member may from time to time appoint any individuals as officers, with such duties, authorities, responsibilities and titles as the Board may deem appropriate. Such officers shall serve until their successors are duly appointed by the Managing Member or until their earlier removal or resignation and any officer appointed by the Managing Member may be removed at any time by the Board and any vacancy in any office shall be filled by the Board. If any Person elected to serve as an officer is found to be an Unsuitable Person, the Managing Member shall immediately remove such Person as an officer and such officer shall thereupon automatically cease to be an officer.

8.9. *Compensation of the Managing Member.* As compensation for his duties as the Managing Member, and not as an allocation of profits or a distribution with respect to any Interest held by the Managing Member, the Company shall pay to the Managing Member such salary and other benefits as shall be approved from time to time by the Board.

8.10. *Expense Reimbursements.* The Company shall reimburse the Managing Member for all expenses reasonably incurred on behalf of the Company or in connection with the performance of such Managing Member's obligations hereunder.

8.11. *Public Offering Vehicle.* If the Managing Member determines to alter the organizational form of the Company after Board approves to create a public financing vehicle to facilitate the financing or operation of the Company's business (including for the purpose of making a public offering of securities of the Company)

ARTICLE IX.
ACCOUNTING, RECORDS AND BANK ACCOUNTS

9.1. *Records and Accounting.* The books and records of the Company shall be kept, and the financial position and the results of its operations recorded, in accordance with the accounting methods selected by the Managing Member. The books and records of the Company shall reflect all Company transactions and shall be appropriate and adequate for the Company's business.

9.2. *Access to Accounting Records.* All accounting books and records of the Company, including files, tax returns and information, shall be maintained at an office of the Company or at the Records Office. Each Member, and his, her or its duly authorized representative, agent or attorney, upon written demand providing at least five (5) days notice, shall have access to such books and records and the right to inspect, examine and copy them (at such Member's expense) at reasonable times during normal business hours as determined by the Managing Member. Each Member agrees that such accounting information is and shall remain confidential. The rights authorized by this Section may be denied to a Member upon such Member's refusal to furnish the Company an affidavit that such inspection, extracts or audit is not desired for any purpose not

related to his, her or its Interest in the Company as a Member.

9.3. *Annual Tax Information.* The Managing Member shall use reasonable efforts to cause the Company to deliver to each Member within ninety (90) days after the end of each taxable year, or as soon as practicable thereafter, information necessary for the preparation of such Member's federal income tax return as well as annual audited financial statements of the Company. Federal, state and local tax returns of the Company shall be prepared or caused to be prepared and filed in a timely manner by the Managing Member.

9.4. *Bank Accounts.* From time to time, the Managing Member or such Persons as the Managing Member may designate shall (a) establish and maintain one or more bank accounts, (b) rent safety deposit boxes or vaults, (c) sign checks, written directions or other instruments to withdraw all or any part of the funds belonging to the Company and on deposit in any savings account or checking account, (d) negotiate and purchase certificates of deposit, (e) obtain access to the Company safety deposit box or boxes, and, (e) generally, sign such forms on behalf of the Company as may be required to conduct the banking activities of the Company.

9.5. *Funds of the Company.* The Managing Member shall have responsibility for the safekeeping and use of all funds of the Company, whether or not in their immediate possession or control. The funds of the Company shall not be commingled with the funds of any other Person and the Managing Member shall not employ, or permit any other Person to employ, such funds in any manner except for the benefit of the Company.

9.6. *Tax Matters.* Wynn shall be the "Tax Matters Partner" (as that term is defined in Section 6231 of the Code) and shall represent the Company in connection with all tax examinations and proceedings and oversee the Company's tax affairs in the best interests of the Company. The Members agree to cooperate with the Tax Matters Partner and to do or refrain from doing any or all things reasonably required by the Tax Matters Partner in connection with any such examinations or proceedings. The Managing Member may from time to time designate any other Member to serve as "Tax Matters Partner".

9.7. *Tax Elections.* The Managing Member may, in its discretion, determine whether or not to make any available elections pursuant to the Code.

9.9 *Taxation as a Partnership.* The Company shall be treated as a partnership for United States federal tax purposes and each Member agrees not to take any action inconsistent with the Company's classification as a partnership for United States federal, state or local tax purposes.

ARTICLE X.

DISSOLUTION OF THE COMPANY AND TERMINATION OF A MEMBER'S INTEREST

10.1. *Dissolution.* The Company shall be dissolved and its affairs wound up upon the decision of the Managing Member and the approval of a Majority pursuant to Section 6.4, in which event the Managing Member shall proceed with reasonable promptness to liquidate the Company.

10.2. *Distribution on Dissolution and Liquidation.* In the event of the dissolution of the Company for any reason (including the Company's liquidation within the meaning of Treasury Regulation 1.704-1(b)(2)(ii)(g)), the business of the Company shall be continued to the extent necessary to allow an orderly winding up of its affairs, including the liquidation and termination of the Company pursuant to the provisions of this Section 10.2, as promptly as practicable thereafter, and each of the following shall be accomplished:

(a) The Managing Member shall elect or appoint a liquidator (who may be the same Person as the Managing Member).

(b) The liquidator shall cause to be prepared a statement setting forth the Property and liabilities of the Company as of the date of dissolution, a copy of which statement shall be furnished to the Members.

(c) The Property shall be sold or otherwise liquidated by the liquidator as promptly as possible, but in an orderly and businesslike manner; the liquidator may, in the exercise of its business judgment, determine not to sell all or any portion of the Property, in which event such Property shall be distributed in kind based upon the fair market value as of the date of such distribution.

(d) Any Profits or Losses realized by the Company upon the sale of its Property shall be recognized and allocated to the Members in the manner set forth in Article IV (to the extent an asset is to be distributed in kind, such asset shall be deemed to have been sold at its fair market value on the date of distribution, the Profits or Losses deemed recognized upon such deemed sale shall be allocated in accordance with Article IV and the amount of the distribution shall be considered to be such fair market value of the asset as of the date of dissolution, which fair market value shall be determined by Independent Qualified Appraiser or by agreement of a Majority).

(e) The proceeds of sale and all other Property of the Company shall be applied and distributed as follows and in the following order of priority:

(i) to the expenses of liquidation;

(ii) to the payment of the debts and liabilities of the Company (including loans from Members);

(iii) to the setting up of any reserves which the liquidator shall determine to be reasonably necessary for contingent, unliquidated or unforeseen liabilities or obligations of the Company or the Members arising out of or in connection with the Company. Such reserves shall be held by the liquidator or paid over to a bank or title company selected by it, to be held by such bank or title company as escrow holder or liquidator for the purposes of disbursing such reserves to satisfy the liabilities and obligations described above; and

(iv) the balance (including amounts released from any unnecessary reserves set up pursuant to Section 10.2(e)(iii)), if any, after giving effect to all contributions, distributions and allocations of Profits and Losses for all periods, to the Members, pro rata in proportion to their positive Capital Account balances.

(f) Notwithstanding anything to the contrary in this Agreement, upon a liquidation within the meaning of Section 1.704-1(b)(2)(ii)(g) of the Treasury Regulations, if any Member has an Adjusted Capital Account Deficit (after giving effect to all contributions, distributions, allocations and other Capital Account adjustments for all Fiscal Years, including the year during which such liquidation occurs), such Member shall have no obligation to make any Capital Contribution, and the negative balance of such Member's Capital Account shall not be considered a debt owed by such Member to the Company or to any other Person for any purpose whatsoever;

(g) Upon completion of the winding up, liquidation and distribution of the assets, the Company shall be deemed terminated.

(h) The Managing Member shall comply with any applicable requirements of applicable law pertaining to the winding up of the affairs of the Company and the final distribution of its assets.

10.3. *Subordination to Creditors.* Each Member understands and agrees that by accepting the provisions of Section 10.2 setting forth the priority of the distribution of assets of the Company to be made upon a liquidation, such Member expressly waives any right which it, as a creditor of the Company, might otherwise have to receive distributions of assets pari passu with the other creditors of the Company in connection with a distribution of assets of the Company in satisfaction of any liability of the Company, and hereby subordinates to said creditors any such right.

10.4. *Return of Contribution Nonrecourse to Other Members.* Except as provided by law or as expressly provided in this Agreement, upon dissolution, each Member shall look solely to the assets of the Company for the return of its Capital Contribution. If the Property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the cash contribution or Capital Account balance of one or more Members, such Members shall have no recourse against any other Member.

10.5. *Offset for Damages.* The Company may offset damages for breach of this Agreement by any Member whose interest is liquidated (either upon the withdrawal of the Member or the liquidation of the Company) against the amount otherwise distributable to such Member.

ARTICLE XI.

LIABILITY, EXCULPATION AND INDEMNIFICATION

11.1. *Exculpation.*

(a) No Covered Person shall be liable to the Company or any other Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of authority conferred on such Covered Person by this Agreement, the Members, the Board or an authorized officer or employee of the Company, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's intentional misconduct, fraud or a knowing violation of the law, which was material to the cause of action.

(b) A Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses or any other facts pertinent to the existence and amount of assets from which distributions to the Members might properly be paid.

11.2. *Fiduciary Duty.* To the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Company or to the Members, then, to

the fullest extent permitted by applicable law, a Covered Person acting under this Agreement shall not be liable to the Company or to the Members for its good faith acts or omissions in reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, shall replace such other duties and liabilities of such Covered Person.

11.3. *Indemnity.* The Company does hereby indemnify and hold harmless any Covered Person to the fullest extent permitted by NRS Sections 86.411, 86.421, 86.431, 86.441, and 86.451.

11.4. *Determination of Right to Indemnification.* Any indemnification under Section 11.3, unless ordered by a court or advanced pursuant to Section 11.5 below, shall be made by the Company only as authorized in the specific case upon a determination by the Managing Member that indemnification of the Covered Person is proper in the circumstances; provided however, if Managing Member is the Person being indemnified, the such determination shall be made by the Board. If the Managing Member serves as a member of the Board or as the Board Chairman, the Managing Member may act in such roles in determining whether indemnification of the Managing Member is proper in the circumstances.

11.5. *Advance Payment of Expenses.* The expenses of any Member or manager incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Company as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the Member or the manager to repay the amount if it is ultimately determined by a court of competent jurisdiction that the Member or the manager is not entitled to be indemnified by the Company. The provisions of this subsection do not affect any rights to advancement of expenses to which personnel of the Company other than the Members or the managers may be entitled under any contract or otherwise by law.

11.6. *Assets of the Company.* Any indemnification under this Article XI shall be satisfied solely out of the assets of the Company. No debt shall be incurred by the Company or the Members in order to provide a source of funds for any indemnity, and the Members shall not have any liability (or any liability to make any additional Capital Contribution) on account thereof.

11.7. *Violation of this Agreement.* Any Member who commits fraud or otherwise violates any of the terms, conditions and provisions of this Agreement will keep and save harmless the Property and the Company, and will indemnify the Company and the other Members from any and all claims, demands and actions of every kind and nature whatsoever which may arise out of or by reason of such fraud or violation.

11.8 *Notice and Reporting of Litigation.* The Managing Member shall provide notice to the other Members within forty-eight (48) hours after Material Litigation is commenced by or against the Company. The Managing Member also shall cause the Company to prepare and issue monthly to the Members a status report on all Material Litigation. For the purpose of this Section 11.8, the term "Material Litigation" means litigation other than routine collection, premises liability and employment matters.

ARTICLE XII.

GAMING MATTERS

12.1. *Licensing.* At such time that the Company holds a Gaming License or is the holder of an interest or shares in an entity which holds a Gaming License, the Members and their Affiliates will be subject to the Gaming Laws and to the licensing and regulatory control of the Gaming Authorities. Each record owner of any Share must comply with all applicable Gaming Laws. Each Member acknowledges that, in order for the Company to carry on its business or to own an interest in an entity which conducts a gaming business, each Member, its Affiliates, and such Member's and its Affiliates'

respective shareholders, partners, members, directors, managers and officers ("*Related Parties*") may be required to submit personal history and financial information to, and be licensed or found suitable by, the Gaming Authorities. If required by any Gaming Authority, each Member shall and shall cause its respective Related Parties to, promptly submit such personal history and financial history, cooperate in any investigation and diligently seek a finding of suitability. Each Member shall be responsible for paying or causing to be paid all of its and its Related Parties costs and expenses in connection with obtaining, attempting to obtain or retaining a Gaming License.

12.2. *Institutional Investor Waiver.* If at any time the Company registers pursuant to Section 12(g) of the Exchange Act, any Person who acquires more than 5% of the Total Common Shares shall promptly report the acquisition to the Nevada Gaming Commission in a filing prepared in accordance with applicable Gaming Laws, and beneficial owners of more than 10% of the Total Common Shares must apply to the Nevada Gaming Commission for a finding of suitability within 30 days after the Chairman of the Nevada State Gaming Control Board mails written notice requiring such filing. Notwithstanding the foregoing, any Member who (i) acquires more than 10% but not more than 15% of the Total Common Shares, (ii) holds such Shares for investment purposes only, and (iii) qualifies as an "Institutional Investor" as such term is defined in the Gaming Laws, may apply to the Nevada Gaming Commission for a waiver of such finding of suitability and need not apply for such finding of suitability if such waiver is granted.

12.3. *Gaming Problem.* In the event the Managing Member or Board shall determine that a Gaming Problem exists, then the Company shall provide written notice to the applicable Member of the Company, requesting that such Person immediately eliminate the Gaming Problem; and

(a) (i) if the Gaming Problem is caused by a manager, director, officer, or trustee of such Member or by a representative of the Company appointed by such Member, and if the Managing Member determines in his discretion that no other satisfactory solution is available, the Member shall terminate the employment of such Person and remove him or her from his position as such, and (ii) if the Gaming Problem is caused by a member, shareholder, partner or beneficiary of such Member, and if the Managing Member determines in his discretion that no other satisfactory solution is available, such Member may purchase such Person's ownership or other interest in such Member or otherwise cause such Person to divest itself of its interest; or

(b) after providing the applicable Member with 30 days to eliminate the Gaming Problem, the Company shall redeem or have another Person or Persons purchase all of the Shares held or owned by such Member at a redemption price equal to (i) the price dictated by the applicable Gaming Laws, or (ii) if the price is not dictated by the applicable Gaming Laws, the fair market value of such Shares, as (A) negotiated by the Company and the applicable Member, or

(B) if the price cannot be negotiated, then the price determined by an Independent Qualified Appraiser. Subject to the applicable Gaming Laws, the foregoing right of redemption shall be exercised upon 20 days' prior written notice to the applicable Member. On and after the date set forth in such notice as the date of redemption, all rights of such Member as a Member of the Company shall cease and terminate and such Member's Shares shall no longer be deemed outstanding. If a Member is obligated under this Section 12.3 to sell its Interest, the Managing Member may in its sole discretion allow such Member to sell some or all of its Shares to a Person who is a Prohibited Transferee because such Person is an owner, operator, or manager of, or Person primarily engaged in the business of owning or operating, a hotel, casino, or an internet gaming site.

ARTICLE XIII.

NON-COMPETE

13.1. *Aruze Non-Compete.* So long as Aruze is a Member of the Company, Aruze, Aruze Parent, and Kazuo Okada agree that, other than through the Company, Worldwide Wynn and their Affiliates,

Aruze, Aruze Parent, and Kazuo Okada shall not without Wynn's consent, directly or indirectly, engage in the development of or own, operate, lease, manage, control or invest in, act as consultant or advisor to or otherwise assist any Person that engages in (a) casino operations in Clark County, Nevada, or (b) Internet gaming anywhere in the world; provided, however, that either Aruze Parent or Okada may operate a business offering Internet gaming if the forms of gaming offered by such business are restricted to games derived from pachinko or pachi-slot machines or other games not authorized for manufacture or distribution in the State of Nevada.

13.2. *Wynn Non-Compete.* So long as Wynn maintains a Percentage Interest equal to or greater than fifty (50) percent, Wynn agrees that, other than through the Company, Worldwide Wynn and their Affiliates, Wynn shall not, directly or indirectly, engage in the development of or own, operate, lease, manage, control or invest in, act as consultant or advisor to or otherwise assist any Person that engages in gaming operations any where in the world.

13.3. *Reasonable Terms.* The Members acknowledge and agree that the covenants in this Article XIII are reasonable in geographical and temporal scope and in all other respects and that the other Member would not have entered into this Agreement but for these covenants. If, at the time of enforcement of this Article, a court shall hold that the duration, scope or area restrictions herein are unreasonable under the circumstances then existing, the Members agree that the maximum duration, scope or area restrictions reasonable under the circumstances shall be substituted for the stated duration, scope or area.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS

14.1. *Securities under the UCC.* If the Managing Member determines it to be necessary or advisable, the Shares in the Company shall be deemed securities governed by Article 8 of the Uniform Commercial Code in effect on this date in the State of Nevada and any certificates issued to evidence the Shares shall bear a legend to that effect.

14.2. *Notices.* All notices to be given hereunder shall be in writing and shall be addressed to the party at such party's last known address or facsimile number appearing on the books of the Company. If no such address or facsimile number has been provided, it will be sufficient to address any notice (or fax any notice that may be faxed) to such party at the Records Office of the Company. Notice shall, for all purposes, be deemed given and received, (a) if hand-delivered, when the notice is received, (b) if sent within the United States by United States mail (which must be by first-class mail with postage charges prepaid), three (3) days after it is posted with the United States Postal Service, (c) if sent by a nationally or internationally recognized delivery service, when the notice is received, or (d) if sent by facsimile, when the facsimile is transmitted and confirmation of complete receipt is received by the transmitting party during normal business hours. If any notice is sent by facsimile, the transmitting party shall send a duplicate copy of the notice to the parties to whom it is faxed by regular mail. If notice is tendered and is refused by the intended recipient, the notice shall nonetheless be considered to have been given and

shall be effective as of the date of such refusal. The contrary notwithstanding, any notice given in a manner other than that provided in this Section that is actually received by the intended recipient shall be deemed an effective delivery of such notice. Any party may, at any time, by giving ten (10) days written notice to the Managing Member of the Company, designate a new address for the giving of notice to such party.

14.3. *Insurance.* The Company may carry insurance in such amounts, types and forms as deemed appropriate by the Managing Member.

14.4. *Ownership Certificates.* The Company may issue an ownership certificate to each Member to represent such Member's Shares in the Company upon execution of this Agreement, the payment of

the required Capital Contributions by such Member, and the execution of a subscription agreement if requested by the Company. Each ownership certificate shall be endorsed and affixed with the following legends:

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, 15 U.S.C. 15b *ET SEQ.*, AS AMENDED (THE "FEDERAL ACT"), OR REGISTERED WITH OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE (THE "STATE ACTS"), IN RELIANCE UPON ONE OR MORE EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE FEDERAL ACT AND THE STATE ACTS. NO SALE OR OTHER TRANSFER OF THESE SECURITIES OR ANY INTEREST THEREIN TO, OR RECEIPT OF ANY CONSIDERATION THEREFOR, MAY BE MADE IF THE PROPOSED SALE OR OTHER TRANSFER OF THESE SECURITIES AFFECTS THE AVAILABILITY TO THE COMPANY OF SUCH EXEMPTIONS FROM REGISTRATION AND QUALIFICATION, AND ANY SUCH PROPOSED SALE OR OTHER TRANSFER MUST BE IN COMPLIANCE WITH ALL APPLICABLE FEDERAL AND STATE SECURITIES LAWS. THEREFORE, MEMBERS MAY NOT BE ABLE TO LIQUIDATE THEIR INVESTMENTS AND THESE SECURITIES MAY NOT BE READILY ACCEPTED AS COLLATERAL FOR A LOAN.
>
> THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THAT CERTAIN OPERATING AGREEMENT OF THE COMPANY, DATED AS OF , 2000, BY AND AMONG THE COMPANY AND THE HOLDER OF THIS CERTIFICATE, AND THE RESTRICTIONS ON TRANSFER, THE VOTING RIGHTS OF THE MEMBERS, AND THE OTHER AGREEMENTS SET FORTH THEREIN.

The Company shall issue a new ownership certificate in place of any previously issued if the record holder of the certificate (a) presents proof by affidavit, in form and substance satisfactory to the Managing Member, that a previously issued ownership certificate has been lost, destroyed or stolen, or (b) if requested by the Managing Member, delivers to the Company a bond, in form and substance reasonably satisfactory to the Managing Member, with such surety or sureties and with fixed or open penalty as the Managing Member may direct in its reasonable discretion, to indemnify the Company against any claim that may be made on account of the alleged loss, destruction or theft of the ownership certificate. If a Member fails to notify the Company within a reasonable time after it has knowledge of the loss, destruction or theft of an ownership certificate, and a transfer of the Shares represented by that ownership certificate is registered before receiving such notification, the Company shall have no liability with respect to any claim against the Company for such transfer or for the issuance of a new ownership certificate consistent with such registration.

14.5. *Complete Agreement.* This Agreement, together with the Articles to the extent referenced herein, constitute the complete and exclusive agreement and understanding of the Members with respect to the subject matter contained herein. This Agreement and the Articles replace and supersede all prior agreements, negotiations, statements, memoranda and understandings, whether written or oral, by and among the Members or any of them.

14.6. *Amendments.* Any amendment to this Agreement shall be adopted and be effective as an amendment hereto only upon the approval of the Board; provided, however, that the Managing Member may unilaterally adopt an amendment to this Agreement that does not have a disproportionate adverse effect on the Voting Interest or Percentage Interest of any Member.

14.7. *Applicable Law; Jurisdiction.* This Agreement is made and entered into in Las Vegas, Nevada, and the rights

and obligations of the parties hereto, shall be interpreted and enforced in accordance with and governed by the laws of the State of Nevada without regard to the conflict laws of that State. Each Member consents to the jurisdiction of the courts of the state of Nevada in the event

any action is brought for declaratory relief or enforcement of any of the terms and provisions of this Agreement.

14.8. *Interpretation.* The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provisions contained herein. In the interpretation of this Agreement, the singular may be read as the plural, and *vice versa*, the neuter gender as the masculine or feminine, and *vice versa*, and the future tense as the past or present, and *vice versa*, all interchangeably as the context may require in order to fully effectuate the intent of the parties and the transactions contemplated herein. Syntax shall yield to the substance of the terms and provisions hereof.

14.9. *Counterparts.* This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall be deemed to constitute one and the same instrument, and it shall be sufficient for each party to have executed at least one, but not necessarily the same, counterpart.

14.10. *Facsimile Copies.* Facsimile copies of this Agreement or of any counterpart, and facsimile signatures hereon or on any counterpart, shall have the same force and effect as originals.

14.11. *Severability.* If any provision of this Agreement, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void, illegal or unenforceable to any extent, that provision shall be deemed severable and the remainder of this Agreement, and all applications thereof, shall not be affected, impaired or invalidated thereby, and shall continue in full force and effect to the fullest extent permitted by law.

14.12. *Waivers.* No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver, and no waiver shall be binding unless evidenced by an instrument in writing and executed by the party making the waiver.

14.13. *No Third Party Beneficiaries.* This Agreement is made solely among and for the benefit of the Members and their respective successors and assigns, and no other Person shall have any rights, interest or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third party beneficiary or otherwise.

14.14. *Disclaimers.* Each Member hereby acknowledges and represents that such Member is familiar with the proposed activities of the Company and has the knowledge and experience necessary to evaluate this particular investment, and has read and understands each and every provision in this Agreement. Such Member recognizes that an investment in the Company involves certain risks, and such Member understands all of the risk factors related to the purchase of an Interest in the Company. Such Member is aware that the Company has no financial or operating history.

14.15. *Investment Representation.* Each Member hereby represents and warrants to, and agrees with, the other Members and the Company that he is acquiring the Interest for investment purposes for such Member's own account only and not with a view to or for sale in connection with distribution of all or any part of the Interest. No other Person will have any direct or indirect beneficial interest in or right to the Interest.

14.16. *Securities Law Qualification.* THE SECURITIES REPRESENTED BY THIS DOCUMENT HAVE NOT BEEN REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER THE SECURITIES ACT OF 1933, 15 U.S.C. ' 15b *ET SEQ.*, AS AMENDED (THE "FEDERAL ACT"), OR REGISTERED WITH OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE (THE "STATE ACTS"), IN RELIANCE UPON ONE OR MORE EXEMPTIONS FROM THE REGISTRATION REQUIREMENTS OF THE FEDERAL ACT AND THE STATE ACTS. NO SALE OR OTHER TRANSFER OF THESE SECURITIES OR

ANY INTEREST THEREIN TO, OR RECEIPT OF ANY CONSIDERATION THEREFOR, MAY BE MADE IF THE PROPOSED SALE OR OTHER TRANSFER OF THESE SECURITIES AFFECTS THE AVAILABILITY TO THE COMPANY OF SUCH EXEMPTIONS FROM REGISTRATION AND QUALIFICATION, AND ANY SUCH PROPOSED SALE OR OTHER TRANSFER MUST BE IN COMPLIANCE WITH ALL APPLICABLE FEDERAL AND STATE SECURITIES LAWS. THEREFORE, MEMBERS MAY NOT BE ABLE TO LIQUIDATE THEIR INVESTMENTS AND THESE SECURITIES MAY NOT BE READILY ACCEPTED AS COLLATERAL FOR A LOAN.

14.17. *Successors of Wynn.* In the event of the death of Wynn, Wynn's heirs or other successors (including any executor of Wynn's estate or the trustee of any trust that holds Wynn's Interest) shall be admitted as a Member or Members, and shall exercise the powers granted to Wynn hereunder to appoint the Board Chairman and the Managing Member.

14.18. *Attorneys' Fees.* If any litigation is commenced (including any proceedings in a bankruptcy court) between the parties hereto or their representatives concerning any provision of this Agreement or the rights and duties of any Person hereunder, solely as between the parties hereto or their successors, the party or parties prevailing in such proceeding shall be entitled to recover from the non-prevailing party or parties the reasonable attorneys' fees and expenses of counsel and court costs incurred by reason of such litigation.

IN WITNESS WHEREOF, this Agreement was executed as of the date first-above written.

ARUZE USA, INC.

/s/ Stephen A. Wynn

Stephen A. Wynn

By: /s/ Kazuo Okada

Its:

SCHEDULE I

Members	Address	Capital Accounts (immediately after reimbursement distributions to Wynn pursuant to Section 5.2)	Common Shares
Stephen A. Wynn		$ 292,340,625	100,000
Aruze USA, Inc.		$ 260,000,000	100,000

SCHEDULE II

Desert Inn Country Club Estates Lots Owned Directly by Valvino Lamore, LLC:

APN 162-16-510-024
APN 162-16-510-029
APN 162-16-510-031

APN 162-16-610-029
APN 162-16-610-022
APN 162-16-610-021
APN 162-16-610-018
APN 162-16-610-017
APN 162-16-610-015
APN 162-16-610-014
APN 162-16-610-013
APN 162-16-610-012
APN 162-16-610-011
APN 162-16-610-009
APN 162-16-610-008
APN 162-16-611-014
APN 162-16-611-013
APN 162-16-611-012
APN 162-16-611-011
APN 162-16-611-010
APN 162-16-611-008
APN 162-16-611-007
APN 162-16-611-004
APN 162-16-611-003
APN 162-16-611-001

Other Real Property Owned Directly by Valvino Lamore, LLC:

APN 162-09-406-001
APN 162-09-406-002
APN 162-09-406-003
APN 162-09-406-004
APN 162-09-406-005
APN 162-09-406-006
APN 162-09-406-007
APN 162-16-102-001
APN 162-16-102-002
APN 162-16-102-003
APN 162-16-201-001
APN 162-16-201-002
APN 162-16-203-001
APN 162-16-203-002
APN 162-16-203-003
APN 162-16-210-001
APN 162-16-210-002
APN 162-16-210-003
APN 162-16-210-007
APN 162-16-501-001
APN 162-16-501-002

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APN 162-16-601-001
APN 162-16-601-002
APN 162-16-610-001
APN 162-16-610-002
APN 162-16-610-003
APN 162-16-611-015

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QuickLinks

EXHIBIT "B"

EX-10.36 14 a2088833zex-10_36.htm EXHIBIT 10.36
QuickLinks -- Click here to rapidly navigate through this document

Exhibit 10.36

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,

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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

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(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.

/s/ Stephen A. Wynn

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

Aruze USA, INC.

By: /s/ Kazuo Okada

Baron Asset Fund

By: /s/ Ronald Baron

Ronald Baron
Chairman & CEO

SCHEDULE I

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

Members	Address	Capital Accounts (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)	Common Shares
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.

QuickLinks

EXHIBIT "C"

EX-10.17 4 a2085104zex-10_17.htm EXHIBIT 10.17
QuickLinks -- Click here to rapidly navigate through this document

Exhibit 10.17

CONTRIBUTION AGREEMENT

THIS CONTRIBUTION AGREEMENT is made and entered into effective as of June , 2002, by and among Stephen A. Wynn, an individual ("**Wynn**"), Aruze USA, Inc., a Nevada corporation ("**Aruze**"), Baron Asset Fund, a Massachusetts business trust, on behalf of the Baron Asset Fund Series, and Baron Asset Fund, a Massachusetts business trust, on behalf of the Baron Growth Fund Series (each of the foregoing, individually, a "**Holder,**" and, collectively, the "**Holders**"), Kenneth R. Wynn Family Trust dated February , 1985("**KRW**"), and Wynn Resorts, Limited, a Nevada corporation (the "**Corporation**").

WHEREAS, each Holder owns an interest (an "**LLC Interest**") in Valvino Lamore, LLC, a Nevada limited liability company (the "**LLC**");

WHEREAS, the Holders constitute all of the members of the LLC;

WHEREAS, the Holders wish to change the form of entity which conducts the LLC's business from a limited liability company to a corporation and, to that end, the Holders have entered into the Stockholders Agreement and Wynn has formed the Corporation (with Wynn currently owning one share of Common Stock of the Corporation);

WHEREAS, each Holder has agreed to contribute to the Corporation all of his or its LLC Interest, effective as of the Closing Date, in exchange for Common Stock and, immediately following such exchange, the Holders shall own all of the outstanding capital stock of the Corporation;

WHEREAS, under Paragraph 14 of the Third Amendment, each Holder irrevocably constituted and appointed Wynn, as the Managing Member of the LLC, as such Holder's 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 by Paragraph 12 of the Third Amendment, including without limitation the execution of assignments to effectuate a direct transfer of the LLC Interests by the Holders to the Corporation; and

WHEREAS, concurrently herewith, KRW and the LLC are entering into that certain Share Purchase Agreement (the "**KRW Transaction**") pursuant to which, subject to certain conditions but otherwise as soon as practicable hereafter, KRW will contribute $1.2 million in cash to the LLC in exchange for an LLC Interest and will be admitted as a member of the LLC.

NOW, THEREFORE, in light of the above recitals and in consideration of the mutual agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions.

1.1. "**Agreement**" means this Contribution Agreement.

1.2. "**Closing Conditions**" means the closing conditions contained in Section 6 of this Agreement.

1.3. "**Closing Date**" means the date as of which all of the Closing Conditions are satisfied or a date, as determined by the Corporation, as soon as practicable thereafter.

1.4. "**Common Shares**" has the meaning given that term in the Operating Agreement.

1.5. "**Common Stock**" means shares of common stock, $0.01 par value per share, of the Corporation.

1.6. "**Operating Agreement**" means that certain Amended and Restated Operating Agreement of the LLC, as it

may be amended and/or restated from time to time.

1.7. **"Stockholders Agreement"** means that certain Stockholders Agreement, dated as of April 11, 2002, by and among the Holders, as it may be amended and/or restated from time to time.

1.8. **"Third Amendment"** means that certain Third Amendment to Amended and Restated Operating Agreement of Valvino Lamore, LLC, dated as of April 11, 2002.

2. Contribution.

2.1. *Contribution of LLC Interests.* Each Holder hereby agrees to assign, transfer, convey, and deliver to the Corporation, as a contribution, such Holder's respective LLC Interest, effective upon the Closing Date, in a transaction intended to qualify under Section 351 of the Internal Revenue Code of 1986, as amended. The Corporation hereby agrees to acquire and accept such contribution. Wynn, as the Managing Member of the LLC, hereby expressly consents to the transactions contemplated hereby.

2.2. *Deliveries.* As of the Closing Date, each Holder shall execute and deliver to the Corporation (i) an Assignment in substantially the form attached hereto as Exhibit A (the **"Assignment"**), and (ii) for purposes of cancellation, all Membership Certificates issued by the LLC to the Holder as a member of the LLC.

3. Issuance of Common Stock.

As of the Closing Date, as consideration for the contribution of the LLC Interests to the Corporation pursuant to this Agreement, the Corporation shall issue to each Holder that percentage of the issued and outstanding shares of Common Stock that corresponds to the percentage of the issued and outstanding Common Shares of the LLC that such Holder holds immediately prior to the Closing Date. Notwithstanding the foregoing, because Wynn currently holds one share of Common Stock, as consideration for the contribution of his LLC Interest, Wynn shall be entitled to one fewer share of Common Stock than he would otherwise be entitled to under this Section 3.

4. Representations and Warranties.

4.1. *Representations and Warranties of the Corporation.* The Corporation hereby represents and warrants to each Holder that: (i) it has full power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby, (ii) the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized by all necessary action on the part of the Corporation, (iii) this Agreement has been duly and validly executed and delivered by the Corporation and is a valid and binding agreement of the Corporation, enforceable against the Corporation in accordance with its terms, except (a) as such enforcement may be subject to bankruptcy, insolvency, or similar laws now or hereafter in effect relating to creditors rights generally and (b) as the remedy of specific performance and injunctive and other forms of equitable relief may be subject to equitable defenses and to the discretion of the court before which any proceeding therefor may be brought.

4.2. *Representations and Warranties of Each Holder.* Each Holder shall represent and warrant to the Corporation as set forth in the Assignment.

5. Status as a Stockholder; Issuance of Stock Certificates.

At the time of the contribution of the LLC Interests to the Corporation pursuant to this Agreement, or as soon as practicable thereafter, the Corporation shall deliver or cause to be delivered to the Holders certificates representing the Common Stock; provided, however, that upon making such contributions, the Holders shall be considered stockholders of the Corporation for all purposes notwithstanding that certificates evidencing such shares have not yet been delivered to them by the Corporation.

6. Conditions to the Parties' Obligations at Closing.

The obligations of each of the Holders and of the Corporation under this Agreement are subject to the fulfillment of the following conditions:

6.1. *Hart-Scott-Rodino Filing:* All waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 with respect to the contribution of the LLC Interests by Wynn and Aruze shall have expired or terminated.

6.2. *PUC Application:* All applicable approvals shall have been received from the Public Utilities Commission of Nevada in respect of an application under NRS 704.329 relating to transactions affecting Desert Inn Improvement Company, a Nevada corporation and a "small water" public utility, which is wholly owned by Desert Inn Water Company, a Nevada limited liability company, which in turn is wholly owned by the LLC.

7. KRW as Holder.

If the KRW Transaction is consummated, then KRW shall be treated as a Holder hereunder and shall be bound by all of the terms and conditions, and be subject to all of the restrictions and obligations, applicable to a Holder hereunder.

8. General Provisions.

8.1. *Construction.* In the interpretation of this Agreement, the singular may be read as the plural, and *vice versa*, the neuter gender as the masculine or feminine, and *vice versa*, and the future tense as the past or present, and *vice versa*, all interchangeably as the context may require in order to effectuate fully the intent of the parties and the transactions contemplated herein. Syntax shall yield to the substance of the terms and provisions hereof. The section headings in this Agreement are inserted only as a matter of convenience, and in no way define, limit, extend, or interpret the scope of this Agreement or of any particular section.

8.2. *Assignment.* None of the parties may assign their rights under this Agreement without the prior written consent of the other parties; provided, however, that the Corporation may assign its rights, benefits, or obligations under this Agreement to one or more entities controlled by or affiliated with it, without the prior consent of any other party hereto. This Agreement shall be binding on and inure to the benefit of the parties and their respective successors and permitted assigns.

8.3. *No Third-Party Benefits.* None of the provisions of this Agreement is intended to benefit, or to be enforceable by, any third-party beneficiaries.

8.4. *Governing Law.* The laws of the State of Nevada applicable to contracts made in that State, without giving effect to its conflict of law rules, shall govern the validity, construction, performance, and effect of this Agreement.

8.5. *Consent to Jurisdiction.* Each party hereto consents to the jurisdiction of the Courts of the State of Nevada in the event any action is brought for declaratory relief or enforcement of any of the terms and provisions of this Agreement.

8.6. *Amendment and Waiver.* This Agreement may not be modified or amended except by an instrument in writing signed by the Corporation and all the Holders. No waiver of any provision of this Agreement or of any rights or obligations of any party under this Agreement shall be effective unless in writing and signed by the party or parties waiving compliance, and shall be effective only in the specific instance and for the specific purpose stated in that writing.

8.7. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

8.8. *Additional Documents.* Each party hereto agrees to execute any and all further documents and writings and to perform such other actions which may be or become necessary or expedient to effectuate and carry out this Agreement.

8.9. *Severability.* Any provision hereof that is prohibited or unenforceable shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

8.10. *Integration.* This Agreement, the Stockholders Agreement, and the Operating Agreement contain the entire understanding of the parties with respect to the subject matter hereof or thereof. There are no restrictions, agreements, promises, representations, warranties, covenants, or undertakings with respect to the subject matter hereof other than those expressly set forth or referred to herein or therein. This Agreement, the Stockholders Agreement, and the Operating Agreement supersede all prior agreements and understandings between the parties with respect to their subject matter.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

Signature Page to Contribution Agreement

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

/s/ STEPHEN A. WYNN

STEPHEN A. WYNN

ARUZE USA, INC.

By: /s/ STEPHEN A. WYNN

Stephen A. Wynn, as *Attorney-in-Fact*

BARON ASSET FUND, ON BEHALF OF THE BARON ASSET FUND SERIES

By: /s/ STEPHEN A. WYNN

Stephen A. Wynn, as *Attorney-in-Fact*

BARON ASSET FUND, ON BEHALF OF THE BARON GROWTH FUND SERIES

By: /s/ STEPHEN A. WYNN

Stephen A. Wynn, as *Attorney-in-Fact*

KENNETH R. WYNN FAMILY TRUST DATED FEBRUARY , 1985

By: _____

Kenneth R. Wynn, *Trustee*

WYNN RESORTS, LIMITED

By: /s/ STEPHEN A. WYNN

Stephen A. Wynn,
Chief Executive Officer

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Signature Page to Contribution Agreement

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date first written above.

STEPHEN A. WYNN

ARUZE USA, INC.

By: _____

Stephen A. Wynn, as *Attorney-in-Fact*

BARON ASSET FUND, ON BEHALF OF THE BARON ASSET FUND SERIES

By: _____

Stephen A. Wynn, as *Attorney-in-Fact*

BARON ASSET FUND, ON BEHALF OF THE BARON GROWTH FUND SERIES

By: _____

Stephen A. Wynn, as *Attorney-in-Fact*

KENNETH R. WYNN FAMILY TRUST DATED FEBRUARY , 1985

By: /s/ KENNETH R. WYNN

Kenneth R. Wynn, *Trustee*

WYNN RESORTS, LIMITED

By: _____

Stephen A. Wynn,
Chief Executive Officer

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EXHIBIT A

ASSIGNMENT OF MEMBERSHIP INTEREST

FOR VALUABLE CONSIDERATION, (the "**Assignor**") hereby assigns, conveys, transfers, and delivers, as a contribution, to Wynn Resorts, Limited, a Nevada corporation (the "**Assignee**"), and the Assignee hereby acquires and accepts, as a contribution, from the Assignor, all of the right, title, and interest in and to the Assignor's LLC Interest in Valvino Lamore, LLC, a Nevada limited liability company. All capitalized terms not defined in this Assignment of Membership Interest (the "**Assignment**") shall have the meanings ascribed to them in that certain Contribution Agreement (the "**Contribution Agreement**") made and entered into effective as of June , 2002, by and among the Assignor, the Assignee, and certain other parties.

The Assignor hereby represents, warrants, and covenants to the Assignee as follows:

1. *Accredited Investor Status.* The Assignor is an "accredited investor" as defined in Securities and Exchange Commission ("**SEC**") Rule 501(a) in that the Assignor satisfies at least one of the following six criteria: (1) is an individual who is a director or executive officer of the Assignee, or (2) is an individual who has a net worth or joint net worth with his or her spouse in excess of $1 million at the time of his or her acquisition, or (3) is an individual who has an individual income in excess of $200,000 in each of the two most recent calendar years, or joint income with his or her spouse in excess of $300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year, or (4) is an entity, not formed for the specific purpose of acquiring the Common Stock, which has total assets of at least $5 million and the acquisition of the Common Stock is directed by a sophisticated person, or (5) any investment company registered under the Investment Company Act of 1940 or a business development company as defined in Section 2(a)(48) of such Act, or (6) is an entity in which all of the equity owners meet the requirements of (1), (2), (3), (4), or (5) above. The Assignor has a preexisting personal or business relationship with the Assignee or any of its officers, directors, or controlling persons.

2. *Stock Unregistered.* The Assignor acknowledges that the Common Stock has not been registered under the Securities Act of 1933, as amended, or qualified under any applicable blue sky laws in reliance, in part, on the representations and warranties herein, and the following restrictive legend (or similar legend) shall be placed on the certificates representing the Common Stock issued to the Assignor:

> "The securities represented by this certificate have not been registered under the Securities Act of 1933, as amended, or the securities laws of any state, and may not be sold or otherwise disposed of except pursuant to an effective registration statement under such Act and applicable state securities laws or an applicable exemption to the registration requirements of such Act and of such laws."

The Assignor understands that the shares of Common Stock are and will be "restricted securities" under the federal securities laws in that such securities will be acquired from the Assignee in a transaction not involving a public offering, and that under such laws and applicable regulations such securities may be resold without registration under the Act only in certain limited circumstances and that otherwise such securities must be held indefinitely.

3. *Financial Resources.* The Assignor's financial situation is such that the Assignor can afford to bear the economic risk of holding the Common Stock for an indefinite period of time, has no need for liquidity with respect to the Assignor's investment therein, has adequate means to provide for the Assignor's current needs and personal contingencies, and can afford to suffer the complete loss of the Assignor's investment in the Common Stock.

4. *Acquisition for Investment.* The Assignor is acquiring the Common Stock solely for investment, for the Assignor's account and not with a view to, or for resale in connection with, the distribution or other disposition thereof, except for such distributions and dispositions that are effected

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in compliance with the Securities Act of 1933, as amended, the rules and regulations of the SEC promulgated thereunder and all applicable state securities and blue sky laws.

5. *Title.* The Assignor has good and marketable title to the LLC Interest proposed to be contributed by the Assignor hereunder and full right, power, and authority to contribute the LLC Interests hereunder, free and clear of all encumbrances (other than those imposed by the Securities Act of 1933, as amended, and the securities or blue sky laws of certain jurisdictions and the Operating Agreement); and upon delivery and exchange of the LLC Interest hereunder, the Assignee

will acquire good and marketable title thereto, free and clear of all encumbrances.

This Assignment is delivered pursuant to the Contribution Agreement and is subject to the terms and conditions thereof.

Dated as of the day of , 2002.

ASSIGNOR

[Name of Assignor]

ASSIGNEE

Wynn Resorts, Limited

By:

Stephen A. Wynn,
Chief Executive Officer

QuickLinks

CONTRIBUTION AGREEMENT

EXHIBIT "D"

DEF 14A 1 ddef14a.htm DEFINITIVE NOTICE & PROXY STATEMENT

SCHEDULE 14A INFORMATION

Proxy Statement Pursuant to Section 14(a)
of the Securities Exchange Act of 1934
(Amendment No.)

Filed by the Registrant x

Filed by a Party other than the Registrant "

Check the appropriate box:

" Preliminary Proxy Statement
x Definitive Proxy Statement
" Definitive Additional Materials
" Soliciting Material Pursuant to §240.14a-11(c) or §240.14a-12

" **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

WYNN RESORTS, LIMITED

(Name of Registrant as Specified In Its Charter)

Not Applicable

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

Payment of Filing Fee (Check the appropriate box):

x 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:

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

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(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):

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(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:

WYNN RESORTS, LIMITED
3145 Las Vegas Boulevard South
Las Vegas, Nevada 89109
(702) 733-4444

NOTICE OF ANNUAL MEETING OF STOCKHOLDERS
To Be Held On: May 13, 2003

To Our Stockholders:

Notice is hereby given that the Annual Meeting of Stockholders (the "Annual Meeting") of Wynn Resorts, Limited, a Nevada corporation (the "Company") will be held at the Executive Offices of Wynn Resorts, Limited, 3145 Las Vegas Boulevard South, Las Vegas, Nevada, on May 13, 2003, at 11:00 a.m. (local time), for the following purposes (which are more fully described in the Proxy Statement, which is attached and made part of this Notice):

1. To elect three directors to serve as snch until the 2006 Annual Meeting of Stockholders and until their successors are elected and qualified, or until such director's earlier death, resignation or removal;

2. To ratify the appointment of Deloitte & Touche LLP as the Company's independent auditors for the fiscal year ended December 31, 2003; and

3. To consider and transact such other business as may properly come before the Annual Meeting or any adjournment thereof.

Stockholders of record at the close of business on April 4, 2003, the record date fixed by the Company's Board of Directors, are entitled to notice of and to vote at the Annual Meeting. A complete list of these stockholders will be available for ten days prior to the Annual Meeting at the Company's executive offices, located at 3145 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

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

Whether or not you plan to attend the Annual Meeting, you are urged to read the Proxy Statement and then complete, sign and date the enclosed Proxy Card and return it as promptly as possible in the enclosed, postage-prepaid envelope to ensure the presence of a quorum for the meeting. Even if you have given your proxy, you may still vote in person if you attend the Annual Meeting. Please note, however, that if your shares are held of record by a broker, bank or other nominee, and you wish to vote at the meeting, you must obtain from the record holder a proxy issued in your name.

By Order of the Board of Directors

Marc H. Rubinstein
Secretary

Las Vegas, Nevada
April 21, 2003

WYNN RESORTS, LIMITED

3145 Las Vegas Boulevard South
Las Vegas, Nevada 89109

PROXY STATEMENT

General Information

This Proxy Statement is furnished to stockholders in connection with the solicitation of proxies by the board of directors (the "Board of Directors") of Wynn Resorts, Limited ("we" or the "Company"), for use at the Company's Annual Meeting of Stockholders on May 13, 2003 (the "Annual Meeting") to be held at the Executive Offices of Wynn Resorts, Limited, 3145 Las Vegas Boulevard South Las Vegas, Nevada, at 11:00 a.m. (local time) and at any adjournment or postponement of that meeting. Matters to be considered and acted upon at the Annual Meeting are set forth in the Notice of Annual Meeting of Stockholders accompanying this Proxy Statement and are more fully outlined herein. A copy of our 2002 Annual Report to Stockholders, this Proxy Statement and the accompanying Proxy Card were first mailed to stockholders beginning on or about April 21, 2003.

The Board of Directors believes that the election of the director nominees named herein and the ratification of the appointment of the independent auditors are in the best interests of the Company and its stockholders and recommends the approval of each of the proposals contained in this Proxy Statement.

Revocability of Proxies

Any stockholder giving a proxy may revoke it at any time prior to its exercise at the Annual Meeting by giving written notice of such revocation to the Secretary of the Company at the Company's executive offices, by subsequently executing and delivering another proxy or by voting in person at the Annual Meeting. Attendance at the Annual Meeting in and of itself does not revoke a prior proxy.

Voting and Solicitation

Shares represented by duly executed and unrevoked proxies in the enclosed form received by the Board of Directors will be voted at the Annual Meeting in accordance with the specifications made therein by the stockholders, unless authority to do so is withheld. If no specification is made, shares represented by duly executed and unrevoked proxies in the enclosed form will be voted **FOR** the election as directors of the nominees listed herein, **FOR** the ratification of the appointment of the independent auditors as described herein and, with respect to any other matter that may properly come before the Annual Meeting, in the discretion of the persons voting the respective proxies.

The cost of preparing, assembling and mailing proxy materials will be borne by the Company. Directors, executive officers and other employees may also solicit proxies but will not receive any special compensation. Brokerage houses, nominees, fiduciaries and other custodians will be requested to forward soliciting materials to beneficial owners and will be reimbursed for their reasonable out-of-pocket expenses incurred in sending proxy materials to beneficial owners.

At the close of business on April 4, 2003, the record date for determining stockholders entitled to vote at the Annual Meeting, 79,351,957 shares of the Company's common stock, $.01 par value, were outstanding. Each stockholder is entitled to one vote for each share of the Company's common stock held of record on that date on all matters presented at the Annual Meeting.

A plurality of the votes cast in person or by proxy at the Annual Meeting will be required for the election of the director nominees. Under Nevada law, shares as to which a stockholder abstains or withholds from voting on the election of directors and shares as to which a broker indicates that it does not have discretionary authority to vote on the election of directors will not be counted as voting thereon and therefore will not affect the election of the nominees receiving a plurality of the votes cast. However, those shares will be counted for purposes of determining whether there is a quorum.

For each item other than the election of directors to be acted upon at the Annual Meeting, the affirmative vote of a majority of the votes cast in person or by proxy will be required for approval. Although counted for purposes of determining whether there is a quorum, abstentions and broker non-votes will not be counted as voting thereon and therefore will not affect the vote on these proposals.

The stockholders of the Company have no dissenter's or appraisal rights in connection with any of the proposals described herein.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of March 31, 2003, certain information regarding the shares of the Company's common stock beneficially owned by (i) each director and nominee for director; (ii) each stockholder who is known by the Company to beneficially own in excess of 5% of the outstanding shares of the Company's common stock based on information reported on Forms 13D or 13G filed with the Securities and Exchange Commission (the "SEC"); (iii) each of the executive officers named in the Summary Compensation Table; and (iv) all executive officers and directors as a group.

	Beneficial Ownership Of Shares (1)	
Name and Address of Beneficial Owner (2)	**Number**	**Percentage**
Stephen A. Wynn (3)(4)	24,549,222	31.01%
Kazuo Okada (3)(5)	24,549,222	31.01%
Aruze USA, Inc. (3)(5) 745 Grier Drive Las Vegas, NV 89119	24,549,222	31.01%
Baron Capital Group, Inc. (6) 767 Fifth Avenue New York, NY 10 153	7,703,985	9.73%
Wellington Management Company (7) 75 State Street Boston, MA 02109	6,362,070	8.04%
Ronald J. Kramer (8)	76,923	*
Robert J. Miller (9)	10,000	*
John A. Moran (9)	110,000	*
Alvin V. Shoemaker (9)	15,000	*
Elaine P. Wynn (10)	24,549,222	31.01%
Stanley R. Zax (9)(11)	1,010,000	1.28%
Allan Zeman (9)	10,000	*
John Strzemp (12)(13)	190,223	*
DeRuyter O Butler (12)	189,723	*
Marc H. Rubinstein (14)	10	*
All Directors and Executive Officers as a Group (23 persons) (15)	51,683,607	65.25%

* 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. Applicable percentages are based on 79,162,234 shares of the Company's common stock outstanding as of March 31, 2003, adjusted as required by the rules promulgated by the SEC.

(2) Unless otherwise indicated, the address of each of the named parties in this table is: c/o Wynn Resorts, Limited, 3145 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 Stockholders Agreement, dated April 11, 2002, by and among Stephen A. Wynn, Aruze USA and Baron Asset Fund. Under

this agreement, Mr. Wynn and Aruze USA have agreed to vote their shares of the Company's common stock for a slate of directors, a majority of which, including at least two independent directors, will be designated by Mr. Wynn, and the remaining members of which will be designated by Aruze USA.

(4) Does not include shares held by Aruze USA, which may be deemed to be beneficially owned by Mr. Wynn by virtue of the Buy-Sell Agreement, dated as of June 13, 2002, by and among Stephen A. Wynn, Mr. Okada, Aruze USA and Aruze Corp. that permits Mr. Wynn to acquire Aruze USA's shares of the Company's common stock upon certain events related to licensure under Nevada gaming laws. Also does not include shares of stock or options to purchase shares of the Company's common stock held by Mr. Wynn's brother, Kenneth R. Wynn.

(5) Aruze USA, Inc. is a wholly owned subsidiary of Aruze Corp., a Japanese Corporation. Mr. Okada has a controlling interest in Aruze Corp and is its president. The information provided is based upon a Schedule 13D, dated October 30, 2002 filed with the SEC by Aruze USA, Inc., Aruze Corp. and Mr. Okada.

(6) Baron Capital Group, Inc. (BCG) is deemed to have beneficial ownership of these shares, which are held by BCG or entities that it controls. BCG disclaims beneficial ownership of the shares held by its controlled entities (or the investment advisory clients thereof) to the extent that persons other than BCG hold such shares. The information provided is based upon a Schedule 13G, dated February 14, 2003 filed with the SEC by BCG and its affiliates: Bamco, Inc., Baron Capital Management, Inc., Baron Asset Fund, and Ronald Baron.

(7) Wellington Management Company, LLP ("WMC"), an investment advisor, may be deemed to have beneficial ownership of these shares, which are held by clients of WMC. These clients have the right to receive, or the power to direct the receipt of, dividends from, or the proceeds from the sale of, such securities. The information provided is based on a Schedule 13G, dated February 14, 2003 filed with the SEC by WMC.

(8) Includes 7,615 shares of the Company's common stock held by Mr. Kramer's daughters, for which Mr. Kramer's spouse is the custodian. Mr. Kramer disclaims beneficial ownership of such shares.

(9) Includes 10,000 shares subject to an immediately exercisable option to purchase the Company's common stock granted pursuant to the Company's 2002 Stock Incentive Plan at an exercise price of $13.74.

(10) Includes 24,549,222 shares of the Company's common stock registered in the name of Mrs. Wynn's husband, Stephen A. Wynn.

(11) Includes 1,000,000 shares of the Company's common stock held by Zenith Insurance Company, a wholly owned subsidiary of Zenith National Insurance Corp., of which Mr. Zax is President and Chairman of the Board. Mr. Zax disclaims beneficial ownership of the shares held by Zenith Insurance Company.

(12) Includes 189,723 shares of restricted stock granted pursuant to the Company's 2002 Stock Incentive Plan and subject to a Restricted Stock Agreement. Each grant vests in its entirety on the following dates: November 1, 2004 for Mr. Strzemp; and May 31, 2006 for Mr. Butler. Each grant will also vest in its entirety upon the death of the grantee.

(13) Includes 500 shares of the Company's common stock held by Mr. Strzemp's mother. Mr. Strzemp disclaims beneficial ownership of such shares.

(14) Includes 10 shares of the Company's common stock held in a custodial account for the benefit of Mr. Rubinstein's son, for which Mr. Rubinstein is the custodian. Mr. Rubinstein disclaims beneficial ownership of such shares.

(15) Includes 189,723 shares of restricted stock for each of Kenneth R. Wynn and Messrs. Schorr, Nisbet, Thomas, Strzemp and Butler made pursuant to the Company's 2002 Stock Incentive Plan and subject to Restricted Stock Agreements. The grants vest in their entirety on the following dates: May 31, 2005 for Messrs. Schorr and Wynn; May 31, 2006 for Mr. Thomas; and June 30, 2006 for Mr. Nisbet. Each grant will also vest in its entirety upon the death of the grantee.

PROPOSAL NO. 1
ELECTION OF DIRECTORS

The Company's Second Amended and Restated Articles of Incorporation (the "Articles") and Third Amended and Restated Bylaws, as amended (the "Bylaws"), require that the number of directors on the Board of Directors be not less than one nor more than thirteen. Presently, the Board of Directors is set at nine directors and is staggered into three classes. At each annual meeting, the terms of one class of directors expire. Each director nominee is elected to the Board of Directors for a term of three years. Class I consists of Elaine P. Wynn, Ronald J. Kramer and John A. Moran, whose terms expire in 2003. Class II consists of Stephen A. Wynn, Alvin V. Shoemaker and Stanley R. Zax, whose terms expire in 2004. Class III consists of Kazuo Okada, Robert J. Miller and Allan Zeman, whose terms expire in 2005.

At the Annual Meeting three directors are to be elected to serve until the 2006 Annual Meeting and until their successors are elected and qualified, or until such director's earlier death, resignation or removal. Unless authority to vote for directors is withheld in the Proxy Card, stock represented by the accompanying Proxy will be voted **FOR** the election of the three nominees listed below. The persons designated as proxies will have discretion to cast votes for other persons in the event any nominee for director is unable to serve or for good cause will not serve. At present, it is not anticipated that any nominee will be unable to serve or for good cause will not serve.

The names and certain information concerning the persons to be nominated as directors by the Board of Directors at the Annual Meeting are set forth below.

Elaine P. Wynn. Mrs. Wynn has served as a director of the Company since October 2002. She has also served as Co-Chairperson of the Greater Las Vegas Inner-City Games Foundation since 1996 and currently serves on the Executive Board of the Consortium for Policy Research in Education and the Council to Establish Academic Standards in Nevada. Mrs. Wynn has been active in civic and philanthropic affairs in Las Vegas for many years and has received numerous honors for her charitable and community work. Mrs. Wynn served as a director of Mirage Resorts, Inc. from 1976 until 2000. Mrs. Wynn is married to Stephen A. Wynn and is the sister-in-law of Kenneth R. Wynn.

Ronald J. Kramer. Mr. Kramer has served as President of the Company and as one of its directors since October 2002. Mr. Kramer also served as President of Wynn Resorts Holdings, a wholly owned indirect subsidiary of the Company from April to October 2002. From July 1999 to October 2001, Mr. Kramer was a Managing Director at Dresdner Kleinwort Wasserstein, an investment banking firm, and at its predecessor Wasserstein Perella & Co. Mr. Kramer served as Chairman and Chief Executive Officer of Ladenburg Thalmann Group Inc. from May 1995 to July 1999. Mr. Kramer is a member of the board of directors of TMP Worldwide, Griffon Corporation, Lakes Entertainment, Inc. and New Valley Corporation.

John A. Moran. Mr. Moran has served as a director since October 2002. Mr. Moran is the retired Chairman of Dyson-Kissner-Moran Corporation, a private investment entity. Mr. Moran is the honorary Co-Chairman of the Republican Leadership Council of Washington, D.C. He served as Chairman of the Republican National Finance Committee from 1993 to 1995 and subsequently became National Finance Chairman of the Dole for President campaign. Mr. Moran is currently a member of the board of directors of Bessemer Securities Corporation, the Chief Executives Organization and Critical Mass Ventures.

The affirmative vote of a plurality of all the votes cast at the Annual Meeting is required to elect a director.

OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR THE ELECTION OF THE NOMINEES LISTED ABOVE.

DIRECTORS AND EXECUTIVE OFFICERS

The following table sets forth the directors, executive officers and certain key management personnel of the Company and certain of its subsidiaries as of March 31, 2003. All directors hold their positions until their terms expire and until their respective successors are elected and qualified. Executive officers are appointed by the Board of Directors and serve at the discretion of the Board of Directors subject to applicable employment agreements.

Name	Age	Position
Stephen A. Wynn	61	Chairman of the Board and Chief Executive Officer
Kazuo Okada	60	Vice Chairman of the Board
Ronald J. Kramer	44	Director and President
Robert J. Miller	58	Director
John A. Moran	71	Director
Alvin V. Shoemaker	64	Director
Elaine P. Wynn	60	Director
Stanley R. Zax	65	Director
Allan Zeman	54	Director
Marc D. Schorr	55	Chief Operating Officer
Kenneth R. Wynn	50	President, Wynn Design & Development
John Strzemp	51	Executive Vice President—Chief Financial Officer and Treasurer
DeRuyter O. Butler	47	Executive Vice President—Architecture, Wynn Design & Development
W. Todd Nisbet	35	Executive Vice President—Project Director, Wynn Design & Development
Roger P. Thomas	51	Executive Vice President—Design, Wynn Design & Development
Marc H. Rubinstein	41	Senior Vice President—General Counsel and Secretary

Set forth below is information with respect to the Class II and Class III directors whose terms do not expire this year, non-director executive officers and certain key management personnel of the Company.

Stephen A. Wynn. Mr. Wynn has served as Chairman of the Board and Chief Executive Officer of the Company since June 2002. From April 2000 to September 2002, Mr. Wynn was the managing member of Valvino Lamore LLC, our wholly owned subsidiary. Mr. Wynn also serves as an officer and/or director of several of our subsidiaries. From 1973 until 2000, Mr. Wynn served as Chairman of the Board, President and Chief Executive Officer of Mirage Resorts, Inc. and its predecessor. Mr. Wynn is a Trustee of the University of Pennsylvania. Mr. Wynn is married to Elaine P. Wynn and is the brother of Kenneth R. Wynn.

Kazuo Okada. Mr. Okada has served as Vice Chairman of the Board since October 2002. Mr. Okada founded Aruze Corp., a Japanese manufacturer of pachislot and pachinko machines and video game software, in 1969 and serves as its President. Mr. Okada is the Chairman of Aruze USA, a subsidiary of Aruze Corp. Mr. Okada also owns, and is currently licensed by the Nevada Gaming Commission to own, the shares of Universal Distributing of Nevada, Inc., a gaming machine supplier company. Mr. Okada also serves as Chairman of Adores Corporation, a subsidiary of Aruze Corp. and an operator of amusement centers in Japan. In addition, Mr. Okada is the chairman and a director of SETA Corp, the chairman of System Staff Co., Ltd, a director of Pacific Gaming PTY Ltd and a representative director of MAPS.

Robert J. Miller. Mr. Miller has served as a director since October 2002. Mr. Miller has been a partner of the Nevada law firm of Jones Vargas since January 1999. He has also been a partner in Miller & Behar Strategies since January 2003. From January 1989 until January 1999, he served as Governor of the State of Nevada, and, from 1987 to 1989, he served as Lieutenant Governor of the State of Nevada. Mr. Miller serves as a director of Zenith National Insurance Corp., Newmont Mining Corporation, International Game Technology, America West Holdings Corporation and K12 Inc. He also served as a member of the U.S. Secretary of Energy Advisory Board and serves on the boards of several national charitable organizations.

Alvin V. Shoemaker. Mr. Shoemaker has served as a director since December 2002. Mr. Shoemaker is currently retired. He was the chairman of the board of First Boston Inc. and of the First Boston Corp. from April 1983 until his retirement in January 1989, at the time of its sale to Credit Suisse Bank. Mr. Shoemaker serves as a director of Hanover Compressor Co.

Stanley R. Zax. Mr. Zax has served as a director since October 2002. Since 1977, Mr. Zax has served as Chairman of the Board, and, since 1978, has served as Chairman of the Board and President of Zenith National Insurance Corp., a New York Stock Exchange company. Zenith National Insurance Corp. is engaged through its subsidiary in the property-casualty insurance business.

Allan Zeman. Mr. Zeman has served as a director since October 2002. Mr. Zeman has served as chairman of Lan Kwai Fong Holdings Limited, a company engaged in property investment and development, since July 1996. From 1994 to February 2002, Mr. Zeman served as chairman of Colby International Limited, a group engaged in sourcing apparel. Mr. Zeman also serves as a director of Mighty Pacific Investment Inc..

Marc D. Schorr. Mr. Schorr serves as Chief Operating Officer of the Company, a position he has held since June 2002, and also serves as the President of Wynn Resorts (Macau) S.A. Since April 2001, Mr. Schorr has served as Chief Operating Officer of Wynn Resorts Holdings. From June 2000 through April 2001, Mr. Schorr served as Chief Operating Officer of Valvino Lamore, LLC. From January 1997 through May 2000, Mr. Schorr served as President of The Mirage Casino-Hotel, a gaming company and then a wholly owned subsidiary of Mirage Resorts, Inc.

Kenneth R. Wynn. Kenneth R. Wynn has served as President of Wynn Design & Development, LLC, a wholly owned indirect subsidiary of the Company, since June 2000. From 1973 until 2000, he served as Vice President—Design and Construction and Secretary of Mirage Resorts, Inc., except for the periods of August 1993 through July 1994 and March 1997 through June 1999. From 1974 to 2000, Mr. Wynn also served as President of Atlandia Design & Furnishings, Inc., a construction supervision and design company and then a wholly owned subsidiary of Mirage Resorts, Inc. Mr. Wynn is Stephen A. Wynn's brother and the brother-in-law of Elaine P. Wynn.

John Strzemp. Mr. Strzemp serves as Executive Vice President—Chief Financial Officer of the Company, a position he has held since September 2002. Mr. Strzemp has also served as the Company's Treasurer since March 2003. Since November 2001, Mr. Strzemp has served as Executive Vice President and Chief Financial Officer of Wynn Resorts Holdings. Mr. Strzemp was Executive Vice President, Chief Financial Officer of Bellagio, LLC, a gaming company and then a wholly owned subsidiary of Mirage Resorts, Inc., from April 1998 to October 2000, and President of Treasure Island Corp., a gaming company and then a wholly owned subsidiary of Mirage Resorts, Inc., from January 1997 to April 1998.

DeRuyter O. Butler. Mr. Butler has served as Executive Vice President—Architecture of Wynn Design & Development, a wholly owned indirect subsidiary of the Company, since June 2000. In 2000, Mr. Butler co-founded Butler/Ashworth Architects, Ltd., LLC, an architecture firm, and has served as its Executive Vice President of Architecture since March 2000. Mr. Butler served as Director of Architecture of Atlandia Design & Furnishings from December 1982 to May 2000.

W. Todd Nisbet. Mr. Nisbet has served as Executive Vice President—Project Director of Wynn Design & Development, a wholly owned indirect subsidiary of the Company, since July 2000. From 1999 to 2000, Mr. Nisbet served as Vice President Operations of Marnell Corrao Associates, Inc., a design-build firm and, from 1995 to 1999, Mr. Nisbet was Senior Project Manager of Marnell Corrao.

Roger P. Thomas. Mr. Thomas has served as the Executive Vice President – Design for Wynn Design & Development, LLC, a wholly owned indirect subsidiary of the Company, since June 2000. From April 1981 to May 2000, Mr. Thomas served as Vice President—Design of Atlandia Design & Furnishings, Inc., a construction supervision and design company and then a wholly owned subsidiary of Mirage Resorts, Inc.

Marc H. Rubinstein. Mr. Rubinstein serves as Senior Vice President, General Counsel and Secretary of the Company, a position he has held since September 2002. Since April 2001, Mr. Rubinstein has also served as Senior Vice President-General Counsel of Wynn Resorts Holdings and, since June 2000, as Senior Vice President-General Counsel of Valvino Lamore, LLC. From October 1992 to December 1999, Mr. Rubinstein served as Senior Vice President-General Counsel & Secretary of Desert Palace, Inc., a gaming company that did business as Caesars Palace and was a wholly owned subsidiary of Caesars World, Inc. From February 1996 to June 2000, Mr. Rubinstein also served as Senior Vice President and General Counsel of the Sheraton Desert Inn Corporation, a gaming company that did business as The Desert Inn, then a wholly owned subsidiary of ITT Sheraton Corp. (and later of Starwood Hotels & Resorts Worldwide, Inc.).

FURTHER INFORMATION CONCERNING THE BOARD OF DIRECTORS

Meetings of the Board of Directors

The Board of Directors met two times during 2002. The Board of Directors currently has three standing committees: the Audit Committee, the Compensation Committee, and the Nominating and Corporate Governance Committee. During 2002, none of the members of the Board of Directors attended fewer than 75% of the aggregate number of meetings of the Board of Directors held while they were members of the Board, or fewer than 75% of the aggregate number of meetings held by the committees of the Board of Directors of which he or she was a member. The current members of each of the Board of Directors' committees are listed below.

The Audit Committee

The Audit Committee is governed by a written charter adopted by the Board of Directors and is composed of the following independent directors: Stanley R. Zax, Chairman, Alvin V. Shoemaker and John A. Moran. During 2002, the Audit Committee met two times.

The Audit Committee meets periodically with the Company's independent auditors, management and legal counsel to discuss accounting principles, financial and accounting controls, the scope of the annual audit, internal controls, regulatory compliance and other matters. The Audit Committee also advises the Board of Directors on matters related to accounting and auditing and appoints the Company's independent auditors. The independent auditors have complete access to the Audit Committee without management present to discuss results of their audit and their opinions on adequacy of internal controls, quality of financial reporting and other accounting and auditing matters. A full statement of the functions of the Audit Committee is set forth in the Audit Committee Charter, attached hereto as Exhibit A.

The Compensation Committee

The Compensation Committee is composed of the following independent directors: John A. Moran, Chairman, Robert J. Miller, Alvin V. Shoemaker and Stanley R. Zax. During 2002, the Compensation Committee met one time.

The Compensation Committee reviews and takes action regarding terms of compensation, employment contracts and pension matters that concern certain officers and key employees of the Company. The Compensation Committee also reviews and takes action regarding grants of all stock options and restricted shares to employees. The Compensation Committee also provides assistance and recommendations with respect to our compensation policies and practices and assists with the administration of our compensation plans.

Compensation Committee Interlocks and Insider Participation

The Compensation Committee is composed of the following independent directors: John A. Moran, Chairman, Robert J. Miller, Alvin V. Shoemaker and Stanley R. Zax. The Compensation Committee was formed

in October 2002 and held its first committee meeting on December 11, 2002. Prior to the formation of the Compensation Committee and the Company's initial public offering, compensation decisions were made by the Company's executive officers.

The Nominating and Corporate Governance Committee

The Nominating and Corporate Governance Committee is composed of the following independent directors: Robert J. Miller, Chairman, and Allan Zeman. The Nominating and Corporate Governance Committee was appointed by the Board at its December 2002 meeting. Accordingly, this Committee did not meet in 2002.

The Nominating and Corporate Governance Committee recommends to the Board individuals qualified to serve as directors of the Company and on committees of the Board. This Committee also advises the Board with respect to Board composition, procedures and committees. The Nominating and Corporate Governance Committee has begun to develop a set of corporate governance principles, including a code of ethics, that it will recommend to the Board.

Compensation of Directors

Directors who are not employees of the Company receive a monthly fee of $4,000 for services as a director. Directors who serve on the Audit Committee, the Compensation Committee or the Nominating and Corporate Governance Committee receive an additional monthly fee of $1,000 per committee ($1,500 for committee chairman). All directors are reimbursed for expenses connected with attendance at meetings of the Board of Directors.

Each non-employee Director, other than non-employee directors who own more that five percent of the Company's issued and outstanding common stock, received an option grant of 10,000 shares on December 12, 2002. Each option is immediately exercisable and has a per share exercise price of $13.74, the market value of a share of our common stock on December 12, 2002.

SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

Section 16(a) of the Securities Exchange Act of 1934, as amended requires the Company's executive officers and directors and persons who own more than 10% of the Company's common stock to file reports of ownership on Forms 3, 4 and 5 with the SEC. Executive officers, directors and 10% stockholders are also required to furnish the Company with copies of all Forms 3, 4 and 5 they file. In 2002, the rules governing the reporting of transactions by executive officers, directors and significant stockholders were amended to reduce the length of time following a transaction before a report relating to such transaction became due. Under the prior rules, reports were required to be filed within ten days after the month in which a transaction occurred. Under the new rules, reports are due within two business days following the date of the transaction.

Based solely on the Company's review of the copies of such forms it has received, the Company believes that all its executive officers, directors and greater than 10% beneficial owners complied with all the filing requirements applicable to them with respect to transactions during 2002 except for the following: Messrs. Schorr, Strzemp, Butler and Nisbet and Kenneth R. Wynn were each two days late in filing a report relating to the grant of 189,723 shares of restricted stock that each of them received on December 11, 2002; Messrs. Maddox and Rubinstein were each two days late in filing a report relating to the option grant for 25,000 shares that each of them received on December 11, 2002; and Stephen A. Wynn was one day late in filing a report relating to his beneficial interest in an option grant for 10,000 shares of the Company's common stock that was granted to Mrs. Wynn on December 11, 2002.

EXECUTIVE OFFICER COMPENSATION

The following table sets forth the compensation paid or accrued by the Company to the Chief Executive Officer of the Company and to each of the four most highly compensated executive officers of the Company (other than the Chief Executive Officer) (collectively, the "Named Executive Officers"), for services rendered to the Company and its affiliates in all capacities during the year ended December 31, 2002.

SUMMARY COMPENSATION TABLE[1]

		Annual Compensation			Long-Term Compensation		
					Awards		
Name and Principal Position	Year	Salary ($)	Bonus ($)	Other Annual Compensation ($)	Restricted Stock Award(s) ($)	Securities Underlying Options/SARs (#)	All Other Compensation ($)(2)
Stephen A. Wynn Chief Executive Officer of Wynn Resorts, Limited	2002	$197,115	$ —	$ 63,060(3)(4)	$ —	—	$ —
Ronald J. Kramer (5) President of Wynn Resorts, Limited	2002	730,769	1,250,000	—	—	—	833
John Strzemp Executive Vice President and Chief Financial Officer of Wynn Resorts, Limited	2002	459,692	150,000	—	2,513,830(6)	—	7,122
DeRuyter O. Butler Executive Vice President — Architecture of Wynn Design & Development	2002	350,000	—	—	2,513,830(6)	—	4,809
Marc H. Rubinstein Senior Vice President and General Counsel of Wynn Resorts Limited	2002	309,462	75,000	—	—	25,000	5,041

(1) Prior to October 25, 2002, the effective date of the Company's public offering, certain officers of the Company who might otherwise be Named Executive Officers received nominal salaries. For example, Marc D. Schorr, the Company's Chief Operating Officer, received no compensation in 2002 prior to October 25, 2002. Employment agreements for these officers became effective on October 25, 2002, at which time they began receiving their full salaries.

(2) Includes (i) 401(k) matching contributions for Messrs. Strzemp ($6,000), Butler ($4,269) and Rubinstein ($4,846) and (ii) executive life insurance premiums for Messrs. Kramer ($833), Strzemp ($1,122), Butler ($540) and Rubinstein ($195).

(3) Includes (i) $55,000, the salary of a driver whom we employ for Stephen A. Wynn's business and personal use and (ii) $8,060, the value of accounting services provided to Mr. Wynn.

(4) Stephen A. Wynn was the designated user of a country club membership owned by a subsidiary of the Company. Mr. Wynn paid all membership and other fees associated with his use of the membership. The membership was purchased in 2000 at a cost of approximately $133,400. In October 2002, Mr. Wynn purchased the membership from the Company for approximately $133,400. We did not incur any additional costs with respect to the club membership and therefore no compensation with respect to the membership is reflected herein.

(5) Mr. Kramer commenced his employment with the predecessor of the Company on April 1, 2002.

(6) On December 11, 2002 Messrs. Strzemp and Butler were each granted 189,723 shares of restricted stock. As of December 31, 2002, the value of each of these grants was $2,487,269 based on a closing price of $13.11 per share on December 31, 2002. Mr. Strzemp's grant vests in its entirety on November 1, 2004. Mr. Butler's grant vests in its entirety on May 31, 2006. There are no voting rights associated with any unvested shares and any distributions or dividends with respect to unvested shares are held by the Company and are released only upon vesting.

The following table provides information related to options to purchase the Company's common stock granted to the Named Executive Officers during the year ended December 31, 2002, and the number and value of such options held as of the end of the year. For the year ended December 31, 2002, the Company did not grant any SARs.

OPTION GRANTS IN LAST FISCAL YEAR

	Individual Grants				Potential Realizable Value at Assumed Annual Rates of Stock Price Appreciation For Option Term	
Name	Number of Securities Underlying Options Granted (#)(1)	Percent of Total Options Granted to Employees in Fiscal Year	Exercise or Base Price ($/Share)	Expiration Date	5% ($)	10% ($)
Stephen A. Wynn	—	—	—	—	—	—
Ronald J. Kramer	—	—	—	—	—	—
John Strzemp	—	—	—	—	—	—
DeRuyter O. Butler	—	—	—	—	—	—
Marc H. Rubinstein	25,000	6.33%	$ 13.25	12/11/2012	$208,321	$527,927

(1) These options vest in four equal installments on December 11, 2004; December 11, 2005; December 11, 2006 and December 11, 2007.

2002 Option Values

The following table provides information related to options to purchase the Company's common stock held by the Named Executive Officers at December 31, 2002. None of the Named Executive Officers exercised options to purchase common stock during the year ended December 31, 2002.

AGGREGATED OPTION EXERCISES IN LAST FISCAL YEAR AND FY-END OPTION VALUES

	Number Of Securities Underlying Unexercised Options at Fiscal Year-End (#)		Value Of Unexercised In-The-Money Options At Fiscal Year-End ($)(1)	
Name	Exercisable	Unexercisable	Exercisable	Unexercisable
Stephen A. Wynn	—	—	—	—
Ronald J. Kramer	—	—	—	—
John Strzemp	—	—	—	—
DeRuyter O. Butler	—	—	—	—
Marc H. Rubinstein	—	25,000	—	—

(1) Options are "in-the-money" if, on December 31, 2002, the market price of the Company's common stock exceeded the exercise price of such options. The value of such options is calculated by determining the difference between the aggregate market price of the Company's common stock covered by the options on December 31, 2002, and the aggregate exercise price of such options. The market price of our common stock on December 31, 2002 was $13.11.

Employment Agreements

We have entered into employment agreements with Stephen A. Wynn, and Messrs. Kramer, Strzemp, Rubinstein, and Butler.

Under Mr. Wynn's employment agreement, the annual base salary is $1,250,000 for the first year and will increase by $500,000 each year to a maximum of $2,750,000. The annual base salary is $509,000 for Mr. Strzemp, $360,000 for Mr. Rubinstein and $350,000 for Mr. Butler.

The other terms of the employment contracts are substantially similar for Messrs Wynn, Strzemp, Rubinstein and Butler, except as noted below. Each executive will receive a bonus and is eligible for an increase in base salary at such times and in such amounts as our board of directors, in its sole and exclusive discretion, may determine. However, after our board of directors adopts a performance-based bonus plan, bonuses will be determined in accordance with the plan, except that Mr. Strzemp will be entitled to a minimum annual bonus of $150,000 per year. The term of each employment contract with the Company began on October 25, 2002, the effective date of our initial public offering, and will end on October 25, 2007, except that (i) the term of Mr. Strzemp's employment contract will end on October 31, 2005; and (ii) Mr. Butler's employment contract will end on May 31, 2006. In addition to base salary and bonuses, each executive, to the extent that the executive is otherwise eligible, will participate in all of our employee benefit plans that cover executives, will receive reimbursement for reasonable business expenses (including entertainment, promotional, gift and travel expenses and club memberships) and will be entitled to four weeks paid vacation each year. In addition, we will provide the use of a company car and driver to Mr. Wynn at our sole cost and expense.

If we terminate the employment of an executive without "cause," or the executive terminates his employment with us upon "good reason" following a "change of control" (as these terms are defined in the employment contracts), we will pay the executive a "separation payment" in a lump sum equal to (a) the executive's base salary for the remainder of the term of the employment contract, but not for less than one year, except in the case of Messrs. Butler and Rubinstein, in which case the lump sum shall be such person's base salary for one year (or less, if there is less time remaining in term), and except in the case of Mr. Wynn, in which case the lump sum shall be three times such amount, (b) the bonus that the executive received for the preceding bonus period projected over the remainder of the term, except in the case of Messrs. Butler and Rubinstein, in which case, the bonus shall be such person's bonus for one year (or less, if there is less time remaining in term), and except in the case of Mr. Wynn, in which case the lump sum shall be three times such amount, (c) any accrued but unpaid vacation pay, and (d) an amount necessary to reimburse the executive for any golden parachute excise tax the executive incurs under Internal Revenue Code Section 4999. If the executive is entitled to receive the separation payment, he will also be entitled to continue participating in our health benefits coverage for the period for which the separation payment is paid on the same basis as if he were still employed by us. Except as provided below, if the executive's employment terminates for any other reason before the expiration of the term (e.g., because of the executive's death, disability, discharge for cause or revocation of gaming license), we will be required to pay the executive only accrued but unpaid base salary and vacation pay through his termination date. If Mr. Wynn's employment agreement is terminated as a result of death, complete disability or denial or revocation of Mr. Wynn's gaming license, then we will pay Mr. Wynn a separation payment equal to his base salary for the remainder of the term of the employment contract, but not less than one year, and the bonus that Mr. Wynn received for the preceding bonus period projected over the remainder of the term, but not less than the preceding bonus that was paid, projected over one year.

On April 1, 2002, Wynn Resorts Holdings and Valvino (as defined below), as guarantor, entered into a one-year employment agreement with Mr. Kramer. Pursuant to this agreement, Mr. Kramer was entitled to a base salary of $1,000,000 per year. Mr. Kramer was also entitled to bonuses upon specified performance criteria. Mr. Kramer received a bonus of $1,250,000 in October 2002 as a result of the satisfaction of one such bonus criteria. Pursuant to this agreement, Mr. Kramer was also entitled to participate in all welfare, pension and incentive benefit plans that

Wynn Resorts Holdings maintains for its senior executives. If at any time during the term of this agreement (1) Wynn Resorts Holdings terminated Mr. Kramer's employment without cause (as defined in the agreement) or (2) Mr. Kramer terminated his employment for good reason (as defined in the agreement), Wynn Resorts Holdings would have been required to pay Mr. Kramer the unpaid balance of his full base salary and bonus, accrued vacation pay, and continued medical, dental and life insurance benefits. Pursuant to this agreement, Mr. Kramer was also prevented from competing with Wynn Resorts Holdings and its affiliates for the one year of his employment. Concurrent with the expiration of the one year employment agreement, the Company and Mr. Kramer entered into a new five-year employment agreement effective April 1, 2003. Under this agreement, Mr. Kramer's annual base salary is $1,100,000 for the first year, increasing by $100,000 per year in the second and third years of the agreement. Under the terms of this agreement, Mr. Kramer received a restricted stock grant of 189,723 shares of the Company's common stock that will vest in its entirety on May 31, 2005. On April 1, 2003, Mr. Kramer received an option to purchase 200,000 shares of the Company's common stock at an exercise price of $14.91 per share. This option vests 25% per year over a four-year period beginning April 1, 2005. Pursuant to this agreement, Mr. Kramer is also entitled to participate in all welfare, pension and incentive benefit plans that the Company maintains for its senior executives. If we terminate Mr. Kramer's employment without "cause," or if Mr. Kramer terminates his employment with us upon "good reason" (as these terms are defined in the employment agreement), we will pay Mr. Kramer a "separation payment" in a lump sum equal to (a) Mr. Kramer's base salary for the remainder of the term of the employment contract, but not for less than one year, (b) the bonus that Mr. Kramer received for the preceding bonus period projected over the remainder of the term (but not less than one year), (c) any accrued but unpaid vacation pay, and (d) an amount necessary to reimburse Mr. Kramer for any golden parachute excise tax the executive incurs under Internal Revenue Code Section 4999.

Mr. Wynn and Mr. Kramer have time-sharing agreements with us covering their personal use of our aircraft, that require each such executive to pay us the lesser of (1) his and his family's share of the direct costs incurred by us in operating the aircraft or (2) the amount required by applicable federal aviation regulations.

Indemnification

Our Articles of Incorporation eliminate liability of our directors and officers for damages for breach of fiduciary duty as directors and officers except to the extent otherwise required by Nevada law and in cases in which the breach involves intentional misconduct, fraud or a knowing violation of law. Nevada law does not permit us to indemnify persons against judgments in actions brought by or in the right of the corporation unless the court in which the action was brought (or another court of competent jurisdiction) approves the indemnification.

Our Bylaws and Sections 78.7502 and 78.751 of Chapter 78 of the Nevada Revised Statutes contain provisions for indemnification of officers and directors of the Company and, in certain cases, employees and other persons. The Bylaws require the Company to indemnify such persons to the full extent permitted by Nevada law. Each such person will be indemnified in any proceeding if (i) such person is not found to have breached his or her fiduciary duties in a manner involving intentional misconduct, fraud or a knowing violation of the law, or (ii) such person acted in good faith and in a manner which such person reasonably believed to be in, or not opposed to, the best interest of the Company and, with respect to any criminal action, had no reasonable cause to believe the action was unlawful. Indemnification would cover expenses, including attorneys' fees, judgments, fines and amounts paid in settlement.

The Bylaws and Section 78.752 of Chapter 78 of the Nevada Revised Statutes also provide that the Board of Directors may cause the Company to purchase and maintain insurance on behalf of any present or past director or officer insuring against any liability asserted against such person incurred in the capacity of director or officer or arising out of such status, whether or not the Company would have the power to indemnify such person. The Company maintains directors' and officers' liability insurance.

The Company has entered into indemnification agreements (the "Indemnification Agreements") with each director and certain officers, employees and agents of the Company. Each Indemnification Agreement provides

for, among other things: (i) indemnification to the fullest extent permitted by law for an indemnified party (the "Indemnitee") unless it is determined, as provided in the Indemnification Agreement, that indemnification is not permitted under law; and (ii) prompt advancement of expenses to any Indemnitee in connection with his or her defense against any claim.

Notwithstanding anything to the contrary set forth in any of the Company's previous filings under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, that might incorporate future filings, including this Proxy Statement, in whole or in part, the following Disclosure and Report of Audit Committee and Report of Executive Compensation shall not be deemed to be "soliciting material" or to be "filed" with the SEC, nor shall such information be incorporated by reference into any such filings under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.

DISCLOSURE AND REPORT OF AUDIT COMMITTEE

Disclosure Regarding Audit Committee

In October 2002, the Board of Directors adopted a charter for the Audit Committee and in March 2003, upon the recommendation of the Audit Committee, the Board of Directors approved an amended and restated charter which is attached hereto as Exhibit A. The Board of Directors has determined that all members of the Audit Committee are "independent" as that term is defined in Rule 4200(a)(15) of the listing standards of the National Association of Securities Dealers, Inc.

Report of Audit Committee

Our role is to assist the Board of Directors in its oversight of the Company's financial reporting process. As set forth in our charter which was initially adopted in October 2002 and amended and restated in March 2003, the Company's management is responsible for the preparation, presentation and integrity of our financial statements, and for maintaining appropriate accounting and financial reporting principles and policies and internal controls and procedures designed to assure compliance with accounting standards and applicable laws and regulations. The independent auditors are responsible for auditing our financial statements and expressing an opinion as to their conformity with generally accepted accounting principles in the United States of America.

We have reviewed and discussed with management the Company's audited financial statements as of and for the year ended December 31, 2002. We have discussed with the independent auditors the matters required to be discussed by Statement on Auditing Standards No. 61, *Communication with Audit Committees*, as amended, by the Auditing Standards Board of the American Institute of Certified Public Accountants. We have received the written disclosures and the letter from the independent auditors required by Independence Standard No. 1, *Independence Discussions with Audit Committees*, as amended, by the Independence Standards Board, and have discussed with the independent auditors their firm's independence. Based on the review and discussion referred to above, we recommend to the Board of Directors that the financial statements referred to above be included in the Company's Annual Report on Form 10-K for the year ended December 31, 2002 for filing with the Securities and Exchange Commission.

Audit Committee
Stanley R. Zax, Chairman
Alvin V. Shoemaker
John A. Moran

REPORT ON EXECUTIVE COMPENSATION

The Compensation Committee was formed on October 21, 2002, immediately prior to the completion of the Company's initial public offering, and during the 2002 fiscal year had only one meeting. The Compensation Committee did not determine any of the base compensation paid to the Company's Chief Executive Officer or other executive officers during the 2002 fiscal year. The Compensation Committee did award stock options to certain officers and one discretionary bonus during the 2002 fiscal year. In addition, the Compensation Committee ratified the grant of certain stock grants that were subject to contractual commitments that were made prior to the appointment of the Compensation Committee. This report is provided by the Compensation Committee of the Board of Directors to assist stockholders in understanding the objectives and procedures that the Compensation Committee intends to implement in establishing the compensation of executive officers.

Compensation of Executive Officers

All members of senior management of the Company during the 2002 fiscal year were bound by employment agreements that were negotiated and executed prior to the formation of the Compensation Committee. The terms of these agreements generally ranged from three to five years, and set minimum compensation for salary, bonuses and stock option grants. As part of its strategy to attract and retain high quality executive employees, the Compensation Committee intends to establish a policy to pay executives base salaries that are competitive with salaries paid by other gaming, hospitality and development-stage companies, with the Company's salaries being at or near the high end of the range. The Compensation Committee has engaged the services of a nationally recognized human resources consulting firm to prepare a report to assist the Compensation Committee with determining the appropriate compensation for Company management, including salaries, bonuses and stock option grants.

Annual Incentives

The Compensation Committee intends to develop programs that will tie executive incentive compensation to the performance of the Company. In general, annual incentive awards for the year 2002 were defined by the terms of each of the executives' employment contract and were not determined by the Compensation Committee. However, the Compensation Committee did award stock options to certain officers and one discretionary bonus during the 2002 fiscal year.

Long-Term Incentives

The Company has adopted a stock incentive plan designed to provide stock-based incentives to its officers. The Compensation Committee may also use grants under the stock incentive plan to attract qualified individuals to work for the Company. The number of options to be granted to each executive officer will be based on the individual executive's performance, tenure and future potential. During the year ended December 31, 2002, the Company granted stock option awards to executive officers with five-year vesting schedules and restricted shares with vesting schedules ranging from 22 to 42 months.

Executive Compensation Program Philosophy and Objectives

The Compensation Committee's primary objectives in setting compensation policies are to develop a program designed to retain the current management team, reward them for outstanding performance, and attract those individuals needed to implement the Company's strategy.

2002 Compensation for the Chief Executive Officer

Stephen A. Wynn, our Chairman of the Board and Chief Executive Officer, and the Company entered into a five-year employment agreement prior to the establishment of the Compensation Committee. That agreement

became effective on October 25, 2002, after the successful completion of the Company's initial public offering, and provides for an annual base salary of $1,250,000 for the first year under the agreement and increases of $500,000 for each subsequent year, up to a maximum of $2,750,000. During 2002, Mr. Wynn received $197,115 in base salary. Mr. Wynn received no additional monetary or stock based incentive compensation in 2002. To the extent not already defined in Mr. Wynn's employment agreement, the Committee intends to use the same philosophy generally described above to determine compensation for Mr. Wynn.

Limitation of Tax Deduction for Executive Compensation

Internal Revenue Code Section 162(m) prevents publicly traded companies from receiving a tax deduction on certain compensation paid to proxy-named executive officers in excess of $1 million in any taxable year. The Compensation Committee does not believe that there will be any non-deductible compensation in 2002 based upon allowances provided under the provisions of Section 162(m). However, we cannot provide any assurance that there will not be any non-deductible compensation in future years. The Compensation Committee's policy with respect to qualifying compensation paid to its executive officers for tax deductibility purposes is that executive compensation plans will generally be designed and implemented to maximize tax deductibility. However, non-deductible compensation may be paid to executive officers when necessary for competitive reasons or to attract or retain a key executive, or where achieving maximum tax deductibility would be considered disadvantageous to the best interests of the Company.

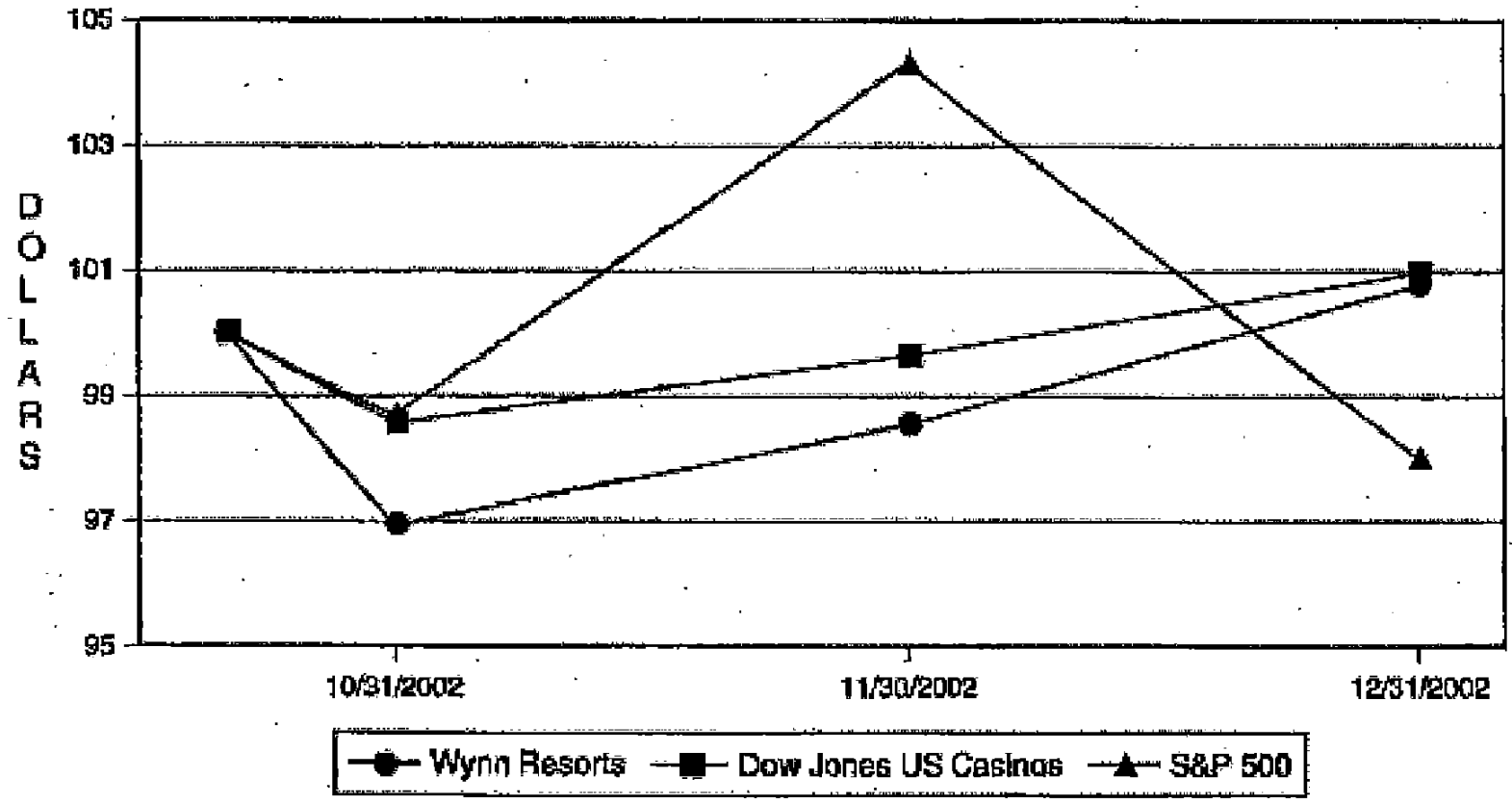
Respectfully Submitted,

Compensation Committee
John A. Moran, Chairman
Robert J. Miller
Alvin V. Shoemaker
Stanley R. Zax

STOCK PERFORMANCE GRAPH

The graph below compares the total cumulative return of our common stock to (a) the Standard & Poor's 500 Stock Index ("S&P 500"), and (b) the Dow Jones US Casino Index. The graph assumes the reinvestment of dividends. The performance graph assumes that $100 was invested on October 25, 2002 in each of the common stock of Wynn Resorts, Limited, the S&P 500 and the Dow Jones US Casino Index. The stock price performance shown in this graph is neither necessarily indicative of nor intended to suggest future stock price performance. *Notwithstanding anything to the contrary set forth in any of the Company's previous filings under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, that might incorporate future filings, including this Proxy Statement, in whole or in part, the Stock Performance Graph shall not be deemed to be "soliciting material" or to be "filed" with the SEC, nor shall such information be incorporated by reference into any such filings under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended.*

COMPARISON OF TWO MONTH CUMULATIVE TOTAL RETURN(*)
AMONG WYNN RESORTS, LIMITED, THE S&P 500 INDEX AND DOW JONES US CASINO INDEX



* $100 INVESTED ON OCTOBER 25, 2002 IN STOCK OR INDEX-INCLUDING REINVESTMENT OF DIVIDENDS.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Capitalization of Valvino/Public Offering of Wynn Resorts, Limited. In September 2002, the assets and operations of the Company were held by and conducted through Valvino Lamore, LLC, a Nevada limited liability company ("Valvino") and its subsidiaries. In September 2002, all of the members of Valvino contributed their membership interests in Valvino to the Company in exchange for 40,000,000 shares of the Company's common stock, and Valvino become a wholly owned subsidiary of the Company. The members of Valvino were Stephen A. Wynn, Aruze USA, Inc., Baron Asset Fund and the Kenneth R. Wynn Family Trust. Following the contribution of the membership interests of Valvino to the Company, the Company successfully completed an initial public offering of its common stock effective as of October 25, 2002.

Contribution of Interest in Wynn Macau. Before April 22, 2002, Stephen A. Wynn owned a majority of the outstanding equity interests of Wynn Resorts (Macau) S.A. ("Wynn Macau"). At the time, Wynn Macau had been awarded a provisional concession authorizing it to negotiate a concession agreement with the Macau government to construct and operate one or more casinos in Macau. On April 22, 2002, in connection with additional contributions to Valvino by Aruze USA and Baron Asset Fund, Mr. Wynn contributed his interest in Wynn Macau to Valvino. This interest was valued at approximately $56 million by the parties, after reimbursement to Mr. Wynn of approximately $825,000 advanced by him to Wynn Macau in connection with the negotiation of the concession agreement and other development activities in Macau. Similar advances by Valvino to Wynn Macau of approximately $458,000 were treated as capital contributions by Valvino upon its acquisition of the Macau interest. Subsequent to this contribution, Wynn Macau entered into a concession agreement with the government of Macau permitting Wynn Macau to construct and operate casinos in Macau.

Stockholders Agreement. Mr. Wynn, Aruze USA and Baron Asset Fund are parties to a stockholders agreement. The stockholders agreement establishes various rights among Mr. Wynn, Aruze USA and Baron Asset Fund with respect to the ownership and management of the Company. These rights include, but are not limited to, preemptive rights, rights of first refusal, tag-along rights and certain other restrictions on the transfer of the shares of the Company's common stock owned by the parties to the stockholders agreement.

Under the stockholders agreement, if Mr. Wynn, Aruze USA or Baron Asset Fund purchase shares of the Company's common stock from the Company in a private placement on terms and conditions that are not offered to the other parties to the agreement, the purchasing stockholder must afford the other parties preemptive rights. These preemptive rights will allow the non-purchasing parties to purchase that number of shares in the purchasing stockholder's allotment of private placement shares that is necessary to maintain the parties' shares in the same proportion to each other that existed prior to the private placement.

In addition, under the stockholders agreement, the parties granted each other a right of first refusal on their respective shares of the Company's common stock. Under this right of first refusal, if any such stockholder wishes to transfer any of his or its shares of the Company's common stock to anyone other than a permitted transferee (as defined in the agreement), and has a bona fide offer from any person to purchase such shares, the stockholder must first offer the shares to the other parties to the stockholders agreement on the same terms and conditions as the bona fide offer. In addition to this right of first refusal, Mr. Wynn and Aruze USA also granted each other and Baron Asset Fund a tag-along right on their respective shares of the Company's common stock. Under this tag-along right, Mr. Wynn and Aruze USA, before transferring his or its shares to any person other than a permitted transferee, must first allow the other parties to the agreement to participate in such transfer on the same terms and conditions.

The stockholders agreement also provides that, upon the institution of a bankruptcy action by or against a party to the stockholders agreement, the other parties to the agreement will be given an option to purchase the bankrupt stockholder's shares of the Company's common stock at a price to be agreed upon by the bankrupt stockholder and the other stockholders, or, if a price cannot be agreed upon by such stockholders, at a price equal to their fair market value. In addition, under the stockholders agreement, if there is a direct or indirect change of control of any party to the agreement, other than Baron Asset Fund, the other parties to the agreement have the option to purchase the shares of the Company's common stock held by the party undergoing the change in control. Under the agreement, a stockholder may assign these options to the Company.

In addition, under the stockholders agreement, Mr. Wynn and Aruze USA have agreed to vote their shares of the Company's common stock for a slate of directors, a majority of which will be designated by Mr. Wynn, of which at least two will be independent directors, and the remaining members of which will be designated by Aruze USA. As a result of this voting arrangement, Mr. Wynn will control the Company's board of directors.

Buy-Out of Aruze USA Stock. Stephen A. Wynn, Mr. Okada, Aruze USA, Aruze Corp. and the Company have entered into arrangements which provide that if any gaming application of Aruze USA, Aruze

Corp. or Mr. Okada concerning Aruze USA's ownership of the Company's stock is denied by Nevada gaming authorities or requested to be withdrawn or is not filed within 90 days after the filing of the Company's application, Mr. Wynn may elect to purchase the shares owned by Aruze USA in the Company. Mr. Wynn may pay this purchase price with a promissory note. If Mr. Wynn chooses not to exercise his right to purchase the shares, the Company has the right to require him to purchase the shares, including with a promissory note. The Company intends to grant Mr. Wynn certain demand registration rights and piggyback registration rights with respect to any shares he purchases from Aruze USA under these buy-out arrangements.

Wynn Design & Development. Wynn Design & Development, a wholly owned indirect subsidiary of the Company, is responsible for the design and architecture of Le Rêve (except for Le Rêve's showroom for its water-based entertainment production) and for managing construction costs and risks associated with the Le Rêve project. Wynn Design & Development will also have similar responsibilities for the Company's hotel and casino construction project in Macau. Kenneth R. Wynn, the brother of Stephen A. Wynn, is the President of this subsidiary. Nevada law requires that a firm licensed as a professional architectural organization certify architectural plans. These architectural services for the Le Rêve project will be provided by the firm of Butler/Ashworth Architects, Ltd., LLC. In return for these services, the Butler/Ashworth firm will be paid $1.00 and reimbursed for certain expenses it incurs in providing the architectural services. The principals of the Butler/Ashworth firm are DeRuyter O. Butler and Glen Ashworth, both of whom are employees of Wynn Design & Development. Mr. Butler is Executive Vice President of Wynn Design & Development. Wynn Design & Development is the only client of the Butler/Ashworth firm and pays the salaries and benefits of Messrs. Butler and Ashworth. The Company has no ownership interest in Butler/Ashworth.

Art Gallery. We operate an art gallery at the former premises of The Desert Inn in which we display paintings from The Wynn Collection. The art gallery is expected to remain open during the construction of Le Rêve. Commencing on November 1, 2001, we leased The Wynn Collection from Stephen A. and Elaine P. Wynn pursuant to an art rental and licensing agreement. Under the terms of that agreement, as amended, we pay the expenses of exhibiting works from The Wynn Collection including the expense of insuring the collection while we exhibit it. In addition, we are required to make monthly lease payments for the art at a rate equal to one-half of the gross revenue received by the gallery each month, less direct expenses (including insurance expenses), subject to a monthly cap. Under the agreement, as amended, if there is a loss in any particular month, Mr. and Mrs. Wynn are obligated to reimburse us the amount of the loss. Prior to opening Le Rêve, we do not expect to make any material payments under this agreement. In addition, subject to certain notice restrictions, Mr. and Mrs. Wynn have the right to remove or replace any or all of the works of art that will be displayed in the art gallery. The agreement also permits us to continue to lease The Wynn Collection as an attraction at Le Rêve. Both parties have the right to terminate the agreement upon the delivery of proper notice.

Aircraft Arrangements. From January 2002 until May 30, 2002, Valvino used a Bombardier Global Express aircraft in its business operations. The aircraft was owned by World Travel and was leased to and operated by Las Vegas Jet. Valvino paid Las Vegas Jet an hourly rate of $6,800 per hour for its use of the aircraft. Las Vegas Jet and World Travel were owned entirely by Stephen A. Wynn. Valvino paid Las Vegas Jet approximately $356,000 for the use of its aircraft during this period. Wynn Macau paid Las Vegas Jet approximately $211,000 for its use of the aircraft during the period between the date of the contribution by Stephen A. Wynn of his interest in Wynn Macau (April 15, 2002) and May 30, 2002.

On May 30, 2002, Mr. Wynn sold World Travel and Las Vegas Jet to Valvino for approximately $38.2 million (consisting of approximately $9.7 million in cash and the release of Mr. Wynn from a guarantee on the approximately $28.5 million of remaining indebtedness of World Travel secured by the aircraft), the amount that World Travel paid for the aircraft. Pursuant to Federal Aviation Administration regulations restricting the registration of aircraft in the United States by entities with substantial foreign ownership, World Travel transferred legal title to the aircraft to Wells Fargo Bank Northwest, National Association, a national banking association, pursuant to a Trust Agreement dated as of May 10, 2002. At that time, World Travel had remaining

indebtedness of $28.5 million secured by the aircraft. Valvino guaranteed this indebtedness in connection with the purchase of the aircraft. Mr. Wynn was released from his guarantee of that indebtedness. Following the Company's initial public offering in October 2002, Wynn Las Vegas refinanced the indebtedness on the aircraft through the use of one of its credit facilities.

World Travel continues to lease the aircraft to Las Vegas Jet. Las Vegas Jet operates the aircraft for the Company and its subsidiaries. In addition, each of Stephen A. Wynn, Mr. Schorr, Kenneth R. Wynn and Mr. Kramer has a time-sharing agreement with the Company covering their personal use of our aircraft that requires each such executive to pay us the lesser of (1) his and his family's share of the direct costs incurred by us in operating the aircraft or (2) the amount required by applicable federal aviation regulations. During 2002, the following amounts were paid to the Company pursuant to these timesharing arrangements Stephen A. Wynn ($187,492) and Mr. Schorr ($16,002). Kenneth R. Wynn and Mr. Kramer did not make personal use of the aircraft in 2002.

Reimbursable Costs. We periodically incur costs on Mr. Wynn's and certain other officers' behalf, including costs with respect to personal use of the corporate aircraft, household employees at Mr. Wynn's residence, personal legal fees, construction work at Mr. Wynn's home and other personal purchases. In the past, these balances were settled by reimbursement to the Company at regular intervals, usually monthly. We did not charge Mr. Wynn or any officer interest on outstanding amounts pending reimbursement. The largest unreimbursed balance of these items at any time since our inception was approximately $213,000. The outstanding balance was settled in August 2002, and we terminated the arrangements pursuant to which costs were incurred and later reimbursed. Currently, Mr. Wynn and other officers have deposited an aggregate of $105,000 with the Company to prepay any such items. These deposits are replenished on an ongoing basis as needed. At December 31, 2002, the Company's net liability to Mr. Wynn and other officers was approximately $35,000.

Tax Indemnification Agreement. Stephen A. Wynn, Aruze USA, Baron Asset Fund, and the Kenneth R. Wynn Family Trust (referred to collectively as the "Valvino members"), Valvino and the Company have entered into a tax indemnification agreement relating to their respective income tax liabilities relating to Valvino. Prior to the contribution of the Valvino membership interests to the Company, the income and deductions of Valvino passed through to the Valvino members under the rules governing partnerships for federal tax purposes and were taken into account by them at their personal tax rates. Commencing upon the contribution of the Valvino membership interests to the Company, income and deductions are to be treated as income and deductions of the Company and are to be taken into account by it at applicable corporate tax rates. A reallocation of deductions of Valvino from the period prior to the contribution to the period commencing upon the contribution, or a reallocation of income of the Company from the period commencing upon the contribution to the period prior to the contribution, would increase the amount of taxable income (or decrease the amount of loss) reported by the Valvino members and decrease the amount of taxable income (or increase the amount of loss, including carryforwards, or increase the amount of tax basis in the assets) of the Company. Accordingly, the tax indemnification agreement generally provides that the Valvino members will be indemnified by the Company and its subsidiaries for additional tax costs (including interest and penalties) caused by reallocations that increase the taxable income or decrease the tax loss of the Valvino members for the period prior to the contribution of the Valvino membership interests. Any payment made pursuant to the agreement by the Company or any of its subsidiaries to the Valvino members may be non-deductible for income tax purposes.

Purchase of Country Club Membership. In 2000, Valvino purchased a country club membership at a cost of approximately $133,400. Stephen A. Wynn was the designated user of the membership and paid all membership and other fees associated with his use of the membership. In October 2002, Mr. Wynn purchased the membership from Valvino at a cost of approximately $133,400.

Employment of Seth Schorr Seth Schorr, the adult son of Mr. Schorr, is employed by Las Vegas Jet, LLC, an indirect subsidiary of the Company, at an annual salary of approximately $63,000. Mr. Schorr's primary responsibilities have included the supervision and evaluation of potential internet gaming opportunities, and the supervision and coordination of the operations of The Wynn Collection for the Company.

Tax Overpayment. In 2001, Stephen A. Wynn made a substantial overpayment of his personal estimated 2001 federal income taxes to the Internal Revenue Service. Pursuant to a tax procedure set forth in Internal Revenue Announcement No. 2001-112, announced October 26, 2001, a taxpayer may redesignate estimated income tax payments as employment tax payments. In reliance on this announcement, Mr. Wynn applied $5,000,000 of the overpayment to the 2001 fourth quarter employment taxes of Valvino. By using this procedure, Mr. Wynn accelerated the refund of his overpayment. In May 2002, the Internal Revenue Service issued a refund for $5,000,000 to Valvino and Valvino reimbursed this sum of money to Mr. Wynn.

Purchase of Common Stock and Second Mortgage Notes. Stephen A. Wynn and Aruze USA, Inc., each purchased 5,576,923 shares of The Company's common stock in the Company's initial public offering at the same price offered to the public. In addition, Mr. Wynn and Aruze USA, Inc. each purchased $2,694,000 in principal amount of the 12% Second Mortgage Notes due 2010 from Wynn Las Vegas, LLC and Wynn Las Vegas Capital Corp., subsidiaries of the Company, at the same price being offered to the public. Both of these offerings were consummated in October 2002.

PROPOSAL NO. 2
RATIFICATION OF APPOINTMENT OF INDEPENDENT PUBLIC ACCOUNTANTS

The Audit Committee has appointed Deloitte & Touche LLP, a firm of independent public accountants, as our independent public accountants to examine and report to stockholders on the consolidated financial statements of our Company and its subsidiaries for the year 2003. Representatives of Deloitte & Touche LLP will be present at the Annual Meeting and will be given an opportunity to make a statement. They also will be available to respond to appropriate questions.

In May 2002, the predecessor entity of the Company decided to no longer engage Arthur Andersen LLP ("Andersen") as its independent public accountants, and engaged the services of Deloitte & Touche LLP as its new independent public accountants. During our two fiscal years ended December 31, 2001 and through May 2, 2002, there were no disagreements between the Company's predecessor and Andersen on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to Andersen's satisfaction, would have caused Andersen to make reference to the subject matter of the disagreement in connection with its reports on the predecessor entity's consolidated financial statements. None of the reportable events described under Item 304(a)(1)(v) of Regulation S-K occurred within our fiscal years ended December 31, 2000 and 2001 or through May 2, 2002.

The reports of Andersen on the predecessor entity's consolidated financial statements as of and for the fiscal years ended December 31, 2000 and 2001 did not contain any adverse opinion or disclaimer of opinion, nor were they qualified or modified as to uncertainty, audit scope or accounting principles.

In its letter dated June 17, 2002 to the Office of the Chief Accountant of the SEC, Andersen stated that it agreed with the statements in the preceding two paragraphs. This letter was originally filed as exhibit 16.1 to Amendment No. 2 of our Registration Statement on Form S-1 filed on August 26, 2002 (File No. 333-90600).

The following table shows the fees paid or accrued by the Company for audit and other services provided by Deloitte & Touche LLP during 2002.

Audit fees for audit and reviews of 2002 financial statements	$	45,820
Audit fees for audits of prior years financial statements		94,925
Total	$	140,745
Audit related fees	$	49,092
Tax fees	$	748,897
All other fees	$	505,002

"Audit fees for audit of 2002 financial statements" includes the aggregate fees billed by Deloitte & Touche LLP for professional services rendered for the reviews of our consolidated financial statements for the quarterly periods ended June 30, and September 30, 2002, and for the audit of our consolidated financial statements for the year ended December 31, 2002. "Audit fees for audits of prior years financial statements" includes fees for the re-audits of our consolidated financial statements for the years ended December 31, 2001 and 2000, performed during 2002 by Deloitte & Touche LLP at our request. "Audit related fees" is the aggregate fees billed by Deloitte & Touche, LLP for audits of the consolidated financial statements certain of the Company's subsidiaries and the Company's defined contribution employee benefit plan. "Tax fees" include fees for tax compliance, consulting and other tax assistance, and "All other fees" relate to services rendered in connection with the filing of our Registration Statements on Form S-1 relating to our initial public offering and the offering of Second Mortgage Notes by certain of our subsidiaries, as amended, during 2002.

Neither Andersen nor Deloitte & Touche LLP provided any services related to financial information systems design and implementation during 2002. The Audit Committee has determined the provision of all services rendered was compatible with maintaining Deloitte & Touche LLP's independence.

During each of the fiscal years ended December 31, 2000 and December 31, 2001 and through May 2, 2002, we did not consult with Deloitte & Touche LLP regarding any of the matters or events set forth in Item 304(a)(2)(i) and (ii) of Regulation S-K.

Stockholder ratification of the selection of Deloitte & Touche LLP as the Company's independent public accountants is not required under Nevada law or under the Company's Articles of Incorporation or Bylaws. If the stockholders do not ratify the selection of Deloitte & Touche LLP as the Company's independent auditors for 2003, the Audit Committee will evaluate what would be in the best interests of the Company and its stockholders and consider whether to select new independent auditors for the current year or whether to wait until the completion of the audit for the current year before changing independent auditors. Even if the stockholders ratify the selection of Deloitte & Touche LLP, the Audit Committee, in its discretion, may appoint a different independent public accounting firm at any time during the year if the Audit Committee determines that such a change would be in the best interests of the Company and its stockholders.

In order to be adopted, this proposal requires the affirmative vote of a majority of the shares represented in person or by proxy and voting at the Annual Meeting, excluding abstentions.

OUR BOARD OF DIRECTORS UNANIMOUSLY RECOMMENDS THAT YOU VOTE FOR THE RATIFICATION OF THE APPOINTMENT OF DELOITTE & TOUCHE LLP AS THE COMPANY'S INDEPENDENT PUBLIC ACCOUNTANTS FOR THE YEAR 2003.

OTHER MATTERS

The Board of Directors is not aware of any other matters to be presented at the Annual Meeting. If any other matters should properly come before the Annual Meeting, the persons named in the proxy will vote the proxies according to their best judgment.

STOCKHOLDER PROPOSALS

For any proposal to be considered for inclusion in our proxy statement and form of proxy for submission to the stockholders at our 2004 Annual Meeting, it must be submitted in writing and comply with the requirements of Rule 14a-8 of the Securities Exchange Act of 1934, as amended. Such proposals must be received by the Company at its offices at 3145 Las Vegas Boulevard South, Las Vegas, Nevada 89109 no later than December 21, 2003. In addition, our Bylaws provide for notice procedures to recommend a person for nomination as a director and to propose business to be considered by stockholders at a meeting. The Company will have discretionary authority to vote shares under proxies we solicit concerning matters of which we did not have notice at least 60 days and not more than 90 days prior to the date of the meeting, or no later than 10 days from the public announcement of the meeting, if later, and, to the extent permitted by law, on any other business that may properly come before the Annual Meeting and any adjournments. The Chairman of the Board may refuse to acknowledge the introduction of any stockholder proposal not made in compliance with the foregoing procedures.

Exhibit A

Wynn Resorts, Limited
Charter for Audit Committee

ARTICLE I
FORMATION

The Board of Directors of Wynn Resorts, Limited (the "**Corporation**") has established the Audit Committee pursuant to Section 78.125 of the Nevada Revised Statutes and Article III, Section 3.15(c) of the Corporation's Bylaws.

ARTICLE II
COMPOSITION

The Audit Committee shall be comprised of not less than three members of the Corporation's Board of Directors. Subject to the foregoing, the exact number of members of the Audit Committee shall be fixed and may be changed from time to time by resolution duly adopted by the Board of Directors. The qualifications of the Audit Committee membership shall be as follows:

- All of the members of the Audit Committee shall be (i) "independent directors" as defined in Rule 4200(a) of the Nasdaq Stock Market Marketplace Rules (the "**Nasdaq Rules**"), as such rule may be modified or supplemented, (ii) "independent" as required by the Securities Exchange Act of 1934 and the rules and regulations promulgated thereunder, in each case, as amended (collectively, the "**Exchange Act**") and (iii) shall otherwise meet all qualifications for audit committee members set forth in Rule 4350(d) of the Nasdaq Rules, as such rule may be modified or supplemented. Rule 4200 and Rule 4350 of the Nasdaq Rules shall be annexed hereto as Exhibits A and B, which such Exhibits shall be updated from time to time to reflect any modification or supplementation of such rules.
- Each member shall be able to read and understand fundamental financial statements, including a company's balance sheet, income statement, and cash flow statement.
- At least one member of the Audit Committee must (1) have past employment experience in finance or accounting, requisite professional certification in accounting, or any other comparable experience or background that results in the individual's financial sophistication, including being or having been a chief executive officer, chief financial officer or other senior officer with financial oversight responsibilities and (2) be an "audit committee financial expert" as defined in the Exchange Act.

ARTICLE III
FUNCTIONS

The independent auditors engaged by the Corporation at the Audit Committee's direction to audit the Corporation's financial statements shall be accountable ultimately to the Corporation's Board of Directors and the Audit Committee, as representatives of the Corporation's stockholders.

The Audit Committee shall have the authority to retain, terminate and replace the Corporation's independent auditors and shall receive funding from the Corporation for the purposes of retaining the Corporation's independent auditors and any special legal counsel, accounting or other consultants that the Audit Committee deems necessary to advise it in carrying out its duties.

The Audit Committee shall:

A. *Independent Auditors*

- Be responsible for the appointment, compensation and oversight of the independent auditors employed by the Corporation for the purpose of preparing or issuing an audit report. In this capacity, the Audit

Committee shall be responsible for evaluating and determining that the audit engagement team has the competence necessary to conduct the audit engagement in accordance with generally accepted accounting standards.

- Review and discuss with the independent auditors their audit procedures, including any problems or difficulties they may have encountered, the scope (including any change with respect thereto), fees and timing of the audit, and the results of the annual audit examination and any accompanying management letters, any schedule of unadjusted differences, and any reports of the independent auditors with respect to interim periods.
- Review with the independent auditors any information furnished by the independent auditors pursuant to Section 10A of the Exchange Act, including, without limitation, such information relating to any illegal acts that have or may have occurred, all critical accounting policies to be used in the conduct of the audit and all alternative treatments of financial information within generally accepted accounting principles discussed with management or considered in connection with the audit, the ramifications of the use of such alternative treatments, and the treatment preferred by the independent auditors.
- Review and discuss with management and the independent auditors: (a) any material financial or non-financial arrangements of the Corporation which do not appear on the financial statements of the Corporation; and (b) any transactions or courses of dealing with parties related to the Corporation which transactions are significant in size or involve terms or other aspects that differ from those that would likely be negotiated with independent parties, and which arrangements or transactions are relevant to an understanding of the Corporation's financial statements.
- Review and recommend action with respect to the results of each independent audit of the Corporation's financial statements, including problems encountered in connection with such audit and recommendations of the independent auditors arising as a result of such audit.
- Discuss with the Corporation's independent auditors the matters required to be communicated pursuant to Statement on Auditing Standards No. 61, including any amendments or supplements thereto ("**SAS 61**").
- Take appropriate action to oversee the independent auditors' independence and, at least annually, discuss with the independent auditors their independence and receive each of the following in writing:
- Disclosure of all relationships between (i) persons employed by the independent auditors or any of the auditors' related entities within the last two years and (ii) the Corporation or any of its related entities and disclosure of any other relationship that in the auditors' professional judgment may reasonably be thought to bear on independence between (i) the independent auditors or any of the auditors' related entities and (ii) the Corporation or any of its related entities; and
- Confirmation that, in the auditors' professional judgment, the independent auditors are independent of the Corporation within the meaning of the federal securities laws.
- Evaluate the performance of the Corporation's independent auditors and if so determined by the Audit Committee, replace the Corporation's independent auditors (or nominate the independent auditors to be proposed for stockholder approval in any proxy statement).
- Preapprove (either specifically or by establishing policies and procedures generally pre-approving categories of auditing services and permissible non-auditing services) all auditing services and all permissible non-auditing services provided to the Corporation by its independent auditors; *provided* that (i) any policies and procedures established by the Audit Committee must be detailed as to each particular service that is approved, must be designed to safeguard the continued independence of the independent auditor and may not include delegation of the Audit Committee's responsibilities under the Exchange Act to management and (ii) the Audit Committee must be informed of each engagement entered into in reliance on established policies and procedures. Notwithstanding the previous sentence, the Audit Committee is not required to preapprove services other than audit, review or attest services if:

(1) all such services provided do not aggregate to more than five percent of the total revenues paid to the independent auditors in the fiscal year when such services were provided, (2) the services were not recognized as non-audit services at the time of the engagement and (3) the services are promptly brought to the attention of the Audit Committee and approved prior to completion by the Audit Committee or one or more authorized representatives of the Audit Committee.

- Resolve disagreements, if any, between management and the independent auditors.

B. *Financial Statements*

- Prior to their filing with the Securities and Exchange Commission (the "SEC") or other publication, review and discuss with the Corporation's independent auditors and management the Corporation's audited financial statements.
- Based on (1) its review and discussions with management of the Corporation's audited financial statements; (2) its discussion with the independent auditors of the matters to be communicated pursuant to SAS 61; and (3) the written disclosures from the Corporation's independent auditors regarding independence, recommend to the Corporation's Board of Directors whether the Corporation's audited financial statements should be included in the Corporation's Annual Report on Form 10-K for the applicable fiscal year for filing with the SEC.
- Prior to their filing with the SEC or other publication, review and discuss with the Corporation's independent auditors and management the information contained in the Corporation's quarterly reports on Form 10-Q.
- Review and discuss with the Corporation's independent auditors and management the Corporation's quarterly earnings releases.
- Review an analysis prepared by management and the independent auditors of significant financial reporting issues and judgments made in connection with the preparation of the Corporation's financial statements.
- Review major changes to the Corporation's auditing and accounting policies and practices as suggested by the independent auditors, internal auditors or management.
- Meet periodically with any Disclosure Committee established by the Corporation to discuss the compliance by the Corporation with legal and regulatory requirements relating to the Corporation's financial statements.

C. *Internal Accounting*

- Review with the Corporation's independent auditors and financial management the adequacy and effectiveness of the Corporation's system of internal accounting controls, including the adequacy of such controls to expose any payments, transactions or procedures that might be deemed illegal or otherwise improper.
- Review the scope and results of the Corporation's internal auditing procedures and practices and oversee the effectiveness thereof.

D. *Management Conduct Policies*

- Review from time to time and make recommendations with respect to the Corporation's policies relating to management conduct and oversee procedures and practices to ensure compliance therewith. Such policies shall include, without limitation, those relating to (1) transactions between the Corporation and members of its management, (2) political contributions and other sensitive payments, (3) compliance with the Foreign Corrupt Practices Act, and (4) corporate or competitive opportunities offered to or enjoyed by members of such management.

- Meet periodically with management to review the Corporation's major financial risk exposures and the steps management has taken to monitor and control such exposures.
- Make interpretations from time to time as to the scope and application of the Corporation's management conduct policies.
- Review and approve or disapprove, as contemplated by the Corporation's management conduct policies, proposed transactions between the Corporation and its employees or directors.
- Establish procedures for the receipt, retention and treatment of complaints received by the Corporation regarding accounting, internal accounting controls, or auditing matters.
- Establish procedures for the confidential, anonymous submission by employees of the Corporation of concerns regarding questionable accounting or auditing matters.
- Determine the appropriate funding for payment of compensation to the independent auditors employed by the Corporation at the Audit Committee's direction for the purpose of rendering or issuing an audit report and to any advisers employed by the Audit Committee.

E. *Other Duties*

- At least annually, review the adequacy of this Charter and recommend to the Corporation's Board of Directors any changes to this Charter that the Audit Committee deems necessary or desirable,
- Perform such other specific functions as the Corporation's Board of Directors may from time to time direct, and make such investigations and reviews of the Corporation and its operations as the Chief Executive Officer, the President or the Board of Directors may from time to time request.
- Prepare a report in accordance with the rules of the SEC to be included in the Corporation's annual proxy statement.
- Review with the Corporation's legal advisors legal matters that may have a material effect on the financial statements, the Corporation's compliance policies and any material reports or inquiries received from regulators or governmental agencies relating to any matter that may have a material effect on the Corporation's financial statements.
- Make regular reports to the Board regarding its activities, as appropriate.
- The Audit Committee shall have the authority to conduct or authorize investigations into any matters within its scope of responsibilities.

ARTICLE IV
PROCEDURES

The Audit Committee shall keep regular minutes of its meetings. Meetings and actions of the Audit Committee shall be governed by, and held and taken in accordance with, the provisions of the Corporation's Bylaws, with such changes in the context of those Bylaws as are necessary to substitute the Audit Committee, the Chairman of the Audit Committee and its members for the Board of Directors, the Chairman of the Board and its members. Regular meetings of the Audit Committee may be held at such time and such place as the Audit Committee determines from time to time.

WYNN RESORTS, LIMITED

ANNUAL MEETING OF STOCKHOLDERS

Tuesday, May 13, 2003
11:00 a.m. Local Time

Wynn Resorts, Limited
Executive Offices
3145 Las Vegas Boulevard South
Las Vegas, Nevada 89109

Wynn Resorts, Limited
Executive Offices
3145 Las Vegas Boulevard South
Las Vegas, NV 89109

proxy

This proxy is solicited by the Board of Directors for use at the Annual Meeting on May 13, 2003.

If no choice is specified, the proxy will be voted "FOR" Items 1 and 2.

The undersigned stockholder of Wynn Resorts, Limited, a Nevada corporation (the "Company"), hereby appoints Stephen A. Wynn, Ronald J. Kramer and Marc H. Rubinstein or any of them, as proxies for the undersigned, each with full power of substitution to attend the Annual Meeting of Stockholders of the Company to be held on Tuesday, May 13, 2003 at 11:00 a.m., local time, at the Executive Offices of Wynn Resorts, Limited, 3145 Las Vegas Boulevard South, Las Vegas, Nevada, 89109, 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 Annual Meeting and otherwise to represent the undersigned at the Annual Meeting, with the same effect as if the undersigned was present. The undersigned instructs such proxies or their substitutes to act on the following matters as specified by the undersigned, and to vote in such manner as they may determine on any other matters that may properly come before the meeting. The undersigned hereby acknowledges receipt of the Notice of Annual Meeting of Stockholders and the accompanying Proxy Statement and revokes any proxy previously given with respect to such shares.

PLEASE VOTE, DATE AND SIGN AND RETURN PROMPTLY IN THE ENCLOSED ENVELOPE.

See reverse for voting instructions.

VOTE BY MAIL
Mark, sign and date your proxy card and return it in the postage-paid envelope we've provided or return it to Wynn Resorts, Limited, c/o Shareowner Services[SM], P.O. Box 64873, St. Paul, MN 55164-0873.

ò Please detach here ò

The Board of Directors Recommends a Vote FOR Items 1 and 2.

1. To elect the following three directors to serve as such until the 2006 Annual Meeting of Stockholders and until their successors are elected and qualified, or until such director's earlier death, resignation or removal:

   01 Elaine P. Wynn
   02 Ronald J. Kramer
   03 John A. Moran

   ¨ Vote FOR all nominees (except as marked)

   ¨ Vote WITHHELD from all nominees

   (Instructions: To withhold authority to vote for any indicated nominee, write the number(s) of the nominee(s) in the box provided to the right.)

   _____
   _____
   _____
   _____

2. To ratify the appointment of Deloitte & Touche LLP as the Company's independent auditors for the fiscal year ending December 31, 2003.

   ¨ For ¨ Against ¨ Abstain

3. To transact such other business as may properly come before the Annual Meeting or any adjournment or postponement thereof.

THIS PROXY WHEN PROPERLY EXECUTED WILL BE VOTED AS DIRECTED OR, IF NO DIRECTION IS GIVEN, WILL BE VOTED FOR EACH PROPOSAL.

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 FOREGOING PROPOSALS AND OTHERWISE IN THE DISCRETION OF THE PROXIES AT THE ANNUAL MEETING OR ANY ADJOURNMENT OR POSTPONEMENT THEREOF.

Address Change? Mark Box ¨
Indicate changes below:

Check here if you plan to attend ¨ the Annual Meeting

Date _____
_____
_____
_____
_____
_____

Signature(s) in Box
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 "E"

SC 13D/A 1 a10-1253_1sc13da.htm SC 13D/A

SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

SCHEDULE 13D/A

Under the Securities Exchange Act of 1934
(Amendment No. 4)

WYNN RESORTS, LIMITED
(Name of Issuer)

Common Stock, $0.01 par value per share
(Title of Class of Securities)

983134 10 7
(CUSIP Number)

Michael J. Bonner
Greenberg Traurig, LLP
3773 Howard Hughes Parkway, Suite 400 North
Las Vegas, Nevada 89169
(702) 792-3773
(Name, Address and Telephone Number of Person
Authorized to Receive Notices and Communications)

January 6, 2010
(Date of Event Which Requires Filing of this Statement)

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

Note: Schedules filed in paper format shall include a signed original and five copies of the schedule, including all exhibits. See § 240.13d-7 for other parties to whom copies are to be sent.

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

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

CUSIP No. 983134 10 7

1. Names of Reporting Persons.
Aruze USA, Inc. (1)

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) ☒

(b) ☐

3. SEC Use Only

4. Source of Funds (See Instructions)
N/A

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) ☐

6. Citizenship or Place of Organization
Nevada, United States of America

Number of Shares Beneficially Owned by Each Reporting Person With	7.	Sole Voting Power 0
	8.	Shared Voting Power 46,702,639 (1), (2)
	9.	Sole Dispositive Power 0
	10.	Shared Dispositive Power 46,702,639 (1), (2)

11. Aggregate Amount Beneficially Owned by Each Reporting Person
46,702,639 (1), (2)

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) ☐

13. Percent of Class Represented by Amount in Row 11
37.9% (3)

14. Type of Reporting Person (See Instructions)
CO

(1) Aruze USA, Inc. ("Aruze USA") is a wholly owned subsidiary of Universal Entertainment Corporation (f/k/a Aruze Corp.), of which Kazuo Okada ("Mr. Okada") owns a controlling interest and is its Chairman. The subject securities were acquired and are owned by Aruze USA but may be considered beneficially owned by Universal Entertainment Corporation and Mr. Okada. Accordingly, Aruze USA, Universal Entertainment Corporation and Mr. Okada may be deemed to have shared voting and dispositive power over the shares which are owned by Aruze USA.

(2) Includes 11,076,708 shares (the "SAW Shares") held by Stephen A. Wynn ("Mr. Wynn") and 11,076,709 shares (the "EW Shares") held by Elaine P. Wynn ("Ms. Wynn") that may be deemed to be beneficially owned by the Reporting Person as a result of that certain amended and restated stockholders agreement, dated as of January 6, 2010, among Mr. Wynn, Ms. Wynn and Aruze USA (the "Amended and Restated Stockholders Agreement"). The Reporting Person disclaims beneficial ownership of the SAW Shares and the EW Shares.

(3) The aggregate percentage of the outstanding shares that the Reporting Person may be deemed to beneficially own is approximately 37.9%. Excluding the SAW Shares and the EW Shares that the Reporting Person may be deemed to beneficially own as a result of the Amended and Restated Stockholders Agreement, the Reporting Person beneficially owns approximately 19.9% of the outstanding shares. (See Item 6)

CUSIP No. 983134 10 7

1. Names of Reporting Persons.
Universal Entertainment Corporation (1)

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) ☒

(b) ☐

3. SEC Use Only

4. Source of Funds (See Instructions)
N/A

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) ☐

6. Citizenship or Place of Organization
Japan

Number of Shares Beneficially Owned by Each Reporting Person With	7.	Sole Voting Power 0
	8.	Shared Voting Power 46,702,639 (1), (2)
	9.	Sole Dispositive Power 0
	10.	Shared Dispositive Power 46,702,639 (1), (2)

11. Aggregate Amount Beneficially Owned by Each Reporting Person
46,702,639 (1), (2)

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) ☐

13. Percent of Class Represented by Amount in Row 11
37.9% (3)

14. Type of Reporting Person (See Instructions)
CO

(1) Aruze USA is a wholly owned subsidiary of Universal Entertainment Corporation, of which Mr. Okada owns a controlling interest and is its Chairman. The subject securities were acquired and are owned by Aruze USA but may be considered beneficially owned by Universal Entertainment Corporation and Mr. Okada. Accordingly, Aruze USA, Universal Entertainment Corporation and Mr. Okada may be deemed to have shared voting and dispositive power over the shares which are owned by Aruze USA.

(2) Includes the SAW Shares and the EW Shares that may be deemed to be beneficially owned by the Reporting Person as a result of the Amended and Restated Stockholders Agreement. The Reporting Person disclaims beneficial ownership of the SAW Shares and the EW Shares.

(3) The aggregate percentage of the outstanding shares that the Reporting Person may be deemed to beneficially own is approximately 37.9%. Excluding the SAW Shares and the EW Shares that the Reporting Person may be deemed to beneficially own as a result of the Amended and Restated Stockholders Agreement, the Reporting Person beneficially owns approximately 19.9% of the outstanding shares. (See Item 6)

CUSIP No. 983134 10 7

1. Names of Reporting Persons.
Kazuo Okada (1)

2. Check the Appropriate Box if a Member of a Group (See Instructions)

(a) ☒

(b) ☐

3. SEC Use Only

4. Source of Funds (See Instructions)
N/A

5. Check if Disclosure of Legal Proceedings Is Required Pursuant to Items 2(d) or 2(e) ☐

6. Citizenship or Place of Organization
Japan

Number of Shares Beneficially Owned by Each Reporting Person With	7.	Sole Voting Power 0
	8.	Shared Voting Power 46,702,639 (1), (2)
	9.	Sole Dispositive Power 0
	10.	Shared Dispositive Power 46,702,639 (1), (2)

11. Aggregate Amount Beneficially Owned by Each Reporting Person
46,702,639 (1), (2)

12. Check if the Aggregate Amount in Row (11) Excludes Certain Shares (See Instructions) ☐

13. Percent of Class Represented by Amount in Row 11
37.9% (3)

14. Type of Reporting Person (See Instructions)
IN

(1) Aruze USA is a wholly owned subsidiary of Universal Entertainment Corporation, of which Mr. Okada owns a controlling interest and is its Chairman. The subject securities were acquired and are owned by Aruze USA but may be considered beneficially owned by Universal Entertainment Corporation and Mr. Okada. Accordingly, Aruze USA, Universal Entertainment Corporation and Mr. Okada may be deemed to have shared voting and dispositive power over the shares which are owned by Aruze USA.

(2) Includes the SAW Shares and the EW Shares that may be deemed to be beneficially owned by the Reporting Person as a result of the Amended and Restated Stockholders Agreement. The Reporting Person disclaims beneficial ownership of the SAW Shares and the EW Shares.

(3) The aggregate percentage of the outstanding shares that the Reporting Person may be deemed to beneficially own is approximately 37.9%. Excluding the SAW Shares and the EW Shares that the Reporting Person may be deemed to beneficially own as a result of the Amended and Restated Stockholders Agreement, the Reporting Person beneficially owns approximately 19.9% of the outstanding shares. (See Item 6)

This Schedule 13D/A (this "Amendment No. 4") hereby amends and supplements the Schedule 13D filed by the Reporting Persons with the Securities and Exchange Commission (the "Commission") on November 13, 2002 (the "Original Schedule 13D"), as amended by the Schedule 13D/A filed by the Reporting Persons with the Commission on November 14, 2006 ("Amendment No. 1"), as amended by the Schedule 13D/A filed by the Reporting Persons with the Commission on August 3, 2009 ("Amendment No. 2") and as amended by the Schedule 13D/A filed by the Reporting Persons with the Commission on August 18, 2009 ("Amendment No. 3" and, together with Amendment No. 1, Amendment No. 2 and the Original Schedule 13D, the "Schedule 13D"). Capitalized terms used but not defined herein shall have the respective meanings set forth in the Schedule 13D.

Item 3. Source and Amount of Funds or Other Consideration

The response set forth in Item 3 of the Schedule 13D is hereby amended and supplemented by adding the following paragraphs at the end of such Item 3:

All references in the Schedule 13D to the Stockholders Agreement shall mean the Amended and Restated Stockholders Agreement.

As described in Item 6, Mr. Wynn, Ms. Wynn and Aruze USA have entered into an Amended and Restated Stockholders Agreement in connection with Ms. Wynn's ownership of 11,076,709 shares of Common Stock that were transferred by Mr. Wynn to Ms. Wynn pursuant to a divorce settlement between Mr. Wynn and Ms. Wynn. The Reporting Persons have not paid, and do not expect to pay, any additional consideration in connection with the execution, delivery or performance of the Amended and Restated Stockholders Agreement.

Item 5. Interest in Securities of the Issuer

The response set forth in Item 5 of the Schedule 13D is hereby amended and restated in its entirety as follows:

(a)-(c) On the date hereof, the Reporting Persons have the shared power to vote or to direct the vote and to dispose or to direct the disposition of 24,549,222 shares of Common Stock of the Issuer owned by Aruze USA. Such 24,549,222 shares include 18,972,299 shares of Common Stock of the Issuer which were acquired by Aruze USA from the Issuer as a result of the contribution of its membership interest in Valvino Lamore, LLC, a Nevada limited liability company ("Valvino"), to the Issuer on September 24, 2002. In the contribution, approximately 189.7 shares of Issuer Common Stock were issued to Aruze USA in exchange for each common share of Valvino membership interest contributed. Aruze USA acquired an additional 5,576,923 shares of Common Stock from the Issuer on October 30, 2002 pursuant to the Purchase Agreement for $13.00 per share, which was the price offered to the public in the Issuer's initial public offering.

As a result of entering into the Amended and Restated Stockholders Agreement with Mr. Wynn and Ms. Wynn (see Item 6), Aruze USA possesses shared power to vote or direct the vote of, and thus may be deemed to beneficially own, an additional 22,153,417 shares of Common Stock of the Issuer of which 11,076,708 shares of Common Stock are held by Mr. Wynn and 11,076,709 shares of Common Stock are held by Ms. Wynn.

Mr. Wynn is a United States citizen with his business address at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109. To the knowledge of the Reporting Persons, Mr. Wynn directly owns 11,076,708 shares of Common Stock, or 9.0% of the outstanding Common Stock of the Issuer.

Ms. Wynn is a United States citizen with her business address at 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109. To the knowledge of the Reporting Persons, Ms. Wynn directly owns 11,076,709 shares of Common Stock, or 9.0% of the outstanding Common Stock of the Issuer.

As described in Item 6, the Amended and Restated Stockholders Agreement amended the voting agreement provision to provide that each of Mr. Wynn, Ms. Wynn and Aruze USA agree to vote all shares of the Issuer held by them and subject to the terms of the Amended and Restated Stockholders Agreement in a manner so as to elect to the Issuer's Board of Directors each of the nominees contained on each and every slate of directors endorsed by Mr. Wynn, which slate shall include, subject to certain conditions, Ms. Wynn and, so long as such slate results in a majority of directors at all times being candidates endorsed by Mr. Wynn, nominees approved by Aruze USA. Pursuant to the Amended and Restated Stockholders Agreement and as described in Item 6 below, $10 million of the EW Shares are released from certain covenants and provisions set forth in the Amended and Restated Stockholders Agreement on January 6, 2010 and on each of the following nine anniversaries thereof. Aruze USA, Universal Entertainment Corporation and Mr. Okada, together, and Mr. Wynn and Ms. Wynn are a "group" under Rule 13d-5 under the Securities Exchange Act of 1934, as amended, because of the voting arrangement with respect to the election of directors under the Amended and Restated Stockholders Agreement. Other than the Amended and Restated Stockholders Agreement described in Item 6, the Reporting Persons, Mr. Wynn and Ms. Wynn do not have any other arrangement or understanding with respect to the acquisition, holding, voting or disposition of equity securities of the Issuer.

The aggregate percentage of the outstanding Common Stock of the Issuer which the Reporting Persons may be deemed to beneficially own, including the shares of Common Stock which the Reporting Persons may be deemed to beneficially own as a result of the Amended and Restated Stockholders Agreement, is 37.9%. Excluding the additional shares of Common Stock that the Reporting Persons may be deemed to beneficially own as a result of the Amended and Restated Stockholders Agreement, the Reporting Persons directly own 19.9% of the outstanding Common Stock of the Issuer. The Reporting Persons disclaim beneficial ownership of the SAW Shares and the EW Shares.

Unless otherwise indicated, all percentages in this Amendment No. 4 assume there to be 123,284,206 shares of Common Stock outstanding, as of January 4, 2010.

(d) Not applicable.

(e) Not applicable.

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

The response to Item 6 of the Schedule 13D is hereby amended and supplemented by adding the following paragraphs at the end of such Item 6:

Amended and Restated Stockholders Agreement

On January 6, 2010, Mr. Wynn, Ms. Wynn and Aruze USA, entered into an Amended and Restated Stockholders Agreement whereby that certain Stockholders Agreement, entered into as of April 11, 2002, between Mr. Wynn and Aruze, as amended by that certain Amendment to Stockholders Agreement, entered into as of November 8, 2006, between Mr. Wynn and Aruze USA, the Waiver and Consent, dated July 31, 2009, and the Waiver and Consent, dated as of August 13, 2009, was amended and restated in its entirety. Pursuant to the Amended and Restated Stockholders Agreement, Ms. Wynn (a) became a party to the Amended and Restated Stockholders Agreement in connection with her ownership of the EW Shares that were transferred to Ms. Wynn by Mr. Wynn and (b) became subject to the covenants and provisions thereof, including with respect to voting agreements, preemptive rights,

rights of first refusal, tag-along rights and certain other restrictions on transfer of such shares subject to release of $10 million of such shares on January 6, 2010 and on each of the following nine anniversaries thereof. In addition, the Amended and Restated Stockholders Agreement amended the voting agreement provision to provide that each of Mr. Wynn, Ms. Wynn and Aruze USA agree to vote all shares of the Issuer held by them and subject to the terms of the Amended and Restated Stockholders Agreement in a manner so as to elect to the Issuer's Board of Directors each of the nominees contained on each and every slate of directors endorsed by Mr. Wynn, which slate shall include, subject to certain conditions, Ms. Wynn and, so long as such slate results in a majority of directors at all times being candidates endorsed by Mr. Wynn, nominees approved by Aruze USA.

The foregoing description of the Amended and Restated Stockholders Agreement does not purport to be complete and is qualified in its entirety by reference to the Amended and Restated Stockholders Agreement which is filed herewith as Exhibit 7 and is incorporated herein by this reference.

Item 7. Material to be Filed as Exhibits.

The response to Item 7 of the Schedule 13D is hereby amended and supplemented by adding the following items at the end of such Item 7:

Exhibit 7	Amended and Restated Stockholders Agreement, dated January 6, 2010, by and among Stephen A. Wynn, Elaine P. Wynn and Aruze USA, Inc.
Exhibit 8	Joint Filing Agreement, dated November 11, 2006, between Aruze Corp., Aruze USA, Inc. and Kazuo Okada (previously filed as Exhibit 4 to the Schedule 13D/A of Aruze Corp., Aruze USA, Inc. and Kazuo Okada filed on November 14, 2006 and incorporated herein by reference).

SIGNATURE

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

Dated: January 6, 2010

ARUZE USA, INC.

/s/ Kazuo Okada
By: Kazuo Okada
Its: President

UNIVERSAL ENTERTAINMENT CORPORATION

/s/ Kazuo Okada
By: Kazuo Okada
Its: Chairman and Director

KAZUO OKADA

/s/ Kazuo Okada
Kazuo Okada, Individually

EXHIBIT INDEX

Exhibit	Description
7	Amended and Restated Stockholders Agreement, dated January 6, 2010, by and among Stephen A. Wynn, Elaine P. Wynn and Aruze USA, Inc.
8	Joint Filing Agreement, dated November 11, 2006, between Aruze Corp., Aruze USA, Inc. and Kazuo Okada (previously filed as Exhibit 4 to the Schedule 13D/A of Aruze Corp., Aruze USA, Inc. and Kazuo Okada filed on November 14, 2006 and incorporated herein by reference)

EXHIBIT "F"

EX-10.10 13 a2081691zex-10_10.htm EXHIBIT 10.10
QuickLinks -- Click here to rapidly navigate through this document

Exhibit 10.10

STOCKHOLDERS AGREEMENT

This STOCKHOLDERS AGREEMENT (the **"Agreement"**), dated as of this 11th day of April, 2002, is entered into by and among Stephen A. Wynn (**"Wynn"**), an individual, Baron Asset Fund (**"Baron"**), a Massachusetts business trust and Aruze USA, Inc., a Nevada corporation (**"Aruze"**).

W I T N E S S E T H:

WHEREAS, the Stockholders (as defined in Section 1) are members of Valvino Lamore, LLC, a Nevada limited liability company (the **"LLC"**);

WHEREAS, the Stockholders have agreed to alter the organizational form of the LLC or form a successor entity to the LLC, and have agreed to do so by forming, either through the contribution of their interests in the LLC or through a different technique, a corporation (**"NewCo"**); and

WHEREAS, as a condition to their willingness to form NewCo, either through the contribution of their interests in the LLC or through a different technique, the Stockholders are willing to agree to the matters set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the agreements set forth below, the parties hereto agree as follows:

1. *Definitions.* For purposes of this Agreement:

(a) "Affiliate" of any Person means another Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

(b) "Aruze Parent" means Aruze Corp., a Japanese public corporation, of which Kazuo Okada is President and, together with his family members, an eighty percent shareholder.

(c) "Aruze/Wynn Group" means Aruze, Wynn, and any Stockholder who is a direct or indirect transferee of either Aruze or Wynn.

(d) "BAMCO" means BAMCO, Inc., a New York corporation. Without limiting the generality of the definition of Specified Affiliate, BAMCO shall be treated as a Specified Affiliate of Baron.

(e) "Bankruptcy" means, and a Stockholder shall be referred to as a "Bankrupt Stockholder" upon, (a) the entry of a decree or order for relief against such Stockholder, by a court of competent jurisdiction in any voluntary or involuntary case brought against the Stockholder under any bankruptcy, insolvency or similar law (collectively, **"Debtor Relief Laws"**) generally affecting the rights of creditors and relief of debtors now or hereafter in effect; (b) the appointment of a receiver, liquidator, assignee, custodian, trustee, sequestrator or other similar agent under applicable Debtor Relief Laws for such Stockholder or for any substantial part of such Stockholder's assets or property; (c) the ordering of the winding up or liquidation of such Stockholder's affairs; (d) the filing of a voluntary petition in bankruptcy by such Stockholder or the filing of an involuntary petition against such Stockholder, which petition is not dismissed within a period of 180 days; (e) the consent by such Stockholder to the entry of an order for relief in a voluntary or involuntary case under any Debtor Relief Laws or to the appointment of, or the taking of any possession by, a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent under any applicable Debtor Relief Laws for such Stockholder or for any substantial part of such Stockholder's assets or property; or (f) the making by such Stockholder of any general assignment for the benefit of such Stockholder's creditors.

(f) "Beneficially Own" or "Beneficial Ownership" with respect to any securities shall mean having "beneficial ownership" of such securities (as determined pursuant to Rule 13d-3 under the Securities Exchange Act of 1934, as amended (the **"Exchange Act"**)) including pursuant to any agreement, arrangement or understanding, whether or not in writing. Without duplicative counting of the same securities by the same holder, securities Beneficially Owned by a Person shall include securities Beneficially Owned by all other Persons who together with such Person would constitute a "group" within the meaning of Section 13(d)(3) of the Exchange Act.

(g) "Designated Stockholders" means Wynn and Aruze and Permitted Transferees of any such Person and their Permitted Transferees.

(h) "Fair Market Value" means, with respect to each Share of any class or series for any day, (i) the last reported sale price on such day or, in case no such sale takes place on such day, the average of the closing bid and asked prices on such day, on the principal national securities exchange on which such Shares are listed or admitted for trading, in either case as reported by Bloomberg Financial Markets (**"Bloomberg"**) or The Wall Street Journal if Bloomberg is no longer reporting such information, or a similar service if Bloomberg and The Wall Street Journal are no longer reporting such information or (ii) if such Shares are not listed or admitted for trading on any national securities exchange, the last reported sale price or, in case no such sale takes place on such day, the average of the highest reported bid and the lowest reported asked quotation for such class or series of Shares, in either case as reported by Bloomberg or The Wall Street Journal if Bloomberg is no longer reporting such information, or a similar service if Bloomberg and The Wall Street Journal are no longer reporting such information.

(i) "Gaming Authority" means those national, state, local, and other governmental, regulatory and administrative authorities, agencies, boards and officials responsible for or involved in the regulation of gaming or gaming activities in any jurisdiction and, within the State of Nevada, specifically, the Nevada Gaming Commission, the Nevada State Gaming Control Board, and the Clark County Liquor and Gaming Licensing Board.

(j) "Gaming Laws" means those laws pursuant to which any Gaming Authority possesses regulatory, licensing or permit authority over gaming within any jurisdiction and, within the State of Nevada, specifically, the Nevada Gaming Control Act, as codified in NRS Chapter 463, as amended from time to time, and the regulations of the Nevada Gaming Commission promulgated thereunder, as amended from time to time, and the Clark County Code, as amended from time to time.

(k) "Gaming Licenses" means all licenses, permits, approvals, authorizations, registrations, findings of suitability, franchises and entitlements issued by any Gaming Authority necessary for or relating to the conduct of activities under the Gaming Laws.

(l) "Gaming Problem" means any circumstances that are deemed likely, in the sole and absolute discretion of Wynn, based on verifiable information or information received from any Gaming Authority or otherwise, to preclude or materially delay, impede or impair the ability of NewCo, any subsidiary of NewCo, Wynn, or any business entity with respect to which Wynn holds a Gaming License, to obtain or retain any Gaming Licenses, or to result in any disciplinary action, including without limitation the imposition of materially burdensome terms and conditions on any such Gaming License.

(m) "Independent Qualified Appraiser" means an independent outside qualified appraiser appointed by Wynn to determine the fair market value of certain Shares or NewCo

itself, in all cases considering NewCo as a going concern. Any determination by an Independent Qualified

Appraiser as to fair market value shall be binding upon all parties.

(n) "Non-Compete Termination Date" means the date upon which both Baron and Wynn have sold substantially all of their respective Shares.

(o) "NRS" means the Nevada Revised Statutes, as amended from time to time.

(p) "Operating Agreement" means that certain Amended and Restated Operating Agreement of the LLC, as it may be amended and/or restated from time to time.

(q) "Percentage Interest" means, with respect to a specified Stockholder, the percentage computed by dividing the number of Shares held by such Stockholder by the Total Shares.

(r) "Permitted Transferee" means:

(i) in the case of a Transfer being made by a Stockholder who is part of the Aruze/Wynn Group, (a) Kazuo Okada; (b) an immediate family member of Kazuo Okada or Wynn; (c) a revocable, inter vivos trust of which Kazuo Okada or Wynn or a family member of Kazuo Okada or Wynn is trustee or Kazuo Okada or Wynn or a family member of Kazuo Okada or Wynn is a beneficiary; (d) another Stockholder or an entity wholly owned by such Stockholder; or (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 all of Aruze's Shares; or

(ii) in the case of a Transfer being made by a Stockholder who is not part of the Aruze/Wynn Group, (a) the Stockholders who are part of the Aruze/Wynn Group, provided that such Transfer is made to all Stockholders of the Aruze/Wynn Group on a pro rata basis in accordance with the respective Percentage Interest held by each Stockholder of the Aruze/Wynn Group, or (b) if the Transfer is being made by Baron, then in addition to the Permitted Transferees described in clause (a), any publicly traded, registered mutual fund managed by BAMCO.

(s) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization or other entity.

(t) "Prohibited Transferee" means (a) any owner, operator, or manager of, or Person primarily engaged in the business of owning or operating, a hotel, casino, or an internet or interactive gaming site, (b) any "non-profit" or "not-for-profit" corporation, association, trust, fund, foundation or other similar entity organized and operated exclusively for charitable purposes that qualifies as a tax-exempt entity under federal and state tax law or corresponding foreign law, (c) any federal, state, local or foreign governmental agency, instrumentality or similar entity, (d) any Person that has been convicted of a felony, (e) any Person regularly engaged in or affiliated with the production or distribution of alcoholic beverages, or (f) any Unsuitable Person.

(u) "Second Amendment" means that certain Second Amendment to Amended and Restated Operating Agreement of the LLC, dated February 18, 2002, by and between Wynn and Aruze.

(v) "Shares" means the shares of capital stock of NewCo.

(w) "Specified Affiliate" means with respect to a specified Person, any other Person who or which is (a) directly or indirectly controlling, controlled by or under common control with the specified Person, or (b) any member, stockholder, director, officer, manager, or comparable principal of, or relative or spouse of, the specified Person. For purposes of this

definition, "control", "controlling", "controlled" mean the right to exercise, directly or indirectly, more than fifty percent of the voting power of the stockholders, members or owners and, with respect to any individual, partnership, trust or other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled entity.

(x) "Stockholders" means Wynn, Baron, Aruze, any Permitted Transferee of any Shares and any additional Persons made a party to this Agreement.

(y) "Stockholder's Shares" means all Shares held of record or Beneficially Owned by such Stockholder, whenever acquired.

(z) "Termination Date" means the earlier of the date of Wynn's death or the date upon which Wynn sells substantially all of his Shares.

(aa) "Total Shares" means the total number of Shares held by the Stockholders, whenever acquired.

(bb) "Transfer" means any transfer, sale, conveyance, distribution, hypothecation, pledge, encumbrance, assignment, exchange or other disposition, either voluntary or involuntary, or by reason of death, or change in ownership by reason of merger or other transformation in the identity or form of business organization of the owner, regardless of whether such change or transformation is characterized by state law as not changing the identity of the owner.

(cc) "Unsuitable Person" means any Person (i) who is denied a Gaming License by any Gaming Authority, (ii) who is disqualified from eligibility for a Gaming License, (iii) who is determined to be unsuitable to own or control Shares or to be connected or affiliated with a Person engaged in gaming activities in any jurisdiction by a Gaming Authority, (iv) who has withdrawn an application to be found suitable by any Gaming Authority, or (v) whose continued involvement in the business of NewCo as a stockholder, manager, officer, employee or otherwise has caused or may cause a Gaming Problem.

(dd) "Voting Stock" means capital stock of NewCo of any class or classes, the holders of which are entitled to vote on any matter required or permitted to be voted upon (either in writing or by resolution) by the stockholders of NewCo.

(ee) "Worldwide Wynn" means Worldwide Wynn, LLC, a Nevada limited liability company, which will be a wholly owned direct or indirect subsidiary of NewCo.

2. *Covenants of the Designated Stockholders.* Each Designated Stockholder hereby covenants to each other Designated Stockholder as follows:

(a) *Voting Agreement.* On all matters relating to the election of directors of NewCo, the Designated Stockholders agree to vote all Shares held by them (or the holders thereof shall consent pursuant to an action by written consent of the holders of capital stock of NewCo), respectively, so as to elect to NewCo's Board of Directors the nominees designated as follows:

(i) The number of nominees that equals the number of directors that NewCo determines shall constitute its Board of Directors, which number shall include that number of independent directors that NewCo determines is required by applicable law and regulations, the Securities and Exchange Commission, the securities exchanges on which Shares are listed or admitted for trading and appropriate practices for public corporations;

(ii) The nominees designated by Wynn (the number of such nominees shall be a majority of all nominees to NewCo's Board of Directors and shall include up to two independent directors); and

(iii) The nominees designated by Aruze (the number of such nominees shall be that number of remaining seats available on NewCo's Board of Directors after Wynn designates his nominees pursuant to Section 2(a)(ii) and shall include that number of remaining independent directors that are required to be elected after Wynn designates his nominees pursuant to Section 2(a)(ii)).

For example, under this Section 2(a), if NewCo determines that it shall have a Board of Directors comprised of nine members, three of which are independent, (i) Wynn shall designate five nominees, two of which are independent and (ii) Aruze shall designate four nominees, one of which is independent.

(b) *Bylaws.* The Designated Stockholders agree to cause the Bylaws of NewCo to provide that any actions involving (i) any voluntary dissolution or liquidation of NewCo, (ii) the sale of all or substantially all of the assets of NewCo, (ii) the merger or consolidation of NewCo and (iii) the commencement of a voluntary petition of bankruptcy by NewCo may be taken by NewCo only upon the approval of a super-majority of the directors of NewCo.

(c) *Power of Attorney.* Aruze hereby constitutes and appoints Wynn as its true and lawful attorney-in-fact and agent, with full power of substitution and resubstitution for it and in its name, place and stead, in any and all capacities, to execute and deliver any and all documents in connection with or related to the formation of NewCo, including, but not limited to, any documents necessary to transfer the LLC interests to NewCo, and to take any and all other actions as Wynn, as said attorney-in-fact and agent, may deem necessary or appropriate in connection therewith, granting unto Wynn, as said attorney-in-fact and agent, full power and authority to do and perform each and every act and thing requisite and necessary fully to all intents and purposes as Aruze might or could do in person, thereby ratifying and confirming all that Wynn, acting as said attorney-in-fact and agent, or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof. The powers granted herein shall commence on the date hereof and shall terminate on the Termination Date.

(d) *Restriction on Proxies and Non-Interference.* From and after the date of this Agreement and ending as of the Termination Date, the Designated Stockholder shall not, and shall cause each of its Affiliates who Beneficially Own any of the Designated Stockholder's Shares not to, directly or indirectly without the consent of the other Designated Stockholder: (A) grant any proxies or powers of attorney, deposit such Designated Stockholder's Shares into a voting trust or enter into a voting agreement with respect to any of such Designated Stockholder's Shares, (B) enter into any agreement or arrangement providing for any of the actions described in clause (A) above, or (C) take any action that could reasonably be expected to have the effect of preventing or disabling such Designated Stockholder from performing such Designated Stockholder's obligations under this Agreement.

3. *Representations and Warranties and Covenants of the Stockholders.* Each Stockholder hereby represents and warrants and covenants to each other Stockholder as follows:

(a) *Ownership.* The Stockholder shall be the record and Beneficial Owner of all of the Shares issued or distributed to such Stockholder either in exchange for the contribution of the Stockholder's interests in the LLC or through a different technique. The Stockholder shall have the sole power of disposition, sole power of conversion, sole power to demand appraisal rights and sole power to agree to all of the matters set forth in this Agreement, in each case with respect to all of the Shares issued or distributed to such Stockholder either in exchange for the contribution of the Stockholder's interests in the LLC or through a different technique to form NewCo, with no material limitations, qualifications or restrictions on such rights, subject to applicable securities laws and the terms of this Agreement.

(b) *No Encumbrances.* Except as required by Sections 2(a) and 2(b), and except for those certain options granted by Wynn to Marc D. Schorr and Kenneth R. Wynn, all of the Stockholder's Shares will be held by such Stockholder, or by a nominee or custodian for the benefit of such Stockholder, free and clear of all liens, claims, security interests, proxies, voting trusts or agreements, understandings or arrangements or any other encumbrances whatsoever, except for any liens, claims, understandings or arrangements that do not limit

or impair the Stockholder's ability to perform its obligations under this Agreement.

(c) *Execution, Delivery and Performance by the Stockholder.* The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by the Board of Directors of the Stockholder, as applicable, and the Stockholder has taken all other actions required by law, its Articles of Incorporation and its Bylaws or other organizational documents, as applicable, to consummate the transactions contemplated by this Agreement. This Agreement constitutes the valid and binding obligations of the Stockholder and is enforceable in accordance with its terms, except as enforceability may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or affecting creditors' rights generally.

(d) *No Conflicts.* No filing with, and no permit, authorization, consent or approval of, any state or federal public body or authority is necessary for the execution of this Agreement by the Stockholder and the consummation by the Stockholder of the transactions contemplated hereby, except where the failure to obtain such consent, permit, authorization, approval or filing would not interfere with the Stockholder's ability to perform its obligations hereunder, and none of the execution and delivery of this Agreement by the Stockholder, the consummation by the Stockholder of the transactions contemplated hereby or compliance by the Stockholder with any of the provisions hereof shall violate any order, writ, injunction, decree, judgment, statute, rule or regulation applicable to the Stockholder or any of its properties or assets, in each such case except to the extent that any conflict, breach, default or violation would not interfere with the ability of the Stockholder to perform the obligations hereunder.

(e) *Preemptive Rights.* If a Stockholder purchases Shares from NewCo (the **"Purchasing Stockholder"**) in a private placement (the **"Purchase"**) and another Stockholder who is not a Permitted Transferee of the Purchasing Stockholder is not extended the same offer by NewCo on the same terms and conditions, the Purchasing Stockholder shall allow such other Stockholder to purchase the number of Shares in the Purchasing Stockholder's allotment of Shares from NewCo that is necessary to maintain their Shares in the same proportion to each other as that which existed prior to the Purchase.

4. *Transferee Bound by Agreement.* Notwithstanding anything to the contrary in this Agreement, Shares may not be transferred or sold by any Stockholder unless the transferee (including a Permitted Transferee) both executes and agrees to be bound by this Agreement, including, without limitation, in a sale or transfer made pursuant to Rule 144 under the Securities Act (**"Rule 144"**); provided, however, that this Section 4 shall not apply to any sale or transfer made by a Stockholder pursuant to Rule 144 if that sale or transfer and all other sales and transfers made by such Stockholder pursuant to Rule 144 during the term of this Agreement do not exceed, in the aggregate, ten percent of the Shares held by such Stockholder.

5. *Stop Transfer.* From and after the date of this Agreement and ending as of the Termination Date, each Stockholder acknowledges that Wynn may instruct NewCo to not register the transfer (book-entry or otherwise) of any certificate or uncertificated interest representing any of such Stockholder's Shares that are transferred in violation of this Agreement.

6. *Aruze Non-Compete.* Aruze covenants to Wynn and Baron that until the Non-Compete Termination Date and so long as Aruze is a stockholder of NewCo (or of a successor entity to NewCo), Aruze, Aruze Parent, and Kazuo Okada agree that (other than through NewCo, Worldwide Wynn and their Specified Affiliates) Aruze, Aruze Parent, and Kazuo Okada shall not without Wynn's consent, directly or indirectly, engage in the development of or own, operate, lease, manage, control or invest in, act as consultant or advisor to or otherwise assist any Person that engages in (a) casino operations in Clark County, Nevada or, if NewCo is conducting gaming activities in Macau, Macau, or (b) Internet gaming anywhere in the world; provided, however, that either Aruze Parent or Kazuo Okada may operate a business offering Internet gaming if the forms of gaming offered by such business are restricted to games derived from pachinko or pachi-slot machines or other games not authorized for manufacture or distribution in the State of Nevada or, if NewCo is conducting gaming activities in Macau, Macau.

7. *Stockholders' Option to Purchase Bankrupt Stockholder's Shares.*

(a) Upon the institution of a Bankruptcy by or against a Stockholder (a "**Bankrupt Stockholder**"), the Stockholders, not including the Bankrupt Stockholder, shall have the option to purchase the Bankrupt Stockholder's Shares in NewCo for a price agreed upon by the Stockholders, not including the Bankrupt Stockholder, on the one hand, and the Bankrupt Stockholder, on the other hand, or if no price can be agreed upon, the Fair Market Value of such Shares at the time of such Bankruptcy. If information is not available to determine the Fair Market Value of such Shares at the time of such Bankruptcy, the price shall be the fair market value as determined by an Independent Qualified Appraiser. The Stockholders wishing to purchase all or a part of the Shares of the Bankrupt Stockholder (the "**Purchasing Stockholders**") shall pay the agreed price, the Fair Market Value or the fair market value as determined by an Independent Qualified Appraiser, as applicable, of such Shares to the Bankrupt Stockholder, in cash or its equivalent, within one hundred and twenty (120) days after the date the Bankruptcy petition is filed by or against the Bankrupt Stockholder. Each Purchasing Stockholder must notify the other Stockholders of such Purchasing Stockholder's desire to purchase all or a portion of the Bankrupt Stockholder's Shares in writing within twenty (20) days after the date the Bankruptcy petition is filed by or against the Bankrupt Stockholder. Unless they agree otherwise, if there is more than one Purchasing Stockholder, each Purchasing Stockholder may purchase the proportion of the Bankrupt Stockholder's Shares that such Purchasing Stockholder's Percentage Interest bears to the aggregate Percentage Interests of all Purchasing Stockholders. If no remaining Stockholder wishes to purchase the Bankrupt Stockholder's Shares, or the Purchasing Stockholders do not purchase the Bankrupt Stockholder's Shares within the time periods set forth above, then all rights to purchase the Bankrupt Stockholder's Shares pursuant to this Section shall terminate.

(b) Any Stockholder may, in its sole and absolute discretion, assign its rights under this Section 7 to purchase the Bankrupt Stockholder's Shares to NewCo.

8. *Restrictions on Transfer of Ownership Interests in Stockholders.*

(a) Except for a Transfer to a Permitted Transferee, any Transfer or issuance of an ownership interest in any Stockholder (other than Baron) or in any entity that directly or indirectly owns a majority ownership interest in a Stockholder (other than Baron) (an "**Upstream Ownership Interest**") shall be prohibited unless in compliance with the procedures and requirements set forth in this Section 8.

(b) The Shares that would be indirectly transferred by the transfer of the Upstream Ownership Interest (an "**Upstream Transfer**") shall be referred to as the "**Indirect Transfer Shares**". If any holder of an Upstream Ownership Interest (an "**Upstream Transferor**") intends to Transfer all or any part of its Upstream Ownership Interest pursuant to a bona fide

offer received from any Person (the "**Upstream Offeror**"), prior to accepting such offer the Upstream Transferor shall provide written notice to each Stockholder, other than the Stockholder holding the Indirect Transfer Shares, which notice shall set forth the terms and conditions of the offer so received, including the purchase price and the identity of the Upstream Offeror. If the Upstream Transferor does not provide such notice, the Stockholder holding the Indirect Transfer Shares shall provide such notice to each other Stockholder promptly upon learning that such transaction will occur or has occurred. Within 15 days following receipt of such notice by the Stockholders other than the Stockholder holding the Indirect Transfer Shares, or if later, within 30 days of such other Stockholders learning that the Transfer of the Upstream Ownership Interest has occurred, such other Stockholders (i) if information is available to determine the Fair Market Value of such Indirect Transfer Shares, may elect to purchase the percentage of the Indirect Transfer Shares available for purchase equal to such Stockholder's Percentage Interest (determined for this purpose by excluding the Indirect Transfer Shares) at the Fair Market Value of such Shares, or (ii) if information is not available to determine the Fair Market Value of such Indirect Transfer Shares, may, by notice to the Stockholder holding the Indirect Transfer Shares, elect to obtain an appraisal by an Independent Qualified Appraiser of the fair market value of the Indirect Transfer Shares. Within 15 days following receipt by the Stockholders other than the Stockholder holding the Indirect Transfer Shares of the results of the appraisal, each such other Stockholder may elect to purchase the percentage of the Indirect Transfer Shares available for purchase equal to such holder's Percentage Interest (determined for this purpose by excluding the Indirect

Transfer Shares) at the appraisal price of such Shares. To the extent a Stockholder shall determine not to purchase all the Indirect Transfer Shares available to that Stockholder, the other Stockholders exercising the right to purchase the Indirect Transfer Shares may purchase additional Indirect Transfer Shares on a pro rata basis in proportion to their Percentage Interests (and the foregoing procedure shall be repeated in respect of any Indirect Transfer Shares not purchased until such other Stockholders have had an opportunity to purchase any remaining Indirect Transfer Shares). Notwithstanding anything to the contrary in this Section 8, any Transfer or issuance of shares in Aruze Parent shall not constitute an Upstream Transfer if immediately following such Transfer or issuance Kazuo 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.

(c) The closing of a purchase of Indirect Transfer Shares by a Stockholder under this Section 8 shall occur within 10 days following the expiration of the last period during which a Stockholder might elect to purchase any of the Indirect Transfer Shares, or at such later date when all approvals required by the Gaming Laws are obtained (such approvals to be obtained as soon as is reasonably practicable).

(d) Any Stockholder may, in its sole and absolute discretion, assign its rights under this Section 8 to purchase the Indirect Transfer Shares to NewCo with respect to any Upstream Transfer.

9. *Right of First Refusal.*

(a) Any Stockholder (a "**Transferor**") who wishes to Transfer any or all of its Shares (the "**Offered Shares**") to any Person other than a Permitted Transferee and who receives a bona fide offer from any Person (the "**Offeror**") who is not a Prohibited Transferee for the purchase of all or any portion of such Stockholder's Shares shall, prior to accepting such offer, provide written notice (the "**Notice of Offer**") thereof to each other Stockholder holding Shares, which notice shall set forth the terms and conditions of the offer so received, including the purchase price and the identity of the Offeror. Following the delivery to the other Stockholders of the Notice of Offer, each other Stockholder may elect to purchase that

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percentage of the Offered Shares which is equal to the Total Shares (excluding the Offered Shares) owned by each such Stockholder divided by the Total Shares (excluding the Offered Shares) owned by all such Stockholders ("**Applicable Percentage**") during a fifteen-day refusal period (the "**Refusal Period**") on the terms set forth in the Notice of Offer. To the extent any Stockholder shall determine not to purchase its Applicable Percentage prior to the expiration of the Refusal Period, the accepting Stockholders (the "**Accepting Purchasers**") may purchase such Shares on a pro rata basis in proportion to the number of Shares owned by each of them (and the foregoing procedure shall be repeated in respect of any Shares not purchased until all Accepting Purchasers have had an opportunity to purchase any remaining Shares).

(b) Subject to the requirements of Section 4, if all or any of the Offered Shares shall remain unsold after completion of the procedures set forth in Section 9(a), the Transferor may sell such remaining Offered Shares to the Offeror within six months of the completion of such procedures on terms no more favorable than those set forth in the Notice of Offer; *provided* that the Offeror is not a Prohibited Transferee. To the extent any of the Offered Shares are not sold in accordance with the foregoing, the Stockholders shall continue to have a right of first refusal under this Section 9 with respect to any Transfers to any Person which are subsequently proposed by such Transferor.

(c) The closing of a purchase by a Stockholder under this Section 9 shall occur within ten days after the end of the Refusal Period or at such later date when all approvals required by the Gaming Laws are obtained (such approvals to be obtained as soon as is reasonably practicable). At such closing the Transferor and the relevant Accepting Purchaser (and any or all other Stockholders as may be required) shall execute an assignment and assumption agreement and any other instruments and documents as may be reasonably required by such Stockholder to effectuate the transfer of such Shares free and clear of any liens, claims or encumbrances, other than as specifically permitted hereunder. Any Transfer to any Person that does not comply with the provisions of this Section 9, other than a Transfer expressly provided for in the other provisions of this Agreement, shall be null and void and of no effect whatsoever.

(d) Any Stockholder may, in its sole and absolute discretion, assign its right of first refusal under this Section 9 to purchase the Offered Shares to NewCo with respect to any incident in which its right of first refusal is triggered under this Section 9.

(e) Except for Shares transferred pursuant to Sections 7, 8, and 10, no Shares may be Transferred, including, but not limited to, those Shares Transferred pursuant to Section 4, until the provisions of this Section 9 have been complied with.

10. *Tag-Along Rights.*

(a) If Wynn is the Transferor required to provide the Notice of Offer under Section 9(a), then Aruze and Baron shall each have a right (in addition to its rights under Section 9) to participate in such Transfer pursuant to the provisions of this Section 10(a). During the fifteen-day Refusal Period described in Section 9(a), each of Aruze and Baron may, by written notice to Wynn, elect to participate in such Transfer and to sell that percentage of the Total Shares owned by Aruze or Baron, as the case may be, which is equal to the Total Shares that will be sold by Wynn in such Transfer divided by the Total Shares owned by Wynn. The terms and conditions of such Transfer (including the purchase price per Share sold in such Transfer, the identity of the buyer(s), and the consequences resulting from the other Stockholders' exercise of any rights of first refusal) shall be no less favorable to Aruze or Baron, as the case may be, than to Wynn; provided, however, that Wynn may enter into service, noncompetition, or similar agreements with the buyer and receive appropriate consideration thereunder in which other Stockholders do not share.

(b) If Aruze is the Transferor required to provide the Notice of Offer under Section 9(a), then Wynn and Baron shall each have a right (in addition to his or its rights under Section 9) to participate in such Transfer pursuant to the provisions of this Section 10(b). During the fifteen-day Refusal Period described in Section 9 (a), each of Wynn and Baron may, by written notice to Aruze, elect to participate in such Transfer and to sell that percentage of the Total Shares owned by Wynn or Baron, as the case may be, which is equal to the Total Shares that will be sold by Aruze in such Transfer divided by the Total Shares owned by Aruze. The terms and conditions of such Transfer (including the purchase price per Share sold in such Transfer, the identity of the buyer(s), and the consequences resulting from the other Stockholders' exercise of any rights of first refusal) shall be no less favorable to Wynn or Baron, as the case may be, than to Aruze; provided, however, that Aruze may enter into service, noncompetition, or similar agreements with the buyer and receive appropriate consideration thereunder in which other Stockholders do not share.

11. *Aruze Shares.* Aruze and Wynn agree that each of them shall have rights and obligations with respect to Aruze's Shares that are the same as those that are reflected in the Second Amendment with respect to Aruze's membership interests in the LLC; provided, however, that in any purchase by Wynn of Aruze's Shares, Wynn may elect to give Aruze a promissory note in the same manner as described in paragraph 4 of the Second Amendment. Aruze and Wynn also agree to cause NewCo to have rights and obligations with respect to Aruze's Shares that are the same as those that are reflected in the Second Amendment with respect to Aruze's membership interests in the LLC; provided, however, that in any purchase by NewCo of Aruze's Shares with a promissory note, such promissory note shall have terms and be in a form that (i) the making of the promissory note and the payments with respect to the promissory note would not violate the terms, covenants or restrictions of any indenture or other debt or financing agreement to which NewCo or any subsidiary of NewCo is a party, or (ii) otherwise create or constitute a default, or a condition that with the passage of time would create or constitute a default, under any indenture or other debt or financing agreement to which NewCo or any subsidiary of NewCo is a party.

12. *Joinders.* The Stockholders acknowledge that Wynn shall have the right in his sole and absolute discretion to allow one or more additional Persons who become stockholders of NewCo to become a party to this Agreement as a Stockholder, through the execution of one or multiple joinders to this Agreement and that all provisions of this Agreement shall apply to such Persons; provided, however, that such Persons shall not have any rights under Sections 2, 3(e), 6 and 10 of this Agreement.

13. *Recapitalization.* In the event of a stock dividend or distribution, or any change in the Shares (or any class thereof) by reason of any split-up, recapitalization, merger, combination, exchange of shares or the like, the term

"Shares" shall include, without limitation, all such stock dividends and distributions and any shares into which or for which any or all of the Shares (or any class thereof) may be changed or exchanged as may be appropriate to reflect such event.

14. *Stockholder Capacity.* No Stockholder or any of its Affiliates makes any agreement or understanding herein in any capacity it may have as a director or officer of NewCo and nothing herein shall limit or affect any action taken by any Stockholder in any such capacity.

15. *Miscellaneous.*

(a) *Entire Agreement.* This Agreement and the Operating Agreement constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

(b) *Legend.* Concurrently with the issuance of the Shares issued in exchange for a Stockholder's interests in the LLC or through a different technique, such Stockholder shall request that NewCo imprint or otherwise place, on certificates representing such Shares the following restrictive legend (the **"Legend"**) (in addition to any other legend required by applicable gaming laws):

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF A STOCKHOLDERS AGREEMENT DATED AS OF APRIL 11, 2002, WHICH PLACES CERTAIN RESTRICTIONS ON THE VOTING AND TRANSFER OF THE SHARES REPRESENTED HEREBY. ANY PERSON ACCEPTING ANY INTEREST IN SUCH SHARES SHALL BE DEEMED TO HAVE AGREED TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF SUCH STOCKHOLDERS AGREEMENT. A COPY OF SUCH STOCKHOLDERS AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS."

(i) Each Stockholder agrees that, from and after the date of this Agreement and ending as of the Termination Date, it shall not, and shall cause each of its Affiliates who Beneficially Own any of the Stockholder's Shares not to, allow NewCo to remove, and shall not permit to be removed (upon registration of transfer, reissuance or otherwise), the Legend from any such certificate and shall place or cause to be placed the Legend on any new certificate issued to represent Shares it or any of its Affiliates shall Beneficially Own.

(c) *Transfers in Violation Void.* Any transfer or sale of any Shares in violation of this Agreement shall be null and void *ab initio*, and the Stockholders acknowledge that Wynn may instruct NewCo to not register, recognize or give effect to any such transfer or sale, nor shall the intended transferee acquire any rights in such Shares for any purpose.

(d) *Amendments, Waivers, Etc.* This Agreement may not be amended, changed, supplemented, waived or otherwise modified or terminated, except upon the execution and delivery of a written agreement executed by the parties hereto; provided, however, that (i) Wynn and Aruze may by writing amend those provisions that address rights and obligations only between Wynn and Aruze and (ii) Wynn, Aruze and Baron may by writing amend those provisions that address rights and obligations only between Wynn, Aruze and Baron.

(e) *Notices.* All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly received if so given) by hand delivery, telegram, telex or telecopy, or by mail (registered or certified mail, postage prepaid, return receipt requested) or by any courier service, such as Federal Express, providing proof of delivery. All communications hereunder shall be delivered to the respective parties at the following addresses or the addresses set forth on the signature pages hereto:

If to Aruze:

Aruze USA, Inc.
745 Grier Drive
Las Vegas, Nevada 89119
Facsimile: 702.361.3407
Attention: Koiki Ohba

With a copy to:

Holland & Knight LLP
633 West Fifth Street, 21st Floor
Los Angeles, California 90071
Facsimile: 213.896.2450
Attention: Tasha D. Nguyen

If to Baron Asset Fund:

Baron Asset Fund
c/o Baron Funds
767 Fifth Avenue, 49th Floor
New York, New York 10153
Facsimile: 212.583.2014
Attention: Linda S. Martinson, Esq.

If to Wynn:

Stephen A. Wynn
c/o Wynn Resorts, LLC
3145 Las Vegas Boulevard South
Los Vegas, Nevada 89109
Facsimile: 702.791.0167

With a copies to:

Irell & Manella LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, California 90067
Facsimile: 310.203.7199
Attention: C. Kevin McGeehan, Esq.

Wynn Resorts, LLC
3145 Las Vegas Boulevard South
Los Vegas, Nevada 89109
Facsimile: 702.733.4596
Attention: Legal department.

or to such other address as the Person to whom notice is given may have previously furnished to the others in writing in the manner set forth above.

(f) *Severability.* Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

(g) *Specific Performance.* Each of the parties hereto recognizes and acknowledges that a breach by any party hereto of any covenants or agreements contained in this Agreement will cause the other parties hereto to sustain damages for which they would not have an adequate remedy at law for money damages, and therefore each of the parties hereto agrees that in the event of any such breach the parties shall be entitled to the remedy of specific performance of such covenants and agreements and injunctive and other equitable relief in addition to any other remedy to which he may be entitled, at law or in equity.

(h) *Further Assurances.* From time to time, the Stockholders shall execute and deliver such additional documents as may be necessary or desirable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement.

(i) *Remedies Cumulative.* All rights, powers and remedies provided under this Agreement or otherwise available in respect hereof at law or in equity shall be cumulative and not alternative, and the exercise of any thereof by any party shall not preclude the simultaneous or later exercise of any other such right, power or remedy by such party.

(j) *No Waiver.* The failure of any party hereto to exercise any right, power or remedy provided under this Agreement or otherwise available in respect hereof at law or in equity, or to insist upon compliance by any other party hereto with its obligations hereunder, and any custom or practice of the parties at variance with the terms hereof, shall not constitute a waiver by such party of its right to exercise any such or other right, power or remedy or to demand such compliance.

(k) *No Third Party Beneficiaries.* This Agreement is not intended to be for the benefit of, and shall not be enforceable by, any person or entity who or which is not a party hereto; provided that, except as otherwise provided in this Agreement, the obligations of the Stockholders hereunder shall inure to their transferees, successors and heirs.

(l) *No Assignment.* Except as otherwise explicitly provided herein, neither this Agreement nor any right, interest or obligation hereunder may be assigned (by operation of law or otherwise) by any Stockholder without the prior written consent of Wynn and Aruze and any attempt to do so will be void; provided, however, that the rights under this Agreement may be assigned to any transferee in connection with a Transfer that does not violate the terms of this Agreement.

(m) *Governing Law.* This Agreement shall be governed and construed in accordance with the laws of the state of incorporation of NewCo, without giving effect to the principles of conflicts of law thereof.

(n) *Jurisdiction.* Each party hereby irrevocably submits to the exclusive jurisdiction of the state courts in the state of incorporation of NewCo in any action, suit or proceeding arising in connection with this Agreement, and agrees that any such action, suit or proceeding shall be brought only in such court (and waives any objection based on forum non conveniens or any other objection to venue therein); provided, however, that such consent to jurisdiction is solely for the purpose referred to in this paragraph and shall not be deemed to be a general submission to the jurisdiction of the courts of the state of incorporation of NewCo other than for such purposes. Each party hereto hereby waives any right to a trial by jury in connection with any such action, suit or proceeding.

(o) *Descriptive Headings.* The descriptive headings used herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

(p) *Counterparts.* This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement. This Agreement shall not be effective as to any party hereto until such time as this Agreement or a counterpart thereof has been executed and delivered by each party hereto.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by Wynn and a duly authorized officer

of Aruze and Baron on the day and year first written above.

/s/ STEPHEN A. WYNN

Name: Stephen A. Wynn

ARUZE USA, INC.

By: /s/ KAZUO OKADA

Name: Kazuo Okada

Title: *President*

BARON ASSET FUND

By: /s/ RONALD BARON

Name: Ronald Baron

Title: *Chairman and CEO*

QuickLinks

Exhibit 10.10

STOCKHOLDERS AGREEMENT

EXHIBIT "G"

EX-7 2 a10-1253_1ex7.htm EX-7

Exhibit 7

AMENDED AND RESTATED
STOCKHOLDERS AGREEMENT

This Amended and Restated Stockholders Agreement (the "**Agreement**"), is made as of the 6th day of January, 2010, by and among Stephen A. Wynn ("**SAW**"), an individual, Elaine P. Wynn ("**EW**"), an individual, and Aruze USA, Inc., a Nevada corporation ("**Aruze**").

W I T N E S S E T H:

WHEREAS, SAW, Baron Asset Fund ("Baron") and Aruze entered into that certain Stockholders Agreement as of April 2002, which Stockholders Agreement was amended by that certain Amendment to Stockholders Agreement dated as of November 8, 2006, Waiver and Consent dated as of July 31, 2009, and Waiver and Consent dated as of August 13, 2009 (the "Existing Agreement");

WHEREAS, SAW has agreed to transfer to EW, 11,076,709 (the "EW Shares") shares of common stock of Wynn Resorts, Limited ("Wynn") as permitted by the Existing Agreement;

WHEREAS, pursuant to the terms of the Existing Agreement, EW is to become a party to the Existing Agreement in connection with her ownership of the EW Shares; and

WHEREAS, the parties have agreed to further amend the terms of the Existing Agreement and have agreed to amend and restate the terms and provisions of the Existing Agreement as provided herein.

NOW, THEREFORE, in consideration of the foregoing and the agreements set forth below, the parties hereto agree as follows:

1. Definitions. For purposes of this Agreement:

(a) "Affiliate" of any Person means another Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

(b) "Aruze Parent" means Universal Entertainment Corporation (formerly known as Aruze Corp.), a Japanese public corporation, of which Kazuo Okada is Chairman of the Board and, together with his family members, a 67.5% shareholder.

(c) "Bankruptcy" means, and a Stockholder shall be referred to as a "Bankrupt Stockholder" upon, (a) the entry of a decree or order for relief against such Stockholder, by a court of competent jurisdiction in any voluntary or involuntary case brought against the Stockholder under any bankruptcy, insolvency or similar law (collectively, "**Debtor Relief Laws**") generally affecting the right of creditors and relief of debtors now or hereafter in effect; (b) the appointment of a receiver, liquidator, assignee, custodian,

trustee, sequestrator or other similar agent under applicable Debtor Relief Laws for such Stockholder or for any substantial part of such Stockholder's assets or property; (c) the ordering of the winding up or liquidation of such Stockholder's affairs; (d) the filing of a voluntary petition in bankruptcy by such Stockholder or the filing of an involuntary petition against such Stockholder, which petition is not dismissed within a period of 180 days; (e) the consent by such Stockholder to the entry of an order for relief in a voluntary or involuntary case under any Debtor Relief Laws or to the appointment of, or the taking of any possession by, a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent under any applicable Debtor Relief Laws for such Stockholder or for any substantial part of such Stockholder's assets or property; or (f) the making by such Stockholder of any general assignment for the benefit of such Stockholder's creditors.

(d) "Beneficially Own" or "Beneficial Ownership" with respect to any securities shall mean having "beneficial ownership" of such securities (as determined pursuant to Rule 13d-3 under the Securities Exchange Act of 1934, as amended (the **"Exchange Act"**)) including pursuant to any agreement, arrangement or understanding, whether or not in writing. Without duplicative counting of the same securities by the same holder, securities Beneficially Owned by a Person shall include securities Beneficially Owned by all other Persons who together with such Person would constitute a "group" within the meaning of Section 13(d)(3) of the Exchange Act.

(e) "Designated Stockholders" means SAW, EW, Aruze, any additional Persons made a party to this Agreement and Permitted Transferees of any such Person and their Permitted Transferees.

(f) "Fair Market Value" means, with respect to each Share of any class or series for any day, (i) the closing price on the principal national securities exchange on which such Shares are listed or admitted for trading, in either case as reported by Bloomberg Financial Markets (**"Bloomberg"**) or The Wall Street Journal if Bloomberg is no longer reporting such information, or a similar service if Bloomberg and The Wall Street Journal are no longer reporting such information or (ii) if such Shares are not listed or admitted for trading on any national securities exchange, the last reported sale price or, in case no such sale takes place on such day, the average of the highest reported bid and the lowest reported asked quotation for such class or series of Shares, in either case as reported by Bloomberg or The Wall Street Journal if Bloomberg is no longer reporting such information, or a similar service if Bloomberg and The Wall Street Journal are no longer reporting such information.

(g) "Gaming Authority" means those federal, state and local governmental, regulatory and administrative authorities, agencies, boards and officials responsible for or involved in the regulation of gaming or gaming activities in any jurisdiction and, within the State of Nevada, specifically, the Nevada

Gaming Commission, the Nevada State Gaming Control Board, and the Clark County Liquor and Gaming Licensing Board.

(h) "Gaming Laws" means those laws pursuant to which any Gaming Authority possesses regulatory, licensing or permit authority over gaming within any jurisdiction and, within the State of Nevada, specifically, the Nevada Gaming Control Act, as codified in NRS Chapter 463, as amended from time to time, and the regulations of the Nevada Gaming Commission promulgated thereunder, as amended from time to time, and the Clark County Code, as amended from time to time.

(i) "Gaming Licenses" means all licenses, permits, approvals, authorizations, registrations, findings of suitability, franchises and entitlements issued by any Gaming Authority necessary for or relating to the conduct of activities under the Gaming Laws.

(j) "Gaming Problem" means any circumstances that are deemed likely, in the sole and absolute discretion of SAW, based on verifiable information or information received from any Gaming Authority or otherwise, to preclude or materially delay, impede or impair the ability of Wynn or any subsidiary of Wynn to obtain or retain any Gaming Licenses, or to result in any disciplinary action, including without limitation the imposition of materially burdensome terms and conditions on any such Gaming License.

(k) "Independent Qualified Appraiser" means an independent outside qualified appraiser appointed by Wynn to determine the fair market value of certain Shares or Wynn itself, in all cases considering Wynn as a going concern. Any determination by an Independent Qualified Appraiser as to fair market value shall be binding upon all parties.

(l) "Non-Compete Termination Date" means the date upon which SAW and EW have sold substantially all of their respective Shares.

(m) "NRS" means the Nevada Revised Statutes, as amended from time to time.

(n) "Percentage Interest" means, with respect to a specified Stockholder, the percentage computed by dividing the number of Shares held by such Stockholder by the Total Shares.

(o) "Permitted Transferee" means (a) Kazuo Okada; (b) an immediate family member of Kazuo Okada, EW or SAW; (c) a revocable, inter vivos trust of which Kazuo Okada, EW or SAW, or a family member of Kazuo Okada, EW or SAW is a beneficiary; (d) another Stockholder or an entity wholly owned by such Stockholder; or (e) if the Transfer is being made by Aruze, then in addition to the Permitted Transfers described in (a) through (d), any wholly-owned subsidiary of Aruze Parent where the Transfer has the effect of substituting a foreign corporation for Aruze with respect to all of Aruze's Shares.

(p) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization or other entity.

(q) "Prohibited Transferee" means (a) any owner, operator, or manager of, or Person primarily engaged in the business of owning or operating, a hotel, casino, or an internet or interactive gaming site, (b) any "non-profit" or "not-for-profit" corporation, association, trust, fund, foundation or other similar entity organized and operated exclusively for charitable purposes that qualifies as a tax-exempt entity under federal and state tax law or corresponding foreign law, (c) any federal, state, local or foreign governmental agency, instrumentality or similar entity, (d) any Person that has been convicted of a felony, (e) any Person regularly engaged in or affiliated with the production or distribution of alcoholic beverages, or (f) any Unsuitable Person.

(r) "Shares" means the shares of common stock of Wynn.

(s) "Specified Affiliate" means with respect to a specified Person, any other Person who or which is (a) directly or indirectly controlling, controlled by or under common control with the specified Person, or (b) any member, stockholder, director, officer, manager, or comparable principal of, or relative or spouse of, the specified Person. For purposes of this definition, "control", "controlling", "controlled" mean the right to exercise, directly or indirectly, more than fifty percent of the voting power of the stockholders, members or owners and, with respect to any individual, partnership, trust or other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled entity.

(t) "Stockholder" means any one of SAW, EW, Aruze, or any Permitted Transferee of any Shares and any additional Persons made a party to this Agreement. "Stockholders" means all of the foregoing, collectively.

(u) "Stockholder's Shares" means all Shares held of record or Beneficially Owned by such Stockholder, whenever acquired.

(v) "Termination Date" means the earlier of the date of SAW's death or the date upon which SAW sells substantially all of his Shares in Wynn.

(w) "Total Shares" means the total number of Shares held by the Stockholders, whenever acquired.

(x) "Transfer" means any transfer, sale, conveyance, distribution, hypothecation, pledge, encumbrance, assignment, exchange or other disposition, either voluntary or involuntary, or by reason of death, or change in ownership by reason of merger or other transformation in the identity or form of business organization of the owner, regardless of whether such change or

transformation is characterized by state law as not changing the identity of the owner.

(y) "Unsuitable Person" means any Person (i) who is denied a Gaming License by any Gaming Authority, (ii) who is disqualified from eligibility for a Gaming License, (iii) who is determined to be unsuitable to own or control Shares or to be connected or affiliated with a Person engaged in gaming activities in any jurisdiction by a Gaming Authority, (iv) who has withdrawn an application to be found suitable by any Gaming Authority, or (v) whose continued involvement in the business of Wynn as a stockholder, manager, officer, employee or otherwise has caused or may cause a Gaming Problem.

(z) "Voting Stock" means capital stock of Wynn of any class or classes, the holders of which are entitled to vote on any matter required or permitted to be voted upon (either in writing or by resolution) by the stockholders of Wynn.

2. Covenants of Designated Stockholders. Each Designated Stockholder hereby covenants to each other Designated Stockholder as follows.

(a) Voting Agreement. On any and all matters relating to the election of directors of Wynn (including the filling of any vacancies), the Designated Stockholders each agree to vote all Shares held by them and subject to the terms of this Agreement (or the holders thereof shall consent pursuant to an action by written consent of the holders of capital stock of Wynn) in a manner so as to elect to Wynn's Board of Directors each of the nominees contained on each and every slate of directors endorsed by SAW.

SAW agrees to include EW as one of his endorsed nominees so long as she is not "unable to serve" or "unfit to serve." As used herein, "unable to serve" shall mean medically incapacitated so as to be unable to serve as a director, and "unfit to serve" shall mean a violation of rules and laws so as to prohibit one from serving as a director of a public company engaged in the gaming business. In the event of a disagreement between SAW and EW regarding these matters, determination of either of the preceding conditions shall be made and confirmed by an independent third party to be jointly selected by SAW and EW.

SAW also agrees to endorse a slate of directors that includes nominees approved by Aruze and to vote SAW's and EW's Shares in favor of such directors so long as such slate results in a majority of all directors at all times being director candidates endorsed by SAW.

(b) Restrictions on Sale or Transfer. Other than as expressly set forth in Section 11 and the last sentence of this Section 2(b), none of EW, SAW or Aruze (nor any of their respective Permitted Transferees) shall Transfer, or permit any of their respective Affiliates to Transfer, any Shares Beneficially Owned by such Person without the prior written consent of each of the others.

Notwithstanding anything to the contrary set forth in this Agreement, SAW and Aruze confirm that on August 13, 2009, each agreed that the other could sell up to two million Shares (the "Released Shares"). As of the date hereof, SAW has sold two million shares under this waiver. Accordingly, Aruze shall have the right to sell up to two million Shares free and clear of the requirements of this Agreement.

(c) Restriction on Proxies and Non-Interference. From and after the date of this Agreement and ending as of the Termination Date, the Designated Stockholders shall not, and shall cause each of their Affiliates who Beneficially Own any of the Designated Stockholder's Shares not to, directly or indirectly without the consent of the other Designated Stockholder: (A) grant any proxies or powers of attorney, deposit such Designated Stockholder's Shares into a voting trust or enter into a voting agreement with respect to any of such Designated Stockholder's Shares, (B) enter into any agreement or arrangement providing for any of the actions described in clause (A) above, or (C) take any action that could reasonably be expected to have the effect of preventing or disabling such Designated Stockholder from performing such Designated Stockholder's obligations under this Agreement.

3. Representations and Warranties of the Stockholders. Each Stockholder hereby represents and warrants and covenants to each other Stockholder as follows:

(a) Ownership. The Stockholder shall be the record and Beneficial Owner of all of the Shares. The Stockholder shall have the sole power of disposition, sole power of conversion, sole power to demand appraisal rights and sole power to agree to all of the matters set forth in this Agreement, in each case with respect to all of the Shares, with no material limitations, qualifications or restrictions on such rights, subject to applicable securities laws and the terms of this Agreement.

(b) No Encumbrances. All of the Stockholder's Shares will be held by such Stockholder, or by a nominee or custodian for the benefit of such Stockholder, free and clear of all liens, claims, security interests, proxies, voting trusts or agreements, understandings or arrangements or any other encumbrances whatsoever, except for any liens, claims, understandings or arrangements that do not limit or impair the Stockholder's ability to perform its obligations under this Agreement.

(c) Execution, Delivery and Performance by the Stockholder. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by the Board of Directors of Aruze, as applicable, and Aruze has taken all other actions required by law, its Articles of Incorporation and its Bylaws or other organizational documents, as applicable, to consummate the transactions contemplated by this Agreement. This Agreement constitutes the valid and binding obligations of the Stockholder and is enforceable in accordance with its terms, except as enforceability may be subject to bankruptcy, insolvency,

reorganization, moratorium or other similar laws relating to or affecting creditors' rights generally.

(d) No Conflicts. No filing with, and no permit, authorization, consent or approval of, any state or federal public body or authority is necessary for the execution of this Agreement by the Stockholder and the consummation by the Stockholder of the transactions contemplated hereby, except where the failure to obtain such consent, permit, authorization, approval or filing would not interfere with the Stockholder's ability to perform its obligations hereunder, and none of the execution and delivery of this Agreement by the Stockholder, the consummation by the Stockholder of the transactions contemplated hereby or compliance by the Stockholder with any of the provisions hereof shall violate any order, writ, injunction, decree, judgment, statute, rule or regulation applicable to the Stockholder or any of its properties or assets, in each such case except to the extent that any conflict, breach, default or violation would not interfere with the ability of the Stockholder to perform the obligations hereunder.

(e) Preemptive Rights. If a Stockholder purchases Shares from Wynn (the **"Purchasing Stockholder"**) in a private placement (the **"Purchase"**) and another Stockholder who is not a Permitted Transferee of the Purchasing Stockholder is not extended the same offer by Wynn on the same terms and conditions, the Purchasing Stockholder shall allow such other Stockholder to purchase the number of Shares in the Purchasing Stockholder's allotment of Shares from Wynn that is necessary to maintain their Shares in the same proportion to each other as that which existed prior to the Purchase.

4. Transferee Bound by Agreement. Notwithstanding anything to the contrary in this Agreement, Shares may not be transferred or sold by the Designated Stockholder unless the transferee (including a Permitted Transferee) both executes and agrees to be bound by both this Agreement and the Proxy, including, without limitation, in a sale or transfer made pursuant to Rule 144 under the Securities Act ("Rule 144"); provided, however, that this Section 4 shall not apply to any sale or transfer and all other sales and transfers made by such Stockholder pursuant to Rule 144 during the term of this Agreement which do not exceed, in the aggregate, ten percent of the Shares held by such Stockholder, but the provisions of Section 2(b) shall continue to apply.

5. Stop Transfer. From and after the date of this Agreement and ending as of the Termination Date, each Stockholder acknowledges that SAW may instruct Wynn to not register the transfer (book-entry or otherwise) of any certificate or uncertificated interest representing any of such Stockholder's Shares that are transferred in violation of this Agreement.

6. Aruze Non-Compete. Aruze covenants to EW and SAW that until the Non-Compete Termination Date and so long as Aruze is a stockholder of Wynn (or of a successor entity to Wynn), Aruze, Aruze Parent, and Kazuo Okada agree that (other than through Wynn) Aruze, Aruze Parent, and Kazuo Okada shall not without SAW's

consent, directly or indirectly, engage in the development of or own, operate, lease, manage, control or invest in, act as consultant or advisor to or otherwise assist any Person that engages in (a) casino operations in Clark County, Nevada, or Macau or (b) Internet gaming anywhere in the world; provided, however, that either Aruze Parent or Kazuo Okada may operate a business offering Internet gaming if the forms of gaming offered by such business are restricted to games derived from pachinko or pachi-slot machines or other games not authorized for manufacture or distribution in the State of Nevada or Macau and any of Aruze, Aruze Parent, Kazuo Okada or an entity which is at least 80% owned by Kazuo Okada or Aruze Parent ("Okada Entity") may license content from any gaming device manufactured by Aruze, Aruze Parent or Okada Entity to a business offering Internet gaming. Nothing herein shall preclude Aruze, Aruze Parent, an Okada Entity and/or Kazuo Okada from engaging in the sale of gaming devices in the aforementioned jurisdictions.

7. Stockholders' Option to Purchase Bankrupt Stockholder's Shares.

(a) Upon the institution of a Bankruptcy by or against a Stockholder (a **"Bankrupt Stockholder"**), the Stockholders, not including the Bankrupt Stockholder, shall have the option (the **"Purchase Option"**) to purchase the Bankrupt Stockholder's Shares in Wynn for a price agreed upon by the Stockholders, not including the Bankrupt Stockholder, on the one hand, and the Bankrupt Stockholder, on the other hand, or if no price can be agreed upon, the Fair Market Value of such Shares at the time of such Bankruptcy. If information is not available to determine the Fair Market Value of such Shares at the time of such Bankruptcy, the price shall be the fair market value as determined by an Independent Qualified Appraiser. The Stockholders wishing to purchase all or a part of the Shares of the Bankrupt Stockholder (the **"Purchasing Stockholders"**) shall pay the agreed price, the Fair Market Value or the fair market value as determined by an Independent Qualified Appraiser, as applicable, of such Shares to the Bankrupt Stockholder, in cash or its equivalent, by one hundred and twenty (120) days after the date the Bankruptcy petition is filed by or against the Bankrupt Stockholder. Each Purchasing Stockholder must notify the other Stockholders of such Purchasing Stockholder's desire to purchase all or a portion of the Bankrupt Stockholder's Shares in writing by twenty (20) days after the date the Bankruptcy petition is filed by or against the Bankrupt Stockholder. Unless they agree otherwise, if there is more than one Purchasing Stockholder, each Purchasing Stockholder may purchase the proportion of the Bankrupt Stockholder's Shares that such Purchasing Stockholder's Percentage Interest bears to the aggregate Percentage Interests of all Purchasing Stockholders. If neither any remaining Stockholder wishes to purchase the Bankrupt Stockholder's Shares, or the Purchasing Stockholders do not purchase the Bankrupt Stockholder's Shares within the earlier of the time periods set forth above, then all rights to purchase the Bankrupt Stockholder's Shares pursuant to this Section shall terminate.

(b) Any Stockholder that exercises its right under this Section 7 to purchase the Bankrupt Stockholder's Shares may, in its sole and absolute discretion, assign such rights to Wynn.

8. Restrictions on Transfer of Ownership Interests in Stockholders.

(a) Except for a Transfer to a Permitted Transferee, any Transfer or issuance of an ownership interest in Aruze or in any entity that directly or indirectly owns a majority ownership interest in a Stockholder an **"Upstream Ownership Interest"**) shall be prohibited unless in compliance with the procedures and requirements set forth in this Section 8.

(b) The Shares that would be indirectly transferred by the transfer of the Upstream Ownership Interest shall be referred to as the **"Indirect Transfer Shares"**. If any holder of an Upstream Ownership Interest (an **"Upstream Transferor"**) intends to Transfer all or any part of its Upstream Ownership Interest pursuant to a bona fide offer received from any Person (the **"Upstream Offeror"**), prior to accepting such offer the Upstream Transferor shall provide written notice to each Stockholder, other than the Stockholder holding the Indirect Transfer Shares, which notice shall set forth the terms and conditions of the offer so received, including the purchase price and the identity of the Upstream Offeror. If the Upstream Transferor does not provide such notice, the Stockholder holding the Indirect Transfer Shares shall provide such notice to each other Stockholder promptly upon learning that such transaction will occur or has occurred. Within 15 days following receipt of such notice by the Stockholders other than the Stockholder holding the Indirect Transfer Shares, or if later, within 30 days of such other Stockholders learning that the Transfer of the Upstream Ownership Interest has occurred, such other Stockholders (i) if information is available to determine the Fair Market Value of such Indirect Transfer Shares, may elect to purchase the percentage of the Indirect Transfer Shares available for purchase equal to such holder's Percentage Interest (determined for this purpose by excluding the Indirect Transfer Shares) at the Fair Market Value of such Shares, or (ii) if information is not available to determine the Fair Market Value of such Indirect Transfer Shares, may, by notice to the Stockholder holding the Indirect Transfer Shares, elect to obtain an appraisal by an Independent Qualified Appraiser of the fair market value of the Indirect Transfer Shares. Within 15 days following receipt by the Stockholders other than the Stockholder holding the Indirect Transfer Shares of the results of the appraisal, each such other Stockholder may elect to purchase the percentage of the Indirect Transfer Shares available for purchase equal to such holder's Percentage Interest (determined for this purpose by excluding the Indirect Transfer Shares) at the appraisal price of such Shares. To the extent a Stockholder shall determine not to purchase all the Indirect Transfer Shares available to that Stockholder, the other Stockholders exercising the right to purchase the Indirect Transfer Shares may purchase additional Indirect Transfer Shares on a pro rata basis in proportion to their Percentage Interests (and the foregoing procedure shall be repeated in respect of any Indirect

Transfer Shares not purchased until such other Stockholders have had an opportunity to purchase any remaining Indirect Transfer Shares).

Notwithstanding anything to the contrary in this Section 8, any Transfer or issuance of shares in Aruze Parent shall not constitute an Upstream Transfer if immediately following such Transfer or issuance Kazuo Okada has the right to directly or indirectly exercise more than fifty percent of the voting power of the shareholders of Aruze Parent.

(c) The closing of a purchase of Indirect Transfer Shares by a Stockholder under this Section 8 shall occur within 10 days following the expiration of the last period during which a Stockholder might elect to purchase any of the Indirect Transfer Shares, or at such later date when all approvals required by the Gaming Laws are obtained (such approvals to be obtained as soon as is reasonably practicable).

(d) Any Stockholder that exercises its right under this Section 8 to purchase the Indirect Transfer Shares may, in its sole and absolute discretion, assign such rights to Wynn.

9. Right of First Refusal.

(a) Any Stockholder (a **"Transferor"**) who wishes to Transfer any or all of its Shares (the **"Offered Shares"**) to any Person other than a Permitted Transferee and who receives a bona fide offer from any Person (the **"Offeror"**) who is not a Prohibited Transferee for the purchase of all or any portion of such Stockholder's Shares shall, prior to accepting such offer, provide written notice (the **"Notice of Offer"**) thereof to each other Stockholder holding Shares, which notice shall set forth the terms and conditions of the offer so received, including the purchase price and the identity of the Offeror. Following the delivery to the other Stockholders of the Notice of Offer, each other Stockholder may elect to purchase that percentage of the Offered Shares which is equal to the Total Shares (excluding the Offered Shares) owned by each such Stockholder divided by the Total Shares (excluding the Offered Shares) owned by all such Stockholders (**"Applicable Percentage"**) during a fifteen-day refusal period (the **"Refusal Period"**) on the terms set forth in the Notice of Offer. To the extent any Stockholder shall determine not to purchase its Applicable Percentage prior to the expiration of the Refusal Period, the accepting Stockholders (the **"Accepting Purchasers"**) may purchase such Shares on a pro rata basis in proportion to the number of Shares owned by each of them (and the foregoing procedure shall be repeated in respect of any Shares not purchased until all Accepting Purchasers have had an opportunity to purchase any remaining Shares).

(b) Subject to the requirements of Section 4, including but not limited to the requirement that a transferee execute this Agreement and a Proxy, if all or any of the Offered Shares shall remain unsold after completion of the

procedures set forth in Section 9(a), the Transferor may sell such remaining Offered Shares to the Offeror within six months of the completion of such procedures on terms no more favorable than those set forth in the Notice of Offer; provided that the Offeror is not a Prohibited Transferee. To the extent any of the Offered Shares are not sold in accordance with the foregoing, the Stockholders shall continue to have a right of first refusal under this Section 9 with respect to any Transfers to any Person which are subsequently proposed by such Transferor.

(c) The closing of a purchase by a Stockholder under this Section 9 shall occur within ten days after the end of the Refusal Period or at such later date when all approvals required by the Gaming Laws are obtained (such approvals to be obtained as soon as is reasonably practicable). At such closing the Transferor and the relevant Accepting Purchaser (and any or all other Stockholders as may be required) shall execute an assignment and assumption agreement and any other instruments and documents as may be reasonably required by such Stockholder to effectuate the transfer of such Shares free and clear of any liens, claims or encumbrances, other than as specifically permitted hereunder. Any Transfer to any Person that does not comply with the provisions of this Section 9, other than a Transfer expressly provided for in the other provisions of this Agreement, shall be null and void of no effect whatsoever.

(d) Any Stockholder may, in its sole and absolute discretion, assign its right of first refusal under this Section 9 to purchase the Offered Shares to Wynn with respect to any incident in which its right of first refusal is triggered under this Section 9.

(e) Except for Shares transferred pursuant to Sections 2(b), 4, 7, 8, 10 and 11, no Shares may be Transferred until the provisions of this Section 9 have been complied with.

10. Tag-Along Rights.

If any party is the Transferor required to provide the Notice of Offer under Section 9(a), then each of the other two non-selling parties to this Agreement shall each have a right (in addition to its rights under Section 9) to participate in such Transfer pursuant to the provisions of this Section 10. During the fifteen-day Refusal Period described in Section 9(a), each of non-selling parties may, by written notice to the Transferor, elect to participate in such Transfer and to sell that percentage of the Total Shares owned by each non-selling party as the case may be, which is equal to the Total Shares that will be sold by the Transferor in such Transfer divided by the Total Shares owned by the Transferor. The terms and conditions of such Transfer (including the purchase price per Share sold in such Transfer, the identity of the buyer(s), and the consequences resulting from the other Stockholder's exercise of any rights of first refusal) shall be no less favorable to the non selling parties than to the Transferor; provided, however, that in the event that SAW or Aruze is the Transferor, he or Aruze may enter into service, noncompetition, or similar

agreements with the buyer and receive appropriate consideration thereunder in which other Stockholders do not share.

11. Release of Shares. Each of SAW and Aruze agree that commencing on January 6, 2010, and continuing on each January 6 for a total of ten events, a number of Shares owned by EW equal to $10,000,000 divided by the closing price of Wynn shares on January 5, 2010 (or if January 5 is not a trading day, the trading day immediately preceding January 5) shall be released from the restrictions set forth in this Agreement (once released, the "EW Released Shares"). If EW desires to sell any EW Released Shares, she shall provide written notice of such desire to SAW and, for a period of 48 hours from SAW's receipt of such notice, SAW shall have the right to purchase any or all of such Shares for a price equal to the closing price of the Shares on the trading day immediately preceding the date of notice. SAW shall notify EW of his election to purchase or not within 48 hours from the date of receipt of the original notice. If SAW elects to purchase hereunder, the purchase price shall be payable in cash no later than 3 business days after the date of election. Notices to SAW under this Section 11 shall be transmitted by fax and email to SAW at his last known business address and residence address (currently c/o cindy.mitchum@wynnresorts.com and 702.770.1111), with copies to the General Counsel of Wynn (currently Kim Sinatra (kim.sinatra@wynnresorts.com and 702.770.1349)) and to James J. Jimmerson, Esq., Jimmerson Hansen, P.C., 415 S. Sixth Street, Suite 100, Las Vegas, NV 89101 (jjj@jimmersonhansen.com and 702.387.1167) and notices to EW under this Section 11 shall be transmitted by fax and email to EW at her last known business address and residence address (currently c/o Elaine.Wynn@wynnresorts.com, and 702.770.1103), with copies to Donald Schiller, Esq., Schiller, DuCanto & Fleck, LLP, 200 North LaSalle Street, 30th Floor, Chicago, IL 60601 (dschiller@sdflaw.com, and 312.641.6361) and Gary R. Silverman, Esq., Silverman, DeCaria & Kattelman, Chtd., 140 Plumas Street, Suite 200, Reno, NV 89519 (silverman@silverman-decaria.com and 775.322.3649). If SAW does not elect to purchase hereunder, the EW Released Shares will thereafter be held by EW free and clear of any further restrictions on sale under this Agreement.

12. Recapitalization. In the event of a stock dividend or distribution, or any change in the Shares (or any class thereof) by reason of any split-up, recapitalization, merger, combination, exchange of shares or the like, the term "Shares" shall include, without limitation, all such stock dividends and distributions and any shares into which or for which any or all of the Shares (or any class thereof) may be changed or exchanged as may be appropriate to reflect such event.

13. Stockholder Capacity. Notwithstanding any provisions to the contrary contained herein, no Stockholder or any of its Affiliates shall be deemed to make any agreement or understanding herein in a capacity other than that as stockholder of Wynn.

14. Miscellaneous.

(a) Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof, including without limitation, the Existing Agreement.

(b) Legend. **Certificates and all electronic records evidencing** Shares subject to this Agreement shall each bear the following restrictive legend (the **"Legend"**) (in addition to any other legend required by applicable gaming laws):

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF AN AMENDED AND RESTATED STOCKHOLDERS AGREEMENT DATED AS OF JANUARY 6, 2010, WHICH PLACES CERTAIN RESTRICTIONS ON THE VOTING AND TRANSFER OF THE SHARES REPRESENTED HEREBY. ANY PERSON ACCEPTING ANY INTEREST IN SUCH SHARES SHALL BE DEEMED TO HAVE AGREED TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF SUCH STOCKHOLDERS AGREEMENT. A COPY OF SUCH STOCKHOLDERS AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS."

(i) Each Stockholder agrees that, from and after the date of this Agreement and ending as of the Termination Date, it shall not, and shall cause each of its Affiliates who Beneficially Own any of the Designated Stockholder's Shares not to, allow Wynn to remove, and shall not permit to be removed (upon registration of transfer, reissuance or otherwise), the Legend from any such certificate and shall place or cause to be placed the Legend on any new certificate issued to represent Shares it or any of its Affiliates shall Beneficially Own.

(c) Transfers in Violation Void. Any transfer or sale of any Shares in violation of this Agreement shall be null and void *ab initio*.

(d) Amendments, Waivers, Etc. This Agreement may not be amended, changed, supplemented, waived or otherwise modified or terminated, except upon the execution and delivery of a written agreement executed by the parties hereto.

(e) Notices. Other than as provided in Section 11 above, all notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly received if so given) by hand delivery, telegram, telex or telecopy, or by mail (registered or certified mail, postage prepaid, return receipt requested) or by any courier

service, such as Federal Express, providing proof of delivery. All communications hereunder shall be delivered to the respective parties at the following addresses or the addresses set forth on the signature pages hereto:

If to Aruze:
Aruze USA, Inc.
745 Grier Drive
Las Vegas, Nevada 89119
Facsimile: 702-361-3403
Attention: Sam Basile

With a copy to:
Universal Entertainment Corporation
Ariake Frontier Bldg. A, 3-7-26 Ariake, Koto, Ku
Tokyo, Japan
Facsimile: 81-3-5530-3097
Attention: Kazuo Okada

If to SAW:
Stephen A. Wynn
c/o Wynn Resorts, LLC
3131 Las Vegas Boulevard South
Las Vegas, Nevada 89109
Facsimile: 702-770-1100

With a copy to:
Wynn Resorts, Limited
3131 Las Vegas Boulevard South
Las Vegas, NV 89109
Facsimile: 702-770-1349
Attention: General Counsel

If to EW:
Elaine P. Wynn
Box 17007
Las Vegas, NV
Facsimile: 702-770-1103

With copies to:
Brentwood Management Group
11812 San Vicente Boulevard, Suite 200
Los Angeles, CA 90049
Facsimile: 310-820-5354
Attention: Matt Fishburn

Stan Maron
1250 Fourth Street, 5th Floor
Santa Monica, CA
Fascimile:

or to such other address as the person to whom notice is given may have previously furnished to the others in writing in the manner set forth above.

(f) Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

(g) Specific Performance. Each of the parties hereto recognizes and acknowledges that a breach by any party hereto of any covenants or agreements contained in this Agreement will cause the other parties hereto to sustain damages for which they would not have an adequate remedy at law for money damages, and therefore each of the parties hereto agrees that in the event of any such breach the parties shall be entitled to the remedy of specific performance of such covenants and agreements and injunctive and other equitable relief in addition to any other remedy to which he may be entitled, at law or in equity.

(h) Further Assurances. From time to time, the Stockholders shall execute and deliver such additional documents as may be necessary or desirable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement.

(i) Remedies Cumulative. All rights, powers and remedies provided under this Agreement or otherwise available in respect hereof at law or in equity shall be cumulative and not alternative, and the exercise of any thereof by any party shall not preclude the simultaneous or later exercise of any other such right, power or remedy by such party.

(j) No Waiver. The failure of any party hereto to exercise any right, power or remedy provided under this Agreement or otherwise available in respect hereof at law or in equity, or to insist upon compliance by any other party hereto with its obligations hereunder, and any custom or practice of the parties at variance with the terms hereof, shall not constitute a waiver by such party of its right to exercise any such or other right, power or remedy or to demand such compliance.

(k) No Third Party Beneficiaries. This Agreement is not intended to be for the benefit of, and shall not be enforceable by, any person or entity who or which is not a party hereto; provided that, the obligations of the Designated Stockholders hereunder shall inure to their transferees, successors and heirs.

(l) No Assignment. Except as otherwise explicitly provided herein, neither this Agreement nor any right, interest or obligation hereunder may be assigned (by operation of law or otherwise) by any Stockholder without the prior

written consent of the parties hereto and any attempt to do so will be void; provided, however, that the rights under this Agreement may be assigned to the transferee in connection with a Transfer that does not violate the terms of the Agreement.

(m) Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Nevada, without giving effect to the principles of conflicts of law thereof.

(n) Jurisdiction. Each party hereby irrevocably submits to the exclusive jurisdiction of the state courts in the State of Nevada in any action, suit or proceeding arising in connection with this Agreement, and agrees that any such action, suit or proceeding shall be brought only in such court (and waives any objection based on forum non conveniens or any other objection to venue therein); provided, however, that such consent to jurisdiction is solely for the purpose referred to in this paragraph and shall not be deemed to be a general submission to the jurisdiction of the courts of the State of Nevada other than for such purposes. Each party hereto hereby waives any right to a trial by jury in connection with any such action, suit or proceeding.

(o) Descriptive Headings. The descriptive headings used herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

(p) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement. This Agreement shall not be effective as to any party hereto until such time as this Agreement or a counterpart thereof has been executed and delivered by each party hereto.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by Wynn and a duly authorized officer of Aruze and Baron on the day and year first written above.

/s/ Stephen A. Wynn
Stephen A. Wynn

/s/ Elaine P. Wynn
Elaine P. Wynn

ARUZE USA, INC.

By: /s/ Kazuo Okada

Name: Kazuo Okada
Title: President

Exhibit A

IRREVOCABLE PROXY

By its execution hereof, and in order to secure obligations under the Amended and Restated Stockholders Agreement of even date herewith among Stephen A. Wynn, an individual ("SAW"), Elaine P. Wynn, an individual ("EW"), and Aruze USA, Inc., a Nevada corporation (the "Agreement"), EW, Aruze USA, Inc. and each Designated Stockholder (as defined in the Agreement) other than SAW (collectively "Proxy Grantors"), hereby irrevocably constitutes and appoints SAW, with full power of substitution and resubstitution, from the date hereof to the termination of the Agreement, as such Proxy Grantors' true and lawful attorney and proxy (its "Proxy"), for and in such Proxy Grantors' name, place and stead to vote each of the Shares of each such Proxy Grantor as such Proxy Grantor's Proxy at every annual, special or adjourned meeting of stockholders of Wynn (as defined in the Agreement), and to sign on behalf of such Proxy Grantor (as a stockholder of Wynn) any ballot, proxy, consent, certificate or other document relating to Wynn that law permits or requires, for the election of directors as more specifically provided and in a manner consistent with the Agreement. This Proxy is coupled with interest and each Proxy Grantor intends this Proxy to be irrevocable to the fullest extent permitted by law. Each Proxy Grantor hereby revokes any proxy previously granted by such Proxy Grantor with respect to such Proxy Grantor's Shares. Capitalized terms used but not defined herein shall have the meaning set forth in the Agreement. Each Proxy Grantor shall perform such further acts and execute such further documents and instruments as may reasonably be required to vest in SAW or any of his designees, the power to carry out and give effect to the provisions of this Proxy. This Irrevocable Proxy shall be in full force and effect until the Termination Date.

IN WITNESS WHEREOF, the undersigned has executed this Irrevocable Proxy this day of January 2010.

ARUZE USA, INC.

By: _____

Name: _____

Title: _____

ELAINE P. WYNN

EXHIBIT "H"

EX-99.1 3 exhibit991pressreleasefeb19.htm

Exhibit 99.1

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

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