

1 Mr. Okada. Ms. Sinatra replied that she would have to check to see if a copy could be provided;
2 in fact, she did not and has never provided a copy of the investigative report to Aruze USA,
3 Mr. Okada, or their counsel.

4 112. On October 4, 2011, Mr. Wynn and Ms. Sinatra met with Mr. Okada and his
5 counsel. At the meeting, Mr. Wynn stated that Wynn Resorts' other directors had already
6 decided that Mr. Okada must be removed as Vice Chairman of the Company's Board and as a
7 director of both the Wynn Macau and Wynn Resorts Boards. It apparently did not matter to
8 Mr. Wynn and Ms. Sinatra that in Nevada *only stockholders can remove directors*. Based on a
9 false threat, Mr. Wynn demanded Mr. Okada's resignation as a director.

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

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

- 25 • That the Philippines were so corrupt that no one could possibly do business in that
26 country without violating the FCPA;

- That “research” showed Mr. Okada owned land without a Philippines partner, and that this violated Philippines law;
- That the other directors were “convinced” that Mr. Okada’s use of his Wynn Resorts business card in other countries had caused a belief that Wynn Resorts was involved in the Philippine project and that the Company would not be in this position had he instead used his Universal business card;
- That Mr. Okada had used the Wynn Resorts building design and other trade secrets without permission; and
- That Mr. Okada had associated with persons who had later been indicted in the Philippines on charges unrelated to the Philippine project.

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

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

117. Around this same time, the Chairman of Universal’s Compliance Committee also requested a copy of the investigative report through the Chairman of Wynn Resorts’ Compliance Committee. This request has been ignored.

1 **C. A Letter From Steve Wynn’s Outside Lawyer Confirms that, While Wynn**
2 **Resorts Had Already Determined the Outcome, a Pretextual “Investigation”**
3 **was Only Just Starting**

4 118. On October 13, 2011, Robert L. Shapiro, Esq., an attorney retained by Wynn
5 Resorts, sent a letter to Aruze USA. Without any elaboration, the letter reiterated the same
6 mistaken – and soon to be abandoned – conclusions that Mr. Wynn outlined in the October 4
7 meeting. Mr. Shapiro also explicitly stated that Universal’s Manila Bay project “raises questions”
8 regarding “possible violations of the Foreign Corrupt Practices Act.” The letter again demanded
9 Mr. Okada’s resignation.

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

16 **D. Wynn Resorts Refuses to Allow Kazuo Okada and Aruze USA to Review Any**
17 **Supposed “Evidence”**

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

23 **E. The Board Summarily Removes Kazuo Okada As Vice-Chairman**

24 121. At the Board’s November 1, 2011 meeting, Mr. Miller presented an oral report of
25 an alleged investigation by the Compliance Committee into Mr. Okada’s and Universal’s
26 activities in the Philippines. The report disclosed that the Compliance Committee had allegedly
27 conducted one internal and two “independent” investigations into allegations of suitability,
28

1 conflicts of interest, and possible breaches of fiduciary duties related to acquisition of land for the
2 Philippine project and charitable contributions made by Universal. To date, the contents of these
3 purported investigations have not been presented to Mr. Okada.

4 122. Mr. Miller reported that the Compliance Committee (and not a committee
5 consisting of the independent directors) had retained Freeh Sporkin & Sullivan LLP (“Freeh
6 Sporkin”) as a special investigator to conduct an investigation into the allegations against
7 Mr. Okada. The Board – without debate, deliberation, or allowing Mr. Okada a chance to
8 respond – summarily eliminated Mr. Okada’s position as Vice-Chairman of the Board and ratified
9 the decision to hire Freeh Sporkin.

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

11 123. The vehemence of the actions by Mr. Wynn, Ms. Sinatra, Mr. Miller, and the
12 Board against Mr. Okada is highly suspicious. After all, Mr. Okada had raised concerns about the
13 donation to the University of Macau before Wynn Resorts had raised any type of unsuitability
14 allegations against Mr. Okada and before anyone associated with Wynn Resorts even mentioned
15 the word “redemption” to him. Mr. Okada made several requests for access to Wynn Resorts’
16 books and records for information relating to the donation made by Wynn Resorts to the
17 University of Macau, all of which were denied without a valid basis. In the state court of Nevada,
18 Mr. Okada even filed a petition for a writ of mandamus on January 11, 2012 to compel Wynn
19 Resorts to grant him access to Wynn Resorts’ books and records. *Okada v. Wynn Resorts, Ltd.*,
20 case number A-12-65422-B, Department XI (the “Inspection Action”). At a hearing on
21 February 9, 2012, the Court ordered Wynn Resorts to comply with Mr. Okada’s reasonable
22 requests. In an order dated October 12, 2012, the Court further ordered that Wynn Resorts
23 produce to Mr. Okada documentation regarding expenditures advanced directly or indirectly by
24 Mr. Wynn in pursuit of gaming concessions in Macau.

1 **G. Aruze USA Nominates Directors, But Steve Wynn Refuses to Endorse Them**
2 **Despite His Obligation to Do So**

3 124. To further address the concerns about Wynn Resorts management, on January 18,
4 2012, pursuant to Section 2(a) of the Stockholders Agreement, Aruze USA, submitted a letter to
5 the Nominating and Corporate Governance Committee of the Company designating three
6 individuals as candidates to be considered for nomination as directors of the Company and
7 included in the Company's proxy statement relating to the Company's 2012 annual meeting of
8 the stockholders or any stockholder meeting held for the purpose of electing Class I directors.
9 Despite numerous written requests to Mr. Wynn to endorse the slate of directors nominated by
10 Aruze USA, as required by the Stockholders Agreement, Mr. Wynn refused to do so.

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

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

20 126. Freeh Sporkin did not contact Mr. Okada or his counsel about an interview until
21 January 9, 2012, at which time it demanded (not requested) an interview of Mr. Okada during the
22 week of January 30 (*i.e.*, January 30-February 5). On January 15, 2012, four days after
23 Mr. Okada filed his Inspection Action, Freeh Sporkin informed Mr. Okada's counsel that the
24 "schedule has changed" and pressured Mr. Okada to agree to an interview *before* the week of
25 January 30.

26 127. On January 19, 2012, Mr. Miller, Chair of Wynn Resorts' Compliance Committee,
27 wrote directly to Mr. Okada, threatening that if Mr. Okada failed to make himself available for
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1 interviews with Freeh Sporkin on January 30 or 31, the Compliance Committee “can only
2 conclude that you have refused participation.” The letter stated that the Compliance Committee
3 originally had a goal of receiving a report by the end of 2011, which was extended to January 15,
4 2012. In addition to this being the first time anyone shared the Compliance Committee’s
5 purported deadlines with Mr. Okada, these dates are inconsistent with Freeh Sporkin making its
6 initial request to conduct an interview of Mr. Okada that would take place in the first week of
7 February. It proved not to be the first time Mr. Miller was “confused” about the “investigation”
8 that was supposedly operating under his direction.

9
10 128. Mr. Okada had only recently hired new counsel to assist with the response to the
11 Freeh Sporkin investigation. In order to prepare for the interview, the new counsel requested that
12 the parties seek a mutually convenient date for an interview by February 15, 2012. Freeh Sporkin
13 then agreed to schedule the interview on February 15th.

14 **I. Freeh Sporkin Refuses to Provide Meaningful Information Regarding the**
15 **Investigation to Kazuo Okada**

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

26 130. Freeh Sporkin refused to provide anything more than a statement that it was
27 investigating “all matters related to Mr. Okada’s, Universal’s, and Aruze’s activities in the
28 Philippines and Korea.” This was the first time that Korea was even mentioned as the subject of

1 any investigation by the Company. Again – the basis of Aruze USA’s supposed “unsuitability”
2 kept changing.

3 131. Instead of sharing the topics of the interview with Mr. Okada, Mr. Freeh chose to
4 conduct the interview as an ambush, not unlike the hostile interrogation of a suspected criminal,
5 rather than a respectful and cooperative interview seeking information from a director of Wynn
6 Resorts. If he was afforded the opportunity to do so, Mr. Okada could have helped Mr. Freeh and
7 Freeh Sporkin avoid the public embarrassment of a report that is riddled with factual and legal
8 errors.

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

10 132. On February 15, 2012, Mr. Okada sat for a full-day interview with Mr. Freeh and
11 other lawyers for Freeh Sporkin.

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

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

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

2 135. At a press conference following the redemption of Aruze USA's stock. Mr. Miller
3 made a number of statements that will prove to be false. One stood out in particular. Mr. Miller
4 said:

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

9 136. Similarly, the Wynn Resorts Seconded Amended Complaint states that "Freeh
10 advised Mr. Okada and his counsel that he would be reporting his findings to the Wynn Resorts
11 Board on February 18, 2012...." (SAC at ¶ 47.)

12 137. Neither statement is true. Mr. Freeh said nothing regarding the date of the
13 completion of his report at the interview, and, in fact, said at the February 15, 2012 interview of
14 Mr. Okada that his investigation was not complete and that his report was not complete.

15 138. On February 16, 2012, Mr. Okada's counsel emailed Mr. Freeh stating:

16 Louis:

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

21 139. In response, on February 17, 2012, Mr. Freeh, acting as an agent for Wynn
22 Resorts, offered two options to Mr. Okada's counsel:

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

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

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

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

5 ...

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

11 ...

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

14 Best regards.

15 Louie

16 (Emphasis added.)

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

19 Louis:

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

(Emphasis added.)

141. Mr. Freeh responded "Thanks Tom and safe travels."

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

Just to confirm, I will now deliver my report to the Compliance
Committee having completed my investigation regarding the
matters under inquiry. It is my understanding that the Compliance
Committee will thereafter provide all of the Directors, including

1 Mr. Okada, with a copy of the report. As we both stated,
2 Mr. Okada can then submit any responses to the report which will
3 be considered and evaluated. However, the report I am submitting
4 is not a 'draft' subject to being finalized after Mr. Okada provides
5 any response. Rather this is akin to a final brief being submitted
6 with the opportunity for a response to be made.

7 Please let me know if you have any questions.

8 Best regards

9 Louie

10 143. This statement would prove to be misleading. As it turned out, Wynn Resorts
11 refused to give Mr. Okada a copy of the Freeh Sporkin report and then purported to redeem Aruze
12 USA's stock (at a nearly \$1 billion discount) *on the day the other Wynn Directors received the*
13 *report*, without giving Mr. Okada any reasonable opportunity to respond.

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

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

26 145. On February 15, 2012, scant hours after the completion of Mr. Freeh's interview
27 of Mr. Okada, Wynn Resorts noticed a special meeting of its Board. The meeting was set for
28 Saturday, February 18, 2012, at 9:00 a.m. in Las Vegas – which is 2:00 a.m. Sunday morning in
Japan. Although the notice for the Board meeting went out immediately following the conclusion

1 of the interview of Mr. Okada, and was scheduled to occur a mere three days after the interview,
2 Mr. Wynn and Ms. Sinatra included on the agenda a review of the Freeh Sporkin report.

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

5 146. Following the interview, Mr. Wynn communicated to Aruze USA through
6 intermediaries that, instead of having the Board consider the Freeh Sporkin report, Mr. Wynn
7 would be willing to buy Aruze USA's stock for his benefit at a significant discount off of the fair
8 value of the shares. Mr. Wynn, through his intermediaries stated that in exchange for Aruze USA
9 selling its stock to Mr. Wynn, Mr. Wynn would ensure that the Freeh Sporkin report would not be
10 disclosed. A sale to Mr. Wynn was presented as an alternative to the public embarrassment and
11 regulatory issues attendant to possible disclosure of the Freeh Sporkin report. Aruze USA did not
12 accede to these demands, ultimately causing Wynn Resorts, Mr. Wynn, and Ms. Sinatra to make
13 good on their threats and commence a systematic process of defaming Mr. Okada, Aruze USA,
14 and Universal and precipitating the redemption Aruze USA's shares at a \$1 billion discount off
15 the fair value of the shares.

16 147. On information and belief, this is not the first time Mr. Wynn has attempted to co-
17 opt state gaming regulations to consolidate his ownership and control over a gaming company.
18 According to published reports, in 1980, Mr. Wynn forced out the second largest shareholder of
19 the Golden Nugget, Inc., Mr. Edward Doumani. Mr. Doumani was also a board member, and had
20 expressed concerns about Mr. Wynn's practices as CEO of the Golden Nugget. Mr. Wynn
21 eventually strong-armed Mr. Doumani into selling his stake by threatening to instigate an
22 investigation of Mr. Doumani, contending that his continued association with the company
23 caused a risk to a potential gaming license in Atlantic City. Three decades later, Mr. Wynn
24 attempted the same scam, only this time Aruze USA refused to accede to Mr. Wynn's demand to
25 sell him its stock on the cheap.
26
27
28

1 **V. WYNN RESORTS' UNFOUNDED AND UNPRECEDENTED REDEMPTION OF**
2 **MORE THAN \$2.9 BILLION OF ARUZE USA'S SHARES**

3 **A. Wynn Resorts Publicly Asserts That the Value of Aruze USA's Stock Is \$2.9**
4 **Billion**

5 148. In a letter to Aruze USA's counsel dated December 15, 2011, Mr. Shapiro asserted
6 that Aruze USA's shares were worth approximately \$2.7 billion.

7 149. Hardly a month later (and a mere 22 days before purporting to redeem the shares),
8 on January 27, 2012, Wynn Resorts filed its opposition papers in response to Mr. Okada's
9 Petition for a Writ of Mandamus. In that court filing, Wynn Resorts declared that Aruze USA's
10 holdings were worth *more* than \$2.7 billion, stating that Aruze USA's shares are "valued at
11 approximately \$2.9 billion[.]" In the 22 days following Wynn Resorts' \$2.9 billion valuation of
12 Aruze USA's stock, Aruze USA's stock was not sold, transferred, or further encumbered by any
13 additional restrictions.

14 **B. The Board Hurriedly Meets and Rushes to Redeem Aruze USA's Stock**

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

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

26 152. When it came time for the meeting, at 2:00 a.m. on Sunday morning, Mr. Okada
27 sat ready to participate by telephone. Mr. Wynn yelled at Mr. Okada's counsel when he
28

1 introduced himself. Mr. Wynn also said that Mr. Okada's counsel could not be present to advise
2 Mr. Okada even though counsel made clear that he would not address the meeting. (At the threat
3 of having Mr. Okada's telephone connection to the meeting severed, Mr. Okada's counsel had to
4 sit outside the room while the meeting went on, despite Wynn Resorts having a battery of lawyers
5 from multiple law firms present on its end of the line.) Mr. Wynn and a company lawyer
6 informed Mr. Okada that – despite prior assurances that Mr. Okada would receive a copy of the
7 Freeh Sporkin report along with the other directors – he would not receive a copy of the report
8 unless both he and his legal counsel signed a nondisclosure agreement. The nondisclosure
9 agreement would have arguably precluded Mr. Okada from using the report in legal proceedings.
10 Mr. Okada did not sign the nondisclosure agreement.

11 153. As alleged in detail below, a few hours after demanding that Mr. Okada sign the
12 nondisclosure agreement claiming confidentiality, Wynn Resorts “leaked” a copy of the Freeh
13 Sporkin report to the *Wall Street Journal* and attached a copy to its Complaint in this action.

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

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

26 156. At some point, someone at Wynn Resorts hung up the telephone, cutting
27 Mr. Okada off from the meeting. Mr. Okada waited to be reconnected, staying up until the sun
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1 rose in Asia, all the while not knowing whether the Board had resolved anything following the
2 presentation by Mr. Freeh. Ms. Sinatra later claimed that cutting off the telephone connection to
3 Mr. Okada was a “misunderstanding.” No other contact was made with Mr. Okada.

4 157. At 1:45 am PT on February 19, 2012, Aruze USA’s counsel received
5 correspondence, containing a notice of determination of unsuitability and a purported redemption
6 notice. In the redemption notice, the Company stated that it would redeem Aruze USA’s stock
7 for a promissory note of approximately \$1.936 billion, a discount of exactly 30% off the \$2.7
8 billion value measured by the stock market’s valuation of the stock based on the prior day’s
9 closing price and 33% less than the value (*i.e.*, \$2.9 billion) Wynn Resorts had publicly
10 proclaimed three weeks before.

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

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

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

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

24 161. In public statements, representatives of Wynn Resorts have claimed redemption is
25 complete and that the securities formerly held by Aruze USA have been cancelled. Aruze USA
26 disputes that this has happened. Among other reasons, as explained elsewhere in this
27 Counterclaim, the purported redemption is void *ab initio* because it is in violation of the
28

1 Stockholders Agreement, which predates the amended Articles of Incorporation purporting to
2 grant Wynn Resorts a right of redemption.

3 **D. The Board Redeems on False Premises**

4 162. Even if Aruze USA were bound by the redemption provision (which Aruze USA
5 disputes), the Articles of Incorporation only purport to allow redemption in three situations.

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

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

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

23 166. No such showing was made in the rushed Freeh Sporkin report. In fact, in the
24 gaming industry, any impact on the right to use or entitlement to a gaming license requires action
25 by the cognizant gaming authority. No gaming authority has found Aruze USA, Universal, or
26 Mr. Okada to be “unsuitable.” Furthermore, association with an “unsuitable” person would only
27 conceivably create a problem for a gaming license *after* that person has been found by a gaming
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1 authority to be unsuitable. Even then, such concerns can be addressed via a voting trust or
2 orderly sale of shares. If Wynn Resorts' true aim was to disassociate itself from Aruze USA in
3 order to protect its interests, it failed miserably. Even if the redemption were effective, Aruze
4 USA would now be Wynn Resorts' largest holder of debt – a circumstance which would be
5 impermissible under Nevada law if Aruze USA were truly "unsuitable." Under the
6 circumstances, it is obvious that the supposed redemption of Aruze USA's shares was simply a
7 pretext to seek to quiet a potential dissident shareholder and director, increase the relative
8 ownership interests of the Board members by virtue of their shareholdings in Wynn Resorts, and
9 to enhance and maintain Mr. Wynn's personal control over Wynn Resorts.

10 **E. Even if Aruze USA Were Subject to the Redemption Provision (Which it is**
11 **Not), the Wynn Parties are Still Liable for Breaching and/or Tortiously**
12 **Interfering with the Stockholders Agreement and Amended Stockholders**
13 **Agreement.**

14 167. Even if Aruze USA were subject to the redemption provision, which it is not, the
15 Wynn Parties are not excused from breaching and/or tortiously interfering with the Stockholders
16 Agreement when they purported to redeem Aruze USA's shares. Steve Wynn was bound by the
17 terms of the Stockholders Agreement before he unilaterally amended the Articles of Incorporation
18 to include a purported redemption right. The remainder of the Wynn Parties also knew or
19 reasonably should have known that Aruze USA's shares were subject to the limitations of the
20 Shareholders Agreement and Amended Shareholders Agreement when they purported to utilize
21 their discretionary authority under the Articles of Incorporation to redeem Aruze USA's shares.
22 Thus, even if the redemption provision of the Articles of Incorporation applies to Aruze USA, the
23 Wynn Parties are liable for all harm caused to Aruze USA as a result of the redemption.
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1 **F. Even if Aruze USA Was Subject to the Redemption Provision (Which it is**
2 **Not), the Unilateral Blanket 30% Discount that Wynn Resorts Applied to the**
3 **Stock is Erroneous and the Promissory Note is Unconscionably Vague,**
4 **Ambiguous, and Oppressive**

5 168. According to a press release dated February 19, 2012, Wynn Resorts issued a note
6 in the amount of \$1.936 billion to Aruze USA. This amount is exactly 30% less than the market
7 value of Aruze USA's stock as measured by the closing price of Wynn Resorts' stock on the
8 Friday prior to the Saturday Board meeting. According to its press release, Wynn Resorts arrived
9 at this value because "it engaged an independent financial advisor to assist in the fair value
10 calculation and concluded that a discount to the current trading price was appropriate because of
11 restrictions on most of the shares which are subject to the terms of an existing stockholder
12 agreement." The irony here is rich, because the Stockholders Agreement, by its terms, either
13 precludes the redemption of Aruze USA's stock altogether or, alternately, the transfer restrictions
14 are not binding on Aruze USA as a result of Steve Wynn's and Elaine Wynn's breach of the
15 Stockholders Agreement (by voting in favor of the redemption of Aruze USA's shares and by
16 Steve Wynn's failure to vote in favor of directors nominated by Aruze USA). The transfer
17 restrictions are also invalid and unenforceable to the extent that they constitute an illegal restraint
18 on alienability. Thus, the restrictions in the Stockholders Agreement could not legitimately
19 impact the value of Aruze USA's shares so as to support a discount against the market price.

20 169. The February 19, 2012 Wynn Resorts press release also falsely stated that the
21 redemption process in the Articles of Incorporation had "been [in place] since the Company's
22 inception." This is untrue, as Mr. Wynn unilaterally *amended* the Articles of Incorporation to
23 include the purported redemption language months *after Wynn Resorts was created*, and nearly
24 90 days after Aruze USA agreed to invest in Wynn Resorts and committed its interests in Valvino
25 to Wynn Resorts. Wynn Resorts and Mr. Wynn thus sought to continue their fraudulent scheme
26 by publishing a false basis under which Wynn Resorts purported to have the authority to redeem
27 Aruze USA's shares of Wynn Resorts' stock.

1 170. Nevertheless, hoping to unilaterally decide on a “clearance” price for Aruze
2 USA’s almost 20% shareholder interest in the Company, Wynn Resorts relied solely on one
3 opinion from Moelis & Company (“Moelis”), *which has done business with Wynn Resorts in the*
4 *past.*

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

14 172. Mr. Wynn called on Mr. Moelis’ loyalty in this case. Despite the fact that at least
15 some of the stock was exempted from the Stockholders Agreement, Moelis discounted Aruze
16 USA’s more than \$2.7 billion shares of Wynn Resorts’ stock by around 30%.

17 173. The terms of the note are unreasonable and one-sided in the extreme, completely
18 lacking reasonable and customary terms used to protect and preserve the interests of the note
19 holder. Among other things, the amount of compensation paid for Aruze USA’s shares do not
20 reflect the “fair value” of the shares under the Articles of Incorporation and/or under governing
21 law. Additionally, the hastily issued, ten-year \$1.936 billion promissory note is unsecured and
22 fully subordinated, not merely to current outstanding Wynn Resorts debt, but potentially to all
23 future debt Wynn Resorts may incur, and pays a mere 2% interest per annum. In contrast, for
24 example, less than a month after the purported redemption, Wynn Resorts issued \$900 million
25 aggregate principal amount in collateralized notes paying 5.375% interest. Moreover, though
26 Nevada gaming regulations do not permit an “unsuitable” person from holding debt of a publicly-
27 traded licensee, by its terms the note sent to Aruze USA is not even transferable. Wynn Resorts
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1 prepared the promissory note without any input from Mr. Okada, or any representative at Aruze
2 USA, forcibly imposing an unsecured, non-transferrable, non-voting, un-marketable, severely
3 discounted and oppressive debt instrument on its largest shareholder.

4 **G. The Timing of the Redemption Demonstrates that Wynn Resorts Redeemed**
5 **Aruze USA's Shares Based on Material, Non-Public Information that Was**
6 **Not Incorporated Into the Redemption Price**

7 174. On March 2, 2012, Wynn Resorts released a Form 8-K.

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

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

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

The foregoing description of the Land Concession Contract is
qualified in its entirety by reference to the full English translation of
the Land Concession Contract (originally published in the Gazette

1 in traditional Chinese and Portuguese), which is filed as
2 Exhibit 10.1 hereto and incorporated herein by reference. Dollar
amounts in the Land Concession Contract refer to Macau Patacas.

3 176. Such a land concession is significant positive development for Wynn Resorts. In
4 fact, Wynn Resorts' stock immediately spiked 6% on this news.

5 177. After initially attempting to backtrack from the filing as a "mistake," Wynn
6 Resorts filed another Form 8-K on May 2, 2012. The Form 8-K reconfirmed the material
7 information Wynn Resorts disclosed on March 2, 2012.

8 178. On information and belief, these positive developments in Macau (or elsewhere in
9 Wynn Resorts operational sphere) were imminent and known by Wynn Resorts. To the extent
10 that the redemption of Aruze USA's stock actually occurred, Wynn Resorts redeemed Aruze
11 USA's stock based on this material, non-public information. Although Wynn Resorts claims to
12 have purchased Aruze USA's stock using the current stock market value, Wynn Resorts knew,
13 but failed to disclose, that the stock market value did not reflect the land concession contract that
14 it had obtained in Macau. Therefore, Wynn Resorts continued its fraudulent and misleading
15 omission of this information in calculating the redemption price knowingly based on materially
16 misleading information.

17 **CLAIMS FOR RELIEF**

18 **COUNT I**

19 **Declaratory Relief**

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

21 179. Aruze USA and Universal reassert and reallege Paragraphs 4 through 178 above as
22 if set forth in full below.

23 180. Aruze USA and Universal seek a judicial declaration that the purported
24 redemption of Aruze USA's shares is void *ab initio*, and that Aruze USA is the owner of
25 24,549,222 shares or 19.66% of the total outstanding common stock of Wynn Resorts, with all
26 rights and privileges appurtenant thereto (including, but not limited to, payment of dividends and
27 voting rights). This declaration is appropriate because, as alleged above: (1) the redemption
28 provision in the Articles of Incorporation is inapplicable to the Wynn Resorts' stock owned by

1 Aruze USA because Aruze USA entered into the Stockholders Agreement, which prevented any
2 further restrictions without agreement of the parties and vested in Aruze USA the “sole power of
3 disposition” of its shares, before the enactment of the redemption provision; (2) the redemption
4 provision in the Articles of Incorporation is inconsistent with Nevada law and public policy, and
5 thus void; (3) the Board lacked a sufficient basis for a finding of “unsuitability” or for
6 redemption; and/or, (4) the redemption provision as written and as applied is unconscionable.

7 181. In addition or alternatively, Aruze USA and Universal seek a judicial declaration
8 that the redemption provision in Wynn Resorts’ Articles of Incorporation is invalid as a matter of
9 law because it is impermissibly vague, contrary to law and public policy, and/or unconscionable.
10 This declaration is appropriate because, among other things, Nevada gaming regulators are given
11 the authority under the laws of Nevada to make determinations regarding “suitability.” The
12 redemption provision in Wynn Resorts’ Articles of Incorporation purportedly relied on here by
13 the Wynn Directors improperly and illegally usurps that authority. Furthermore, if and when
14 Nevada gaming regulators were to make such a determination, redemption that simply replaces
15 equity with debt is ineffective to effect a disassociation; the redemption provision, therefore,
16 would not comply with Nevada law.

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

24 183. In addition or alternatively, Aruze USA and Universal seek a judicial declaration
25 that the Board resolution to redeem Aruze USA’s shares was procedurally and/or substantively
26 defective, and contrary to law and public policy. As alleged in detail above, this declaration is
27 appropriate because (1) the Stockholders Agreement, executed before the redemption provision
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1 was added to the Articles of Incorporation, prevented any further restrictions on Aruze USA's
2 shares without agreement of the parties and vested in Aruze USA the "sole power of disposition"
3 of its shares; (2) the Board lacked a sufficient basis for a finding of "unsuitability" or redemption
4 and made its findings without a thorough and complete review of relevant law, facts, and
5 evidence; (3) the redemption provision in the Articles of Incorporation is inconsistent with
6 Nevada law and public policy, and thus void; and, (4) the redemption provision, as written and as
7 applied, is unconscionable.

8 184. Alternatively, to the extent that redemption is not otherwise barred, Aruze USA
9 and Universal seek a judicial declaration that the form and amount of compensation paid for
10 Aruze USA's shares was improper and/or inadequate and that Aruze USA is entitled to cash in an
11 amount equivalent to at least the closing price of the stock on February 17, 2012. Indeed, Wynn
12 Resorts asserted in a court filing dated January 27, 2012, that "[w]ith holdings valued at
13 approximately \$2.9 billion, Aruze is one of Wynn's largest shareholders." As alleged in detail
14 above, this declaration is appropriate because simply converting Wynn Resorts' largest
15 shareholder to Wynn Resorts' largest creditor serves no valid legal purpose. Furthermore, the
16 discount applied to Aruze USA's shares based on the transfer restrictions of the Stockholder
17 Agreement is invalid because of Steve Wynn's and Elaine Wynn's prior breach of the
18 Stockholders Agreement. Moreover, the amount and form of compensation paid for Aruze
19 USA's shares does not represent the "fair value" of the shares under the Articles of Incorporation
20 and governing law. The "fair value" of the Aruze USA's stock at the time of the redemption
21 should not have included any discount for the transfer restrictions or lack of marketability of
22 Aruze USA's stock. In addition, the valuation by Moelis was not objective, independent, or the
23 product of sound financial analysis, and, among other things, did not consider material non-public
24 information available to Wynn Resorts that would militate in favor of a higher valuation, did not
25 account for the premium that would be applied to such a large block of shares, and did not
26 consider the extent to which transfer restrictions were not valid as to Aruze USA.

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

186. An actual justifiable controversy has arisen between parties whose interests are adverse, and the dispute is ripe for adjudication. Wynn Resorts acted unlawfully when it purported to “redeem” Aruze USA’s equity interest in Wynn Resorts.

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

COUNT II

Permanent Prohibitory Injunction

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

188. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

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

190. For the reasons alleged above, the purported redemption is invalid as a matter of law and violated applicable contracts, and/or depends on provisions of contracts that are unenforceable as a matter of law. Even if there were a potentially valid legal mechanism to

1 redeem Aruze USA's stock, which there is not, redemption would be inappropriate in this case
2 because the Board lacked sufficient basis to find Aruze USA or any of its affiliates or employees
3 "unsuitable."

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

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

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

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

17 **COUNT III**

18 **Permanent Mandatory Injunction**

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

20 195. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth
21 in full below.

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

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

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

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

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

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

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

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COUNT IV

Breach of Contract in Connection with Wynn Resorts' Involuntary Redemption

(By Aruze USA Against Steve Wynn and Elaine Wynn)

203. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

204. The Stockholders Agreement, with Mr. Wynn in 2002, and as amended in 2010 to include Ms. Wynn as a party, forms a contractual relationship and understanding between, *inter alia*, Aruze USA, Mr. Wynn, and Elaine Wynn.

205. The Stockholders Agreement between Aruze USA, Mr. Wynn, and Elaine Wynn prohibits the involuntary disposition of any shares of Wynn Resorts held by Aruze USA. Specifically, the Stockholders Agreement provides that Aruze USA "shall be the record and Beneficial owner of all of the [Wynn Resorts' common] Shares. . . [and] shall have the *sole power of disposition* [and] sole power of conversion..." over its shares in Wynn Resorts and there are "no material limitations, qualification or restrictions on such rights...." (Emphasis added.)

206. Any redemption of Aruze USA's shares of Wynn Resorts is an involuntary disposition of Aruze USA's shares in violation of the Stockholders Agreement. By voting in favor of the redemption, Steve Wynn and Elaine Wynn did knowingly, willfully, and intentionally breach the Stockholders Agreement.

207. Aruze USA has been damaged in excess of \$10,000.

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

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

COUNT V

Breach of Articles of Incorporation/Breach of Contract in Connection with Wynn Resorts'

Discounting Method of Involuntary Redemption

(By Aruze USA Against Wynn Resorts)

210. Aruze USA reasserts and realleges Paragraphs 4 through 172 above as if set forth in full below.

211. In the alternative, to the extent the Court finds that the redemption provision in the Articles of Incorporation applies to Aruze USA's shares, Wynn Resorts' involuntary redemption breaches the terms of the Agreement.

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

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

214. Wynn Resorts improperly discounted the fair value of the Aruze USA stock to the extent the Stockholders Agreement is not enforceable as a result of Mr. Wynn's and Elaine Wynn's breach of the Stockholders Agreement. In addition, the purported stock restrictions impose an unreasonable restraint on alienation and are therefore unenforceable.

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

216. Among other things, although known to Wynn Resorts, Wynn Resorts did not take into account material non-public information concerning positive developments for Wynn Resorts regarding the Cotai land concession in Macau, as well as other positive non-public information, when redeeming Aruze USA's shares for far less than the value of the shares. Furthermore,

1 Wynn Resorts' unilateral valuation did not account for the premium that would be applied to such
2 a large block of shares.

3 217. Aruze USA has been damaged in excess of \$10,000.

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

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

12 **COUNT VI**

13 **Breach of Fiduciary Duty**

14 **(By Aruze USA Against the Wynn Directors)**

15 220. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth
16 in full below.

17 221. Directors of a corporation owe a fiduciary duty to the corporation and to its
18 shareholders, including a duty of care and a duty of loyalty toward the corporation and each
19 shareholder.

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

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

26 224. The Wynn Directors abused their discretion in finding Aruze USA, Universal, and
27 Mr. Okada "unsuitable" and resolving to have the Company cause the purported redemption of
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1 Aruze USA's shares of Wynn Resorts' stock. The outcome of the Compliance Committee's
2 "investigation" was already determined prior to engaging a supposedly "independent"
3 investigator, which then openly acted as an advocate against Aruze USA, Universal, and
4 Mr. Okada rather than providing an objective, balanced, and fully informed review of the facts
5 and law. Despite the fact that Freeh Sporkin informed the Board that further investigation would
6 be required with respect to matters encompassed by its report, and despite assurances that Aruze
7 USA, Mr. Okada, and Universal would be permitted to respond substantively to the report, the
8 Wynn Directors deprived them of an opportunity to understand and to present any information to
9 address the allegations against them prior to the vote on redemption.

10 225. On information and belief, the Wynn Directors acted at the direction of Mr. Wynn
11 and abandoned their own independence and objectivity in evaluating the allegations. The Wynn
12 Directors failed to conduct a fair, comprehensive, and thoughtful investigation, and failed to
13 ensure that they were properly and adequately informed before acting.

14 226. Wynn Resorts, at the direction of Mr. Wynn, conducted an "investigation" that
15 was hurried, incomplete, one-sided, and unfair to Aruze USA, with a result that was preordained
16 by Mr. Wynn and his cohorts before the "investigator" was even hired. Aruze USA was not
17 given an opportunity to review the allegations against it or rebut or address any findings of
18 improper conduct or any other supposed basis for redemption. The entire process was tainted by
19 the desire to serve Mr. Wynn's pretextual goals of removing Aruze USA as the largest single
20 shareholder of the Company, silencing Mr. Okada, and consolidating and maintaining
21 Mr. Wynn's control over Wynn Resorts. Such actions do not withstand any standard of
22 fundamental fairness or due process.

23 227. Further, the purported redemption was voted on by persons with irreconcilable
24 conflicts of interest, including breaches of the duty of loyalty, the duty of care, and the duty of
25 good faith.

26 228. Through their acts, the Wynn Directors have acted in a manner that seeks to
27 deprive Aruze USA alone from its right to vote its shares, receive dividends, elect directors, and
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1 to utilize other privileges incident to controlling the largest single block of shares in a publicly
2 traded company.

3 229. Harm will result if relief is not granted because Aruze USA's more than \$2.7
4 billion equity stake in Wynn Resorts will be instantaneously and irreversibly damaged by the
5 Company's purported action to convert Aruze USA's substantial ownership interest into a wholly
6 subordinated ten-year promissory note in a principal amount 30% less than the fair market value
7 of the stock, and paying a mere 2% percent interest, without providing Aruze USA any voting
8 rights, rights to dividends, or the right to transfer the note.

9 230. As a further direct and proximate result of the wrongful conduct by the Wynn
10 Directors, as alleged herein, Aruze USA was and continues to be damaged in an amount in excess
11 of \$10,000.

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

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

20 **COUNT VII**

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

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

23 233. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth
24 in full below.

25 234. By engaging the in the wrongful conduct alleged herein, Wynn Resorts
26 purportedly redeemed Aruze USA's stock in exchange for a wholly subordinated, unsecured ten-
27 year promissory note in a principal amount at least 30% less than the fair value of Aruze USA's
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1 stock, and paying a mere 2% interest, without providing Aruze USA any voting rights, rights to
2 dividends, or the right to transfer the note.

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

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

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

16 **COUNT VIII**

17 **Conversion**

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

19 238. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth
20 in full below.

21 239. Wynn Resorts did not have a legal right to redeem and in addition lacked a proper
22 and sufficient basis to find that the allegations in the Freeh Sporkin report against Aruze USA,
23 Mr. Okada, and Universal were activities that "were likely to jeopardize [the Company's] or any
24 Affiliated Company's ... right to the use of, or entitlement to any Gaming License."

25 240. As a result, Wynn Resorts' Board lacked a fair, proper, and sufficient basis for
26 seizing Aruze USA's stock.

27 241. Wynn Resorts wrongfully exercised dominion over Aruze USA's stock.
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242. Wynn Resorts' dominion over Aruze USA's stock without a valid basis for redemption is inconsistent with the Articles of Incorporation and Aruze USA's rights in the stock under the Contribution Agreement and the Stockholders Agreement.

243. Wynn Resorts converted Aruze USA stock, damaging Plaintiff in an amount in excess of \$10,000.

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

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

COUNT IX

Fraud/Fraudulent Misrepresentation in Connection with Financing for Aruze USA

(By Aruze USA Against Wynn Resorts, Steve Wynn, and Kimmarie Sinatra)

246. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

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

248. Mr. Wynn and Ms. Sinatra, acting in their individual capacity and as agents of Wynn Resorts, made these false and misleading statements and omissions knowingly or without sufficient basis of information because they believed Wynn Resorts was not permitted to enter

1 into such a lending transaction pursuant to the restrictions in Section 402 of SOX. As alleged
2 above, Mr. Wynn and Ms. Sinatra engaged in this wrongful conduct for the purpose of
3 maintaining Mr. Wynn's control over Wynn Resorts after Mr. Wynn's shares in the Company
4 were split with Elaine Wynn following their divorce, and keeping alive the opportunity to later
5 have Wynn Resorts seek to redeem Aruze USA's shares at a discount.

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

11 250. Aruze USA relied on the false and misleading statements and omissions made by
12 Wynn Resorts, Mr. Wynn, and Ms. Sinatra. Aruze USA's reliance on the false and misleading
13 statements and omissions was reasonable and justifiable, especially in light of Mr. Okada's
14 trusting relationship with Mr. Wynn.

15 251. On information and belief, Wynn Resorts, Mr. Wynn, and Ms. Sinatra knew that
16 Aruze USA intended to rely on this information as a reason for Aruze USA to consent to Elaine
17 Wynn's transfer of shares under the Stockholders Agreement, and for Aruze USA to refrain from
18 taking steps to invalidate the purported restrictions on alienability contained in the Stockholders
19 Agreement. On information and belief, Wynn Resorts, Mr. Wynn, and Ms. Sinatra further knew
20 and intended that, in reliance on these misrepresentations, Aruze USA would relinquish its own
21 opportunity to liquidate its own shares of Wynn Resorts' stock to fund Universal's project in the
22 Philippines or seek other financing. Therefore, Aruze USA relied on the fact that Wynn Resorts
23 was a committed lender to the project at the expense of pursuing other financing options.

24 252. As a further direct and proximate result of the wrongful conduct by Wynn Resorts,
25 Mr. Wynn, and Ms. Sinatra, as alleged herein, Aruze USA was and continues to be damaged in an
26 amount in excess of \$10,000 to be proven at trial.
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253. Pursuant to N.R.S. § 42.005, by reason of the fraudulent, reckless, misleading, malicious, willful, and wanton misconduct of Wynn Resorts, Mr. Wynn, and Ms. Sinatra, Aruze USA is entitled to punitive damages not to exceed three times the amount of compensatory damages awarded.

254. Aruze USA brings this claim within the relevant statute of limitations under Nevada law, having discovered facts giving rise to this claim, including injury arising from the purported redemption of Aruze USA's shares of Wynn Resorts' stock, on or about September 30, 2011.

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

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

COUNT X

Negligent Misrepresentation in Connection with Financing for Aruze USA

(By Aruze USA Against Wynn Resorts, Steve Wynn, and Kimmarie Sinatra)

257. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

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

1 259. The false statements of facts alleged herein were material because had Wynn
2 Resorts, Mr. Wynn, and Ms. Sinatra provided Aruze USA with truthful and correct information,
3 Aruze USA would not have consented to Elaine Wynn's transfer of shares under the Stockholders
4 Agreement, and would have taken steps to invalidate the purported restrictions in the Shareholder
5 Agreement.

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

8 261. Wynn Resorts, Mr. Wynn, and Ms. Sinatra made the false statements or omissions
9 of fact alleged herein with the intent to induce Aruze USA to consent to Elaine Wynn's transfer
10 of shares under the Stockholders Agreement without pledging its own shares in a manner that
11 would reduce Mr. Wynn's control over those shares. Furthermore, Wynn Resorts, Mr. Wynn,
12 and Ms. Sinatra made the false statements of fact alleged herein with the intent of gaining their
13 own financial advantage to the disadvantage of Aruze USA, including, but not limited to, the
14 opportunity to seek to have Wynn Resorts redeem Aruze USA's shares at a discount.

15 262. Furthermore, Mr. Wynn and Ms. Sinatra, acting in their individual capacity and as
16 agents of Wynn Resorts, made these materially false and misleading statements and omissions
17 knowingly or without sufficient basis of information regarding the immediate need for Elaine
18 Wynn to transfer her shares under the Stockholders Agreement.

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

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

26 265. Aruze USA has suffered and continues to suffer economic and non-economic
27 losses because of Wynn Resorts', Mr. Wynn's, and Ms. Sinatra's false statements of fact. The
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1 amount of losses will be determined according to proof at trial, but damages are in an amount in
2 excess of \$10,000.

3 266. Pursuant to N.R.S. § 42.005, by reason of the fraudulent, reckless, misleading,
4 malicious, willful, and wanton misconduct of Wynn Resorts, Mr. Wynn, and Ms. Sinatra, Aruze
5 USA is entitled to punitive damages not to exceed three times the amount of compensatory
6 damages awarded.

7 267. Aruze USA brings this claim within the relevant statute of limitations under
8 Nevada law, having discovered facts giving rise to this claim on or about September 30, 2011.
9 Despite having exercised reasonable diligence, Aruze USA did not and could not reasonably have
10 discovered earlier the facts giving rise to this claim.

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

14 **COUNT XI**

15 **Civil Conspiracy in Connection with Financing for Aruze USA**

16 **(By Aruze USA Against Steve Wynn and Kimmarré Sinatra)**

17 269. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth
18 in full below.

19 270. Aruze USA, Mr. Wynn and Elaine Wynn entered into an agreement regarding the
20 disposition of shares pursuant to the January 6, 2010 Amended and Restated Stockholders
21 Agreement.

22 271. Ms. Sinatra, as General Counsel for Wynn Resorts, had knowledge of the
23 Stockholders Agreement and its restriction on transfer of shares.

24 272. On information and belief, Ms. Sinatra had knowledge that Mr. Wynn needed
25 Aruze USA to waive the restriction in order to permit Elaine Wynn to transfer her shares.

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

5 274. Wynn Resorts, Mr. Wynn, and Ms. Sinatra made false and misleading statements
6 and omissions of material facts to Aruze USA. Specifically, on or about May 16, 2011, and for
7 months thereafter, Mr. Wynn and Ms. Sinatra made false and misleading statements and
8 omissions concerning Wynn Resorts' ability and/or willingness to loan money to Aruze USA,
9 which Wynn Resorts, Mr. Wynn, and Ms. Sinatra agreed would be backed by shares of Wynn
10 Resorts' stock held by Aruze USA.

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

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

24 277. Aruze USA relied on the false and misleading statements and omissions made by
25 Wynn Resorts, Mr. Wynn, and Ms. Sinatra. Aruze USA's reliance on the false and misleading
26 statements and omissions was reasonable and justifiable, especially in light of Mr. Okada's
27 trusting relationship with Mr. Wynn.
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278. On information and belief, Wynn Resorts, Mr. Wynn, and Ms. Sinatra knew that Aruze USA intended to rely on this information as a reason for Aruze USA to consent to Elaine Wynn's transfer of shares under the Stockholders Agreement. On information and belief, Wynn Resorts, Mr. Wynn, and Ms. Sinatra further knew and intended that, in reliance on these misrepresentations, Aruze USA would relinquish its own opportunity to liquidate its own shares of Wynn Resorts' stock to fund Universal's project in the Philippines or seek other financing. Therefore, Aruze USA relied on the fact that Wynn Resorts was a committed lender to the project at the expense of pursuing other financing options.

279. As a further direct and proximate result of the wrongful conduct by Wynn Resorts, Mr. Wynn, and Ms. Sinatra, as alleged herein, Aruze USA was and continues to be damaged in an amount in excess of \$10,000 to be proven at trial.

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

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

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

COUNT XII

Promissory Estoppel in Connection with Financing for Aruze USA

(By Aruze USA Against Wynn Resorts, Steve Wynn, and Kimmarie Sinatra)

283. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

1 284. On or about May 16, 2011, Mr. Wynn, in the presence of Ms. Sinatra, gave
2 Mr. Okada an explicit personal assurance that Wynn Resorts would provide a loan or facilitate the
3 lending of money to Aruze USA, which would be backed by shares of Wynn Resorts' stock held
4 by Aruze USA. As alleged above, Mr. Okada agreed to the financing from Wynn Resorts –
5 rather than causing Aruze USA to attempt to liquidate or pledge its shares of Wynn Resorts or
6 seek alternative financing – based on assurances made by Mr. Wynn. Ms. Sinatra agreed to
7 provide draft loan agreements to Aruze USA within 10 days to support the agreement reached
8 between Mr. Wynn and Mr. Okada.

9 285. Based on the foregoing agreement, on July 13, 2011, Ms. Sinatra stated in an email
10 to Aruze USA's counsel that Wynn Resorts was negotiating with Deutsche Bank on a margin
11 loan transaction on Aruze USA's behalf, with Wynn Resorts acting as a "backstop."

12 286. Mr. Wynn and Ms. Sinatra, acting in their individual capacities and as agents of
13 Wynn Resorts, made these statements knowingly or without sufficient basis of information
14 because they believed Wynn Resorts was not legally permitted to enter into such a lending
15 transaction pursuant to the restrictions in Section 402 of SOX. As alleged above, Mr. Wynn and
16 Ms. Sinatra engaged in this wrongful conduct with the intent to induce Aruze USA to consent to
17 Elaine Wynn's transfer of shares under the Stockholders Agreement. Mr. Wynn and Ms. Sinatra
18 acted with the purpose of maintaining Mr. Wynn's control over Wynn Resorts after Mr. Wynn's
19 shares in the Company were split with Elaine Wynn following their divorce, and keeping alive
20 the opportunity to later have Wynn Resorts seek to redeem Aruze USA's shares at a discount.

21 287. At the time, Aruze USA was not aware that Wynn Resorts would take the position
22 that it was not legally permitted to enter into such a lending transaction pursuant to the
23 restrictions in Section 402 of SOX. Aruze USA relied on the false and misleading statements and
24 omissions made by Wynn Resorts, Mr. Wynn, and Ms. Sinatra. Aruze USA's reliance on the
25 false and misleading statements and omissions was reasonable and justifiable, especially in light
26 of Mr. Okada's trusting relationship with Mr. Wynn.
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288. On information and belief, Wynn Resorts, Mr. Wynn, and Ms. Sinatra knew that Aruze USA intended to rely on this information as a reason for Aruze USA to forego seeking to liquidate its shares or seeking another source of financing backed by its Wynn Resorts shares. On information and belief, Wynn Resorts, Mr. Wynn, and Ms. Sinatra further knew and intended that in reliance on these misrepresentations, Aruze USA would relinquish its opportunity to liquidate its own shares of Wynn Resorts' stock to fund Universal's project in the Philippines or seek other financing. Therefore, Aruze USA relied on the fact that Wynn Resorts was a committed lender to the project at the expense of pursuing other financing options.

289. On September 30, 2011, Wynn Resorts' Compliance Committee refused to permit the loan to Aruze USA or to otherwise serve as a "backstop" for a margin loan transaction on Aruze USA's behalf.

290. As a further direct and proximate result of the wrongful conduct by Wynn Resorts, Mr. Wynn, and Ms, Sinatra, as alleged herein, Aruze USA was and continues to be damaged in an amount in excess of \$10,000 to be proven at trial.

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

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

COUNT XIII

Fraud/Fraud in the Inducement of the Stockholders Agreement

(By Aruze USA Against Steve Wynn)

293. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

1 294. In the alternative, to the extent the Court finds that the redemption provision in the
2 Articles of Incorporation applies to Aruze USA's shares, Aruze USA asserts the claim of
3 fraudulent inducement against Steve Wynn. Aruze USA thus brings this claim in the alternative
4 to Aruze USA's claims that assert the purported redemption by Wynn Resorts is void *ab initio*.

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

9 296. On behalf of Aruze USA, on or about June 10, 2002, Mr. Wynn caused Aruze
10 USA to enter into a Contribution Agreement between Aruze USA, Baron Asset Fund, Kenneth R.
11 Wynn Family Trust, Wynn Resorts, and Mr. Wynn. The Contribution Agreement committed
12 Aruze USA's LLC interests in Valvino in exchange for Wynn Resorts common stock.

13 297. Prior to causing the exchange to occur, on or about September 10, 2002,
14 Mr. Wynn unilaterally filed amended Articles of Incorporation that, for the first time, included a
15 redemption provision. On information and belief, Mr. Wynn deliberately delayed in causing the
16 exchange in order to allow Mr. Wynn to unilaterally amend the Articles of Incorporation without
17 affording Aruze USA a shareholder vote as would have been required pursuant to N.R.S.
18 § 78.390. At the time of the amendment, Mr. Wynn was the sole stockholder of Wynn Resorts.
19 On or about September 28, 2002, about eighteen days after Mr. Wynn unilaterally amended the
20 Articles of Incorporation, Mr. Wynn caused the exchange of Aruze USA's LLC interests in
21 Valvino to Wynn Resorts for Wynn Resorts common stock.

22 298. Mr. Wynn intentionally made materially false and/or misleading representations to
23 Aruze USA regarding Wynn Resorts' stockholder obligations under the Articles of Incorporation
24 to induce Aruze USA to enter into the Stockholders Agreement. The Stockholders Agreement
25 expressly provided that Aruze USA would have the sole power of disposition of its stock in
26 Wynn Resorts and there were to be no other provisions regarding the disposition of Aruze USA's
27 stock, voluntarily or involuntary. Mr. Wynn misrepresented and/or failed to disclose that Wynn
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1 Resorts' amended Articles of Incorporation would seek to impose substantial financial risk on
2 Aruze USA's shares of Wynn Resorts stock by providing Wynn Resorts' Board – which was
3 controlled by Mr. Wynn – purported discretion to redeem Aruze USA's stock on potentially
4 onerous terms.

5 299. The misrepresentations and concealment of facts alleged herein were material.

6 300. Mr. Wynn knew the misrepresentations and concealment of facts alleged herein
7 were false, or alternatively, made misrepresentations of facts with reckless disregard for whether
8 those representations were true.

9 301. Wynn Resorts and Mr. Wynn made the misrepresentations and concealed facts as
10 set forth herein with the intent to induce Aruze USA to enter into the Stockholder Agreement.
11 Furthermore, Mr. Wynn made the misrepresentations and concealment of facts alleged herein
12 with the intent of gaining his own financial advantage to the disadvantage of Aruze USA.

13 302. Aruze USA relied upon the misrepresentations and concealment of facts made by
14 Mr. Wynn regarding Wynn Resorts' common stock at the time Aruze USA entered into the
15 Stockholders Agreement. Aruze USA's reliance on these representations and concealment of
16 facts was reasonable and justifiable, especially in light of Mr. Okada's trusting relationship with
17 Mr. Wynn.

18 303. Aruze USA was not aware of and could not have known about the
19 misrepresentations until September 30, 2011, when Wynn Resorts, for the first time, indicated
20 that it might attempt to apply the redemption restriction to Aruze USA's shares.

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

25 305. As a remedy for Mr. Wynn's fraudulent inducement, Aruze USA seeks imposition
26 of a constructive trust over Aruze USA's Wynn Resorts shares purportedly redeemed by the
27 Board, or, in the alternative, recovery of unjust enrichment/restitution.
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306. Pursuant to N.R.S. § 42.005, by reason of the fraudulent, reckless, misleading, malicious, willful, and wanton misconduct of Wynn Resorts, Mr. Wynn, and Ms. Sinatra, Aruze USA is entitled to punitive damages not to exceed three times the amount of compensatory damages awarded.

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

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

COUNT XIV

Negligent Misrepresentation in Connection with the Stockholders Agreement

(By Aruze USA Against Steve Wynn)

309. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

310. In the alternative, to the extent that the redemption provision in the later amended Articles of Incorporation is found to apply to Aruze USA's shares, Aruze USA asserts the claim of negligent misrepresentation in connection with the Stockholders Agreement against Steve Wynn. Aruze USA thus brings this claim in the alternative to Aruze USA's claims that assert the purported redemption by Wynn Resorts is void *ab initio*.

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

1 312. On behalf of Aruze USA, on or about June 10, 2002, Mr. Wynn caused Aruze
2 USA to enter into a Contribution Agreement between Aruze USA, Baron Asset Fund, Kenneth R.
3 Wynn Family Trust, Wynn Resorts, and Mr. Wynn. The Contribution Agreement committed
4 Aruze USA's LLC interests in Valvino in exchange for Wynn Resorts common stock.

5 313. Prior to causing the exchange to occur, on or about September 10, 2002,
6 Mr. Wynn unilaterally filed amended Articles of Incorporation that, for the first time, included a
7 redemption provision. On information and belief, Mr. Wynn deliberately delayed in causing the
8 exchange in order to allow Mr. Wynn to unilaterally amend the Articles of Incorporation without
9 affording Aruze USA a shareholder vote as would have been required pursuant to N.R.S.
10 § 78.390. At the time of the amendment, Mr. Wynn was the sole stockholder of Wynn Resorts.

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

15 315. Mr. Wynn made materially false representations and/or omissions to Aruze USA
16 regarding Wynn Resorts' stockholder obligations under at the time Aruze USA entered into the
17 Stockholders Agreement. The Stockholders Agreement expressly provided that Aruze USA
18 would have the sole power of disposition of its stock in Wynn Resorts and there were to be no
19 other provisions regarding the disposition of Aruze USA's stock, voluntarily or involuntary.
20 Mr. Wynn misrepresented and/or failed to disclose that Wynn Resorts' amended Articles of
21 Incorporation would seek to impose substantial financial risk to Aruze USA by providing Wynn
22 Resorts' Board (which was controlled by Mr. Wynn) purported discretion to redeem Aruze
23 USA's stock on potentially onerous terms.

24 316. Aruze USA was not aware of and could not have known about the
25 misrepresentations until September 30, 2011, when Wynn Resorts, for the first time, indicated
26 that it might attempt to apply the redemption restriction to Aruze USA's shares.
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1 317. The false statements and/or omissions of facts alleged herein were material
2 because, had Mr. Wynn provided Aruze USA with truthful and correct information, Aruze USA
3 would not have entered into the Stockholders Agreement.

4 318. Mr. Wynn failed to exercise reasonable care or competence in obtaining or
5 communicating the false statements of fact alleged herein.

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

11 320. On information and belief, Mr. Wynn knew that Aruze USA intended to rely on
12 this information as a reason for Aruze USA to enter into the Stockholders Agreement.

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

17 322. As a remedy for Mr. Wynn's negligent misrepresentations, Aruze USA seeks
18 imposition of a constructive trust over Aruze USA's Wynn Resorts shares purportedly redeemed
19 by the Board, or, in the alternative, unjust enrichment/restitution.

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

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

Breach of Contract in Connection with the Stockholders Agreement

(By Aruze USA Against Steve Wynn)

325. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

326. Mr. Wynn, Elaine Wynn, and Aruze USA are parties to the Stockholders Agreement.

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

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

329. Mr. Wynn's actions constitute a material breach of the Stockholders Agreement without justification and has frustrated the essential purpose of the Stockholders Agreement.

330. The Stockholders Agreement provides that each of the parties to it recognizes and acknowledges that a breach by any party of any covenants or agreements contained in the Agreement will cause the other parties to sustain damages for which they would not have an adequate remedy at law for money damages, and therefore each of the parties agrees that in the event of any such breach the parties shall be entitled to appropriate equitable relief.

331. On account of Mr. Wynn's material breach of the Stockholders Agreement, Aruze USA was excused and completely discharged from any further performance of its obligations contained therein.

332. Further, the breaches by Mr. Wynn have frustrated the entire purpose of the Stockholders Agreement, and have instead served to further entrench Mr. Wynn's control over the Company to the detriment of the other parties to the Agreement.

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

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

COUNT XVI

Breach of Covenant of Good Faith and Fair Dealing in Stockholders Agreement

(By Aruze USA Against Steve Wynn)

335. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

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

337. Aruze USA and Mr. Wynn are parties to the Stockholders Agreement, between Mr. Wynn, Elaine Wynn, and Aruze USA.

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

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

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

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

342. Accordingly, Mr. Wynn's conduct has breached the covenant of good faith and fair dealing. On account of Mr. Wynn's material breach, Aruze USA is entitled to contract damages, or in the alternative, Aruze USA is entitled to be excused and discharged from its obligations under the Stockholders Agreement.

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

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

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

COUNT XVII

Breach of Fiduciary Duty

(By Aruze USA Against Steve Wynn)

346. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

347. In the alternative, to the extent the Court finds that the redemption provision in the Articles of Incorporation applies to Aruze USA's shares, Aruze USA asserts the claim of breach

1 of fiduciary duty against Steve Wynn. Aruze USA thus brings this claim in the alternative to
2 Aruze USA's claims that assert the purported redemption by Wynn Resorts is void *ab initio*.

3 348. Section 2(c) of the Stockholder Agreement provided that "Aruze [USA] hereby
4 constitutes and appoints [Mr.] Wynn as its true and lawful attorney-in-fact and agent, with full
5 power of substitution and reconstitution for it and in its name, place and stead, in any and all
6 capacities, to execute and deliver any and all documents in connection with or related to the
7 formation of [Wynn Resorts]." As Aruze USA's attorney-in-fact and agent, Mr. Wynn had a
8 fiduciary duty to Aruze USA to act in good faith and in Aruze USA's best interest.

9 349. By virtue of his purported position as power of attorney under the Stockholders
10 Agreement, Mr. Wynn owed fiduciary duties to Aruze USA. In breach of these duties, on or
11 about September 10, 2002, Mr. Wynn caused to be filed amended Articles of Incorporation that
12 included, for the first time, a redemption provision.

13 350. Mr. Wynn's act of unilaterally amending the Articles of Incorporation
14 demonstrated that Mr. Wynn possessed a conflict of interest in his dual roles of sole shareholder
15 in Wynn Resorts and attorney-in-fact and agent of Aruze USA. If applied to Aruze USA, the
16 redemption provision would violate the Stockholders Agreement and impose substantial financial
17 risk on Aruze USA's shares of Wynn Resorts stock by providing Wynn Resorts' Board – which
18 was controlled by Mr. Wynn – purported discretion to redeem Aruze USA's stock on potentially
19 onerous terms. Despite the conflict of interest, Mr. Wynn included the redemption provision in
20 the Articles of Incorporation to the detriment of Aruze USA in breach of his fiduciary duties as
21 attorney-in-fact to Aruze USA. Further, as Aruze USA's attorney-in-fact, Mr. Wynn had a duty
22 to inform Aruze USA that the redemption provision could be used against Aruze USA. In
23 violation of this duty, Mr. Wynn not only failed to inform Aruze USA of this risk, but, on
24 information and belief, his attorneys represented to Aruze USA's attorneys that such a
25 redemption provision would *not* apply to Aruze USA's shares.

26 351. Mr. Wynn's fiduciary obligations to Aruze USA as attorney-in-fact are not subject
27 to the business judgment rule.
28

352. Aruze USA was not aware of and could not have known about the breach of fiduciary duties until September 30, 2011, when Wynn Resorts, for the first time, indicated that it might attempt to apply the redemption restriction to Aruze USA's shares.

353. As a further direct and proximate result of the wrongful conduct by the Mr. Wynn, as alleged herein, Aruze USA was and continues to be damaged in an amount in excess of \$10,000.

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

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

COUNT XVIII

Tortious Interference of Contract

**(By Aruze USA Against Wynn Resorts, Linda Chen, Russell Goldsmith, Ray R. Irani,
Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, Boone Wayson,
and Allan Zeman)**

356. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

357. In the alternative, to the extent the Court finds the redemption of Aruze USA's shares enforceable, Aruze USA asserts the claim of tortious interference of contract against Wynn Resorts, Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, Boone Wayson, and Allan Zeman.

358. On or about February 18, 2012, Wynn Resorts purportedly redeemed Aruze USA's Wynn Resort shares for 30% less than the market value of the shares as measured by the closing

1 price of Wynn Resort's stock on the Friday prior to the Saturday Board meeting. Wynn Resorts
2 announced that it arrived at the 30% discounted value because of the existence of the
3 Stockholders Agreement.

4 359. Wynn Resorts, Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller,
5 John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, Boone Wayson, and Allan Zeman knew of
6 the existence of the Stockholders Agreement between Aruze USA, Mr. Wynn, and Ms. Wynn,
7 and believed the Stockholders Agreement to be valid and enforceable prior to voting to redeem
8 Aruze USA's stock in Wynn Resorts.

9 360. By voting in favor of the redemption of Aruze USA's shares, Wynn Resorts, Linda
10 Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin
11 V. Shoemaker, Boone Wayson, and Allan Zeman knew or should have known that the
12 redemption would violate the Stockholders Agreement by denying Aruze USA the right to have
13 the "sole power of disposition" of its shares in Wynn Resorts.

14 361. To the extent the Court finds that the redemption of Aruze USA's stock actually
15 occurred, Wynn Resorts, Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A.
16 Moran, Marc D. Schorr, Alvin V. Shoemaker, Boone Wayson, and Allan Zeman intentionally and
17 tortiously interfered with contractual relations, which resulted in injury to Aruze USA.

18 362. As a further direct and proximate result of the wrongful conduct by Wynn Resorts,
19 Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr,
20 Alvin V. Shoemaker, Boone Wayson, and Allan Zeman as alleged herein, Aruze USA was and
21 continues to be damaged in an amount in excess of \$10,000 to be proven at trial.

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

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

COUNT XIX

Unconscionability/Reformation of Promissory Note

(By Aruze USA Against Wynn Resorts)

365. Aruze USA reasserts and realleges Paragraphs 4 through 178 above as if set forth in full below.

366. In the alternative, to the extent that the redemption provision in the Articles of Incorporation is found to apply to Aruze USA's shares and the redemption is found to be lawful, Aruze USA asserts that the promissory note is unconscionable and therefore subject to reformation.

367. On January 27, 2012, Wynn Resorts declared in a publicly filed Opposition to Mr. Okada's Petition for Writ of Mandamus that Aruze USA's nearly 20% stake in Wynn Resorts was "valued at approximately \$2.9 billion."

368. Just 22 days later, on February 18, 2012, Wynn Resorts acted to forcibly acquire Aruze USA's stake in Wynn Resorts in exchange for a \$1.936 billion promissory note, paying a mere 2% interest per annum over a ten-year term.

369. The promissory note is unconscionably vague, ambiguous, and oppressive.

370. Aruze USA was never permitted the opportunity to negotiate the amount of the promissory note given the market value of its shares, nor was Aruze USA permitted the opportunity to negotiate the terms of the promissory note, including, but not limited to, the interest rate, the restrictions on transfer, and the subordination provisions.

371. Wynn Resorts received a grossly one-sided windfall by forcibly redeeming \$2.9 billion of securities at a deep discount, transforming equity into a 2 percent per annum debt instrument that Aruze USA may not transfer, retaining the ability to issue additional debt at any

1 time and provide any new lender priority rights above Aruze USA's note, and removing voting
2 and other rights from Aruze USA.

3 372. Aruze USA, therefore, seeks reformation of the promissory note, including but not
4 limited to its principal, duration, interest rate, restrictions on transfer, restrictions on
5 subordination, and inclusion of other customary and reasonable terms, conditions, and covenants.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Aruze USA and Universal each expressly reserves its and their right to
8 amend these Counterclaims before or at the time of the trial of this action to include all items of
9 injury and damages not yet ascertained. Aruze USA and Universal pray that the Honorable Court
10 enter judgment in favor of each of them, and against Wynn Resorts, Mr. Wynn, Ms. Sinatra, and
11 the other Wynn Directors, as follows:

- 12 a. For general damages in an amount in excess of \$10,000;
13 b. For consequential damages;
14 c. For treble and statutory damages;
15 d. For punitive damages three times the amount of compensatory damages awarded;
16 e. For disgorgement of profits;
17 f. For constructive trust and unjust enrichment;
18 g. For preliminary and/or permanent injunctive relief;
19 h. For declaratory relief;
20 i. For reformation of the promissory note;
21 j. For costs and expenses of this action, prejudgment and post-judgment interest, and
22 reasonable attorneys' fees incurred herein; and
23 k. Any and all such other and further equitable and legal relief as this Court deems
24 just and proper.

25 **JURY DEMAND**

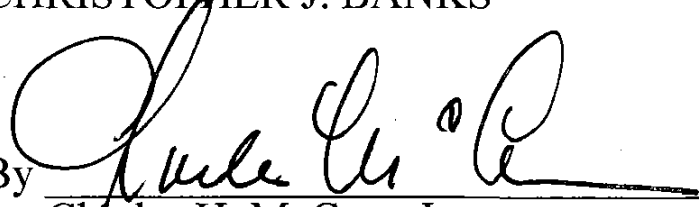
26 Defendants and Counterclaimants hereby demand a trial by jury on all claims and issues
27 so triable.
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Dated: November 26, 2013

LIONEL SAWYER & COLLINS
SAMUEL S. LIONEL (SBN 1766)
CHARLES H. McCREA, JR. (SBN 104)
STEVEN C. ANDERSON (SBN 11901)

MORGAN, LEWIS & BOCKIUS LLP
MARC J. SONNENFELD
ROLLIN B. CHIPPEY, II
JOSEPH E. FLOREN
BENJAMIN P. SMITH
CHRISTOPHER J. BANKS

By 
Charles H. McCrea, Jr.

Attorneys for Defendants and Counterclaimants
ARUZE USA, INC. and UNIVERSAL
ENTERTAINMENT CORP.

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Nevada Rule of Civil Procedure 5(b), I hereby certify that I am an employee
3 of LIONEL SAWYER & COLLINS and that on this 26th day of November, 2013, I caused
4 documents entitled FOURTH AMENDED COUNTERCLAIM OF ARUZE USA, INC. AND
5 UNIVERSAL ENTERTAINMENT CORP. to be served as follows:
6

7 ☐ by depositing same for mailing in the United States Mail, in a sealed envelope
8 addressed to:

9 James J. Pisanelli, Esq., Bar # 4027
10 Todd L. Bice, Esq., Bar # 4534
11 Debra L. Spinelli, Bar # 9695
12 PISANELLI BICE PLLC
13 3883 Howard Hughes Parkway, Suite 800
14 Las Vegas, NV 89169

15 Paul K. Rowe, Esq.*
16 Bradley R. Wilson, Esq.*
17 Grant R. Mainland, Esq.*
18 WACHTELL LIPTON, ROSEN & KATZ
19 51 West 52nd Street
20 New York, NY 10019

21 Robert L. Shapiro, Esq.*
22 GLASER WEIL FINK JACOBS HOWARD
23 AVCHEN & SHAPIRO, LLP
24 10259 CONSTELLATION Blvd., 19th Floor
25 Los Angeles, CA 90067
26 * *admitted pro hac vice*

Donald J. Campbell, Esq., Bar # 1216
J. Colby Williams, Esq., Bar # 5549
CAMPBELL & WILLIAMS
700 South Seventh Street
Las Vegas, NV 89109

William R. Urga, Esq., Bar # 1195
Martin A. Little, Esq., Bar # 7067
JOLLY URG WIRTH WOODBURY
& STANDISH
3800 Howard Hughes Parkway, 16th
Floor
Las Vegas, Nevada 89169

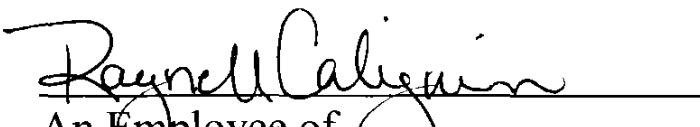
Ronald L. Olson, Esq.*
Mark B. Helm, Esq.*
Jeffrey Y. Wu, Esq.*
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560
* *admitted pro hac vice*

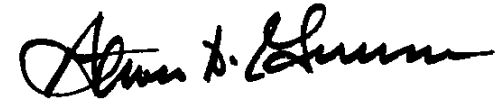
27 ☐ pursuant to Nev. R. Civ. P. 5(b)(2)(D) to be sent via facsimile as indicated:

28 ☐ to be hand delivered to:

and/or

☒ by the Court's ECF System through Wiznet.

25 
26 An Employee of
27 LIONEL SAWYER & COLLINS



CLERK OF THE COURT

NEOJ

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

JJP@pisanellibice.com

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

TLB@pisanellibice.com

Debra L. Spinelli, Esq., Bar No. 9695

DLS@pisanellibice.com

PISANELLI BICE PLLC

3883 Howard Hughes Parkway, Suite 800

Las Vegas, Nevada 89169

Telephone: 702.214.2100

Facsimile: 702.214.2101

Paul K. Rowe, Esq. (*admitted pro hac vice*)

pkrowe@wlrk.com

Bradley R. Wilson, Esq. (*admitted pro hac vice*)

brwilson@wlrk.com

WACHTELL, LIPTON, ROSEN & KATZ

51 West 52nd Street

New York, New York 10019

Telephone: 212.403.1000

Robert L. Shapiro, Esq. (*admitted pro hac vice*)

RS@glaserweil.com

GLASER WEIL FINK JACOBS HOWARD

AVCHEN & SHAPIRO, LLP

10250 Constellation Boulevard, 19th Floor

Los Angeles, California 90067

Telephone: 310.553.3000

Attorneys for Wynn Resorts, Limited, Linda Chen,

Russell Goldsmith, Ray R. Irani, Robert J. Miller,

John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,

Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Plaintiff,

vs.

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

Defendants.

AND ALL RELATED CLAIMS

Case No.: A-12-656710-B

Dept. No.: XI

**NOTICE OF ENTRY OF ORDER
GRANTING UNITED STATES OF
AMERICA'S MOTION FOR
EXTENSION OF TEMPORARY
STAY OF DISCOVERY**

Date of Hearing: October 31, 2013

Time of Hearing: 8:30 a.m.

1 PLEASE TAKE NOTICE that an "Order Granting United States of America's Motion for
2 Extension of Temporary Stay of Discovery and for Order Shortening Time" was entered in the
3 above-captioned matter on December 26, 2013, a true and correct copy of which is attached
4 hereto.

5 DATED this 30th day of December, 2013.

6 PISANELLI BICE PLLC

7
8 By: 

James J. Risanelli, Esq., Bar # 4027
Todd L. Bice, Esq., Bar # 4534
Debra L. Spinelli, Esq., Bar # 9695
3883 Howard Hughes Parkway, Suite 800
Las Vegas, Nevada 89169

11 and

12 Paul K. Rowe, Esq. (*admitted pro hac vice*)
13 Bradley R. Wilson, Esq. (*admitted pro hac vice*)
14 Grant R. Mainland, Esq. (*admitted pro hac vice*)
WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
15 New York, NY 10019

16 and

17 Robert L. Shapiro, Esq. (*admitted pro hac vice*)
GLASER WEIL FINK JACOBS HOWARD
18 AVCHEN & SHAPIRO, LLP
10259 CONSTELLATION Blvd., 19th Floor
19 Los Angeles, CA 90067

20 Attorneys for Wynn Resorts, Limited, Linda Chen,
21 Russell Goldsmith, Ray R. Irani, Robert J. Miller,
John A. Moran, Marc D. Schorr, Alvin V.
22 Shoemaker, Kimmarie Sinatra, D. Boone Wayson,
and Allan Zeman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 30th day of December, 2013, I caused to be electronically served through the Court's filing system true and correct copies of the foregoing NOTICE OF ENTRY OF ORDER properly addressed to the following:

Samuel S. Lionel, Esq.
Paul R. Hejmanowski, Esq.
Charles H. McCrea, Esq.
LIONEL SAWYER & COLLINS
300 South Fourth Street, Suite 1700
Las Vegas, NV 89101

Marc J. Sonnenfeld, Esq.
MORGAN LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103

William R. Urga, Esq.
Martin A. Little, Esq.
JOLLEY URGA WIRTH &
WOODBURY
3800 Howard Hughes Parkway, 16th Floor
Las Vegas, NV 89109

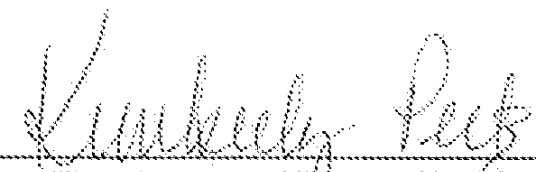
Joseph E. Floren, Esq.
Benjamin P. Smith, Esq.
Christopher J. Banks, Esq.
MORGAN LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126

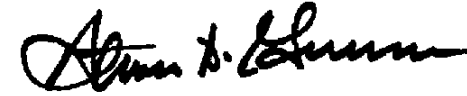
Ronald L. Olson, Esq.
Mark B. Helm, Esq.
Jeffrey Y. Wu, Esq.
MUNGER TOLLES & OLSON, LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071

Donald J. Campbell, Esq.
J. Colby Williams, Esq.
CAMPBELL & WILLIAMS
700 South Seventh Street
Las Vegas, NV 89101

Daniel G. Bogden, Esq.
United States Attorney
Eric Johnson, Esq.
Roger Wenthe, Esq.
Assistant United States Attorneys
333 Las Vegas Boulevard South, Suite 5000
Las Vegas, NV 89101

Jeffrey H. Knox, Esq.
Chief, Fraud Section, Criminal Division
U.S. Department of Justice
Joey Lipton, Trial Attorney
1400 New York Avenue, NW
Washington D.C. 20005


An Employee of Pisanelli Bice PLLC



CLERK OF THE COURT

ORDER

James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com

Todd L. Bice, Esq., Bar No. 4534
TLB@pisanellibice.com

Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com

PISANELLI BICE PLLC
3883 Howard Hughes Parkway, Suite 800
Las Vegas, Nevada 89169
Telephone: 702.214.2100
Facsimile: 702.214.2101

Paul K. Rowe, Esq. (admitted pro hac vice)
pkrowe@wlrk.com

Bradley R. Wilson, Esq. (admitted pro hac vice)
brwilson@wlrk.com

WACHTEL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, New York 10019
Telephone: 212.403.1000

Robert L. Shapiro, Esq. (admitted pro hac vice)
RS@glaserweil.com
GLASER WEIL FINK JACOBS HOWARD
AVCHEN & SHAPIRO, LLP
10250 Constellation Boulevard, 19th Floor
Los Angeles, California 90067
Telephone: 310.553.3000

Attorneys for Wynn Resorts, Limited, Linda Chen,
Russell Goldsmith, Ray R. Irani, Robert J. Miller,
John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,
Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Plaintiff,

vs.

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

Defendants.

AND ALL RELATED CLAIMS

Case No.: A-12-656710-B
Dept. No.: XI

ORDER GRANTING UNITED STATES
OF AMERICA'S MOTION FOR
EXTENSION OF TEMPORARY STAY
OF DISCOVERY AND FOR ORDER
SHORTENING TIME

Date of Hearing: October 31, 2013
Time of Hearing: 8:30 a.m.

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

1 The United States of America's Motion for Extension of Temporary Stay of Discovery and
2 for Order Shortening Time (the "Motion for Extension of Temporary Stay"), filed on October 30,
3 2013 (after being submitted to the Court on October 28, 2013), came before this Court for hearing
4 on October 31, 2013. The Motion for Extension of Temporary Stay was supported by an *Ex*
5 *Parte* Declaration in Support of Motion for Extension of Temporary Stay, which the United States
6 of America submitted to the Court *in camera* on October 28, 2013 simultaneously with the
7 submission of its Motion to File the *Ex Parte* Declaration Under Seal (the "Motion to File *Ex*
8 *Parte* Declaration Under Seal").

9 For the October 31, 2013 hearing, Joey Lipton, Esq. and L. Eric Johnson, Esq. appeared
10 on behalf of the United States of America. James J. Pisunelli, Esq., of PISANELLI BICE PLLC,
11 appeared on behalf of Plaintiff/Counterdefendant Wynn Resorts, Limited and Counterdefendants
12 Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr,
13 Alvin V. Shoemaker, Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman (the "Wynn
14 Parties"). Donald J. Campbell, Esq., of Campbell & Williams, appeared on behalf of
15 Counterdefendant/Cross-defendant Stephen A. Wynn ("Mr. Wynn"). William Urga, Esq., of
16 Jolley Urga Wirth Woodbury & Standish, and Mark B. Helm, Esq., of Munger Tolles & Olson,
17 LLP, appeared on behalf of Counterdefendant/Counterclaimant/Cross-claimant Elaine P. Wynn
18 ("Ms. Wynn"). And, Charles H. McCrea, Esq., of Lionel Sawyer & Collins, and Rallin B.
19 Chippey, of Morgan Lewis & Bockius LLP, appeared on behalf of Defendant Kazuo Okada
20 Defendant/Counterclaimant Universal Entertainment Corp. ("Universal"), and
21 Defendant/Counterclaimant/Counterdefendant Aruze USA, Inc. ("Aruze USA") (the "Okada
22 Parties").

23 The Court considered the following papers filed on behalf of all of the above-referenced
24 parties:

- 25 • The United States of America's Motion for Extension of Temporary
26 Stay of Discovery, submitted on October 28, 2013 and filed on
27 October 31, 2013;
- 28 • The United States of America's supporting *Ex Parte* Declaration,
submitted *in camera* on October 28, 2013 (and read by the Court on
October 31, 2013 after receiving no objections from the parties);

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 52:**

2 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad in
3 scope given that it asks for "[a]ll documents concerning" the removal of Okada as a vice chairman
4 and director, in that it essentially seeks all documents produced in this case; (2) it is thus
5 redundant of various other requests herein; (3) it is unduly burdensome to the extent it seeks
6 documents solely in Defendants' possession, custody, and control, which Wynn Resorts is seeking
7 and/or intends to seek from Defendants in this action; (4) it is unduly burdensome to the extent it
8 seeks documents already produced in this action.

9 Subject to and without waiving said objections, Wynn Resorts responds as follows:
10 Please refer to documents disclosed and produced concurrently herewith, identified as
11 WYNN00008242 - WYNN00008343, WYNN00008792 - WYNN00008794, WYNN00009620 -
12 WYNN00009624, and WYNN00009676 -WYNN00009713. Discovery is continuing, and
13 Wynn Resorts reserves the right to supplement this response as discovery continues.

14 **REQUEST FOR PRODUCTION NO. 53:**

15 All documents concerning any investigation of Wynn Resorts or its employees, offices,
16 shareholders, or directors (including but not limited to Wynn and Defendants) by any local, state,
17 federal, or foreign law enforcement agency, regulatory agency, or gaming regulator, including but
18 not limited to all documents concerning any investigation by the Nevada Gaming Commission,
19 the State Gaming Control Board of Nevada, the US SEC, the United States Department of Justice
20 ("DOJ"), Philippine Securities and Exchange Commission ("Philippine SEC"), or the Macau
21 Gaming Commission concerning:

22 A. Wynn Macau's pledge to donate to the University of Macau Development
23 Foundation;

24 B. Wynn Resorts' purported redemption of Aruze's shares of Wynn Resorts;

25 C. Any alleged payment, benefit, or gift by Defendants to former or current members
26 of PAGCOR;

27 D. The Land Concession Contract included as exhibit 10.1 to Wynn Resorts'
28 Form 8-K filing on May 2, 2012;

1 E. The payment of \$50 million to Tien Chiao Entertainment & Investment Co. Ltd.
2 by a Palo Real Estate Company Limited as disclosed in exhibit 99.1 to Wynn Resorts' Form 8-K
3 filing on September 11, 2009; and

4 F. The FCPA or any other corruption prevention laws.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 53:**

6 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad,
7 unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence
8 to the extent it seeks information related to any purported investigation rather than related to the
9 claims or defenses asserted in this action; (2) it is a harassing fishing expedition and propounded
10 to annoy and harass; (3) it improperly seeks information and/or documents that may be related to
11 a criminal/civil investigations pending against Defendants by each and/or all regulatory agencies
12 named in the Request; (4) the Requests' various sub-parts, separate and apart from any
13 investigation, concern matters unrelated to the subject matter of and any claim or defense in this
14 action and thus are, in and of themselves, not reasonably calculated to lead to the discovery of
15 admissible evidence in his action; (5) to the extent this Requests seeks documents by and between
16 the Company and Nevada gaming regulators, the Request seeks documents an communications
17 protected by NRS 463.3407 and NRS 463.120; and (6) this Request is objectionable to the extent
18 it seeks information and communications protected by the attorney-client privilege, common
19 interest privilege, and/or the work product doctrine.

20 In light of the foregoing, Wynn Resorts will not respond to this Request unless and until
21 Defendants demonstrate how the Request is reasonably calculated to lead to the discovery of
22 admissible evidence in relation to any allegation or defense and/or a court order compels the
23 production after a finding of discoverability. Discovery is continuing.

24 **REQUEST FOR PRODUCTION NO. 54:**

25 All documents sufficient to show the relationships between Wynn Resorts, Wynn Macau,
26 Wynn, Universal, Aruze, and Okada, and their ownership interests in Wynn Resorts and
27 Wynn Macau.

RESPONSE TO REQUEST FOR PRODUCTION NO. 54:

Wynn Resorts objects to this Request on the following grounds: (1) it assumes facts (e.g., that Aruze, Universal, Okada, and/or Wynn Macau has an ownership interest in Wynn Resorts; that Universal, Aruze, and/or Okada has an ownership interest in Wynn Macau); (2) the terms "relationships" and "sufficient" are undefined, vague, and ambiguous, requiring speculation as to Defendants' intended meaning; (3) by virtue of the term "sufficient," the Request calls for a legal conclusion and/or subjective mental impression of counsel (which is work product and thus protected information); (4) it is also vague and overly broad through in that it seeks "[a]ll documents" demonstrating ownership in Wynn Resorts and a non-party, Wynn Macau, which could consist of a vast number of documents, the vast majority of which are unrelated to the subject matter of this action and/or any claim or defense in this action; and (5) is unduly burdensome to the extent it seeks documents in the public record related to two publicly traded companies.

Subject to and without waiving said objections, Wynn Resorts responds as follows: Please refer to documents previously produced and identified as WYNN000077-WYNN000096, WYNN000097-WYNN000106, WYNN000651, WYNN000652, WYNN000653, WYNN000654, WYNN000656- WYNN000664, WYNN000665, WYNN000666, WYNN000672, WYNN000673, WYNN000676, WYNN000710, and WYNN000711-WYNN000713., WYNN000782- WYNN000799, WYNN000884, WYNN001254- WYNN001255, and WYNN001256- WYNN001276.

Please also refer to documents disclosed and produced concurrently herewith, identified as WYNN00004633 - WYNN00004634, WYNN00004635, WYNN00004636, WYNN00004637, WYNN00004638 - WYNN00004639, WYNN00004640 - WYNN00004641, WYNN00004642, WYNN00004643 - WYNN00004644, WYNN00004645 - WYNN00004646, WYNN00004647 - WYNN00004648, WYNN00004649, WYNN00004650, WYNN00004651, WYNN00004652, WYNN00004653 - WYNN00004654, WYNN00004655 - WYNN00004657, WYNN00004658 - WYNN00004659, WYNN00004660 - WYNN00004661, WYNN00004662 - WYNN00004663, WYNN00004664 - WYNN00004665, WYNN00004666 - WYNN00004667, WYNN00004668 -

1 WYNN00004669, WYNN00004670 - WYNN00004671, WYNN00004672 - WYNN00004673,
2 WYNN00004674 - WYNN00004675, WYNN00004676 - WYNN00004678, WYNN00004679 -
3 WYNN00004681, WYNN00004682 - WYNN00004684, WYNN00004685 - WYNN00004686,
4 WYNN00004687 - WYNN00004688, WYNN00004689 - WYNN00004690, WYNN00004691 -
5 WYNN00004692, WYNN00004693 - WYNN00004694, WYNN00004695 - WYNN00004696,
6 WYNN00004697 - WYNN00004698, WYNN00004699 - WYNN00004700, WYNN00004701 -
7 WYNN00004702, WYNN00004703 - WYNN00004704, WYNN00004705 - WYNN00004706,
8 WYNN00004707 - WYNN00004708, WYNN00004709 - WYNN00004710, WYNN00004711 -
9 WYNN00004712, WYNN00004713 - WYNN00004714, WYNN00004715 - WYNN00004716,
10 WYNN00004717 - WYNN00004718, WYNN00004719 - WYNN00004720, WYNN00004721 -
11 WYNN00004722, WYNN00004723 - WYNN00004723, WYNN00004724 - WYNN00004724,
12 WYNN00004725 - WYNN00004726, WYNN00004727 - WYNN00004728, WYNN00004729 -
13 WYNN00004730, WYNN00004731 - WYNN00004732, WYNN00004733 - WYNN00004734,
14 WYNN00004735 - WYNN00004735, WYNN00004736 - WYNN00004736, WYNN00004737 -
15 WYNN00004737, WYNN00004738 - WYNN00004738, WYNN00004739 - WYNN00004739,
16 WYNN00004740 - WYNN00004741, WYNN00004742 - WYNN00004743, WYNN00004744 -
17 WYNN00004745, WYNN00004746 - WYNN00004747, WYNN00004748 - WYNN00004749,
18 WYNN00004750 - WYNN00004751, WYNN00004752 - WYNN00004753, WYNN00004754 -
19 WYNN00004755, WYNN00004756 - WYNN00004757, WYNN00004758 - WYNN00004759,
20 WYNN00004760 - WYNN00004761, WYNN00004762 - WYNN00004763, WYNN00004764 -
21 WYNN00004765, WYNN00004766 - WYNN00004767, WYNN00005574 - WYNN00005575.

22 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
23 as discovery continues.

24 **REQUEST FOR PRODUCTION NO. 55:**

25 All organizational charts of Wynn Resorts and Wynn Macau, including but not limited to
26 its subsidiaries, divisions, departments, affiliates, committees, and any other related entity or
27 group.

RESPONSE TO REQUEST FOR PRODUCTION NO. 55:

Wynn Resorts objects to this Request on the following grounds: (1) the terms "affiliates" and "any other related entity or group" is undefined, vague, and ambiguous, requiring speculation as to Defendants' intended meaning; (2) it is vague and/or overly broad (*i.e.*, unlimited) as to time; and (3) it seeks irrelevant information unrelated to the subject matter of this action and/or any claim or defense in this action and thus is not reasonably calculated to lead to the discovery of admissible evidence in this action.

Subject to and without waiving said objections, Wynn Resorts responds as follows:

Please refer to documents disclosed and produced concurrently herewith, identified as WYNN00004633 - WYNN00004634, WYNN00004635, WYNN00004636, WYNN00004637, WYNN00004638 - WYNN00004639, WYNN00004640 - WYNN00004641, WYNN00004642, WYNN00004643 - WYNN00004644, WYNN00004645 - WYNN00004646, WYNN00004647 - WYNN00004648, WYNN00004649, WYNN00004650, WYNN00004651 - WYNN00004651, WYNN00004652, WYNN00004653 - WYNN00004654, WYNN00004655 - WYNN00004657, WYNN00004658 - WYNN00004659, WYNN00004660 - WYNN00004661, WYNN00004662 - WYNN00004663, WYNN00004664 - WYNN00004665, WYNN00004666 - WYNN00004667, WYNN00004668 - WYNN00004669, WYNN00004670 - WYNN00004671, WYNN00004672 - WYNN00004673, WYNN00004674 - WYNN00004675, WYNN00004676 - WYNN00004678, WYNN00004679 - WYNN00004681, WYNN00004682 - WYNN00004684, WYNN00004685 - WYNN00004686, WYNN00004687 - WYNN00004688, WYNN00004689 - WYNN00004690, WYNN00004691 - WYNN00004692, WYNN00004693 - WYNN00004694, WYNN00004695 - WYNN00004696, WYNN00004697 - WYNN00004698, WYNN00004699 - WYNN00004700, WYNN00004701 - WYNN00004702, WYNN00004703 - WYNN00004704, WYNN00004705 - WYNN00004706, WYNN00004707 - WYNN00004708, WYNN00004709 - WYNN00004710, WYNN00004711 - WYNN00004712, WYNN00004713 - WYNN00004714, WYNN00004715 - WYNN00004716, WYNN00004717 - WYNN00004718, WYNN00004719 - WYNN00004720, WYNN00004721 - WYNN00004722, WYNN00004723 - WYNN00004723, WYNN00004724 - WYNN00004724, WYNN00004725 - WYNN00004726, WYNN00004727 - WYNN00004728,

1 WYNN00004729 - WYNN00004730, WYNN00004731 - WYNN00004732, WYNN00004733 -
2 WYNN00004734, WYNN00004735 - WYNN00004735, WYNN00004736 - WYNN00004736,
3 WYNN00004737 - WYNN00004737, WYNN00004738 - WYNN00004738, WYNN00004739 -
4 WYNN00004739, WYNN00004740 - WYNN00004741, WYNN00004742 - WYNN00004743,
5 WYNN00004744 - WYNN00004745, WYNN00004746 - WYNN00004747, WYNN00004748 -
6 WYNN00004749, WYNN00004750 - WYNN00004751, WYNN00004752 - WYNN00004753,
7 WYNN00004754 - WYNN00004755, WYNN00004756 - WYNN00004757, WYNN00004758 -
8 WYNN00004759, WYNN00004760 - WYNN00004761, WYNN00004762 - WYNN00004763,
9 WYNN00004764 - WYNN00004765, WYNN00004766 - WYNN00004767, WYNN00005574 -
10 WYNN00005575.

11 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
12 as discovery continues.

13 **REQUEST FOR PRODUCTION NO. 56:**

14 All documents concerning Wynn Resorts' budget for each fiscal year from 2012 to 2022,
15 including but not limited to financial forecasts and projected revenue and costs.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 56:**

17 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad and
18 unduly burdensome because it seeks "[a]ll documents concerning" budgets and forecasts; (2) it is
19 overly broad in time; (3) it seeks nondiscoverable/irrelevant information unrelated to the subject
20 matter of this action or the claims and/or defenses asserted in this action; (4) it seeks confidential,
21 proprietary, and commercially sensitive information not publicly accessible; and (5) it is a fishing
22 expedition propounded with an improper purpose and designed to annoy and harass.

23 Wynn Resorts will not produce documents in response to Request unless and until
24 Defendants demonstrate its purported discoverability in this action and/or obtain a court order
25 compelling the production. Discovery is continuing, and Wynn Resorts reserves the right to
26 supplement this response as discovery continues.

1 **REQUEST FOR PRODUCTION NO. 57:**

2 All documents concerning the negotiation, drafting, and execution of each of the
3 following documents and any and all amendments thereto:

- 4 A. The Articles of Incorporation;
5 B. The Bylaws;
6 C. The Contribution Agreement; and
7 D. The Stockholder's Agreement.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 57:**

9 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad
10 (*i.e.*, unlimited) in time and thus also unduly burdensome; (2) it is overly broad and unduly
11 burdensome in scope (*e.g.*, it seeks "[a]ll documents" related to four separate corporate documents
12 and agreements and numerous amendments thereto without any connection to the claims or
13 defenses); (3) because of its extreme overbreadth, it seeks non-discoverable/irrelevant information
14 and is not reasonably calculated to lead to the discovery of admissible evidence in this action;
15 (4) it seeks information and documents protected by the attorney-client privilege, common
16 interest privilege, and/or work product doctrine; (5) it is unduly burdensome to the extent it seeks
17 documents in Defendants' possession, custody, and control; and (6) it is unduly burdensome to the
18 extent it seeks documents already produced by the Company in this action and the writ
19 proceeding.

20 Subject to and without waiving said objections, Wynn Resorts responds as follows:
21 Please refer to documents previously produced and identified as WYNN000001-WYNN000003,
22 WYNN000004-WYNN000017, WYNN000077-WYNN000096, WYNN000097-WYNN000106,
23 WYNN000322-WYNN000336, WYNN000375- WYNN000389, WYNN000310-WYNN000321,
24 WYNN000758- WYNN000768, WYNN000769- WYNN000770, WYNN000782-
25 WYNN000799, WYNN001254- WYNN001255, and WYNN001256- WYNN001276.

26 Please also refer to documents disclosed and produced concurrently herewith, identified as
27 WYNN00006524 - WYNN00006586, WYNN00008611 - WYNN00008619, WYNN00008681 -
28 WYNN00008684, WYNN00008685 - WYNN00008706, WYNN00008707 - WYNN00008712,

1 WYNN00008713 - WYNN00008714, WYNN00008715 - WYNN00008722, WYNN00008723 -
2 WYNN00008726, WYNN00008729 - WYNN00008729, WYNN00008732 - WYNN00008737,
3 WYNN00008738 - WYNN00008739, WYNN00009151 - WYNN00009164, WYNN00009165 -
4 WYNN00009183, WYNN00009184 - WYNN00009190, WYNN00009191 - WYNN00009195,
5 WYNN00009196 - WYNN00009197, WYNN00009199 - WYNN00009200, WYNN00009201 -
6 WYNN00009203, WYNN00009251 - WYNN00009257, WYNN00009284 - WYNN00009297,
7 WYNN00009298 - WYNN00009316, WYNN00009327 - WYNN00009337, WYNN00009488 -
8 WYNN00009502, WYNN00009505 - WYNN00009529, WYNN00009580 - WYNN00009585,
9 WYNN00009608 - WYNN00009612.

10 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
11 as discovery continues.

12 **REQUEST FOR PRODUCTION NO. 58:**

13 All documents concerning Aruze's nomination of individuals to serve as directors of
14 Wynn Resorts, including but not limited to Wynn's refusal to endorse the individuals nominated
15 by Aruze as required by paragraph 2(a) of the Stockholder's Agreement.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 58:**

17 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad
18 (*i.e.*, unlimited) in time; (2) it is vague and overly broad in scope; (3) it is unduly burdensome and,
19 as drafted, not reasonably calculated to lead to the discovery of admissible evidence in this action;
20 (4) it is unduly burdensome to the extent it seeks documents in Defendants' possession, custody,
21 and control that Wynn Resorts is seeking or will seek to discover from Defendants in this action;
22 (5) it seeks information and documents protected by the attorney-client privilege, common
23 interest privilege, and/or work product doctrine; (6) it assumes facts and/or mischaracterizes the
24 provisions in the referenced Stockholders' Agreement; and (7) the terms "nomination,"
25 "nominated by Aruze," and "Wynn's refusal to endorse" are undefined, and under the
26 circumstances, vague and ambiguous as used, requiring speculation as to Defendants' intended
27 meaning.

1 Subject to and without waiving said objections, Wynn Resorts responds as follows:
2 Please refer to documents disclosed and produced concurrently herewith, identified as
3 WYNN00008740, WYNN00008741 - WYNN00008742, WYNN00009077 - WYNN00009079,
4 WYNN00009080 - WYNN00009088, WYNN00009089 - WYNN00009090, WYNN00009091 -
5 WYNN00009102, WYNN00009122 - WYNN00009127, WYNN00009128 - WYNN00009136,
6 WYNN00009137 - WYNN00009150, WYNN00009503 - WYNN00009504.

7 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
8 as discovery continues.

9 **REQUEST FOR PRODUCTION NO. 59:**

10 All documents concerning Wynn Resorts' policies and training, including all
11 communications to the Wynn Board of Directors, concerning:

12 A. Membership on the Board of Directors and procedure for nominating members to
13 the Board of Directors;

14 B. Removal of persons from the Board of Directors;

15 C. Compliance with the Nevada Revised Statutes and the Nevada Gaming
16 Commission Regulations;

17 D. Compliance with the Sarbanes-Oxley Act, including Section 402;

18 E. Compliance with the FCPA or any other corruption prevention law;

19 F. The adoption of resolutions by Wynn Resorts' Board of Directors;

20 G. Wynn Resorts' Gaming and Compliance Program;

21 H. Wynn Resorts' Policy Regarding Payment to Government Officials, referenced in
22 Paragraph 38(b) of the Complaint;

23 I. Wynn Resorts' Code of Business Conduct and Ethics ("Code of Conduct"),
24 referenced in Paragraph 14 of the Complaint, including any amendments to the Code of Conduct;

25 J. Determinations of "unsuitability" under the Articles of Incorporation;

26 K. The confidentiality and privacy of guest information, including guest information
27 in Macau;

28 L. Data privacy laws in Macau;

1 M. Amendments to the Articles of Incorporation;

2 N. All notices sent to members of the Board of Directors regarding training;

3 O. Restrictions on shares of Wynn Resorts owned by officers and directors of
4 Wynn Resorts, including any prohibition on pledging such shares; and

5 P. Any other policies relevant to Wynn Resorts' allegations against Defendants.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 59:**

7 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad
8 (*i.e.*, unlimited) in time and thus also unduly burdensome; (2) it is overly broad and unduly
9 burdensome in scope (*e.g.*, it seeks "[a]ll documents" related to fifteen (15) separate subparts and
10 a "catch-all" provision); (3) it is overly broad and unduly burdensome to the extent it essentially
11 seeks "all communications" with the Wynn Resorts Board of Directors; (4) because of its extreme
12 overbreadth, it seeks non-discoverable/irrelevant information and is not reasonably calculated to
13 lead to the discovery of admissible evidence in this action; (5) it seeks information and
14 documents protected by the attorney-client privilege, common interest privilege, and/or work
15 product doctrine; (6) it is unduly burdensome to the extent it seeks documents in Defendants'
16 possession, custody, and control; (7) it is unduly burdensome to the extent it seeks documents
17 already produced by the Company in this action; (8) it is unduly burdensome as it seeks
18 documents publicly accessible and equally accessible to all parties; (9) it is unduly burdensome
19 and harassing to the extent this Request, including all of its subparts, is/are duplicative of other
20 Requests herein; (10) the phrase "[a]ny other policies relevant to Wynn Resorts' allegations"
21 assumes facts that all of the aforementioned "policies" are relevant to the Company's claims
22 against Defendants; and (11) the phrases "[c]ompliance with the Nevada Revised Statutes" and
23 "[m]embership on the Board of Directors" are overly broad, vague and ambiguous.

24 Subject to and without waiving said objections, Wynn Resorts responds as follows:
25 Please refer to documents previously produced and identified as WYNN000001 - WYNN000003,
26 WYNN000004-WYNN000017, WYNN000322- WYNN000336, WYNN000375-WYNN000389,
27 WYNN000820- WYNN000828, WYNN000840-WYNN000852, WYNN000853-
28 WYNN000866, WYNN000839, WYNN001405- WYNN001415, and WYNN001416.

Please also refer to documents disclosed and produced concurrently herewith, identified as WYNN00004216 - WYNN00004220, WYNN00004221 - WYNN00004224, WYNN00004225 - WYNN00004228, WYNN00004229 - WYNN00004232, WYNN00004233 - WYNN00004236, WYNN00004237 - WYNN00004240, WYNN00004241 - WYNN00004244, WYNN00004245 - WYNN00004249, WYNN00004263 - WYNN00004389, WYNN00004486 - WYNN00004500, WYNN00004501 - WYNN00004515, WYNN00004516 - WYNN00004530, WYNN00004531 - WYNN00004545, WYNN00004625 - WYNN00004627, WYNN00004628 - WYNN00004630, WYNN00004631 - WYNN00004632, WYNN00004768 - WYNN00004772, WYNN00004773 - WYNN00004777, WYNN00004793, WYNN00004794 - WYNN00004797, WYNN00004798 - WYNN00004799, WYNN00004800 - WYNN00004801, WYNN00004802 - WYNN00004806, WYNN00004807 - WYNN00004811, WYNN00004812, WYNN00004813, WYNN00006524 - WYNN00006586, WYNN00008577 - WYNN00008579, WYNN00008580 - WYNN00008581, WYNN00008588 - WYNN00008601, WYNN00008922 - WYNN00008941, WYNN00009385 - WYNN00009387, WYNN00009388 - WYNN00009390, WYNN00009391, WYNN00009392 - WYNN00009404, WYNN00009446 - WYNN00009465, WYNN00009466 - WYNN00009477, WYNN00009553, WYNN00009554 - WYNN00009558, WYNN00009559 - WYNN00009563, WYNN00009564 - WYNN00009568, WYNN00009601 - WYNN00009602, WYNN00009637 - WYNN00009641, WYNN00009720 - WYNN00009723, WYNN00009724 - WYNN00009725, WYNN00009726 - WYNN00009739, WYNN00009740 - WYNN00009752, WYNN00009753 - WYNN00009766, WYNN00009767 - WYNN00009769, WYNN00009770 - WYNN00009771, WYNN00009772 - WYNN00009774, WYNN00009775 - WYNN00009776, WYNN00009777 - WYNN00009779, WYNN00009780 - WYNN00009794.

Discovery is continuing, and Wynn Resorts reserves the right to supplement this response as discovery continues.

REQUEST FOR PRODUCTION NO. 60:

All communications to and from Okada, Wynn Resorts, or any of the Counterdefendants concerning the FCPA, including but not limited to Okada's requests to have FCPA training materials provided to him in Japanese.

RESPONSE TO REQUEST FOR PRODUCTION NO. 60:

Wynn Resorts objects to this Request on the following grounds: (1) it is unduly burdensome to the extent it is duplicative of other Requests herein; namely Request for Production Nos. 59 and 69; (2) to the extent this request is duplicative of Request for Production Nos. 59 and 69, the objections thereto are incorporated as if fully restated herein; (3) the Request is objectionable to the extent it seeks documents protected by the attorney-client privilege, common interest privilege, and/or work product doctrine; and (4) the Request is unduly burdensome because it seeks documents in Defendants' possession, custody, or control.

Subject to and without waiving said objections, Wynn Resorts responds as follows: Please refer to documents previously disclosed and produced, identified as WYNN001277- WYNN001311, WYNN001312- WYNN001345, WYNN001346- WYNN001395.

Please also refer to documents disclosed and produced concurrently herewith, identified as WYNN00004631 - WYNN00004632, WYNN00008582, WYNN00009564- WYNN00009568, and WYNN0009631-9632. Discovery is continuing, and Wynn Resorts reserves the right to supplement this response as discovery continues.

REQUEST FOR PRODUCTION NO. 61:

All documents concerning Wynn Resorts' procedure for choosing and developing new casino gaming sites, including but not limited to the investigation or audit of proposed new casino gaming sites.

RESPONSE TO REQUEST FOR PRODUCTION NO. 61:

Wynn Resorts objects to this Request on the following grounds: (1) it seeks documents that are not relevant to the subject matter of and claims and defenses in this action, and it is not reasonably calculated to lead to the discovery of admissible evidence; (2) it is overly broad (*i.e.*, unlimited) in time and hence unduly burdensome; (3) it is overly broad in scope and hence unduly burdensome (*e.g.*, "[a]ll documents concerning Wynn Resorts' procedure for choosing and developing new casino gaming sites"; (4) the terms/phrase "audit" is undefined, and vague and ambiguous as used, requiring speculation as to Defendants'; intended meaning; (5) the Request seeks highly confidential and proprietary information, strategic plans, and trade secrets (none of

1 which is related to the claims or defenses in this action and thus is not reasonably calculated to
2 lead to the discovery of admissible evidence in this action); (6) it seeks documents protected by
3 the attorney-client privilege; (7) it is a fishing expedition designed to annoy and harass; and (8) it
4 is unduly burdensome and harassing to the extent it is duplicative of the requests herein; namely
5 Request for Production No. 24.

6 In light of the foregoing, Wynn Resorts will not produce documents in response to
7 Request unless and until Defendants demonstrate its purported discoverability in this action
8 and/or obtain a court order compelling the production. Discovery is continuing, and
9 Wynn Resorts reserves the right to supplement this response as discovery continues.

10 **REQUEST FOR PRODUCTION NO. 62:**

11 All documents concerning Wynn Resorts' Sarbanes Oxley Steering committee.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 62:**

13 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad (*i.e.*,
14 unlimited) in time, and thus also unduly burdensome; (2) it is overly broad in scope because it
15 seeks "[a]ll documents concerning" a steering committee that is unrelated to any claim or defense
16 in this action; (3) the Request seeks nondiscoverable/irrelevant information unrelated to the
17 subject matter of this action and/or any claims or defenses in this action and thus, it is not
18 reasonably calculated to lead to the discovery of admissible evidence; (4) rather, it is a fishing
19 expedition designed to annoy and harass.

20 In light of the foregoing, Wynn Resorts will not produce documents in response to
21 Request unless and until Defendants demonstrate its purported discoverability in this action
22 and/or obtain a court order compelling the production. Discovery is continuing, and
23 Wynn Resorts reserves the right to supplement this response as discovery continues.

24 **REQUEST FOR PRODUCTION NO. 63:**

25 All documents concerning Wynn Resorts' Audit Committee, including but not limited to
26 the Audit Committee's Enterprise Risk Management review, any policies or procedures designed
27 to uncover any conduct that would be a risk to Wynn Resorts' FCPA compliance, and Audit
28 Committee documents concerning the Philippines and any of the Defendants.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 63:**

2 Wynn Resorts objects to this Request on the following grounds: (1) it seeks
3 nondiscoverable/irrelevant information unrelated to the subject matter of this action and/or any
4 claims or defenses in this action and, thus, it is not reasonably calculated to lead to the discovery
5 of admissible evidence; (2) it is overly broad (*i.e.*, unlimited) in time, and thus also unduly
6 burdensome; (3) it is overly broad in scope in that it seeks "[a]ll documents concerning
7 Wynn Resorts' Audit Committee"; (4) the Request is a fishing expedition designed to annoy
8 and harass; (5) the Request assumes facts; and (6) it is objectionable to the extent it seeks
9 information and documents protected by the attorney-client privilege, common interest doctrine,
10 and/or the work product doctrine.

11 In light of the foregoing, Wynn Resorts will not produce documents in response to
12 Request unless and until Defendants demonstrate its purported discoverability in this action
13 and/or obtain a court order compelling the production. Discovery is continuing, and
14 Wynn Resorts reserves the right to supplement this response as discovery continues.

15 **REQUEST FOR PRODUCTION NO. 64:**

16 All documents concerning the Directors' & Officers' Questionnaire Packet allegedly sent
17 to all members of Wynn Resorts' Board of Directors in January 2012, as alleged in
18 Paragraph 38(c) of the Complaint, including but not limited to acknowledgment forms.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 64:**

20 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
21 burdensome to the extent it seeks documents in Defendants' possession, custody, or control; (2) it
22 seeks documents protected by the attorney-client privilege to the extent it seeks documents sent
23 and/or received from members of the Wynn Resorts Board other than Okada; and (3) the Request
24 is objectionable to the extent it seeks documents protected by the attorney-client privilege,
25 common interest doctrine, and/or work product doctrine.

26 Subject to and without waiving said objections, Wynn Resorts responds as follows:
27 Please refer to documents previously produced and identified as WYNN001346- WYNN001395.

28

1 Please also refer to documents disclosed and produced concurrently herewith, identified as
2 WYNN00004598 - WYNN00004624.

3 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
4 as discovery continues.

5 **REQUEST FOR PRODUCTION NO. 65:**

6 All documents (including notes, meeting minutes, handouts, or transcripts) concerning
7 meetings of the Board of Directors of Wynn Resorts, including meetings held on or about
8 February 24, 2011, April 18, 2011, November 1, 2011, and February 18, 2012.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 65:**

10 Wynn Resorts objects to this Request on the following grounds: (1) to the extent that it
11 seeks "[a]ll documents" related to all "meetings of the Board of Directors of Wynn Resorts,"
12 regardless of whether the particular board meeting had anything to do with the subject matter,
13 claims and defenses in this action, the Request seeks information that is irrelevant to the subject
14 matter of and claims and defenses in this action and it is not reasonably calculated to lead to the
15 discovery of admissible evidence; (2) it seeks confidential, proprietary, and commercially
16 sensitive information not publicly accessible; (3) it is unduly burdensome to the extent it seeks
17 documents in Defendants' possession, custody, or control; (4) it is unduly burdensome to the
18 extent it seeks documents the Company already produced in this action; (5) it assumes facts
19 (e.g., that there are notes, handouts or transcripts); and (6) it seeks information and/or documents
20 protected by the attorney-client privilege, common interest privilege, and/or the work product
21 doctrine.

22 Subject to and without waiving said objections, Wynn Resorts responds as follows:
23 Please refer to documents previously produced and identified as WYNN000571-WYNN000572,
24 WYNN000573-WYNN000575, WYNN000576-WYNN000578, WYNN001396-WYNN001401.

25 Please also refer to documents disclosed and produced concurrently herewith, identified as
26 WYNN00004263 - WYNN00004389, WYNN00004390 - WYNN00004485, WYNN00006517 -
27 WYNN00006521, WYNN00007001 - WYNN00007017, WYNN00008583, WYNN00008584,
28 WYNN00008586, WYNN00009671 - WYNN00009673, WYNN00009676 - WYNN00009713.

1 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
2 as discovery continues.

3 **REQUEST FOR PRODUCTION NO. 66:**

4 All documents (including notes, meeting minutes, handouts, or transcripts) concerning
5 executive sessions held by members of the Board of Directors of Wynn Resorts, including a
6 session held on or about July 28, 2011.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 66:**

8 Wynn Resorts objects to this Request on the following grounds: (1) the Request is overly
9 broad (*i.e.*, unlimited) in time and thus unduly burdensome; (2) it is overly broad and unduly
10 burdensome in scope (*e.g.*, seeking all documents concerning any executive session of any Board
11 of Directors meeting); (3) it seeks information and documents unrelated to the subject matter of
12 this action and/or any claim or defense in this action; (4) it seeks highly confidential, extremely
13 sensitive, commercial and/or financial information; (5) it seeks information and documents
14 protected by the attorney-client privilege, common interest privilege, and/or work product
15 doctrine; and (6) it assumes facts (*e.g.*, that there are notes, minutes, handouts, or transcripts).

16 Subject to and without waiving said objections, Wynn Resorts responds as follows:
17 Wynn Resorts is unaware of any documents responsive to this Request. Discovery is continuing,
18 and Wynn Resorts reserves the right to supplement this response as discovery continues.

19 **REQUEST FOR PRODUCTION NO. 67:**

20 All documents (including notes, meeting minutes, handouts, or transcripts) concerning
21 meetings held by members of the Compliance Committee of Wynn Resorts, including a meeting
22 held on or about September 27, 2011.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 67:**

24 Wynn Resorts objects to this Request on the following grounds: (1) the Request is overly
25 broad (*i.e.*, unlimited) in time and thus unduly burdensome; (2) it is overly broad and unduly
26 burdensome in scope (*e.g.*, seeking all documents related to any meeting of the Wynn Resorts'
27 Compliance Committee); (3) it seeks information and documents unrelated to the subject matter
28 of this action and/or any claim or defense in this action; (4) it seeks highly confidential, extremely

1 sensitive, commercial, financial and/or regulatory information; and (5) the Request seeks
2 information and documents protected by the attorney-client privilege, common interest privilege,
3 and/or work product doctrine.

4 Subject to and without waiving said objections, Wynn Resorts responds as follows:
5 Please refer to documents disclosed and produced concurrently herewith, identified as
6 WYNN00004546 - WYNN00004547, WYNN00004548, WYNN00004549 - WYNN00004550,
7 WYNN00008803, WYNN00008804, WYNN00008805, WYNN00009615, WYNN00009617,
8 WYNN00009618, WYNN00009629, WYNN00009630.

9 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
10 as discovery continues.

11 **REQUEST FOR PRODUCTION NO. 68:**

12 All documents, including correspondence, notes, memoranda, or meeting minutes
13 concerning Okada's alleged statements during any meeting of Wynn Board concerning payments
14 to foreign Government Officials, the FCPA, or any other corruption prevention laws, as alleged in
15 Paragraph 37 of the Complaint.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 68:**

17 Wynn Resorts objects to this Request on the following grounds: (1) the Request seeks
18 information and documents protected by the attorney-client privilege, common interest privilege,
19 and/or work product doctrine; (2) it is overly broad in scope and unduly burdensome to the extent
20 it seeks "all documents" concerning Okada's alleged statements; (3) to the extent this Request
21 seeks documents from Wynn Macau, a non-party to this action, a Rule 34 request is insufficient to
22 compel the production of this third-party's records and Defendants are required to follow the
23 appropriate legal processes to compel the records of a third party; and (4) to the extent this
24 Request seeks documents from Wynn Macau that reside only in Macau, the Request seeks
25 documents containing personal information of third parties protected by the Macau Personal Data
26 Privacy Act.

27 Subject to and without waiving said objections, Wynn Resorts responds as follows:
28 Please refer to documents previously produced and identified as WYNN001396- WYNN001401,

1 WYNN001405- WYNN001415, WYNN001416, WYNN001540-WYNN001586 and
2 WYNN001587-WYNN003066

3 Please also refer to documents disclosed and produced concurrently herewith, identified as
4 WYNN00004861 - WYNN00004862, WYNN00004863 - WYNN00004874, WYNN00004875 -
5 WYNN00004876, WYNN00004877 - WYNN00004888.

6 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
7 as discovery continues.

8 **REQUEST FOR PRODUCTION NO. 69:**

9 All documents concerning requests by Okada for Japanese translation services for Board
10 materials and Board meetings and telephone conferences.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 69:**

12 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
13 burdensome to the extent it is duplicative of other Requests herein; namely Request for
14 Production No. 60; (2) it is unduly burdensome to the extent it seeks documents in Defendants'
15 possession, custody, or control; (3) it assumes facts (*i.e.*, that Okada made such requests); (4) it is
16 overly broad in scope and unduly burdensome to the extent it seeks "all documents concerning"
17 requests by Okada for Japanese translation services; (5) to the extent this Request seeks
18 documents from Wynn Macau, a non-party to this action, a Rule 34 request is insufficient to
19 compel the production of this third-party's records and Defendants are required to follow the
20 appropriate legal processes to compel the records of a third party; and (6) to the extent this
21 Request seeks documents from Wynn Macau that reside only in Macau, the Request seeks
22 documents containing personal information of third parties protected by the Macau Personal Data
23 Privacy Act.

24 Subject to and without waiving said objections, Wynn Resorts responds as follows:
25 Wynn Resorts is unaware of documents responsive to this Request other than those provided in
26 response to Request for Production No. 60, which are incorporated herein. Discovery is
27 continuing, and Wynn Resorts reserves the right to supplement this response as discovery
28 continues.

REQUEST FOR PRODUCTION NO. 70:

All documents concerning Wynn Resorts' statement on October 2, 2012 concerning the denial of Aruze and Universal's Motion for Preliminary Injunction, including but not limited to all documents concerning:

A. The investigations allegedly initiated by law enforcement and regulatory authorities in the United States and multiple jurisdictions in Asia;

B. The purported business connections and common shareholding in a Hong Kong entity by Okada;

C. An alleged individual associated with "yakuza," a Japanese organized crime group; and

D. An alleged improper payment in the Philippines in connection with Aruze.

RESPONSE TO REQUEST FOR PRODUCTION NO. 70:

Wynn Resorts objects to this Request on the following grounds: (1) the Request is vague and overly broad, and generally confusing as to what information Defendants are seeking; (2) it is unduly burdensome to the extent it seeks documents in Defendants' possession, custody, or control that Wynn Resorts is seeking or will seek from Defendants in this action; (3) it is unduly burdensome to the extent it is duplicative of various other Requests herein; (4) it is propounded with an improper purpose to discover information through this proceeding that may relate to other actions and/or investigations; (5) it seeks documents protected by the attorney-client privilege, common interest privilege, and/or work product doctrine; and (6) the term "October 2, 2012 statement" is vague and ambiguous, requiring speculation as to its intended meaning.

Subject to and without waiving said objections, Wynn Resorts responds as follows: Wynn Resorts will respond to this Request with responsive documents not privileged or otherwise protected, to the extent any such documents exist, reserving all rights to object thereto, once Defendants clarify and/or explain their Request and identify the statement to which it refers. Discovery is continuing, and Wynn Resorts reserves the right to supplement this response as discovery continues.

1 **REQUEST FOR PRODUCTION NO. 71:**

2 All documents concerning the name change and closure of the Okada restaurants in
3 Wynn Las Vegas and Wynn Macau, including but not limited to all communications to or from
4 Wynn Las Vegas, Wynn Resorts and Wynn concerning the name change and closure.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 71:**

6 Wynn Resorts objects to this Request on the following grounds: (1) the Request is
7 unrelated to the subject matter of this action and/or any claim or defense asserted in this action;
8 (2) the request is intended to harass and is a fishing expedition propounded out of curiosity rather
9 than a connection to a claim or defense; (3) the Request seeks information and/or documents
10 protected by the attorney-client privilege, common interest privilege, and/or work product
11 doctrine; (4) it is overly broad in scope and unduly burdensome to the extent it seeks "all
12 documents concerning" the name change or closure of two restaurants; (5) to the extent this
13 Request seeks documents from Wynn Macau, a non-party to this action, a Rule 34 request is
14 insufficient to compel the production of this third-party's records and Defendants are required to
15 follow the appropriate legal processes to compel the records of a third party; and (6) to the extent
16 this Request seeks documents from Wynn Macau that reside only in Macau, the Request seeks
17 documents containing personal information of third parties protected by the Macau Personal Data
18 Privacy Act.

19 Wynn Resorts will not produce documents in response to Request unless and until
20 Defendants demonstrate its purported discoverability in this action and/or obtain a court order
21 compelling the production. Discovery is continuing, and Wynn Resorts reserves the right to
22 supplement this response as discovery continues.

23 **REQUEST FOR PRODUCTION NO. 72:**

24 All documents concerning the alleged risks to Wynn Resorts and/or to its Board of
25 Directors, such as regulatory risks, conflicts of interests, and risks to Wynn Resorts' current and/or
26 prospective gaming license(s), arising from the alleged acts of Defendants, including but not
27 limited to all Communications concerning such risks, all analyses, reports, assessments, and/or
28 studies of such risks.

RESPONSE TO REQUEST FOR PRODUCTION NO. 72:

Wynn Resorts objects to this Request on the following grounds: (1) the Request is objectionable to the extent it seeks information and documents protected by the attorney-client privilege, common interest privilege, and/or work product doctrine; (2) the terms "risks" and "conflicts of interest" are undefined, vague and ambiguous, requiring speculation as to Defendants' intended meaning; and (3) it is objectionable to the extent it seeks to impede upon the protections and privileged afforded/imposed by NRS 463.3407 and 463.120, and similar protections afforded by statute in other jurisdictions.

Subject to and without waiving said objections, Wynn Resorts responds as follows: Please refer to documents previously produced and identified as WYNN001621-WYNN001630, WYNN001540-WYNN001586, WYNN001587-WYNN003066, WYNN001396- WYNN001401, WYNN001402-WYNN001404, WYNN001440-WYNN001445, WYNN001417-WYNN001419, WYNN001420-WYNN001421, WYNN001425-WYNN001426, WYNN001427-WYNN001428, WYNN001438-WYNN001439, WYNN001440-WYNN001445, and WYNN001446.

Discovery is continuing, and Wynn Resorts reserves the right to supplement this response as discovery continues.

REQUEST FOR PRODUCTION NO. 73:

All documents related to any gaming licenses that Wynn Resorts (including, but not limited to Wynn Macau) or any members of the Wynn Resorts' Board of Directors has considered pursuing, whether or not the gaming license was actually pursued or granted, since Wynn Resorts' inception in 2002.

RESPONSE TO REQUEST FOR PRODUCTION NO. 73:

Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad in time and scope and hence unduly burdensome; (2) it seeks information and document not related to the subject matter of this action or the claims or defenses asserted in this action, and is thus not reasonably calculated to lead to the discovery of admissible evidence in this action; (3) it seeks highly confidential, strategic business information that is, again, unrelated to this action; (4) it is designed to annoy and harass; (5) it is a blatant fishing expedition designed to gather information

1 to which Defendants are not otherwise entitled; (6) the Request is vague as to exactly what
2 Defendants are seeking; (7) to the extent this Request seeks documents in any way related to any
3 Wynn Resorts' application for a gaming license or a gaming license (or that of a Wynn Resorts
4 affiliate) in any jurisdiction, this Request impeded on various privileges and protections specific
5 to those jurisdictions, similar to the privileges afforded to a Nevada gaming applicant or licensee
6 pursuant to Nevada Revised Statutes, which Wynn Resorts does not and will not waive; and (8) to
7 the extent this Request seeks documents related to the bidding process and tender for the Macau
8 license (*see* subpart (B)), Wynn Resorts objects based upon Macao SAR Law n.º 16/2001, which
9 is Macau's gaming regulatory statute governing gaming concessionaires, operators, and the tender
10 process. Section I, Article 16 provides as follows: "The bidding processes, the documents and
11 data included, as well as all documents and data related to the tender, are confidential and cannot
12 be accessed or consulted by third parties"

13 In light of the foregoing, Wynn Resorts will not produce documents in response to
14 Request unless and until Defendants demonstrate its purported discoverability in this action
15 and/or obtain a court order compelling the production. Discovery is continuing, and
16 Wynn Resorts reserves the right to supplement this response as discovery continues.

17 **REQUEST FOR PRODUCTION NO. 74:**

18 All documents related to any insurance agreement entered into by Wynn Resorts
19 (including, but not limited to Wynn Macau) within the past five years which a person carrying on
20 an insurance business may be liable to satisfy part or all of a judgment which may be entered in
21 this action, including any disclaimer or limitation of coverage or reservation of rights under any
22 such insurance agreement.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 74:**

24 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad in
25 time and scope and hence unduly burdensome; (2) it seeks information and document not related
26 to the subject matter of this action or the claims or defenses asserted in this action, and is thus not
27 reasonably calculated to lead to the discovery of admissible evidence in this action; (3) the
28 Request is vague as to exactly what Defendants are seeking; (4) it is overly broad to the extent

1 this Request seeks documents in any way related to any insurance agreement entered into by
2 Wynn Resorts (or that of a Wynn Resorts affiliate) in any jurisdiction and for any reason; and
3 (5) it seeks documents protected by the attorney-client privilege and/or common interest privilege.

4 Subject to and without waiving said objections, Wynn Resorts responds as follows:
5 Please refer to documents disclosed and produced concurrently herewith, identified as
6 WYNN00008969 - WYNN00009015. Discovery is continuing, and Wynn Resorts reserves the
7 right to supplement this response as discovery continues.

8 **REQUEST FOR PRODUCTION NO. 75:**

9 All documents related to any insurance agreement entered into by Wynn Resorts
10 (including, but not limited to Wynn Macau) within the past five years which a person carrying on
11 an insurance business may be liable to advance, indemnify or reimburse for litigation costs and
12 expenses and/or payments made to satisfy the judgment in this action, including any disclaimer or
13 limitation of coverage or reservation of rights under any such insurance agreement.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 75:**

15 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad in
16 time and scope and hence unduly burdensome; (2) it seeks information and document not related
17 to the subject matter of this action or the claims or defenses asserted in this action, and is thus not
18 reasonably calculated to lead to the discovery of admissible evidence in this action; (3) the
19 Request is vague as to exactly what Defendants are seeking; (4) the Request is overly broad to the
20 extent this Request seeks documents in any way related to any insurance agreement entered into
21 by Wynn Resorts (or that of a Wynn Resorts affiliate) in any jurisdiction and for any reason; and
22 (5) it seeks documents protected by the attorney-client privilege and/or common interest privilege.
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24
25
26
27
28

1 Subject to and without waiving said objections, Wynn Resorts responds as follows: Please
2 refer to documents disclosed and produced concurrently herewith, identified as WYNN00008969
3 - WYNN00009015. Discovery is continuing, and Wynn Resorts reserves the right to supplement
4 this response as discovery continues.

5 DATED this 14th day of March, 2013.

6 PISANELLI BICE PLLC

7 By: 

8 James J. Pisanelli, Esq., Bar No. 4027
9 Todd L. Bice, Esq., Bar No. 4534
10 Debra L. Spinelli, Esq., Bar No. 9695
11 3883 Howard Hughes Parkway, Suite 800
12 Las Vegas, Nevada 89169

13 and

14 Paul K. Rowe, Esq. (*pro hac vice* admitted)
15 Bradley R. Wilson, Esq. (*pro hac vice* admitted)
16 Grant R. Mainland, Esq. (*pro hac vice* admitted)
17 WACHTELL, LIPTON, ROSEN & KATZ
18 51 West 52nd Street
19 New York, New York 10019

20 and

21 Robert L. Shapiro, Esq. (*pro hac vice* admitted)
22 GLASER WEIL FINK JACOBS HOWARD
23 AVCHEN & SHAPIRO, LLP
24 10250 Constellation Boulevard, 19th Floor
25 Los Angeles, California 90067

26 Attorneys for Wynn Resorts, Limited, Linda Chen,
27 Russell Goldsmith, Ray R. Irani, Robert J. Miller,
28 John A. Moran, Marc D. Schorr, Alvin V.
Shoemaker, Kimmarie Sinatra, D. Boone Wayson,
and Allan Zeman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 19th day of March, 2013, I caused to be electronically served through the Court's e-service/e-filing system true and correct copies of the foregoing THE WYNN PARTIES' RESPONSES TO DEFENDANTS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS properly addressed to the following:

Donald J. Campbell, Esq.
J. Colby Williams, Esq.
CAMPBELL & WILLIAMS
700 South Seventh Street
Las Vegas, NV 89101

Samuel S. Lionel, Esq.
Paul R. Hejmanowski, Esq.
Charles H. McCrea, Esq.
Steven C. Anderson, Esq.
LIONEL SAWYER & COLLINS
300 South Fourth Street, Suite 1700
Las Vegas, NV 89101

William R. Urga, Esq.
Martin A. Little, Esq.
JOLLEY URGAL WIRTH WOODBURY
& STANDISH
3800 Howard Hughes Parkway, 16th Floor
Las Vegas, NV 89109

Ronald L. Olson, Esq.
Mark B. Helm, Esq.
Jeffrey Y. Wu, Esq.
MUNGER TOLLES & OLSON, LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071

Marc J. Sonnenfeld, Esq.
MORGAN LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103

Joseph E. Floren, Esq.
Benjamin P. Smith, Esq.
Christopher J. Banks, Esq.
MORGAN LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126


An Employee of PISANELLI BICE PLLC

APPENDIX A

Wynn Resorts' Production Specifications

1. **Definitions:** The following terms have the following meanings:

- a. "ESI" means Electronically Stored Information, including, but not limited to, email, attachments to email, other electronic documents such as word processing, spreadsheet, PowerPoint, HTML, and text files and any other files stored in an electronic format.
- b. "Metadata" means: (i) information embedded in a Native Format file that is not ordinarily viewable or printable from the application that generated, edited or modified such Native Format file; and (ii) information generated automatically by the operation of a computer or other information technology system when a Native Format file is created, modified, transmitted, deleted or otherwise manipulated by a user of such system. Metadata is a subset of ESI.
- c. "Native Format" means ESI in the electronic format of the application in which such ESI is normally created, viewed and/or modified.

2. **ESI Production Format:** In response to these Requests, Wynn Resorts will produce ESI primarily as single-page, uniquely and sequentially numbered CCITT Group IV TIFF image files not less than 300 dpi. The images shall be accompanied by searchable text files containing all extracted text on a document basis, or if extracted text is unavailable (e.g., image PDF files) or if the document is redacted, then searchable text generated using Optical Character Recognition ("OCR") will be provided. The text files shall be named to match the endorsed number assigned to the image of the first page of the document. The images and text files shall also be accompanied by a cross-reference load file. Wynn Resorts will also provide a data load file ("Data Load File") that shall contain coding and/or Metadata, as reasonably available and to the extent the file is not redacted, associated with each field as specified in Schedule A hereto. Data Load Files will be provided in Concordance DAT file format, with field name headers and standard Concordance delimiters. The Image Load File will be provided in the OPT and LFP file formats.

1 3. **Email Production Format:** Email, together with all attachments, shall be
2 produced as follows:

3 a. Wynn Resorts will provide the following Metadata fields for each email in the
4 index load file (DAT file), to the extent that they are available for each email
5 and the email is not redacted: SendFrom ("From"), SendTo ("To"), CopyTo
6 ("CC"), BlindCopyTo ("BCC"), DateSent, TimeSent, and Subject.

7 b. Wynn Resorts will provide single-page TIFF images representing the pages of
8 emails that would have been viewable in the ordinary course of business prior
9 to collection. Each such TIFF image will show the endorsed document number
10 and confidentiality status for each such email page.

11 c. The index load file will also include the following data items: FIRSTBATES,
12 LASTBATES, BEGATTACH, ENDATTACH, and the original custodian of
13 the email.

14 4. **Paper Production Format:** Documents stored in paper form in the ordinary
15 course of business shall be converted to electronic form and produced as single-page, uniquely
16 and sequentially numbered CCITT Group IV TIFF image files not less than 300 dpi resolution to
17 enable the generation of searchable text using OCR. The images shall be accompanied by text
18 files containing the OCR-generated searchable text. The text files shall be named to match the
19 endorsed number assigned to the image of the first page of the document. The images shall also
20 be accompanied by an image cross-reference load file, providing the beginning and ending
21 endorsed number of each document and the number of pages it comprises. The producing Party
22 shall also provide a Data Load File corresponding to the CCITT Group IV TIFF image files that
23 shall contain the Metadata fields defined in Schedule A hereto.

24 5. **Bates Numbering for TIFF Images:** Each page of a document produced in TIFF
25 file format shall be endorsed with a legible, unique numeric identifier ("Bates Number")
26 electronically "burned" onto the image at a place on the document that does not obscure, conceal,
27 or interfere with any information originally appearing on the document. The Bates Number for
28

1 each document shall be created so as to identify the producing Party or non-party and the unique
2 document number (e.g., "ABC00000001").

3 6. **Document Unitization**: If a paper document is more than one page, to the extent
4 possible, the unitization of the document and any attachments and/or affixed notes will be
5 maintained as it existed when collected by the Wynn Resorts. If unitization cannot be maintained,
6 the original unitization shall be documented in a load file or otherwise electronically tracked. For
7 ESI, all unitization should be defined within the Data Load File including the designation of
8 parent/attachments both for email and attachments.

9 7. **Production of ESI in Native Format**: Other than as specifically set forth below,
10 Wynn Resorts will not produce documents in Native Format.

11 8. **Spreadsheets**: Wynn Resorts may produce Spreadsheets (e.g., Excel and
12 Excel-type files) in their Native Format with a link in the NativeFile Metadata field, along with
13 extracted text to the extent the document is not redacted.

14 9. **Media Files**: Wynn Resorts may produce non-privileged video, animation, or
15 audio files in their Native Format.

16 10. **Other File Types**: In some cases it may be necessary to produce documents in
17 their Native Format because such documents cannot be rendered into TIFF format. In other cases,
18 it may be necessary to alter a native file to create a format suitable for production purposes
19 (e.g., Lotus Notes objects, compiled web pages, etc.). If alteration of a Native Format file is
20 necessary to create a format suitable for production, the Parties may discuss and agree upon an
21 acceptable format.

22 11. **De-Duplication of Non-Emails**: Wynn Resorts may De-duplicate across
23 Custodians all non-email documents prior to production, with an "AllCustodians" Metadata field
24 identifying all the custodians who possessed copies of the documents. "De-duplicate across
25 Custodians" means that exact duplicates of documents (where the document family is identical),
26 as identified by MD5 hash value, will not be produced.

27 12. **De-Duplication of Emails**: For emails, in addition to de-duplication across
28 custodians, thread de-duplication may be applied prior to production. Thread de-duplication

1 allows emails that are wholly contained in a later, surviving email, with all of the same recipients
2 and attachments, to be identified and suppressed from production. An email is only removed
3 from production if 100% of the message body is contained a later email that is produced; all of
4 the addressees (senders and recipients) are the same; all of the attachments are included in the
5 later email; and the calculated MD5 thread hash of the suppressed and produced emails match.
6 These tests ensure that an email is not excluded from production if any part of the email's message
7 body changes, any addressee is added or removed, or any attachment or subject changes.
8 Wynn Resorts will produce emails message unit complete.

9 13. **De-Nisting of ESI:** Wynn Resorts may remove operating system files and
10 program files with the assistance of its Information Technology vendors prior to conducting
11 searches of such data in accordance with the National Software Reference Library De-Nisting
12 Process.

13 14. **Placeholders:** In the event that a production contains documents that could not be
14 rendered to TIFF, Wynn Resorts may insert a numbered TIFF format placeholder page as a
15 replacement for, and to identify, any document that could not be rendered to TIFF or produced for
16 some other reason. The placeholder page(s) will bear the text "Document Cannot Be Rendered."
17 Any file produced in its Native Format will be produced with an associated numbered TIFF
18 format placeholder with the text "Document Produced in Native Format."

19 15. **Production Media:** Wynn Resorts may produce document images, Native
20 Format files, load files, and Metadata as uncompressed data on DVD-ROM optical discs for
21 Windows-compatible personal computers, Windows-compatible external hard drive employing
22 the USB 2.0 interface, or other mutually agreeable media.

23 16. **Processing Specifications:** Wynn Resorts will use the following specifications
24 when converting ESI from its Native Format into TIFF image files prior to its production:

- 25 a. For Excel or other spreadsheet files that must be produced in TIFF image
26 format for redactions, hidden columns and rows will be made visible.
27 b. PowerPoint documents will be processed with hidden slides and speaker's
28 notes unhidden.

1 c. To the extent documents in a foreign language are produced, processing of
2 such documents shall be Unicode-compliant.

3 d. To the extent any document exists in more than one language, the document
4 will be produced in all languages.

5 17. The provisions of this Appendix do not in any way limit Wynn Resorts' ability to make
6 any necessary redactions, whether for privilege, confidentiality, privacy and/or
7 compliance with foreign data protection and privacy laws.

8 18. **Production Specifications:** All documents will be produced according to the
9 following Production Specifications:

10 a. **Data Load Files:**

11 i. Concordance (DAT, OPT, LFP):

12 1. Version 10 for Unicode support.

13 ii. DAT file:

14 1. UTF-8 encoded Unicode to support foreign language.

15 iii. Fields available in the DAT file (with standard Concordance
16 delimiters):

17 1. See Schedule A for list of fields.

18 2. Translations to include only FIRSTBATES, LASTBATES,
19 BEGATTACH, ENDATTACH.

20 iv. Text files will not be provided within the DAT file.

21 b. **TIFF Specifications:**

22 i. Black and white.

23 ii. Single page.

24 iii. Portrait page orientation (landscape pages will be imaged then rotated).

25 iv. CCITT Group IV FAX Compression.

26 v. 300 dots per inch.

27 c. **Native Format Specifications:** Prior to production, Native Format documents
28 will be renamed with their appropriate Bates Numbers (as assigned to the

corresponding placeholder) and confidentiality designation in the filename (e.g., "Bates Number_confidentiality designation.file extension"), and a corresponding TIFF format placeholder bearing the text "Document Produced in Native Format."

d. **Endorsements:**

- i. Printed with font size 18 (similar to 10-point Arial).
- ii. Right footer: Bates Number.
- iii. Left Footer: Confidentiality legend.
 1. Legend values:
 - a. HIGHLY CONFIDENTIAL
 - b. CONFIDENTIAL
 - iv. Redactions: White redactions with a border.
 1. Redaction types:
 - a. Privilege.
 - b. Relevance.
 - c. Personally Identifying Information (PII) Redaction.
 2. Redaction labels:
 - a. REDACTED – PRIVILEGE
 - b. REDACTED – RELEVANCE
 - c. REDACTED – PRIVACY

e. **Text Files:**

- i. One Unicode text file will be provided per document (named according to the beginning Bates Number for each document).
- ii. Text will be extracted from Native Format files when possible and to the extent the document is not redacted.
- iii. Text will be provided with scanned documents where such text can be obtained through OCR.
- iv. Text files will not contain page breaks.

- v. Placeholders (with the exception of placeholders for files produced in Native Format) will receive a text file matching the placeholder text.
- vi. Text files for redacted documents will be created from the redacted image.
- vii. OCR text will be provided for documents where text cannot be extracted.
- viii. Text files will support foreign characters for upload into Concordance Version 10.

f. **Sorting:**

- i. Keep source/attachments (families) together.
- ii. Group by custodian.
- iii. Sort 1: Custodian.
- iv. Sort 2: Default sort order.

g. **Data Organization:**

- i. Images: One document per folder; no more than 1000 subfolders per folder; root folder named "Images."
- ii. Text files: Will reside in a separate folder named "Full_Text."
- iii. Native Format files: Will reside in a separate folder named "Natives."
- iv. Data Load Files: Will reside in the root folder.

19. **Documents Previously Produced in Other Actions:** Notwithstanding the other provisions of this Appendix, where the documents being produced were previously produced in another matter, they may be produced in the same form and with the same Metadata that was produced in that matter.

20. **Reservation of Rights:** Nothing contained herein, is intended to create a precedent for, or to constitute a waiver or relinquishment of, any Wynn Resorts' objections or arguments pertaining to any potential future ESI production(s). Nothing contained herein constitutes a waiver of any Wynn Resort's rights or obligations under any law, including but not

1 limited to laws regarding any matter or information that is or may be claimed to be privileged,
2 confidential, proprietary, or otherwise personal or private.
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SCHEDULE A

METADATA FIELDS

Wynn Resorts will produce the following metadata fields, where available, in its production. To the extent that Defendants in their Requests purport to require additional metadata fields, Wynn Resorts expressly objects on the grounds that the information sought is not relevant to the subject-matter, claims and/or defenses in the action, it is unduly burdensome, unreasonable, and seeks information protected by the attorney-client privilege and/or the attorney work product doctrine.

1. FIRSTBATES
2. LASTBATES
3. BEGATTACH
4. ENDATTACH
5. PAGES
6. CUSTODIAN
7. ALLCUSTODIANS
8. FROM
9. TO
10. CC
11. BCC
12. SUBJECT
13. DATESENT
14. TIMESENT
15. FILENAME
16. FILE_EXTEN
17. FILE_SIZE
18. DATE_MOD
19. NATIVEFILE

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

1 SAC
James J. Pisanelli, Esq., Bar No. 4027
2 JJP@pisanellibice.com
Todd L. Bice, Esq., Bar No. 4534
3 TLB@pisanellibice.com
Debra L. Spinelli, Esq., Bar No. 9695
4 DLS@pisanellibice.com
PISANELLI BICE PLLC
5 3883 Howard Hughes Parkway, Suite 800
Las Vegas, Nevada 89169
6 Telephone: 702.214.2100

7 Paul K. Rowe, Esq. (*pro hac vice* admitted)
pkrowe@wlrk.com
8 Bradley R. Wilson, Esq. (*pro hac vice* admitted)
brwilson@wlrk.com
9 Grant R. Mainland, Esq. (*pro hac vice* admitted)
WACHTELL, LIPTON, ROSEN & KATZ
10 51 West 52nd Street
New York, NY 10019
11 Telephone: 212.403.1000

12 Robert L. Shapiro, Esq. (*pro hac vice* admitted)
RS@glaserweil.com
13 GLASER WEIL FINK JACOBS HOWARD
AVCHEN & SHAPIRO, LLP
14 10250 Constellation Boulevard, 19th Floor
Los Angeles, CA 90067
15 Telephone: 310.553.3000

16 Attorneys for Wynn Resorts, Limited

17 DISTRICT COURT

18 CLARK COUNTY, NEVADA

19 WYNN RESORTS, LIMITED, a Nevada
20 Corporation,

21 Plaintiff,

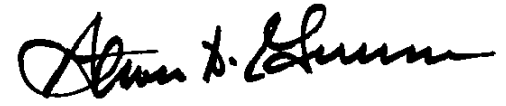
22 vs.

23 KAZUO OKADA, an individual, ARUZE
USA, INC., a Nevada corporation, and
24 UNIVERSAL ENTERTAINMENT CORP.,
a Japanese corporation,

25 Defendants.

26 AND ALL RELATED CLAIMS
27
28

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CLERK OF THE COURT

Case No.: A-12-656710-B

Dept. No.: XI

SECOND AMENDED COMPLAINT

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

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

1 Plaintiff Wynn Resorts, Limited ("Wynn Resorts" or "the Company"), by and through its
2 undersigned counsel, hereby files the above-captioned Second Amended Complaint:

3 **NATURE OF THE ACTION**

4 This is an action for breach of fiduciary duty and related offenses committed against
5 Wynn Resorts by one of its former directors, Kazuo Okada, and his affiliates. Beginning in 2010,
6 Wynn Resorts began to uncover evidence that Mr. Okada, his companies, and their associates
7 were engaged in unethical, unlawful, and potentially criminal activities in the Philippines in
8 connection with the development of a casino resort in that country. The evidence raised
9 substantial questions as to Mr. Okada's probity and his suitability to be associated with a
10 corporation in the casino gaming industry. Because of this, Mr. Okada's business activities in the
11 Philippines posed an ongoing and potentially significant risk for Wynn Resorts' existing and
12 potential future gaming licenses.

13 When confronted with the mounting evidence of his wrongdoing, however, Mr. Okada
14 was evasive, and tried to conceal his misconduct from Wynn Resorts and its Board — a clear
15 breach of Mr. Okada's duty to make a full and fair disclosure to the Company of all facts that
16 materially affect its rights and interests. Mr. Okada also consistently refused to take steps to
17 address Wynn Resorts' concerns, either by shutting down his Philippine project or by severing his
18 ties with Wynn Resorts. By engaging in the wrongful conduct alleged herein while associated
19 with Wynn Resorts, failing to make full and fair disclosure to the Company and his fellow
20 directors about the factual circumstances surrounding his business activities in the Philippines,
21 and refusing to act to protect the Company's rights and interests when called upon to do so,
22 Mr. Okada breached his fiduciary duties to Wynn Resorts.

23 In view of Mr. Okada's inaction and his and his counsel's refusal to cooperate with the
24 Company's investigations or provide any explanation for the troubling evidence that had been
25 presented to them by the Company and its attorneys, in the fall of 2011, the Compliance
26 Committee of Wynn Resorts retained former Director of the Federal Bureau of Investigation,
27 Louis J. Freeh, to conduct a comprehensive investigation of Mr. Okada's business activities in the
28 Philippines and their potential impact on Wynn Resorts' interests. As discussed in his written

1 report to the Board (attached as Exhibit 1), Mr. Freeh uncovered substantial evidence of gross
2 improprieties by Mr. Okada and his agents, including evidence that Mr. Okada had made a series
3 of payments to the Philippine gaming regulators with direct responsibility for overseeing
4 Mr. Okada's development project. Based on these findings, and upon the advice of two
5 independent gaming experts, the Board exercised its authority under the Wynn Resorts Articles of
6 Incorporation to declare Mr. Okada and his affiliates unsuitable and to redeem the Wynn Resorts
7 stock held by a company that Mr. Okada controlled. In addition to seeking damages for
8 Mr. Okada's breaches of fiduciary duty, Wynn Resorts seeks a declaration from this Court that
9 the Board's actions in this regard were lawful in all respects.

10 **PARTIES AND RELEVANT PERSONS/ENTITIES**

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

14 2. Wynn Resorts is a world class developer of destination resort casinos.
15 Wynn Resorts owns resort casinos through its wholly owned subsidiary Wynn Las Vegas, LLC
16 ("Wynn Las Vegas") and through its majority owned subsidiary Wynn Macau, Limited
17 ("Wynn Macau").

18 3. Wynn Las Vegas operates the Wynn Las Vegas and Encore resort casinos in
19 Las Vegas, Nevada.

20 4. Wynn Macau is a Cayman Islands company that is publicly traded on the
21 Hong Kong Stock Exchange. Wynn Macau operates the Wynn Macau and Encore at
22 Wynn Macau resort casinos in Macau through its wholly owned subsidiary, Wynn Resorts
23 (Macau), S.A., a company organized and existing under the laws of Macau Special
24 Administrative Region of the People's Republic of China.

25 5. Defendant Mr. Okada is and was at all times relevant hereto a citizen of Japan and
26 a member of the Board of Directors of Wynn Resorts. During the relevant period, Mr. Okada
27 served multiple roles with Wynn Resorts and its affiliated companies. In addition to serving as a
28 Wynn Resorts director, until February 24, 2012, Mr. Okada was a member of the Board of

1 Directors of Wynn Macau, and, until February 18, 2012, he controlled a shareholder that owned
2 approximately 19.66% of Wynn Resorts. Moreover, between October 2002 and November 2011,
3 Mr. Okada served as Vice Chairman of Wynn Resorts. On February 21, 2013, Mr. Okada
4 resigned as a director of Wynn Resorts, one day before a scheduled special meeting of
5 Wynn Resorts' stockholders that had been called to consider and vote on a proposal to remove
6 Mr. Okada from the Board. The special meeting was held as scheduled, and the removal proposal
7 was approved by 99.6% of the shares voted at the special meeting.

8 6. Defendant Aruze USA, Inc. ("Aruze USA") is and was at all times relevant hereto
9 a corporation organized and existing under the laws of the State of Nevada and a wholly owned
10 subsidiary of defendant Universal Entertainment Corporation ("Universal"). Until February 18,
11 2012, Aruze USA was a 19.66% shareholder in Wynn Resorts. Mr. Okada serves as Director,
12 President, Secretary, and Treasurer of Aruze USA.

13 7. Defendant Universal (formerly Aruze Corporation) is a public corporation
14 organized under the laws of Japan. Universal manufactures and sells pachislot and pachinko
15 machines and other similar gaming equipment. Universal does business in the State of Nevada,
16 has been issued a manufacturer's license by the Nevada Gaming Commission, and was deemed
17 suitable by the Nevada Gaming Commission as a 100% shareholder of Aruze USA. Mr. Okada
18 serves as Director and Chairman of the Board of Universal, and, together with his family
19 members, is a 67.9% shareholder of Universal.

20 8. In February 2012, the Wynn Resorts Board of Directors consisted of twelve
21 members: Chairman Stephen A. Wynn, Linda Chen, Russell Goldsmith, Dr. Ray R. Irani, former
22 Nevada Governor Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,
23 D. Boone Wayson, Elaine P. Wynn, Allan Zeman, and Mr. Okada.

24 9. Wynn Resorts' Gaming Compliance Committee (the "Compliance Committee") is
25 an internal committee chaired by Governor Miller and consisting of two additional members:
26 Mr. Schorr (director and Chief Operating Officer of Wynn Resorts) and John Strzemp (Executive
27 Vice President and Chief Administrative Officer of Wynn Resorts). The Compliance Committee
28

1 is charged with assuring Wynn Resorts' compliance with all laws and regulations, including, in
2 particular, applicable gaming laws, regulations, and policies.

3 10. The Honorable Louis J. Freeh, Esq. is a former director of the Federal Bureau of
4 Investigation, having led that agency with distinction from 1993 to 2001. Prior to serving as FBI
5 Director, Mr. Freeh was a United States District Court Judge. In February 2012, Mr. Freeh was a
6 partner in Freeh Sporkin & Sullivan, LLP — a law firm he founded with two other former federal
7 judges — which specialized in domestic and foreign corporate investigations and compliance.
8 Today, Mr. Freeh is a partner and the chairman of the Executive Committee of Pepper
9 Hamilton LLP.

10 JURISDICTION

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

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

16 GENERAL ALLEGATIONS

17 13. A Nevada gaming license is a privilege. Nevada law imposes comprehensive
18 regulatory requirements upon gaming licensees, including the requirement that persons and
19 entities associated with the licensee possess the necessary character, qualifications, and integrity
20 to be suitable to hold that privilege so as not to threaten the public interest or the integrity of the
21 regulation and control of gaming.

22 14. Under the applicable gaming laws and regulations, Wynn Resorts has an obligation
23 to police itself and to take independent and proactive measures with respect to compliance issues
24 before it becomes necessary for gaming regulators to take action. Consistent with this regulatory
25 framework, Wynn Resorts has adopted a compliance program that requires the Compliance
26 Committee to, among other things, investigate senior officers, directors, and key employees to
27 protect Wynn Resorts from becoming associated from any unsuitable persons. The compliance
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1 program further requires Wynn Resorts to self-report to Nevada gaming regulators with respect to
2 any significant compliance-related issues that may arise.

3 15. As a director of Wynn Resorts (and formerly, through Aruze USA, one of its
4 largest shareholders), Mr. Okada's conduct and reputation for probity had a direct impact on the
5 ability of Wynn Resorts to maintain its Nevada gaming license and to seek additional licenses in
6 the future. Accordingly, pursuant to Nevada law and its own compliance program, Wynn Resorts
7 was obliged to monitor Mr. Okada's business activities to ensure that his association with
8 Wynn Resorts did not create any regulatory concern.

9 *Okada Announces Plan to Enter Philippine Market*

10 16. In or about 2008, Wynn Resorts learned that Mr. Okada, through one or more
11 companies he controlled, had publicly stated his intention to develop a casino resort in the
12 Philippines. Wynn Resorts was not and has never been an investor or participant in Mr. Okada's
13 development project in the Philippines.

14 17. For a number of reasons, it was highly uncertain whether Mr. Okada's planned
15 casino resort in the Philippines would ever come to fruition. The scale of the proposed
16 development was larger than any comparable project in existence in the Philippines at the time,
17 and Mr. Okada and the companies he controlled had never developed anything on such a scale
18 previously. Numerous approvals and licenses from the Philippine government would also be
19 needed before any project could get off the ground, let alone become operational.

20 18. In 2008, the Philippines Amusement and Gaming Corporation ("PAGCOR")
21 awarded four provisional gaming licenses, without public bidding, in connection with a
22 development project in the Manila Bay area referred to as Entertainment City. PAGCOR is a
23 100% government-owned and -controlled corporation that operates under the direct supervision of
24 the Office of the President of the Philippines and is charged with licensing and regulating casino
25 gaming in the Philippines. One of the provisional licenses that PAGCOR awarded went to a
26 newly-formed entity that is 99% owned by Aruze USA, known as Tiger Resort, Leisure and
27 Entertainment Inc.

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1 19. Apart from obtaining a provisional license, however, between 2008 and early
2 2010, Mr. Okada and his companies made very little apparent progress with respect to the
3 proposed development in the Philippines. Indeed, on various occasions during that period,
4 Mr. Okada made statements to Mr. Wynn and others at Wynn Resorts expressing doubt that he
5 would ever actually develop a casino resort in the Philippines, stating that he had reconsidered.

6 20. In this period of time, Wynn Resorts did not know what activities Mr. Okada was
7 engaged in to promote his Philippine project. As of early 2010, Wynn Resorts had no reason to
8 suspect that Mr. Okada and his associates would engage in unethical or unlawful conduct, or that
9 Mr. Okada's project in the Philippines would damage Wynn Resorts or pose a threat to
10 Wynn Resorts' gaming licenses. Indeed, Mr. Okada had every reason to conceal his activities,
11 both because he could be harmed by its exposure, and because Mr. Okada made periodic attempts
12 in that time period to persuade Wynn Resorts and/or Mr. Wynn to have some degree of
13 involvement with his Philippine project.

14 *Wynn Resorts Begins to Have Concerns*

15 21. Beginning in 2010, a number of events occurred to change Wynn Resorts'
16 perception of Mr. Okada and his Philippine project. In June 2010, as Mr. Wynn was planning to
17 return from a visit to Macau, Mr. Okada prevailed on Mr. Wynn to make an unscheduled stopover
18 in Manila in the course of his trip back to the United States. Mr. Wynn had no interest in
19 involving Wynn Resorts in Mr. Okada's project in the Philippines and agreed to the visit as a
20 courtesy to Mr. Okada. Mr. Okada abused Mr. Wynn's courtesy, however, and went to great
21 lengths to try to associate Wynn Resorts and Mr. Wynn with his Philippine project.

22 22. Unbeknownst to Mr. Wynn, Mr. Okada had arranged for a public event at his
23 Manila Bay development site that was to be attended by various Philippine government officials.
24 Mr. Okada conspicuously publicized Mr. Wynn's attendance at the event by erecting a large sign
25 that read, "Welcome to the Philippines Chairman Steve Wynn," and bore the trademarked
26 corporate logo of Wynn Resorts. Mr. Wynn immediately recognized that Mr. Okada had brought
27 him to the Philippines under misleading pretenses, and that he had orchestrated the event to send
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1 the false message to the Philippine government that Wynn Resorts' good reputation and standing
2 in the casino resort industry backed Mr. Okada's development project.

3 23. Following Mr. Wynn's stopover in Manila, and in light of concerns that Mr. Okada
4 was trading on Wynn Resorts' reputation and creating the false impression that Wynn Resorts had
5 a role in his Philippine project, management determined to conduct an investigation regarding the
6 general business environment in the Philippines as part of the Company's general compliance
7 program. Management produced a written report and presented it to the Board (including
8 Mr. Okada) in July 2010.

9 24. Based on reports from sources in the U.S. government and local authorities in the
10 Philippines, as well as international organizations and media, the report concluded that corruption
11 posed a major problem in the Philippines and that Philippine anti-corruption efforts were
12 ineffective. Management's report cited a "Global Corruption Barometer" study that listed the
13 Philippines in the top quintile of "Countries most affected by bribery."

14 25. At this same July 2010 meeting of the Wynn Resorts Board, the other directors
15 asked Mr. Okada to state his intentions with respect to his casino resort development in the
16 Philippines. Mr. Okada was evasive, however, and failed to alleviate the Board's concerns. By
17 refusing to make full disclosure to the Board about his business activities in the Philippines and
18 the factual circumstances surrounding those activities, Mr. Okada was able to conceal his
19 wrongful conduct from the Company and his fellow directors.

20 26. Although Wynn Resorts did not appreciate the situation at the time — due to
21 Mr. Okada's lack of candor — 2010 was a critical period for Mr. Okada's project in the
22 Philippines. Effective June 30, 2010, Benigno S. Aquino III assumed office as President of the
23 Republic of the Philippines, succeeding Gloria M. Arroyo. Soon thereafter, President Aquino
24 appointed Cristino L. Naguiat, Jr. to replace Efraim C. Genuino as the Chairman of PAGCOR.

25 27. In July 2010, reports surfaced in the Philippine press that at the behest of the new
26 President, Mr. Naguiat was investigating certain "midnight deals" that had been approved by his
27 predecessor. Specifically, in his final weeks as Chairman, Mr. Genuino, with the support of
28 then-President Arroyo, had caused PAGCOR to award several gaming licenses and related

1 concessions on an abnormally expedited basis. Among the beneficiaries of these deals was
2 Mr. Okada, who received a special exemption allowing an Okada-controlled company to take title
3 to the land on which his casino resort was to be built. Without the exemption, Mr. Okada's
4 company would have been subject to Philippine law prohibiting foreign investors from owning
5 land. A decision by Mr. Naguiat to revoke the exemption, therefore, would have significantly
6 impaired Mr. Okada's project in the Philippines.

7 28. Despite direct inquiry by Wynn Resorts management, the Company was not made
8 aware of these events until 2011, when it began to receive certain third-party investigative reports
9 discussed below. Mr. Okada still has never made a full or fair disclosure to the Company despite
10 the material effects his activities in the Philippines have had on Wynn Resorts' rights and
11 interests.

12 *Wynn Resorts Receives Further Evidence of Mr. Okada's Misconduct*

13 29. By mid-2010, Wynn Resorts had no definitive proof of wrongdoing by Mr. Okada
14 or his associates. Mr. Okada's continued evasiveness, however, coupled with substantial
15 concerns about widespread corruption in the Philippines, caused Wynn Resorts to determine that
16 further inquiry was warranted.

17 30. Accordingly, in early 2011, Wynn Resorts retained a well-known investigative
18 organization, The Arkin Group LLC ("Arkin Group"), to further examine the risks associated
19 with doing business in the Philippines and to investigate Mr. Okada's activities in that country.
20 Arkin Group summarized its findings in a series of written reports that were provided to
21 Wynn Resorts in February 2011.

22 31. Based on its investigation, which included interviews of Philippine officials and
23 other industry and government contacts, Arkin Group concluded that official corruption in the
24 Philippines — particularly in the gaming industry — was "deeply ingrained" and that "official
25 corruption at some level accompanies most if not all major business deals and transactions in the
26 Philippines." In support of these conclusions, Arkin Group cited, among other sources, the 2010
27 Transparency International Corruption Percentage Index, which rated the Philippines at the lower
28 end of the index, 134th out of 178 countries surveyed. The Arkin Group observed that this rating

1 placed the Philippines "on par with Nigeria, Honduras, Azerbaijan and Bangladesh" in terms of
2 the pervasiveness of government corruption.

3 32. As for Mr. Okada's activities, Arkin Group found that Mr. Okada was "perceived
4 as touting his relationship with Wynn Resorts as a means to generate a positive reputation and
5 high profile" and "proving his and Aruze's credibility." The Arkin Group's reports also discussed
6 the land title exemption that Mr. Okada had obtained in the final days of the administrations of
7 PAGCOR Chairman Genuino and Philippine President Arroyo, and explained that such "midnight
8 deals" were at that time "receiving significant media attention and scrutiny" in the Philippines.

9 33. The Wynn Resorts Board discussed the results of the Arkin Group's investigation
10 at a Board meeting held on February 24, 2011. Mr. Wynn advised the Board that Mr. Okada
11 (who was present for the meeting) had arranged for him to meet with Philippine President
12 Aquino. Based on the information the Board had received about endemic corruption in the
13 Philippines, the independent directors unanimously advised Wynn Resorts management that any
14 involvement in the Philippines was inadvisable and strongly recommended that the meeting with
15 President Aquino be cancelled. Management agreed with the Board's recommendation.
16 Mr. Okada, however, was embarrassed and angry about having to cancel the arrangements he had
17 made with President Aquino.

18 34. At the same Board meeting, in the course of an update from Wynn Resorts'
19 general counsel on the Foreign Corrupt Practices Act ("FCPA"), Mr. Okada stated that he
20 personally rejected Wynn Resorts' anti-bribery rules and regulations, as well as legal prohibitions
21 against making such payments to government officials. Mr. Okada also stated that paying bribes
22 to government officials was a common business practice in certain Asian countries, and that the
23 important thing was to channel such illegal payments through third parties. Given that such
24 conduct is prohibited by law in virtually every Asian country, as well as the United States, this
25 was a shocking statement for Mr. Okada to make.

26 35. Mr. Okada responded to the rift he had opened with the other Board members
27 through such comments by counter-attacking. At a Board meeting held on April 18, 2011,
28 Mr. Okada was the lone director to vote against a proposed charitable gift to the University of

1 Macau Development Foundation. At the time, Mr. Okada's stated concern related solely to the
2 length of the commitment, not its propriety. Mr. Okada has subsequently asserted, however, that
3 the charitable gift violated the FCPA, and he has sued Wynn Resorts in this Court seeking
4 documents and records related to the Board's decision to authorize the charitable gift. These
5 claims are baseless, and they are designed to divert attention from Mr. Okada's own misconduct
6 and breaches of fiduciary duty.

7 36. Mr. Okada's business activities in the Philippines were again discussed at a
8 Wynn Resorts Board meeting held on July 28, 2011. At that time, Mr. Okada confirmed to the
9 Board that notwithstanding his fellow directors' stated concerns, he was proceeding with his
10 Philippine project. Wynn Resorts' independent directors expressed great concern regarding
11 probity issues attendant to Mr. Okada's decision to do business in the Philippines and the possible
12 adverse effect that Mr. Okada's involvement in the Philippines would have on Wynn Resorts.
13 The Board was advised that the Compliance Committee had engaged a second independent
14 firm — Archfield Limited ("Archfield") — to further investigate these issues.

15 37. The Compliance Committee reviewed the results of Archfield's investigation at a
16 meeting held on September 27, 2011. The reports from Archfield deepened the Compliance
17 Committee's concerns about Mr. Okada's involvement in the Philippines.

18 38. As described therein, Archfield's investigation identified additional anomalies and
19 apparent improprieties related to Mr. Okada's business activities in the Philippines. Among other
20 things, Archfield reported that a gaming license had been granted to Mr. Okada's company
21 notwithstanding that Mr. Okada did not appear to have a Philippine business partner, as required
22 by Philippine law. In addition, Archfield cited reports that former Chairman Genuino, with the
23 support of former President Arroyo, had paved the way for Mr. Okada to obtain title to the land
24 on which his casino resort was to be located in a clear reversal of Philippine policy on foreign
25 investment.

26 39. Archfield also reported that former PAGCOR Chairman Genuino, the government
27 official who had authorized Mr. Okada's gaming license and who had direct regulatory authority
28 over Mr. Okada's project in the Philippines, had been removed from office and was under

1 investigation for potential misconduct. This was particularly troubling for the Compliance
2 Committee given the report from Archfield that former Chairman Genuino and former
3 President Arroyo were "strongly rumored to have profited from their relationship with Okada."

4 40. A few days later, at the direction of the Compliance Committee, Wynn Resorts
5 management met with Mr. Okada's attorneys, including Robert Faiss of the Lionel Sawyer firm,
6 to discuss Wynn Resorts' concerns relative to Mr. Okada's business activities in the Philippines
7 and the potential adverse effect of those activities on Wynn Resorts' privileged status as a gaming
8 licensee. At this meeting, the Wynn Resorts representatives made clear that Mr. Okada's alleged
9 activities in the Philippines posed substantial risks for Wynn Resorts and needed to be explained
10 post haste. Wynn Resorts' concerns were ill-received, and the meeting was not productive.
11 Mr. Okada's representatives refused to disclose the full factual circumstances surrounding his
12 business activities in the Philippines, much less provide an explanation for those activities that
13 might somehow address the Company's concerns.

14 41. Around this same time, Wynn Resorts was preparing to hold a training session for
15 its directors regarding the FCPA. The training session was scheduled for October 31, 2011, the
16 day before a scheduled in-person Board meeting, and Mr. Okada (through his assistant) had
17 previously sent an RSVP indicating that he would attend. Six days before the session, however,
18 Mr. Okada requested that the training materials be translated into Japanese (despite his previous,
19 long-term practice of translating all materials on his own) and that the date of the session be
20 moved (despite that it had been planned around his previous confirmation). Wynn Resorts
21 accommodated Mr. Okada's first request by obtaining a Japanese translation of the training
22 materials and arranging for professional translators to be available to assist Mr. Okada at the
23 session. Ultimately, however, although he was present at the Board meeting held the very next
24 day, Mr. Okada was the sole Board member who failed to attend the FCPA training session in
25 October 2011, with all other directors appearing in person or telephonically. Mr. Okada likewise
26 was the sole Board member to not attend a similar FCPA training session held in 2012.
27 Mr. Okada's refusal to attend these training sessions further demonstrates his disregard for his
28 obligations as a director of a company in a highly regulated gaming industry.

1 42. At this point, even if there was insufficient evidence in hand at that time to prove
2 misconduct by Mr. Okada in the Philippines, it was clear that Mr. Okada had set himself on a
3 course against the rest of the Board and was acting without regard for the best interests of
4 Wynn Resorts. Accordingly, in October 2011, management was authorized by the Board to
5 request Mr. Okada's resignation as a director. Mr. Okada refused.

6 43. On November 1, 2011, in light of Mr. Okada's failure to attend mandatory FCPA
7 compliance training, acknowledge the Company's internal compliance policies, or to address the
8 Company's serious concerns and inquiries about potentially dangerous and illegal activities in the
9 Philippines, the Board (apart from Mr. Okada) voted unanimously to remove Mr. Okada from his
10 Vice Chairmanship and to leave the office vacant.

11 44. The Board and management have reiterated their request that Mr. Okada resign his
12 directorship on various occasions between October 2011 and the present date. Mr. Okada has
13 consistently refused to do so. At a special meeting of the Wynn Resorts stockholders held on
14 February 22, 2013, 99.6% of the shares voted at the meeting were cast in favor of a proposal to
15 remove Mr. Okada from the Wynn Resorts Board.

16 ***Former FBI Director Freeh Investigates***

17 45. By late 2011, the Compliance Committee was sufficiently concerned to seek
18 further assistance in determining the propriety of Mr. Okada's activities in the Philippines.
19 Accordingly, on October 29, 2011, the Compliance Committee determined to retain Mr. Freeh
20 and his colleagues at Freeh Sporkin & Sullivan LLP to conduct a rigorous investigation.

21 46. Over a three-month period, Mr. Freeh and/or his colleagues made several trips to
22 the Philippines and Macau, reviewed thousands of pages of documents, emails, and public
23 records, and conducted dozens of interviews, including of every independent director on the
24 Wynn Resorts Board. By early 2012, Mr. Freeh and his team had uncovered detailed prima facie
25 evidence of serious wrongdoing by Mr. Okada and his associates.

26 47. On February 15, 2012, Mr. Freeh conducted a full-day, in-person interview of
27 Mr. Okada in Tokyo. Mr. Okada was accompanied by counsel, the former United States Attorney
28 for the Central District of California. Following the interview, Mr. Freeh advised Mr. Okada and

1 his counsel that he would be reporting his findings to the Wynn Resorts Board on February 18,
2 2012, and invited Mr. Okada to present Mr. Freeh with any exculpatory evidence that might be
3 available.

4 48. At the Board meeting, Mr. Freeh made a detailed presentation and provided the
5 directors with copies of his 47-page written report, outlining the following improprieties, among
6 others:

- 7 a. Since 2008, Okada and his associates have made multiple payments to and on
8 behalf of the Philippines' chief gaming regulators at PAGCOR, the government
9 officials who directly oversee and regulate Mr. Okada's licensing agreement to
10 operate in the Philippines.
- 11 b. For example, records reviewed by Mr. Freeh revealed 36 separate instances, from
12 May 2008 to through June 2011, where Mr. Okada or his associates/affiliates made
13 payments exceeding \$110,000 that directly benefitted senior PAGCOR officials.
14 This included payments to former PAGCOR Chairman Genuino, current
15 PAGCOR Naguiat, and their family, friends, and associates.
- 16 c. On one particular occasion in September 2010, Mr. Okada arranged for newly
17 appointed PAGCOR Chairman Naguiat, his wife, his three children, their nanny,
18 and other senior PAGCOR officials (one of whom also brought his family) to stay
19 at Wynn Macau. Mr. Okada and his associates refused to provide Wynn Macau
20 management with the name of Chairman Naguiat and tried to conceal his identity.
21 At Mr. Okada's associates' request and Mr. Okada's direction, Chairman Naguiat
22 and his entourage were provided with the most expensive accommodation, food,
23 and star treatment. In addition, Mr. Okada's associates asked that each guest be
24 provided a \$5,000 advance, in cash, during their stay. Following the stay,
25 Mr. Okada's associates requested that Wynn Macau reduce the excessive charges
26 because they feared an investigation and did not want Mr. Okada or his companies
27 to get in trouble. Wynn Macau refused.
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- 1 d. There is substantial evidence that Mr. Okada, his associates, and companies may
2 have arranged and manipulated ownership and management of legal entities in the
3 Philippines under his control, in a manner that may have enabled the evasion of
4 Philippine constitutional and statutory requirements.
- 5 e. Moreover, close associates and consultants of the former PAGCOR administration
6 attained positions as corporate officers, directors, and/or nominal shareholders of
7 entities controlled by Mr. Okada and, in some cases, served as links between
8 Mr. Okada and the former PAGCOR Chairman.
- 9 f. Mr. Okada has stated his personal rejection of Wynn Resorts' anti-bribery policies
10 and applicable anti-bribery laws to his fellow Wynn Resorts directors. Despite
11 being advised by members of the Wynn Resorts Board and the Company's counsel
12 that making payments and providing gifts to foreign government officials is strictly
13 prohibited, Mr. Okada has expressed a willingness to engage in such conduct when
14 doing business in Asia.
- 15 g. The nature of Mr. Okada's gaming license in the Philippines requires continued
16 oversight by PAGCOR officials. Mr. Okada thus has a strong and continuing
17 motive to maintain favorable relations with the Chairman and other senior officials
18 of PAGCOR.

19 49. Despite being invited to present exonerating evidence regarding these matters,
20 Mr. Okada provided no such evidence at his interview with Mr. Freeh in Tokyo or subsequently.
21 Moreover, Mr. Freeh concluded and advised the Board that Mr. Okada lacked credibility in the
22 statements he did make concerning his conduct.

23 *The Wynn Resorts Board Redeems Aruze USA's Shares*

24 50. The conduct detailed in Mr. Freeh's report is conduct of a type that, when engaged
25 in by a person affiliated with a licensed entity, puts the entity's existing and prospective gaming
26 licenses at risk. The Board was so advised by two independent experts on Nevada gaming law.

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1 51. Thus, following Mr. Freeh's presentation, the Wynn Resorts Board deliberated at
2 length and unanimously (except for Mr. Okada) adopted resolutions finding Mr. Okada,
3 Universal, and Aruze USA to each be an "Unsuitable Person" under Wynn Resorts' Second
4 Amended and Restated Articles of Incorporation (the "Articles of Incorporation" or "Articles").

5 52. An "Unsuitable Person" is defined in Article VII of the Articles as any "Person
6 who . . . in the sole discretion of the board of directors of the Corporation, is deemed likely to
7 jeopardize the Corporation's or any Affiliated Company's application for, receipt of approval for,
8 right to the use of, or entitlement to, any Gaming License."

9 53. Having found Mr. Okada, Universal, and Aruze USA unsuitable under the
10 Articles, the Board had an affirmative obligation under the applicable gaming laws and
11 regulations to take action to protect the gaming licenses and approvals of Wynn Resorts and its
12 affiliates. The specific course of action that was available to the Board is set forth in Article VII
13 of the Articles, which provides that following a determination of unsuitability, "[t]he Securities
14 Owned or Controlled by an Unsuitable Person or an Affiliate of an Unsuitable Person shall be
15 subject to redemption by the Corporation, out of funds legally available therefor, by action of the
16 board of directors, to the extent . . . deemed necessary or advisable by the board of directors. . . ."

17 54. On the basis of these express provisions in the Articles, on February 18, 2012,
18 following Mr. Freeh's presentation and the Board's finding of unsuitability with respect to
19 Mr. Okada, Universal, and Aruze USA, the Board voted to redeem and cancel all of Aruze USA's
20 shares of Wynn Resorts stock. In exchange, as expressly permitted by the Articles, the Board
21 unanimously (except for Mr. Okada) determined to issue to Aruze USA a promissory note with a
22 face value of approximately \$1.936 billion and paying interest at 2% per year as provided for in
23 the Articles.

24 ***Further Evidence of Mr. Okada's Wrongdoing Comes to Light Post-Redemption***

25 55. Following the Board's unsuitability finding and redemption of Aruze USA's
26 shares, further evidence has reportedly come to light revealing the true extent of Mr. Okada's
27 breach of fiduciary duty and lack of disclosure regarding his activities in the Philippines. It has
28 been widely reported in the press that Mr. Okada and his companies are the subject of multiple

1 pending investigations relating to the development of Mr. Okada's project in the Philippines. The
2 FBI, the Nevada Gaming Control Board, and the Philippine Department of Justice, among many
3 other organizations, are reportedly gathering additional evidence that Mr. Okada's companies
4 paid bribes to Philippine gaming regulators at PAGCOR and their associates to facilitate the
5 development of Mr. Okada's casino resort in Manila Bay.

6 56. At the center of the new evidence that has reportedly come to light is Rodolfo
7 Soriano, a former consultant to PAGCOR and a close business associate of former PAGCOR
8 Chairman Genuino. Mr. Freeh's report to the Wynn Resorts Board in February 2012 described
9 Mr. Soriano as a "bag man" for Mr. Genuino. Mr. Soriano is often referred to by his nickname,
10 "Boysie."

11 57. The evidence reportedly uncovered in the ongoing investigations shows that, in or
12 about 2009, Mr. Okada and his companies made a strategic "shift to Boysie" to jumpstart the
13 lagging progress at their Philippine development site. This shift in strategy, it has been reported,
14 involved Okada-controlled companies paying up to \$40 million in bribes to companies controlled
15 by Mr. Soriano in order to secure benefits from PAGCOR and the Arroyo administration that
16 were essential to the viability and profitability of Mr. Okada's project in the Philippines. Of
17 course, the factual circumstances of these transactions were never disclosed to the Wynn Resorts
18 Board despite their unquestionable material effect on the Company's rights and interests.

19 58. News reports indicate that on January 14, 2010, Mr. Okada's company transferred
20 \$10 million to Subic Leisure and Management ("Subic Leisure"), a Soriano-controlled company
21 registered in the British Virgin Islands. Mr. Okada's company transferred an additional
22 \$15 million to Subic Leisure on March 3, 2010, and a further \$10 million to Subic Leisure in or
23 about early May 2010. And, it has been reported that Mr. Okada's company transferred
24 \$5 million to a Hong Kong shell company named People's Technology Holding Ltd., of which
25 Mr. Soriano was the sole shareholder.

26 59. The *Asahi Shimbun*, one of the largest national newspapers in Japan, has reported
27 that these money transfers were reported to senior management at Universal and were approved
28 by its board of directors. According to these *Asahi Shimbun* reports, the money transfers were

1 discussed at a Universal board meeting and expressly approved in a board resolution that
2 Mr. Okada himself signed as the Chairman of Universal. Again, the factual circumstances of
3 these transactions were never disclosed to the Wynn Resorts Board despite their unquestionable
4 material effect on the Company's rights and interests.

5 60. Other news reports indicate that in exchange for these illicit payments, between
6 late 2009 and early 2010, Mr. Okada's companies won concessions on three critical issues related
7 to the Philippine project. In November 2009, PAGCOR, through its then-Chairman Genuino,
8 brokered a land swap that Mr. Okada's company needed to move ahead with construction of its
9 casino resort. Then, in or about February 2010, then-Philippine President Arroyo signed a
10 presidential order that permitted foreign investors such as Mr. Okada to have 100-percent
11 ownership of casinos. Finally, around the same time, the Philippine government approved an
12 application for corporate tax relief by Mr. Okada's company.

13 61. This additional evidence that has reportedly come to light in the ongoing
14 government investigations is entirely consistent with and supplements the findings contained in
15 Mr. Freeh's report to the Wynn Resorts Board, as detailed above. This additional evidence is
16 consistent with Mr. Okada's statements to the Wynn Resorts Board in February 2011, discussed
17 above, regarding Mr. Okada's perspective on anti-corruption laws and regulations and his
18 willingness to pay bribes through intermediaries while doing business in certain Asian countries.
19 Because Mr. Okada engaged in this reported misconduct while he was associated with
20 Wynn Resorts, this additional information further demonstrates Mr. Okada's failure to provide
21 full and fair disclosure to the Board of the factual circumstances surrounding his and his affiliates'
22 business dealings in the Philippines, and further supports Wynn Resorts' claim for breach of
23 fiduciary duty.

24 **FIRST CAUSE OF ACTION**

25 **(Breach of Fiduciary Duty)**

26 **(Wynn Resorts against Mr. Okada)**

27 62. Wynn Resorts repeats and realleges the allegations set forth in Paragraphs 1
28 through 61 above as though fully set forth herein.

1 63. As a director of Wynn Resorts, at all relevant times Mr. Okada owed fiduciary
2 duties to Wynn Resorts under NRS 78.138 and the common law. Those duties included, without
3 limitation: (a) the duty not to engage in conduct that was likely to damage the corporate interests
4 of Wynn Resorts; (b) the duty to act in the best interests of Wynn Resorts, as opposed to
5 advancing his own personal interests; and (c) the duty to make full disclosure to Wynn Resorts
6 and his fellow directors about his business activities in the Philippines and to avoid concealment
7 of his wrongful conduct where the interests of Wynn Resorts were concerned.

8 64. As set forth herein, Mr. Okada violated his fiduciary duties in several material
9 ways during the period of 2008 to the date hereof. These violations of Mr. Okada's duties were
10 intentionally concealed by him, however, and were not discovered by Wynn Resorts until various
11 times after 2010, as set forth in more detail herein. Indeed, the details of Mr. Okada's wrongful
12 conduct are still coming to light today through the ongoing investigative efforts of government
13 and regulatory authorities worldwide.

14 65. Mr. Okada's breaches of fiduciary duty arise from his plan to have entities he
15 personally controls develop and operate a resort casino in the Philippines. Specifically, the
16 breaches occurred when, in furtherance of these plans, Mr. Okada engaged in conduct that was
17 unethical, unlawful, and apparently criminal.

18 66. By engaging in such conduct while he was a director of Wynn Resorts, and indeed
19 while he held the title of Vice Chairman of Wynn Resorts, Mr. Okada directly, knowingly, and
20 intentionally damaged the interests of Wynn Resorts. This is because Wynn Resorts must be
21 licensed as an entity in order to operate in the casino industry in Nevada, Macau, and in other
22 jurisdictions in which Wynn Resorts may seek to operate casino resorts in the future. Such
23 licensure, both existing and prospective, is put at grave risk by unethical, unlawful, and/or
24 criminal conduct by any persons who serve as directors of the regulated entity. By engaging in
25 conduct that could have resulted in risk to Wynn Resorts' existing and prospective licenses,
26 Mr. Okada struck at the heart of Wynn Resorts' corporate interests in clear violation of his duty to
27 protect and advance the interests of Wynn Resorts.

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1 67. Mr. Okada further demonstrated his willingness to damage Wynn Resorts, and his
2 contempt for his fiduciary duties, by concealing his wrongful conduct from Wynn Resorts and by
3 refusing voluntarily to resign and sever his links with Wynn Resorts when requested to do so.
4 This conduct compounded Mr. Okada's other breaches of duty. In particular, despite requests to
5 do so at Board meetings and in conversations with senior executives of Wynn Resorts, Mr. Okada
6 refused to supply information about his activities in the Philippines and indeed refused to confirm
7 even that he had determined to proceed with his Philippine project. In addition, through his
8 counsel, Mr. Okada refused to cooperate with the Company's investigations regarding his
9 activities in the Philippines or to provide any explanation for the troubling evidence that was
10 brought to Mr. Okada and his counsel's attention by Wynn Resorts and its attorneys.

11 68. Rather than providing full and fair disclosure, Mr. Okada purposefully covered his
12 tracks to prevent Wynn Resorts from discovering the extent of his questionable conduct.
13 Mr. Okada knew that if he was forthcoming with the Company and his fellow directors, and did
14 not evade their questions about his business activities in the Philippines, Wynn Resorts would
15 undoubtedly take action to protect itself. Specifically, Mr. Okada did not wish for the
16 Wynn Resorts Board to use its power under Article VII of the Articles of Incorporation to redeem
17 the shares he owned through Aruze USA, nor did Mr. Okada wish for Wynn Resorts to
18 commence the process of removing him as a director by a two-thirds shareholder vote (the only
19 way in which Mr. Okada could be removed against his will under Nevada law). Mr. Okada's lack
20 of candor — when he owed the Company a duty of full and fair disclosure of the factual
21 circumstances surrounding his business dealings in the Philippines — amounted to an
22 independent breach of Mr. Okada's fiduciary duties.

23 69. In addition, Mr. Okada breached his fiduciary duties by refusing, in 2011 and
24 2012, to attend the training sessions that Wynn Resorts arranged for its directors to ensure that
25 they are familiar with Wynn Resorts' duties to be compliant with all applicable laws and
26 regulations, and to avoid corrupt conduct. By repeatedly evading such compliance education
27 without valid excuse, Mr. Okada not only made it more difficult for Wynn Resorts to demonstrate
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1 the commitment of its Board to compliance, but he also further manifested his position that
2 anti-corruption laws are irrelevant and of no importance to Mr. Okada.

3 70. Mr. Okada's breaches of duty involved intentional misconduct and knowing
4 violations of law.

5 71. As a result of Mr. Okada's violations of his fiduciary duties, Wynn Resorts has
6 suffered harm. In particular, Mr. Okada's violations of duty, once suspected and/or discovered,
7 required Wynn Resorts: (a) to investigate his conduct, including to retain the services of three
8 investigative firms; and (b) to take action pursuant to Nevada law and to Wynn Resorts' Articles
9 to protect the corporation from Mr. Okada's breaches of duty. Wynn Resorts has been damaged
10 by having to incur and pay the costs associated with these efforts to limit and repair the threatened
11 damage to Wynn Resorts caused by Mr. Okada's course of conduct.

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

15 73. In committing the acts herein above alleged, Mr. Okada is guilty of oppression,
16 fraud, and malice toward Wynn Resorts. As such, Wynn Resorts is entitled to recover punitive
17 damages from Mr. Okada for, inter alia, the purpose of deterring him and others similarly situated
18 from engaging in like conduct.

19 74. As a result of the acts and omissions of Mr. Okada, Wynn Resorts has been
20 compelled to hire the services of an attorney for the protection of its interests.

21 **SECOND CAUSE OF ACTION**

22 **(Aiding and Abetting Breach of Fiduciary Duty)**

23 **(Wynn Resorts against Universal and Aruze USA)**

24 75. Wynn Resorts repeats and realleges the allegations set forth in Paragraph 1
25 through 74 above as though fully set forth herein.

26 76. As a director, Mr. Okada owed Wynn Resorts a fiduciary duty of loyalty which, as
27 alleged herein, he breached.

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

6 85. In recognition of the central importance of its gaming license to the affairs of the
7 corporation, the Articles of Incorporation afford the Wynn Resorts Board the "sole discretion" to
8 take certain action to protect the gaming licenses and approvals of Wynn Resorts and its affiliates.
9 Under the Articles, an "'Unsuitable Person' shall mean a Person who . . . in the sole discretion of
10 the board of directors of the Corporation, is deemed likely to jeopardize the Corporation's or any
11 Affiliated Company's application for, receipt of approval for, right to the use of, or entitlement to,
12 any Gaming License."

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

22 87. On February 18, 2012, after receiving Mr. Freeh's written report and considering
23 his presentation and the advice of expert gaming counsel, the Wynn Resorts Board of Directors
24 deliberated at length and thereafter adopted resolutions that: (a) determined that Mr. Okada,
25 Universal, and Aruze USA were likely to jeopardize Wynn Resorts' and its affiliated companies'
26 existing and prospective gaming licenses; (b) deemed Mr. Okada, Universal, and Aruze USA to
27 be "Unsuitable Persons" under the Articles of Incorporation; and (c) redeemed Aruze USA's
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1 shares of Wynn Resorts common stock in exchange for an approximately \$1.936 billion
2 promissory note, in accordance with Article VII of the Articles of Incorporation.

3 88. Aware of the magnitude of his improprieties and what the likely response of any
4 reasonable board of directors of a Nevada gaming company, Mr. Okada attempted, in advance of
5 the February 18, 2012 meeting of the Wynn Resorts Board, to set up a defense by disputing the
6 Board's authority to act upon Mr. Freeh's report.

7 89. In light of the foregoing, Wynn Resorts seeks a judicial declaration that it acted
8 lawfully and in compliance with its Articles, Bylaws, and other governing documents when it
9 made the determination set forth herein.

10 90. NRS 30.130 states that "all persons shall be made parties who have . . . any interest
11 which would be affected by the declaration." Each of Mr. Okada, Universal, and Aruze USA has
12 interests that will be affected by the declaration that Wynn Resorts seeks. Among other
13 examples, given the determination by the Wynn Resorts Board that Mr. Okada, Universal, and
14 Aruze USA are unsuitable persons, none may be shareholders in Wynn Resorts.

15 91. Accordingly, a justiciable controversy has arisen between the parties whose
16 interests are adverse, and the dispute is ripe for adjudication.

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

19 WHEREFORE, Wynn Resorts prays for judgment as follows:

- 20 1. For compensatory and special damages, in excess of \$10,000, in an amount to be
21 determined at trial;
- 22 2. For a declaration that Wynn Resorts acted lawfully and in full compliance with its
23 Articles of Incorporation, Bylaws, and other governing documents as set forth herein;
- 24 3. For punitive damages;
- 25 4. For an award of reasonable costs and attorneys' fees;
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PISANELLI BICE PLLC
3883 HOWARD HUGHES PARKWAY, SUITE 800
LAS VEGAS, NEVADA 89169

1 5. For prejudgment and post-judgment interest on the foregoing sums at the highest
2 rate permitted by law; and

3 6. For any additional relief this Court deems just and proper.

4 DATED this 22nd day of April 2013.

5 PISANELLI BICE PLLC

6 By: 

7 James J. Pisanelli, Esq., Bar No. 4027
8 Todd L. Bice, Esq., Bar No. 4534
9 Debra L. Spinelli, Esq., Bar No. 9695
3883 Howard Hughes Parkway, Suite 800
Las Vegas, Nevada 89169

10 and

11 Paul K. Rowe, Esq. (*pro hac vice* admitted)
12 Bradley R. Wilson, Esq. (*pro hac vice* admitted)
13 Grant R. Mainland, Esq. (*pro hac vice* admitted)
14 WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, New York 10019

15 and

16 Robert L. Shapiro, Esq. (*pro hac vice* admitted)
17 GLASER WEIL FINK JACOBS HOWARD
18 AVCHEN & SHAPIRO, LLP
10250 Constellation Boulevard, 19th Floor
Los Angeles, California 90067

19 Attorneys for Wynn Resorts, Limited
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PISANELLI BICE PLLC
3883 HOWARD HUGHES PARKWAY, SUITE 800
LAS VEGAS, NEVADA 89169

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 2nd day of April, 2013, I caused to be e-mailed and electronically served through the Court's filing system true and correct copies of the foregoing PLAINTIFF WYNN RESORTS, LIMITED'S SECOND AMENDED COMPLAINT properly addressed to the following:

Samuel S. Lionel, Esq.
Paul R. Hejmanowski, Esq.
Charles H. McCrea, Esq.
Steven C. Anderson, Esq.
LIONEL SAWYER & COLLINS
300 South Fourth Street, Suite 1700
Las Vegas, NV 89101

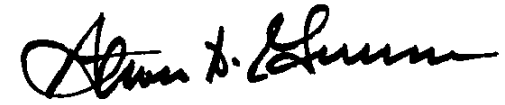
William R. Urga, Esq.
Martin A. Little, Esq.
JOLLEY URGAL WIRTH WOODBURY
& STANDISH
3800 Howard Hughes Parkway, 16th Floor
Las Vegas, NV 89109

Ronald L. Olson, Esq.
Mark B. Helm, Esq.
Jeffrey Y. Wu, Esq.
MUNGER TOLLES & OLSON, LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071

Marc J. Sonnenfeld, Esq.
MORGAN LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103

Joseph E. Floren, Esq.
Benjamin P. Smith, Esq.
Christopher J. Banks, Esq.
MORGAN LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126


An employee of PISANELLI BICE PLLC,



CLERK OF THE COURT

1 **NEOJ**

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

2 JJP@pisanellibice.com

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

3 TLB@pisanellibice.com

Debra L. Spinelli, Esq., Bar No. 9695

4 DLS@pisanellibice.com

PISANELLI BICE PLLC

3883 Howard Hughes Parkway, Suite 800

Las Vegas, Nevada 89169

6 Telephone: 702.214.2100

Facsimile: 702.214.2101

7 Paul K. Rowe, Esq. (*pro hac vice* admitted)

8 pkrowe@wlrk.com

Bradley R. Wilson, Esq. (*pro hac vice* admitted)

9 brwilson@wlrk.com

WACHTELL, LIPTON, ROSEN & KATZ

10 51 West 52nd Street

New York, New York 10019

11 Telephone: 212.403.1000

12 Robert L. Shapiro, Esq. (*pro hac vice* admitted)

13 RS@glaserweil.com

GLASER WEIL FINK JACOBS HOWARD

AVCHEN & SHAPIRO, LLP

14 10250 Constellation Boulevard, 19th Floor

Los Angeles, California 90067

15 Telephone: 310.553.3000

16 Attorneys for Wynn Resorts, Limited, Linda Chen,

Russell Goldsmith, Ray R. Irani, Robert J. Miller,

17 John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,

Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman

18 **DISTRICT COURT**

19 **CLARK COUNTY, NEVADA**

20 **WYNN RESORTS, LIMITED, a Nevada**
21 **Corporation,**

22 **Plaintiff,**

23 **vs.**

24 **KAZUO OKADA, an individual, ARUZE**
25 **USA, INC., a Nevada corporation, and**
UNIVERSAL ENTERTAINMENT CORP.,
26 **a Japanese corporation,**

27 **Defendants.**

28 **AND ALL RELATED CLAIMS**

Case No.: A-12-656710-B

Dept. No.: XI

**NOTICE OF ENTRY OF ORDER
GRANTING UNITED STATES OF
AMERICA'S MOTION TO INTERVENE
AND FOR TEMPORARY AND PARTIAL
STAY OF DISCOVERY**

Date of Hearing: May 2, 2013

Time of Hearing: 8:30 a.m.

1 PLEASE TAKE NOTICE that an "Order Granting United States of America's Motion to
2 Intervene and for Temporary and Partial Stay of Discovery and for Order Shortening Time" was
3 entered in the above-captioned matter on July 8, 2013, a true and correct copy of which is
4 attached hereto.

5 DATED this 11th day of July, 2013.

6 PISANELLI BICE PLLC

7 By: 

8 James J. Pisanelli, Esq., Bar No. 4027
9 Todd L. Bice, Esq., Bar No. 4534
10 Debra L. Spinelli, Esq., Bar No. 9695
11 3883 Howard Hughes Parkway, Suite 800
12 Las Vegas, Nevada 89169

13 and

14 Paul K. Rowe, Esq. (*pro hac vice* admitted)
15 Bradley R. Wilson, Esq. (*pro hac vice* admitted)
16 WACHTELL, LIPTON, ROSEN & KATZ
17 51 West 52nd Street
18 New York, New York 10019

19 and

20 Robert L. Shapiro, Esq. (*pro hac vice* admitted)
21 GLASER WEIL FINK JACOBS HOWARD
22 AVCHEN & SHAPIRO, LLP
23 10250 Constellation Boulevard, 19th Floor
24 Los Angeles, California 90067

25 Attorneys for Wynn Resorts, Limited, Linda Chen,
26 Russell Goldsmith, Ray R. Irani, Robert J. Miller,
27 John A. Moran, Marc D. Schorr, Alvin V.
28 Shoemaker, Kimmarie Sinatra, D. Boone Wayson,
and Allan Zeman

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of Pisanelli Bice PLLC, and that on this 11th day of July, 2013, I caused to be electronically served through the Court's filing system true and correct copies of the foregoing **NOTICE OF ENTRY OF ORDER** properly addressed to the following:

Samuel S. Lionel, Esq.
Paul R. Hejmanowski, Esq.
Charles H. McCrea, Esq.
LIONEL SAWYER & COLLINS
300 South Fourth Street, Suite 1700
Las Vegas, NV 89101

Marc J. Sonnenfeld, Esq.
MORGAN LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103

William R. Urga, Esq.
Martin A. Little, Esq.
JOLLEY URGa WIRTH WOODBURY
& STANDISH
3800 Howard Hughes Parkway, 16th Floor
Las Vegas, NV 89109

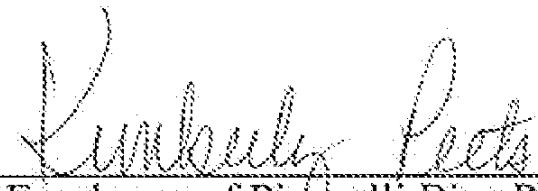
Joseph E. Floren, Esq.
Benjamin P. Smith, Esq.
Christopher J. Banks, Esq.
MORGAN LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 94105-1126

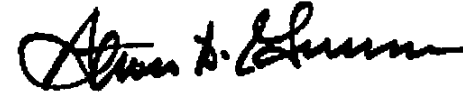
Ronald L. Olson, Esq.
Mark B. Helm, Esq.
Jeffrey Y. Wu, Esq.
MUNGER TOLLES & OLSON, LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071

Donald J. Campbell, Esq.
J. Colby Williams, Esq.
CAMPBELL & WILLIAMS
700 South Seventh Street
Las Vegas, NV 89101

Daniel G. Bogden, Esq.
United States Attorney
Eric Johnson, Esq.
Roger Wenthe, Esq.
Assistant United States Attorneys
333 Las Vegas Boulevard South, Suite 5000
Las Vegas, NV 89101

Jeffrey H. Knox, Esq.
Chief, Fraud Section, Criminal Division
U.S. Department of Justice
Joey Lipton, Trial Attorney
1400 New York Avenue, NW
Washington, DC 20005


An Employee of Pisanelli Bice PLLC



CLERK OF THE COURT

ORDR

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

JJP@pisanellibice.com

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

TLB@pisanellibice.com

Debra L. Spinelli, Esq., Bar No. 9695

DLS@pisanellibice.com

PISANELLI BICE PLLC

3883 Howard Hughes Parkway, Suite 800

Las Vegas, Nevada 89169

Telephone: 702.214.2100

Facsimile: 702.214.2101

Paul K. Rowe, Esq. (*admitted pro hac vice*)

pkrowe@wlrk.com

Bradley R. Wilson, Esq. (*admitted pro hac vice*)

brwilson@wlrk.com

WACHTELL, LIPTON, ROSEN & KATZ

51 West 52nd Street

New York, New York 10019

Telephone: 212.403.1000

Robert L. Shapiro, Esq. (*admitted pro hac vice*)

RS@glaserweil.com

GLASER WEIL FINK JACOBS HOWARD

AVCHEN & SHAPIRO, LLP

10250 Constellation Boulevard, 19th Floor

Los Angeles, California 90067

Telephone: 310.553.3000

Attorneys for Wynn Resorts, Limited, Linda Chen,

Russell Goldsmith, Ray R. Irani, Robert J. Miller,

John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,

Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Plaintiff,

vs.

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

Defendants.

AND ALL RELATED CLAIMS

Case No.: A-12-656710-B

Dept. No.: XI

**ORDER GRANTING UNITED STATES
OF AMERICA'S MOTION TO
INTERVENE AND FOR TEMPORARY
AND PARTIAL STAY OF DISCOVERY
AND FOR ORDER SHORTENING
TIME**

Date of Hearing: May 2, 2013

Time of Hearing: 8:30 a.m.

06-25-13 P05:21 RCVD

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

1 The United States of America's Motion to Intervene and for Temporary and Partial Stay of
2 Discovery and for Order Shortening Time (the "Motion to Intervene and Stay"), filed on April 5,
3 2013, came before this Court for hearing on May 2, 2013. The Motion to Intervene and Stay were
4 supported by an *Ex Parte* Declaration in Support of Motion to Intervene and For Temporary and
5 Partial Stay, which the United States of America submitted to the Court *in camera* also on
6 April 5, 2013, simultaneously with the filing of its Motion to File the Ex Parte Declaration under
7 Seal (the "Motion to File *Ex Parte* Declaration Under Seal").

8 For the May 2, 2013 hearing, Joey Lipton, Esq., and Russell E. Marsh, Esq., appeared on
9 behalf of the United States of America. James J. Pisanelli, Esq., of PISANELLI BICE PLLC,
10 appeared on behalf of Plaintiff/Counterdefendant Wynn Resorts, Limited and Counterdefendants
11 Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr,
12 Alvin V. Shoemaker, Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman (the
13 "Wynn Parties"). Donald J. Campbell, Esq., of Campbell & Williams, appeared on behalf of
14 Counterdefendant/Cross-defendant Stephen A. Wynn ("Mr. Wynn"). William Urga, Esq., of
15 Jolley Urga Wirth Woodbury & Standish, and Jeffrey Y. Wu, Esq., of Munger Tolles &
16 Olson, LLP, appeared on behalf of Counterdefendant/Counterclaimant/Cross-claimant Elaine P.
17 Wynn ("Ms. Wynn"). And, Charles H. McCrea, Esq., and Samuel Lionel, Esq., of Lionel
18 Sawyer & Collins, and Christopher J. Banks, Esq., and Eric Kraeutler, Esq., of Morgan Lewis &
19 Bockius LLP, appeared on behalf of Defendant Kazuo Okada and Defendant/
20 Counterclaimant/Counter-defendant Aruze USA, Inc. ("Aruze USA") and Defendant/
21 Counterclaimant Universal Entertainment Corp. ("Universal") (the "Okada Parties").

22 The Court considered the following papers filed on behalf of all of the above-referenced
23 parties:

- 24 • The United States of America's Motion to Intervene and Stay, filed
25 on April 5, 2013;
- 26 • The United States of America's supporting *Ex Parte* Declaration,
27 submitted *in camera* on April 5, 2013;
- 28 • The United States of America's Motion to File *Ex Parte* Declaration
Under Seal, filed on April 5, 2013;

- 1 • Ms. Wynn's Response to the United States of America's Motion to Intervene and Stay, filed on April 22, 2013;
- 2
- 3 • The Wynn Parties and Mr. Wynn's Non-Opposition to the United States of America's Motion to Intervene and Stay and the United States of America's the Motion to File *Ex Parte* Declaration Under Seal, filed on April 25, 2013;
- 4
- 5 • The Okada Parties' Partial Opposition to the United States of America's Motion to Intervene and Stay, filed on April 25, 2013;
- 6
- 7 • The Okada Parties' Errata to their Partial Opposition to the United States of America's Motion to Intervene and Stay, filed on April 26, 2013;
- 8
- 9 • The Wynn Parties' Response to the Okada Parties' Partial Opposition, filed on May 1, 2013;
- 10
- 11 • Mr. Wynn's Memorandum Addressing Ms. Wynn's Response to the United States of America's Motion to Intervene and Stay, filed on May 1, 2013; and
- 12
- 13 • The United States of America's Reply in support of its Motion to Intervene and Stay, filed on May 1, 2013.

14 The Court also considered the arguments of counsel presented at the hearing. And, good
15 cause appearing therefor:

16 THE COURT HEREBY ORDERS, ADJUDGES, AND DECREES that the United States
17 of America's Motion to Intervene and Stay is GRANTED as follows:

- 18 1. The United States of America shall be and hereby is an intervening party as a matter of
19 right in the above-referenced action pursuant to NRCP 24(a)(2); and
- 20 2. All discovery in the above-referenced action shall be and hereby is stayed for a period
21 not to exceed six (6) months (or beyond November 4, 2013).

22 THE COURT FURTHER HEREBY ORDERS, ADJUDGES, AND DECREES that, based
23 upon the written Non-opposition filed by the Wynn Parties and Mr. Wynn, as well as oral
24 confirmation by all parties during the hearing that each and all had no opposition, and FINDING
25 that sealing is justified by a compelling safety interest identified by the United States of America
26 that outweighs the public interest in access to the subject document, the United States of
27 America's Motion to File *Ex Parte* Declaration Under Seal is GRANTED.

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

1 THE COURT FURTHER HEREBY ORDERS, ADJUDGES, AND DECREES that the
2 United States of America's *Ex Parte* Declaration shall be filed under seal.

3 DATED this 3rd day of ~~June~~ ^{July}, 2013.

4
5 
6 THE HONORABLE ELIZABETH GONZALEZ
EIGHTH JUDICIAL DISTRICT COURT

7 Respectfully submitted by:

Approved-as to form by:

8 DATED this 20th day of June, 2013.

DATED this _____ day of June, 2013.

9 PISANELLI BICE PLLC

LIONEL SAWYER & COLLINS

10
11 By: 

By: _____

12 James J. Pisanelli, Esq., Bar # 4027
13 Todd L. Bice, Esq., Bar # 4534
14 Debra L. Spinelli, Esq., Bar # 9695
3883 Howard Hughes Parkway, Suite 800
Las Vegas, Nevada 89169

Samuel S. Lionel, Esq., Bar # 1766
Charles H. McCrea, Jr., Esq., Bar # 104
Steven C. Anderson, Esq., Bar # 11901
300 South Fourth Street, Suite 1700
Las Vegas, Nevada 89101

15 and

and

16 Paul K. Rowe, Esq. (*admitted pro hac vice*)
17 Bradley R. Wilson, Esq. (*admitted pro hac vice*)
18 Grant R. Mainland, Esq. (*admitted pro hac vice*)
WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
New York, NY 10019

Mark J. Sonnenfeld, Esq. (*admitted pro hac vice*)
MORGAN LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103

19 and

and

20 Robert L. Shapiro, Esq. (*admitted pro hac vice*)
21 GLASER WEIL FINK JACOBS HOWARD
22 AVCHEN & SHAPIRO, LLP
10259 CONSTELLATION Blvd., 19th Floor
Los Angeles, CA 90067

Joseph E. Floren, Esq. (*admitted pro hac vice*)
Benjamin P. Smith, Esq. (*admitted pro hac vice*)
Christopher J. Banks, Esq. (*admitted pro hac vice*)
MORGAN LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 19103

23 Attorneys for Wynn Resorts, Limited, Linda
24 Chen, Russell Goldsmith, Ray R. Irani, Robert
25 J. Miller, John A. Moran, Marc D. Schorr,
Boone Wayson, and Allan Zeman

Attorneys for Kazuo Okada, Aruze USA, Inc.,
and Universal Entertainment Corp.

26 and

27
28

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

1 THE COURT FURTHER HEREBY ORDERS, ADJUDGES, AND DECREES that the
2 United States of America's *Ex Parte* Declaration shall be filed under seal.

3 DATED this ____ day of June, 2013.

THE HONORABLE ELIZABETH GONZALEZ
EIGHTH JUDICIAL DISTRICT COURT

7 Respectfully submitted by:

Approved as to form by:

8 DATED this ____ day of June, 2013.

DATED this ____ day of June, 2013.

9 PISANELLI BICE PLLC

LIONEL SAWYER & COLLINS

11 By:

12 James J. Pisanelli, Esq., Bar # 4027
13 Todd L. Bice, Esq., Bar # 4534
14 Debra L. Spinelli, Esq., Bar # 9695
15 3883 Howard Hughes Parkway, Suite 800
16 Las Vegas, Nevada 89169

17 and

18 Paul K. Rowe, Esq. (*admitted pro hac vice*)
19 Bradley R. Wilson, Esq. (*admitted pro hac vice*)
20 Grant R. Mainland, Esq. (*admitted pro hac vice*)
21 WACHTEL, LIPTON, ROSEN & KATZ
22 51 West 52nd Street
23 New York, NY 10019

24 and

25 Robert L. Shapiro, Esq. (*admitted pro hac vice*)
26 GLASER WEIL FINK JACOBS HOWARD
27 AVCHEN & SHAPIRO, LLP
28 10259 CONSTELLATION Blvd., 19th Floor
Los Angeles, CA 90067

Attorneys for Wynn Resorts, Limited, Linda
Chen, Russell Goldsmith, Ray R. Irani, Robert
J. Miller, John A. Moran, Marc D. Schorr,
Alvin V. Shoemaker, Kimmarie Sinatra, D.
Boone Wayson, and Allan Zeman

and

By:

Samuel S. Lionel, Esq., Bar # 1766
Charles H. McCrea, Jr., Esq., Bar # 104
Steven C. Anderson, Esq., Bar # 11901
300 South Fourth Street, Suite 1700
Las Vegas, Nevada 89101

and

Mark J. Sonnenfeld, Esq. (*admitted pro hac vice*)
MORGAN LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103

and

Joseph E. Floren, Esq. (*admitted pro hac vice*)
Benjamin P. Smith, Esq. (*admitted pro hac vice*)
Christopher J. Banks, Esq. (*admitted pro hac vice*)
MORGAN LEWIS & BOCKIUS LLP
One Market, Spear Street Tower
San Francisco, CA 19103

Attorneys for Kazuo Okada, Aruze USA, Inc.,
and Universal Entertainment Corp.

1 CAMPBELL & WILLIAMS

2
3 By: 

4 Donald J. Campbell, Esq., Bar # 1216
J. Colby Williams, Esq., Bar # 5549
700 South Seventh Street
5 Las Vegas, NV 89109

6 Attorneys for Stephen A. Wynn

7 Approved as to form and substance by:

8 DATED this ____ of day of June, 2013.

9 UNITED STATES OF AMERICA

10
11 By: _____

12 Daniel G. Bogden, Esq.
United States Attorney

13 Eric Johnson, Esq., Bar # 5381
14 Roger Wenthe, Esq., Bar # 8920
Assistant United States Attorneys
15 333 Las Vegas Blvd./ South, Ste. 5000
Las Vegas, Nevada 89101

16 Jeffrey H. Knox, Esq.
17 Chief, Fraud Section, Criminal Division
U.S. Department of Justice

18 Joey Lipton
19 Trial Attorney
1400 New York Ave., NW
20 Washington, DC 20005
Tel.: (202) 514-0839

21 Attorneys for Intervenor United States of
22 America

Approved as to form and substance by:

DATED this ____ of day of June, 2013.

JOLLY URGAL WIRTH WOODBURY &
STANDISH

By: _____

William R. Urgal, Esq., Bar # 1195
Martin A. Little, Esq., Bar # 7067
3800 Howard Hughes Parkway, 16th Floor
Las Vegas, Nevada 89169

and

Ronald L. Olson, Esq. (admitted pro hac vice)
Mark B. Helm, Esq. (admitted pro hac vice)
Jeffrey Y. Wu, Esq. (admitted pro hac vice)
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560

Attorneys for Elaine P. Wynn

1 CAMPBELL & WILLIAMS

2
3 By:

Donald J. Campbell, Esq., Bar # 1216
J. Colby Williams, Esq., Bar # 5549
700 South Seventh Street
Las Vegas, NV 89109

6 Attorneys for Stephen A. Wynn

7 Approved as to form and substance by:

8 DATED this 25th of day of June, 2013.

9 UNITED STATES OF AMERICA

10
11 By:


12 Daniel G. Bogden, Esq.
United States Attorney

13 Eric Johnson, Esq., Bar # 5381
14 Roger Wenhe, Esq., Bar # 8920
Assistant United States Attorneys
15 333 Las Vegas Blvd. South, Ste. 5000
Las Vegas, Nevada 89101

16 Jeffrey H. Knox, Esq.
17 Chief, Fraud Section, Criminal Division
U.S. Department of Justice

18 Joey Lipton
19 Trial Attorney
1400 New York Ave., NW
20 Washington, DC 20005
Tel.: (202) 514-0839

21 Attorneys for Intervenor United States of
22 America

Approved as to form and substance by:

DATED this ____ of day of June, 2013.

JOLLY URGAL WIRTH WOODBURY &
STANDISH

By:

William R. Urga, Esq., Bar # 1195
Martin A. Little, Esq., Bar # 7067
3800 Howard Hughes Parkway, 16th Floor
Las Vegas, Nevada 89169

and

Ronald L. Olson, Esq. (admitted pro hac vice)
Mark B. Helm, Esq. (admitted pro hac vice)
Jeffrey Y. Wu, Esq. (admitted pro hac vice)
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560

Attorneys for Elaine P. Wynn

1 CAMPBELL & WILLIAMS

2
3 By:

Donald J. Campbell, Esq., Bar # 1216
J. Colby Williams, Esq., Bar # 5549
700 South Seventh Street
Las Vegas, NV 89109

6 Attorneys for Stephen A. Wynn

7 Approved as to form and substance by:

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9 UNITED STATES OF AMERICA

10
11 By:

12 Daniel G. Bogden, Esq.
United States Attorney

13 Eric Johnson, Esq., Bar # 5381
14 Roger Wenthe, Esq., Bar # 8920
Assistant United States Attorneys
15 333 Las Vegas Blvd./ South, Ste. 5000
Las Vegas, Nevada 89101

16 Jeffrey H. Knox, Esq.
17 Chief, Fraud Section, Criminal Division
U.S. Department of Justice

18 Joey Lipton
19 Trial Attorney
1400 New York Ave., NW
20 Washington, DC 20005
Tel.: (202) 514-0839

21 Attorneys for Intervenor United States of
22 America

Approved as to form and substance by:

DATED this 25 of day of June, 2013.

JOLLEY URGAL WIRTH WOODBURY &
STANDISH

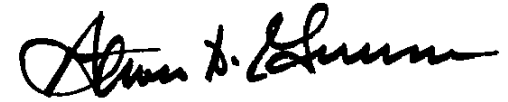
By:

William R. Urga
William R. Urga, Esq., Bar # 1195
Martin A. Little, Esq., Bar # 7067
3800 Howard Hughes Parkway, 16th Floor
Las Vegas, Nevada 89169

and

Ronald L. Olson, Esq. (admitted pro hac vice)
Mark B. Helm, Esq. (admitted pro hac vice)
Jeffrey Y. Wu, Esq. (admitted pro hac vice)
MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560

Attorneys for Elaine P. Wynn



CLERK OF THE COURT

ACOM-CTCM

LIONEL SAWYER & COLLINS
SAMUEL S. LIONEL (SBN 1766)
CHARLES H. McCREA, JR. (SBN 104)
STEVEN C. ANDERSON (SBN 11901)
1700 Bank of America Plaza
300 South Fourth Street
Las Vegas, Nevada 89101
Telephone: (702) 383.8888
Facsimile: (702) 383.8845

MORGAN, LEWIS & BOCKIUS LLP
MARC J. SONNENFELD (*pro hac vice*)
1701 Market Street
Philadelphia, Pennsylvania 19103
Telephone: (215) 963.5000
Facsimile: (215) 963.5001

ROLLIN B. CHIPPEY, II (*pro hac vice*)
JOSEPH E. FLOREN (*pro hac vice*)
BENJAMIN P. SMITH (*pro hac vice*)
CHRISTOPHER J. BANKS (*pro hac vice*)
One Market, Spear Street Tower
San Francisco, CA 94105-1126
Telephone: (415) 442.1000
Facsimile: (415) 442.1001

Attorneys for Defendant, Counterclaimant and
Counterdefendant
ARUZE USA, INC. and UNIVERSAL
ENTERTAINMENT CORPORATION

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada
corporation.

Plaintiff.

vs.

KAZUO OKADA, an individual, et al.,

Defendants.

AND ALL RELATED CLAIMS.

Case No. A-12-656710-B

Dept. No: XI

ELECTRONIC FILING CASE

**FOURTH AMENDED
COUNTERCLAIM OF ARUZE USA,
INC. AND UNIVERSAL
ENTERTAINMENT CORP.**

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COUNTERCLAIM

JURISDICTION AND VENUE

1. Counterdefendants Wynn Resorts, Limited (“Wynn Resorts” or the “Company”), Stephen A. Wynn (“Mr. Wynn” or “Steve Wynn”), Kimmarie Sinatra, Linda Chen, Ray R. Irani, Russell Goldsmith, Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, D. Boone Wayson, Elaine P. Wynn, and Allan Zeman (collectively, “Wynn Parties”) have each individually and in concert with one another, caused the acts and events alleged herein within the State of Nevada and all are subject to the jurisdiction of this Court. Venue is also proper in this Court.

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

NATURE OF THE ACTION

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

4. Among other things, Wynn Resorts purported to redeem the shares at a flat 30% discount to the most recent market price. Aruze USA’s interests, valued by the market at more than \$2.7 billion and by Wynn Resorts at \$2.9 billion three weeks prior to the redemption, would be forcibly purchased in exchange for a non-transferable promissory note to pay approximately \$1.9 billion in a single “balloon payment” 10 years from now. So Wynn Resorts raced to court, electronically filing a complaint at 2:14 a.m. on a Sunday morning – even before giving notice to

¹ The Wynn Resorts’ Board of Directors (the “Board”), other than Kazuo Okada (“Kazuo Okada” and “Mr. Okada”), were Steve Wynn, Linda Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D. Schorr, Alvin V. Shoemaker, Boone Wayson, Elaine P. Wynn, and Allan Zeman (collectively, the “Wynn Directors”) during the events underlying the claims raised in this Counterclaim.

1 Aruze USA of the purported redemption. Wynn Resorts apparently thought that its position as
2 the named “plaintiff” would help obfuscate the issues and distract the court from the claims of
3 wrongdoing sure to be filed against it by Aruze USA and Counterclaimant Universal
4 Entertainment Corporation (“Universal” and collectively with Aruze USA, “Counterclaimants”).
5 Wynn Resorts’ cynical tactics are unavailing. Based on the facts and the law, it is clear that it is
6 Counterclaimants who have been grievously damaged in this case, and any suggestion to the
7 contrary is entirely without credibility.

8 5. This Counterclaim arises because this purported redemption would: (a) violate the
9 express terms of agreements between Mr. Wynn, Elaine Wynn and Aruze USA; (b) allow
10 Mr. Wynn and others to profit unjustly from their illegal acts and a process that was corrupt and
11 unfair; and (c) subject Aruze USA to an unconscionably punitive remedy based on an unproven
12 pretext.

13 6. To be clear at the outset, Aruze USA disputes that any redemption has occurred.
14 Among other things, even if the redemption provision in the Company’s Second Amended
15 Articles of Incorporation (“Articles of Incorporation”) was legally enforceable (which it is not),
16 Aruze USA’s stock has never been subject to the redemption provision in the Company’s Articles
17 of Incorporation, because Aruze USA entered into a Stockholders Agreement before the Articles
18 of Incorporation were amended and filed, which preclude any redemption of Aruze USA’s stock.
19 Specifically, Mr. Wynn covenanted that Aruze USA shall be the “record and Beneficial owner”
20 of its common shares in Wynn Resorts and “shall have the *sole power of disposition* [and] *sole*
21 *power of conversion...*” of the shares “with no material limitations, qualification or restrictions
22 on such rights....” (Emphasis added.) Aruze USA and Mr. Wynn entered into the Stockholders
23 Agreement *before* Mr. Wynn unilaterally amended the Articles of Incorporation of Wynn Resorts
24 to provide a discretionary right to redeem shareholders’ stock. Elaine Wynn later became a party
25 to the Stockholders Agreement and likewise covenanted that Aruze USA shall have the “sole
26 power of disposition [and] sole power of conversion” of its shares in Wynn Resorts. Aruze USA
27 never agreed in writing to the redemption rights in the Articles of Incorporation, as would be
28

1 required to amend the “sole powers of disposition” set forth in the Stockholders Agreement. The
2 right of redemption thus does not apply to Aruze USA’s shares.

3 7. Moreover, even if the Articles of Incorporation allowed the redemption of Aruze
4 USA’s interests in Wynn Resorts (which they do not), Steve Wynn and Elaine Wynn are not
5 excused from breaching the express terms of the Stockholders Agreement by voting for the
6 redemption in violation of Aruze USA’s “sole right of disposition and sole right of conversion”
7 and are liable for all damages caused by their breach. Likewise, by voting in favor of and giving
8 effect to the redemption of Aruze USA’s shares, Wynn Resorts and the other individual directors
9 of Wynn Resorts tortiously interfered with the Stockholders Agreement and are thereby liable for
10 all damages proximately caused by their interference, including for any losses incurred by Aruze
11 USA as a result of the unprecedented \$1 billion discount Wynn Resorts purported to apply to
12 Aruze USA’s shares.

13 8. The redemption of Aruze USA’s shares is also invalid and unlawful because there
14 was no legitimate factual or legal basis to invoke the redemption provision in this case. Wynn
15 Resorts undertook a secret investigation, hiding the subjects of the investigation from Aruze USA
16 by erroneously invoking attorney-client privilege and confidentiality, even after Wynn Resorts
17 had leaked a “report” of the investigation to the *Wall Street Journal*. Wynn Resorts refused
18 Aruze USA any reasonable opportunity to respond prior to redeeming Aruze USA’s interests,
19 despite prior written promises to do so. If Wynn Resorts had provided the opportunity, it would
20 be clear why redemption is unwarranted.

21 9. The Wynn Directors breached their fiduciary duties to Wynn Resorts and to Aruze
22 USA in not undertaking a thorough, independent, and objective examination of the law, facts, and
23 evidence before purporting to usurp the role of the gaming authorities in finding Aruze USA
24 “unsuitable.” Similarly, they breached their duties by then voting for a wholly unnecessary and
25 improper “redemption” on unconscionable terms. As a result, the Wynn Directors cannot rely on
26 the “business judgment rule,” as they did not act in a fully informed, good faith, and independent
27 manner, and their actions are both contrary to the law and not objectively reasonable.
28

10. Mr. Wynn, Kimmarrie Sinatra and Wynn Resorts later used the secret and one-sided investigative report to try and extort Aruze USA into selling its approximately \$3 billion stake in Wynn Resorts to Mr. Wynn at a significant discount.

11. In addition to the lack of any legal basis for Wynn Resorts' actions, Aruze USA sues because Wynn Resorts, for all its accomplishments, is not a corporation in any ordinary sense. Rather, Wynn Resorts' flamboyant Chairman, Mr. Wynn, has run Wynn Resorts as a personal business, packing the Board with friends who do his personal bidding, and paying key executives exorbitant amounts for their loyalty.

12. The wrongful acts complained of here cannot be countenanced, and the purported taking of Aruze USA's property cannot stand.

PARTIES

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

14. Counterclaimant Universal (f/k/a Aruze Corp.) is a corporation organized and existing under the laws of Japan. Universal manufactures and sells pachislot and pachinko machines. Universal is registered with the Nevada Gaming Commission, and has been deemed suitable by the Nevada Gaming Commission as a 100% shareholder of Aruze USA. Mr. Okada is the Chairman of the Board of Universal.

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

1 16. Counterdefendant Steve Wynn is the Chairman of the Board and Chief Executive
2 Officer of Wynn Resorts and is a resident of Nevada. Mr. Wynn owns 10,026,708 shares of the
3 common stock of Wynn Resorts.²

4 17. Counterdefendant Kimmarie Sinatra is the General Counsel, Secretary, and a
5 Senior Vice President of Wynn Resorts and, on information and belief, is a resident of Nevada.
6 Ms. Sinatra owns 40,887 shares of the common stock of Wynn Resorts.

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

10 19. Counterdefendant Linda Chen was a director of Wynn Resorts and, on information
11 and belief, is a resident of Macau. Ms. Chen owns 265,000 shares of the common stock of Wynn
12 Resorts. Ms. Chen stepped down as a director of Wynn Resorts on December 13, 2012.

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

16 21. Counterdefendant Russell Goldsmith was a director of Wynn Resorts and, on
17 information and belief, is a resident of California. Mr. Goldsmith owns 40,000 shares of the
18 common stock of Wynn Resorts. Mr. Goldsmith stepped down as a director of Wynn Resorts on
19 December 13, 2012.

20 22. Counterdefendant Robert J. Miller is a director and Chair of the Gaming
21 Compliance Committee of Wynn Resorts and, on information and belief, is a resident of Nevada.
22 Mr. Miller owns 20,500 shares of the common stock of Wynn Resorts.

23 23. Counterdefendant John A. Moran is a director of Wynn Resorts and, on
24 information and belief, is a resident of Florida. Mr. Moran owns 190,500 shares of the common
25 stock of Wynn Resorts.

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

1 24. Counterdefendant Marc D. Schorr was a director and Chief Operating Officer of
2 Wynn Resorts and, on information and belief, is a resident of Nevada. Mr. Schorr owns 250,000
3 shares of the common stock of Wynn Resorts. Mr. Schorr stepped down as a director of Wynn
4 Resorts on December 13, 2012.

5 25. Counterdefendant Alvin V. Shoemaker is a director of Wynn Resorts and, on
6 information and belief, is a resident of New Jersey. Mr. Shoemaker owns 40,500 shares of the
7 common stock of Wynn Resorts.

8 26. Counterdefendant D. Boone Wayson is a director of Wynn Resorts and, on
9 information and belief, is a resident of Maryland. Mr. Wayson owns 90,500 shares of the
10 common stock of Wynn Resorts.

11 27. Counterdefendant Allan Zeman was a director of Wynn Resorts and, on
12 information and belief, is a resident of Macau. Mr. Zeman owns 30,500 shares of the common
13 stock of Wynn Resorts. Mr. Zeman stepped down as a director of Wynn Resorts on December
14 13, 2012.

15 **GENERAL ALLEGATIONS**

16 **II. KAZUO OKADA AND STEVE WYNN LAUNCH WYNN RESORTS**

17 **A. Turned Out By Mirage Resorts, Steve Wynn Turns to Kazuo Okada to** 18 **Finance the New Wynn Project**

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

26 29. Humiliated by his public ouster, Mr. Wynn was anxious to re-enter the casino
27 business and rebuild his reputation and standing in Las Vegas. He purchased the old Desert Inn
28

1 casino and had plans to build a new casino on the site – it was to be a monument to himself,
2 called “Wynn.” But Mr. Wynn lacked the capital to fund the development of the casino, so he
3 undertook an extensive search for investors. Having recently been forced out of Mirage Resorts,
4 Inc., however, he was shunned by other sources of capital; Mr. Wynn eventually called on
5 Universal, Aruze USA, and Mr. Okada to become the means for Mr. Wynn to get back on his
6 feet.

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

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

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

1 **B. The Stockholders Agreement**

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

7 34. On April 11, 2002, prior to the filing of the Articles of Incorporation for Wynn
8 Resorts, Mr. Wynn, Aruze USA, and Baron Asset Fund entered into the Stockholders Agreement,
9 which imposed certain restrictions on the sale of the stock they were to receive in “NewCo,” the
10 entity that would become Wynn Resorts. As described in Wynn Resorts’ prospectus, dated
11 October 29, 2002, “the stockholders agreement establishes various rights among Mr. Wynn,
12 Aruze USA and Baron Asset Fund with respect to the ownership and management of Wynn
13 Resorts.”

14 35. Notably, the parties to the Stockholders Agreement stated that the terms of that
15 agreement were a condition of transferring their LLC interests in Valvino to Wynn Resorts. The
16 Stockholders Agreement stated “as a condition to their willingness to form [Wynn Resorts], either
17 through the contribution of their interests in the LLC or through a different technique, the
18 Stockholders are willing to agree to the matters set forth” in the Stockholders Agreement.

19 36. Under the Stockholders Agreement, Steve Wynn, Baron Asset Fund, and Aruze
20 USA each warranted and covenanted that “[t]he Stockholder shall be the record and Beneficial
21 Owner of all of the Shares” of Wynn Resorts’ common stock, and “shall have the *sole power of*
22 *disposition* [and] *sole power of conversion...*” of the shares “with no material limitations,
23 qualification or restrictions on such rights...” except as provided for under applicable securities
24 laws and the agreement. (Emphasis added.) The Stockholders Agreement “may not be amended,
25 changed, supplemented, waived or otherwise modified or terminated, except upon the execution
26

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

1 and delivery of a written agreement executed by the parties....” As described in further detail
2 below, Elaine Wynn made this same covenant to Aruze USA when she became a party to the
3 Amended and Restated Stockholders Agreement in 2010.

4 37. Wynn Resorts publicly acknowledged the impact of the Stockholders Agreement
5 on the Company and the shareholders. The Wynn Resorts share certificates issued to Aruze USA
6 on September 24, 2002, bear the following express, written legend, in bold and all caps: “**THE**
7 **SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS**
8 **AND CONDITIONS OF A STOCKHOLDERS AGREEMENT DATED AS OF APRIL 11,**
9 **2002....”** Additionally, in a Form S-1/A filed with the SEC on October 7, 2002, Wynn Resorts
10 disclosed that the Stockholders Agreement established “restrictions on the transfer of the shares
11 of Wynn Resorts’ common stock owned by the parties to the stockholders agreement.” In this
12 way, Wynn Resorts – and all other stockholders – were aware that there were limitations written
13 in the Stockholders Agreement on the transferability of the Wynn Resorts’ stock held by Aruze
14 USA.

15 38. The Stockholders Agreement removed Aruze USA from the purview of later-
16 adopted redemption provisions in Wynn Resorts’ Articles of Incorporation, as confirmed by, on
17 information and belief, Wynn Resorts’ own attorneys *before* the redemption provisions were
18 added to the Articles of Incorporation.

19 39. In addition to restricting the power of disposition and conversion of all stock
20 distributed pursuant to the Stockholders Agreement, the Stockholders Agreement also contained a
21 voting agreement, granting Mr. Wynn the right to nominate a bare majority of directors, and
22 Aruze USA the right to nominate all remaining directors. Each Stockholder covenanted to vote
23 all of their shares in favor of the directors nominated by Mr. Wynn and Aruze USA. Pursuant to
24 this voting agreement, Aruze USA repeatedly tried over the years to nominate directors to the
25 Board of Directors of Wynn Resorts. Each time, Mr. Wynn refused to endorse and vote his
26 shares in favor of Aruze USA’s proposed directors, instead nominating all of the directors himself
27 to ensure and perpetuate his complete control of the Board. Finally, the Stockholders Agreement
28

1 gave Mr. Wynn the power of attorney to sign all documentation necessary to transfer Aruze
2 USA's LLC interests in Valvino to Wynn Resorts in exchange for Wynn Resorts' stock, and
3 thereby created a fiduciary duty as between Mr. Wynn and Aruze USA.

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

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

9 41. Echoing a false statement made in a February 19, 2012 Wynn Resorts press
10 release, Matt Maddox, Wynn Resorts' Chief Financial Officer and Treasurer, erroneously stated
11 in a conference call with investors on February 21, 2012, that the redemption provision in the
12 Articles of Incorporation had "been there since the Company's inception."

13 **D. The Contribution Agreement**

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

18 43. On June 10, 2002, Mr. Wynn, Aruze USA, Baron Asset Fund, Wynn Resorts and
19 the Kenneth R. Wynn Family Trust entered into the Contribution Agreement (the "Contribution
20 Agreement"), by which they agreed to contribute all of the Valvino membership interests to
21 Wynn Resorts in exchange for the capital stock of Wynn Resorts. The Wynn Resorts' stock
22 acquired by Aruze USA was subject to the provisions of the Stockholders Agreement.

23 44. Wynn Resorts further agreed that the existing restrictions could be altered only
24 with Aruze USA's express written consent. The Contribution Agreement stated: "This
25 Agreement may *not be modified or amended* except by an instrument in *writing* signed by the
26 corporation and all of the Holders." (Emphasis added).

1 **E. After Securing Aruze USA's Contribution, Steve Wynn Unilaterally Amends**
2 **the Articles of Incorporation**

3 45. After entering into the Contribution Agreement, but before transferring the LLC
4 interests in Valvino, Mr. Wynn unilaterally changed Wynn Resorts' Articles of Incorporation to
5 include a restriction that purportedly allows Wynn Resorts to "redeem" stock held by Wynn
6 Resorts' stockholders. At this time, Mr. Wynn was the sole stockholder and director of Wynn
7 Resorts. It was not until 2012, however, that Mr. Wynn and Wynn Resorts attempted to apply
8 this redemption restriction to Aruze USA's shares, even though the Stockholders Agreement
9 precluded Wynn Resorts from unilaterally adding restrictions to the shares.

10 46. Under the Stockholders Agreement, Mr. Wynn had power of attorney to transfer
11 the LLC interests in Valvino to Wynn Resorts. Although the Contribution Agreement obligated
12 Mr. Wynn to "as soon as practicable ... deliver or cause to be delivered to Holders certificates
13 representing the Common Stock[.]" Mr. Wynn delayed the contribution of the LLC interests in
14 Valvino to Wynn Resorts. On information and belief, the final closing condition under the
15 Contribution Agreement was met by July 9, 2002. Nevertheless, Mr. Wynn's delay meant that,
16 although he had already received Aruze USA's commitment via the Contribution Agreement and
17 the Stockholders Agreement, Mr. Wynn would continue to maintain unilateral control over Wynn
18 Resorts for the period of the delay. This enabled Mr. Wynn to improperly change the Company's
19 Articles of Incorporation in an apparent attempt to achieve Mr. Wynn's own long-term interests at
20 Aruze USA's expense. Through this deliberate delay, and the intervening acts taken by
21 Mr. Wynn before he fulfilled the terms of the Contribution Agreement, Mr. Wynn breached his
22 fiduciary duties to Aruze USA as the attorney-in-fact of Aruze USA under the Stockholders
23 Agreement and Contribution Agreement, as well as a director and officer of Wynn Resorts.

24 47. On September 10, 2002, Mr. Wynn amended Wynn Resorts' Articles of
25 Incorporation. Although this change would purport to alter the securities received by Aruze
26 USA, Mr. Wynn made the change unilaterally, without affording Aruze USA the opportunity to
27 vote on the changes, let alone expressly consent in writing to the added restrictions as required in
28

1 the Stockholders Agreement and Contribution Agreement, in order to make the provision
2 enforceable. The language Mr. Wynn unilaterally added to the Articles of Incorporation provided
3 a *discretionary* right of redemption, which the Board of Directors had the right to waive
4 whenever a waiver “would be in the best interests of the Corporation.” That provision provided,
5 in pertinent part:

6 The Securities Owned or Controlled by an Unsuitable Person or an
7 Affiliate of an Unsuitable Person shall be subject to redemption by
8 the Corporation, out of funds legally available therefor, by action of
9 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. ...

10 48. If Mr. Wynn had done what he was bound to do pursuant to the trust and duties
11 placed in him under the Stockholders Agreement and Contribution Agreement, and transferred
12 the LLC interests in Valvino to Wynn Resorts *before* adding the redemption restriction, Aruze
13 USA would have had the right under Nevada law to vote on the changes to Wynn Resorts’
14 Articles of Incorporation.

15 49. Years later, in February 2012, Mr. Wynn, Elaine Wynn, the individual directors,
16 and Wynn Resorts improperly applied the redemption provision to Aruze USA’s stock and acted
17 to redeem Aruze USA’s shares, thereby breaching and tortiously interfering with the Stockholders
18 Agreement. Prior to Wynn Resorts’ improper attempt to apply the redemption restriction to
19 Aruze USA’s stock, Aruze USA was not and could not have been aware that Wynn Resorts
20 would ever attempt to apply the discretionary redemption provision against Aruze USA because
21 the Stockholders Agreement, which predated the amended Articles of Incorporation, gave the sole
22 power of disposition and conversion of Aruze USA’s stock to Aruze USA, precluding any right
23 of redemption by the Wynn Resorts. Indeed, on information and belief, counsel for Mr. Wynn
24 informed Aruze USA’s counsel in or around June 2002, that any redemption restriction, if later
25 added to the Articles of Incorporation through an amendment, would *not* to apply to Aruze
26 USA’s shares.

1 50. Thus, although the first acts perpetrated in furtherance of this fraud occurred in
2 2002, the misconduct did not cause harm until recently, when Wynn Resorts purported to use the
3 redemption provision to redeem Aruze USA's shares in 2012 for a fraction of their true value.

4 **F. Wynn Resorts Goes Public**

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

8 52. On October 25, 2002, Wynn Resorts conducted an initial public offering ("IPO")
9 on NASDAQ at \$13 per share. At this time, Mr. Okada and Mr. Wynn each owned about 30% of
10 the outstanding stock. Aruze USA contributed an additional \$72.5 million to Wynn Resorts by
11 purchasing stock through the IPO, and also invested \$2.5 million in bonds issued by two
12 Company subsidiaries, raising its total investment to \$455 million. Shortly thereafter, Mr. Okada
13 became Vice Chairman of Wynn Resorts' Board.

14 53. On April 28, 2005, Wynn Las Vegas opened. It was an instant success. On
15 September 10, 2006, Wynn Resorts opened in Macau. "Encore" hotels followed in both
16 locations. Again, each property has been very successful. None of this success would have been
17 possible without the capital funding, support, and expertise of Aruze USA and Mr. Okada.

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

21 **G. The Close and Trusting Relationship of Steve Wynn and Kazuo Okada**

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

26 56. For example, at hearings before the Nevada State Gaming Control Board and
27 Nevada Gaming Commission, on June 4 and 17, 2004, respectively, Mr. Wynn affirmed that
28

1 “Mr. Okada was not only suitable” to receive a gaming license “but he was desirable.”

2 Repeatedly referring to Mr. Okada as his “partner,” Mr. Wynn said Mr. Okada was “dedicated to
3 the pursuit of excellence.”

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

10 58. In recognition of this trust and in “the spirit of friendship and cooperation that
11 exists between [Steve] Wynn and Mr. Kazuo Okada . . .” on November 8, 2006, Mr. Wynn
12 caused Aruze USA to enter into an Amendment to the Stockholders Agreement, which purports
13 to contain a mutual restriction on the sale of stock without the other party’s written consent, with
14 all other relevant terms of the Stockholders Agreement remaining unchanged.

15 59. And, indeed, Mr. Okada trusted Mr. Wynn. Mr. Wynn knew this, and callously
16 and illegally set out to exploit this trust for his advantage.

17 **III. UNIVERSAL DISCLOSES AND ULTIMATELY PURSUES FOREIGN**
18 **DEVELOPMENT PROJECTS**

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

21 60. Universal and Mr. Okada first began exploring the possibility of acquiring and
22 developing land in the Philippines in 2007, with one possible option for development being a
23 casino and hotel resort. Although the initial discussions were preliminary, Mr. Okada brought the
24 opportunity immediately to Mr. Wynn, hoping that Wynn Resorts might be interested in
25 undertaking the project. Mr. Wynn told Mr. Okada that Wynn Resorts was not interested at that
26 time in pursuing a project in the Philippines. However, Mr. Wynn voiced no concerns at all with
27
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1 Universal's pursuit of the project. Mr. Okada thereafter kept Mr. Wynn fully informed of the
2 project's progress.

3 61. On December 20, 2007, Universal publicly announced a planned casino project in
4 the Asian market.

5 62. On April 25, 2008, Universal announced its planned casino project in the
6 Philippines. While the plans were preliminary, they took shape in the months to come.

7 63. From that point on, Wynn Resorts and Universal had an agreement. Universal
8 could pursue a project in the Philippines, but at least for the time being, it would not formally be a
9 Wynn Resorts project. On a May 1, 2008 conference call with stock analysts, Mr. Wynn affirmed
10 that Wynn Resorts' Board and management team had longstanding knowledge of and fully
11 supported Universal's project in the Philippines:

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

23 (Emphasis added).

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

65. As a further example of Wynn Resorts' knowledge and approval of Universal and
Aruze USA's activities in the Philippines, on April 4, 2008, Kevin Tourek, a member of Wynn
Resorts' Compliance Committee, emailed Frank Schreck, the then-head of Universal's
Compliance Committee. The email was regarding Universal's investment in the Philippines.

1 Mr. Tourek confirmed that – so long as Universal was in compliance with the laws of the
2 Philippines – the investment would not be something that would concern Nevada regulators or
3 Wynn Resorts.

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

7 In addition to its investment in Wynn Resorts, Limited, [Universal]
8 has invested in the construction of a hotel casino resort in the
9 Philippines, which is anticipated to open to the public in 2010.
10 Mr. Okada confirms that, as at the Latest Practicable Date, except
11 for his indirect shareholding interests in Wynn Resorts, Limited
12 through Aruze USA, Inc., neither he nor his associates holds, owns
13 or controls more than 5% voting interests in an entity which,
14 directly or indirectly, carries on, engages, invests, participates or
15 otherwise is interested in any company, business or operation that
16 competes, or is reasonably expected to compete, with the business
17 carried on by us in Macau.

18 67. In this way, Wynn Macau's prospectus acknowledged and ratified Universal's
19 plans to open a casino in the Philippines and – by adopting Universal's statement – affirmed that
20 a casino in the Philippines will not materially compete with Wynn Macau.

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

23 68. As was disclosed fully to Wynn Resorts and the Nevada Gaming Commission,
24 Universal went about the difficult process of acquiring land and approvals to build a casino in the
25 Philippines.

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

70. The Philippine government approached Universal as early as 2006 and courted
Universal for years. The Philippine government ultimately secured an agreement that Universal

1 would employ significant numbers of local people to work in the casinos. Press reports estimated
2 that Universal's project and surrounding development could create as many as 250,000 jobs for
3 Filipinos, and generate billions of dollars in tax revenues for the Philippine government. When
4 Universal delayed the project in the wake of the 2008 financial crisis, the Philippine government
5 again stepped up its efforts to encourage Universal to advance the development of its project.
6 While Universal certainly expects the Manila Bay Project to be a "win-win" for the Philippines
7 and Universal, the idea that Universal needed to curry special favor with Philippine government
8 officials is profoundly mistaken.

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

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

19 72. On January 6, 2010, Mr. Wynn obtained an Amended and Restated Stockholders
20 Agreement ("Amended Stockholders Agreement,") which made Elaine Wynn a party to the
21 Stockholders Agreement. The Amended Stockholders Agreement carried forward the covenant
22 of all the Stockholders that the "Stockholder shall be the record and Beneficial Owner" of all
23 Wynn Resorts common shares and "shall have *the sole power of disposition* [and] *sole power of*
24 *conversion*" of the shares "with no material limitations, qualifications, or restrictions on such
25 rights" except under applicable securities laws and the terms of the Stockholders Agreement.
26 (Emphasis added.)
27
28

1 73. The amended agreement also altered the Stockholders Agreement language
2 regarding Aruze USA's right to nominate directors. Aruze USA could endorse nominees so long
3 as the majority of nominees were endorsed by Mr. Wynn. Although the agreement required
4 Mr. Wynn to support a minority slate of directors proposed by Aruze USA, he never did so. On
5 information and belief, Mr. Wynn obtained the Amended and Restated Stockholders Agreement,
6 with the intention of never supporting any director proposed by Aruze USA. In fact, Mr. Wynn
7 consistently refused efforts to consider Aruze USA directors for the Board, in an effort to
8 continue to monopolize control over Wynn Resorts. [ADD EXAMPLES FROM CLIENT]
9

10 74. In addition, the Amended and Restated Stockholders Agreement continued to
11 contain a non-compete clause that prohibited Mr. Okada, Aruze USA, and Universal only from
12 operating casinos in Clark County, Nevada and in Macau, and certain Internet gaming ventures.
13 Neither this version of the Stockholders Agreement, nor any prior or subsequent agreements,
14 contained any prohibition or concerns regarding the Philippines or Korea.

15 75. In January 2010, Mr. Okada indicated that he was willing to move ahead with the
16 amendments provided that Mr. Wynn reciprocated by allowing Aruze USA to sell publicly the
17 same number of shares as Mr. Wynn and Elaine Wynn. In this way, Mr. Okada expected to
18 receive liquidity for Aruze USA whenever Mr. Wynn and Elaine Wynn asked permission to sell
19 or transfer their stock.

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

22 76. Though Mr. Wynn had consistently declined to involve Wynn Resorts formally in
23 the Philippine project, he began to reconsider the opportunity in 2010. On June 14, 2010,
24 Mr. Wynn and Mr. Okada jointly visited Manila to conduct due diligence on behalf of Wynn
25 Resorts and Universal. On information and belief, Mr. Wynn was considering pursuing the
26 project in his individual capacity as well as on behalf of Wynn Resorts.
27
28

1 77. As illustrated in the photographs, this pre-arranged trip involved meetings with
2 dignitaries and officials and informational presentations on the project.
3





78. Mr. Wynn never formally committed Wynn Resorts to the Manila Bay project, but was clearly interested in pursuing the opportunity. The idea – promulgated by Mr. Wynn in press conferences following the purported redemption – that Mr. Okada and Universal were off “doing their own thing” unbeknownst to anyone at Wynn Resorts, is not true.

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

79. In May 2011, Wynn Macau pledged to donate HK\$1 billion (about \$135 million) to the University of Macau Development Foundation. This contribution consisted of a \$25 million contribution made in May 2011, and a commitment for additional donations of \$10 million each year for the calendar years 2012 through 2022 inclusive. Suspiciously, Wynn Macau’s current gaming concession covers essentially the same 10-year period expiring in

1 June 2022. Wynn Macau and Wynn Resorts also disclosed that Wynn Macau was in the process
2 of seeking to obtain land in Macau and the rights to develop a third casino in the area.

3 80. At a Board meeting in April, 2011, Mr. Okada objected to and voted against this
4 donation, which appears to be unprecedented in the annals of the University of Macau, and in the
5 history of Wynn Resorts. Mr. Okada objected to the unprecedented size and duration of the
6 commitment. It was unclear how the University of Macau would use the funds. Mr. Okada
7 wondered why a wealthy university that sits on government land and largely caters to non-Macau
8 residents might need or want such a large donation. Mr. Okada, who is himself a significant
9 philanthropist, wondered whether such a donation actually benefits the people who live in Macau.
10 He was concerned about the lack of deliberation of the boards of Wynn Resorts and Wynn Macau
11 (the donation was approved at a joint meeting in Macau of the two boards), and that pending
12 approvals in Macau related to a new development in Cotai, and the coincidence of the date of the
13 donation and the term of Wynn Macau's gaming license in Macau, might make it appear that
14 Wynn Macau and Wynn Resorts were paying for benefits.

15 81. Notably, for example, the Chancellor of the University of Macau is also the head
16 of Macau's government, with ultimate oversight of gaming matters. The only other charitable
17 donation Wynn Resorts has disclosed in SEC filings in its history was a \$10 million Ming
18 dynasty vase donated to the Macau Museum in 2006—the same year in which Wynn Resorts first
19 applied for a land concession on the Cotai Strip in Macau.

20 82. While Wynn Resorts claims to have received a legal opinion sanctioning the
21 unprecedented University of Macau donation, Wynn Resorts did not provide that legal opinion to
22 Mr. Okada or, on information and belief, to any other members of the board of either Wynn
23 Macau or Wynn Resorts. On information and belief, Mr. Wynn – and potentially others – misled
24 the Wynn Resorts Board by securing its consent to the donation, without disclosing his personal
25 knowledge of the close connection between the University of Macau and officials responsible for
26 regulatory decisions related to Wynn Macau's gaming operations.

1 83. Mr. Okada's opposition to this donation caught the attention of the U.S. Securities
2 and Exchange Commission ("SEC"). According to Wynn Resorts 2011 Form 10-K, Wynn
3 Resorts received a letter from the Division of Enforcement of the SEC indicating the SEC has
4 commenced an "informal inquiry" regarding matters in Macau. Mr. Wynn, Ms. Sinatra (Wynn
5 Resorts' General Counsel), and Mr. Miller (head of Wynn Resorts' Compliance Committee) did
6 not take kindly to Mr. Okada's scrutiny of the donation. On information and belief, Mr. Wynn,
7 Ms. Sinatra, and Mr. Miller set out to discredit Mr. Okada, in an effort to distract attention from
8 the problematic Macau donation.

9 **F. Steve Wynn and Kimmarae Sinatra Fraudulently Promise Kazuo Okada**
10 **Financing for the Philippine Project**

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

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

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

25 87. Mr. Wynn suggested that instead of having Aruze USA pledge its shares, he had
26 "good answers to solve [Mr. Okada's] ... requests." Mr. Wynn suggested that Wynn Resorts
27 would make a loan to Aruze USA. Mr. Wynn told Mr. Okada that this was better than Aruze
28

1 USA liquidating its stock (which could have hurt Wynn Resorts' stock value), and much better
2 than a bank loan because a bank: (1) would set a credit line of only 50% of the market value of
3 Aruze USA's stock; (2) would require additional guarantees if the market value of Aruze USA's
4 stock decreases; and (3) could require forfeiture of Aruze USA's stock if there was any delay in
5 payment.

6 88. Mr. Wynn gave Mr. Okada an explicit personal assurance that financing would
7 occur. Mr. Wynn stated that this proposal would be good for Mr. Okada and good for Wynn
8 Resorts, because it will contribute to the stability of Wynn Resorts. And, based on such
9 assurances, Mr. Okada agreed to financing from Wynn Resorts, rather than pledging Aruze
10 USA's stock.

11 89. Unbeknownst to Mr. Okada, Universal, or Aruze USA at the time, Mr. Wynn was
12 simultaneously orchestrating Wynn Resorts' "investigation" to have Mr. Okada, Aruze USA, and
13 Universal deemed unsuitable. Indeed, Wynn Resorts has publicly asserted that it began its
14 "investigation" into the Philippines as early as February 2011, well before Mr. Okada proposed to
15 pledge Aruze USA's shares of Wynn Resorts' stock. Through his assurances, however,
16 Mr. Wynn took deliberate steps to keep Aruze USA, Universal, and Mr. Okada associated with
17 Wynn Resorts. If Wynn Resorts and Mr. Wynn were truly concerned with any risk that Aruze
18 USA, Universal, and Mr. Okada supposedly posed to their gaming licenses, they would have
19 allowed Aruze USA to liquidate its position. Instead, to perpetrate the fraudulent scheme, and
20 seek to forcibly redeem Aruze USA's shares at a vast discount under extremely oppressive terms,
21 Mr. Wynn instead misled Aruze USA into not liquidating its shares.

22 90. Ms. Sinatra was present at the meeting, and participated in this fraudulent scheme.
23 On information and belief, Ms. Sinatra is a highly sophisticated and knowledgeable attorney, and
24 is one of the highest-paid general counsels in the United States. Toward the end of the meeting,
25 Ms. Sinatra stated that draft loan agreements would be provided to Aruze USA within 10 days to
26 support the agreement reached between Mr. Okada and Mr. Wynn. Neither Mr. Wynn nor
27 Ms. Sinatra said anything about internal or external limitations on loans to directors and officers.
28

1 For example, neither of them made any mention of Section 402 of the Sarbanes-Oxley Act
2 (“SOX”). Unlike Japanese law that has no such prohibition, on information and belief,
3 Ms. Sinatra believed Section 402 barred any loan to Aruze USA by Wynn Resorts. On
4 information and belief, at the time of this meeting, Ms. Sinatra was intimately familiar with SOX
5 and Section 402, having overseen the implementation of SOX compliance policies at Wynn
6 Resorts that specifically addressed prohibitions on loans to officers and directors.

7 91. At the conclusion of the meeting, and in reliance on the assurances by Mr. Wynn
8 and Ms. Sinatra that Wynn Resorts would make a loan to provide liquidity for Aruze USA and
9 that loan documents would be forthcoming, Mr. Okada signed a waiver and consent granting
10 Elaine Wynn the option to transfer her stock. Simultaneously, Mr. Tanaka of Aruze USA made a
11 handwritten note to memorialize the agreement that Wynn Resorts would provide financing to
12 Aruze USA.

13 92. Later that day, in response to Mr. Tanaka’s note and after Mr. Okada had signed
14 the waiver and consent about Elaine Wynn’s stock, Ms. Sinatra prepared a draft “Side Letter” to
15 replace the one prepared by Mr. Tanaka. The “Side Letter” prepared by Ms. Sinatra stated that
16 Wynn Resorts would negotiate a loan from Wynn Resorts to Aruze USA secured by Aruze
17 USA’s stock “*to the extent compliant with all state and federal laws.*” (Emphasis added.) On
18 information and belief, Ms. Sinatra inserted this language because she believed Section 402 of
19 SOX prohibited the loan proposed by Mr. Wynn and agreed to by both Mr. Wynn and Mr. Okada.

20 93. At the time, Wynn Resorts had extensive SOX compliance policies. Yet,
21 Ms. Sinatra said nothing to Mr. Okada or Aruze USA concerning any purported loan prohibitions
22 under SOX, leading Mr. Okada and Aruze USA to believe that financing through Wynn Resorts
23 was not only possible, but would be forthcoming in the near future. Ms. Sinatra’s role in this
24 transaction makes clear that she was not working on Wynn Resorts’ behalf. Rather, in breach of
25 her duty to Wynn Resorts, she intentionally sought to deceive Mr. Okada for the personal benefit
26 of Mr. Wynn, who would benefit from stringing along Aruze USA.
27
28

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

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

15 96. In the same email, Ms. Sinatra then explained that Wynn Resorts was negotiating
16 with Deutsche Bank on a margin loan transaction, with Wynn Resorts acting as a "backstop."
17 Ms. Sinatra suggested holding a telephone conference with Aruze USA's counsel to discuss the
18 proposed transaction further. She did not dispute that Mr. Okada's consent to the amendment in
19 the Stockholders Agreement was based on Wynn Resorts' agreement to continue to pursue
20 financing for a loan to Aruze USA (using Aruze USA's Wynn Resorts shares as collateral). At
21 no point in time did Ms. Sinatra call into question the Philippine project.

22 97. On July 15, 2011, Ms. Sinatra and Aruze USA's counsel held a telephone
23 conference to discuss the proposed financing from Deutsche Bank. Ms. Sinatra provided
24 background information on the state of the negotiations, and explained that Deutsche Bank was
25 considering a margin loan of \$800 million to Aruze USA. She stated that Deutsche Bank
26 expected that they would be able to provide draft documentation within two to three weeks, and
27 that the loan would be proposed to the Wynn Resorts Compliance Committee thereafter.
28

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 110. Ms. Sinatra then brought her threat into stark relief. She stated that the
13 Compliance Committee would meet on October 31, 2011 (in advance of a November 1 Board
14 meeting). She told Mr. Okada’s counsel that she hoped a “resolution” would be reached before
15 those meetings regarding Mr. Okada’s directorship and the voting rights of Aruze USA’s stock,
16 so as to avoid presenting this matter to the Compliance Committee and the Board. Ms. Sinatra’s
17 threat was clear: if Aruze USA did not agree to sell its shares in Wynn Resorts to Mr. Wynn or
18 pledge its shares – subject to both a voting trust that would allow Mr. Wynn to vote the shares
19 and to a right of first refusal for Mr. Wynn to purchase the shares – then Ms. Sinatra and Mr.
20 Wynn would, as officers of Wynn Resorts, (a) inform the Board of alleged concerns regarding
21 Universal’s and Mr. Okada’s project in the Philippines, and (b) request that the Board redeem
22 Aruze USA’s shares in Wynn Resorts on the basis of yet undisclosed investigative “findings” that
23 Defendants had not been allowed to review or permitted any opportunity to rebut.

24 **B. Steve Wynn and Kimmie Sinatra Try to Intimidate and Threaten Kazuo**
25 **Okada While Hiding Supposed Evidence of Wrongdoing**

26 111. On an October 3, 2011 telephone call, Aruze USA’s counsel asked Ms. Sinatra to
27 provide Aruze USA with a copy of the Compliance Committee’s investigative report regarding
28

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. _____

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Tracie K. Lindeman
Clerk of Supreme Court

**APPENDIX IN SUPPORT OF
PETITIONER WYNN RESORTS
LIMITED'S PETITION FOR
WRIT OF PROHIBITION OR
ALTERNATIVELY, MANDAMUS**

VOLUME 6 OF 17

DATED this 17th day of July, 2015.

PISANELLI BICE PLLC

By: /s/ Todd L. Bice

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

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

Debra L. Spinelli, Esq., Bar No. 9695

400 South 7th Street, Suite 300

Las Vegas, Nevada 89101

Attorneys for Petitioner Wynn Resorts, Limited

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24	The Aruze Parties' Motion to Compel Supplemental Responses to Their Second and Third Set of Requests for Production of Documents to Wynn Resorts, Limited	04/28/15	XI	PA001908-001934
25	UNDER SEAL			
26				
27				
28				

Appendix of Exhibits Referenced in the Aruze Parties' Motion to Compel Supplemental Responses to Their Second and Third Set of Requests for Production of Documents to Wynn Resorts, Limited Volume 1 of 2 UNDER SEAL	04/28/15	XI-XII	PA001935-PA002193
Appendix of Exhibits Referenced in the Aruze Parties' Motion to Compel Supplemental Responses to Their Second and Third Set of Requests for Production of Documents to Wynn Resorts, Limited Volume 2 of 2 UNDER SEAL	04/28/15	XII-XIV	PA002194-PA002697
Defendant Kazuo Okada and Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's First Request for Production of Documents to Linda Chen	04/29/15	VIII	PA002698-PA002731
Defendant Kazuo Okada and Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's First Request for Production of Documents to Russell Goldsmith	04/29/15	VIII	PA002732-PA002765
Defendant Kazuo Okada and Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's First Request for Production of Documents to Rav R. Irani	04/29/15	VIII	PA002766-PA002799
Defendant Kazuo Okada and Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's First Request for Production of Documents to Robert J. Miller	04/29/15	VIII	PA002800-PA002833
Defendant Kazuo Okada and Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's First Request for Production of Documents to John A. Moran	04/29/15	VIII-IX	PA002834-PA002867
Defendant Kazuo Okada and Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's First Request for Production of Documents to Marc D. Schorr	04/29/15	IX	PA002868-002901
Defendant Kazuo Okada and Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's First Request for Production of Documents to Alvin V. Shoemaker	04/29/15	IX	PA002902-PA002935
Defendant Kazuo Okada and Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's First Request for Production of Documents to Kimmarré Sinatra	04/29/15	IX	PA002936-PA002970
Defendant Kazuo Okada and Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's First Request for Production of Documents to Boone Wavson	04/29/15	IX	PA002971-PA003004

1	Defendant Kazuo Okada and Counterclaimants-	04/29/15	IX	PA003005-
2	Defendants Aruze USA, Inc. and Universal			PA003038
3	Entertainment Corporation's First Request for			
4	Production of Documents to Allan Zeman			
5	Defendant Kazuo Okada and Counterclaimants-	04/29/15	IX	PA003039-
6	Defendants Aruze USA, Inc. and Universal			PA003093
7	Entertainment Corporation's First Request for			
8	Production of Documents to Stephen A. Wynn			
9	Wynn Resorts, Limited's Opposition to the	05/19/15	XIV-	PA003094-
10	Okada Parties' Motion to Compel Supplemental		XVII	PA003838
11	Responses to Their Second and Third Sets of			
12	Requests for Production			
13	UNDER SEAL			
14	The Aruze Parties' Reply in Support of Their	05/28/15	XVII	PA003839-
15	Motion to Compel			PA003860
16	UNDER SEAL			
17	Transcript of Hearing on Motions	06/04/15	IX-X	PA003861-
18				PA003948
19	Notice of Entry of Order Granting the Aruze	06/24/15	X	PA003949-
20	Parties' Motion to Compel Supplemental			PA003959
21	Responses to Their Second and Third Set of			
22	Requests for Production of Documents to Wynn			
23	Resorts. Limited			
24	Wynn Resorts, Limited's Motion to Stay	07/01/15	X	PA003960-
25	Pending Petition for Writ of Prohibition on an			PA003971
26	Order Shortening Time			
27	Aruze Parties' Opposition to Wynn Resorts,	07/07/15	X	PA003972-
28	Limited's Motion to Stay Pending Petition for			PA003983
	Writ of Prohibition on an Order Shortening			
	Time			
	Transcript of Hearing on Motion to Stay	07/08/15	X	PA003984-
				PA003995

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Affidavit of Howard M. Privette In Support of Aruze USA, Inc. and Universal Entertainment Corp.'s Reply in Further Support of its Motion for Preliminary Injunction	09/27/12	IV-V	PA000997-PA001082
Affidavit of Robert J. Miller In Support of Wynn Parties' Opposition to Motion for Preliminary Injunction	09/20/12	III-IV	PA000693-PA000770

1	Affidavit of Stephen A. Wynn In Support of Opposition to Motion for Preliminary Injunction	09/20/12	IV	PA000771- PA000951
2	Appendix of Exhibits Referenced in the Aruze Parties' Motion to Compel Supplemental	04/28/15	XI-XII	PA001935- PA002193
3	Responses to Their Second and Third Set of			
4	Requests for Production of Documents to Wynn Resorts, Limited Volume 1 of 2			
5	UNDER SEAL			
6	Appendix of Exhibits Referenced in the Aruze Parties' Motion to Compel Supplemental	04/28/15	XII- XIV	PA002194- PA002697
7	Responses to Their Second and Third Set of			
8	Requests for Production of Documents to Wynn Resorts, Limited Volume 2 of 2			
9	UNDER SEAL			
10	Aruze Parties' Opposition to Wynn Resorts, Limited's Motion to Stay Pending Petition for	07/07/15	X	PA003972- PA003983
11	Writ of Prohibition on an Order Shortening Time			
12	Aruze USA, Inc. and Universal Entertainment Corp.'s Notice of Motion and Motion for	08/31/12	I-III	PA000196- PA000511
13	Preliminary Injunction			
14	Aruze USA, Inc. and Universal Entertainment Corp.'s Reply in Further Support of its Motion	09/27/12	IV	PA000952- PA000996
15	for Preliminary Injunction			
16	Complaint	02/19/12	I	PA000001 – PA000069
17	Counterclaim and Answer of Aruze USA, Inc. and Universal Entertainment Corporation	03/12/12	I	PA000077- PA000191
18	Counterclaimants-Defendants Aruze USA, Inc. and Universal Entertainment Corporation's	04/24/15	VIII	PA001893- PA001907
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20	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal	08/08/14	VII	PA001514- PA001559
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22	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal	09/19/14	XVII	PA001560- PA001586
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26	Entertainment Corporation's First Request for Production of Documents to Linda Chen			
27	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal	04/29/15	VIII	PA002732- PA002765
28	Entertainment Corporation's First Request for Production of Documents to Russell Goldsmith			

1	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal 2 Entertainment Corporation's First Request for 3 Production of Documents to Rav R. Irani	04/29/15	VIII	PA002766- PA002799
4	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal 5 Entertainment Corporation's First Request for 6 Production of Documents to Robert J. Miller	04/29/15	VIII	PA002800- PA002833
7	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal 8 Entertainment Corporation's First Request for 9 Production of Documents to John A. Moran	04/29/15	VIII- IX	PA002834- PA002867
10	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal 11 Entertainment Corporation's First Request for 12 Production of Documents to Marc D. Schorr	04/29/15	IX	PA002868- 002901
13	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal 14 Entertainment Corporation's First Request for 15 Production of Documents to Alvin V. 16 Shoemaker	04/29/15	IX	PA002902- PA002935
17	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal 18 Entertainment Corporation's First Request for 19 Production of Documents to Kimmarie Sinatra	04/29/15	IX	PA002936- PA002970
20	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal 21 Entertainment Corporation's First Request for 22 Production of Documents to Boone Wavson	04/29/15	IX	PA002971- PA003004
23	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal 24 Entertainment Corporation's First Request for 25 Production of Documents to Allan Zeman	04/29/15	IX	PA003005- PA003038
26	Defendant Kazuo Okada and Counterclaimants- Defendants Aruze USA, Inc. and Universal 27 Entertainment Corporation's First Request for 28 Production of Documents to Stephen A. Wynn	04/29/15	IX	PA003039- PA003093
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5	Notice of Entry of Order Granting United States of America's Motion for Extension of Temporary Stay of Discovery	12/30/13	VI-VII	PA001496-PA001504
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13	The Aruze Parties' Reply in Support of Their Motion to Compel	05/28/15	XVII	PA003839-PA003860
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16	Transcript of Hearing on Motions	06/04/15	IX-X	PA003861-PA003948
17	Wynn Parties' Opposition to Defendants' Motion to Challenge [Certain] Confidentiality Designations in the Wynn Parties' First Supplemental Disclosure and for Sanctions	03/06/13	V-VI	PA001125-PA001276
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19	Wynn Parties' Opposition to Motion for Preliminary Injunction	09/20/12	III	PA000512-PA000543
20	Wynn Parties' Reply in Support of its Motion for Order Entering Predictive Coding; and Application for Order Shortening Time	01/09/15	VIII	PA001873-PA001892
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22	Wynn Resorts, Limited's Motion to Stay Pending Petition for Writ of Prohibition on an Order Shortening Time	07/01/15	X	PA003960-PA003971
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26	Wynn Resorts, Limited's Responses and Objections to Defendants' First Request for Production of Documents	03/19/13	VI	PA01277-PA001374
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Wynn's Motion to Enter Its Version of the Proposed ESI Protocol and Application for Order Shortening Time Transcript of Proceedings	10/15/14	VII	PA001587- PA001627

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

J. Stephen Peek, Esq.
Bryce K. Kunimoto, Esq.
Robert J. Cassity, Esq.
Brian G. Anderson, Esq.
HOLLAND & HART LLP
9555 Hillwood Drive, Second Floor
Las Vegas, NV 89134

David S. Krakoff, Esq.
Benjamin B. Klubes, Esq.
Joseph J. Reilly, Esq.
BUCKLEY SANDLER LLP
1250 – 24th Street NW, Suite 700
Washington, DC 20037

Donald J. Campbell, Esq.
J. Colby Williams, Esq.
CAMPBELL & WILLIAMS
700 South 7th Street
Las Vegas, NV 89101

William R. Urga, Esq.
Martin A. Little, Esq.
JOLLEY URGAL WOODBURY &
LITTLE
3800 Howard Hughes Parkway, 16th
Floor
Las Vegas, NV 89169

Ronald L. Olson, Esq.
Mark B. Helm, Esq.
Jeffrey Y. Wu, Esq.
MUNGER TOLLES & OLSON LLP
355 South Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560

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

EXHIBIT 7

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

1 James J. Pisanelli, Esq., Bar No. 4027
JJP@pisanellibice.com
2 Todd L. Bice, Esq., Bar No. 4534
TLB@pisanellibice.com
3 Debra L. Spinelli, Esq., Bar No. 9695
DLS@pisanellibice.com
4 PISANELLI BICE PLLC
3883 Howard Hughes Parkway, Suite 800
5 Las Vegas, Nevada 89169
Telephone: 702.214.2100
6 Facsimile: 702.214.2101
7 Paul K. Rowe, Esq. (*pro hac vice forthcoming*)
pkrowe@wlrk.com
8 Bradley R. Wilson, Esq. (*pro hac vice forthcoming*)
brwilson@wlrk.com
9 S. Christopher Szczerban, Esq. (*pro hac vice forthcoming*)
scszczerban@wlrk.com
10 WACHTELL, LIPTON, ROSEN & KATZ
51 West 52nd Street
11 New York, New York 10019
Telephone: 212.403.1000
12 Robert L. Shapiro, Esq. (*pro hac vice forthcoming*)
RS@glaserweil.com
13 GLASER WEIL FINK JACOBS HOWARD
AVCHEN & SHAPIRO, LLP
14 10250 Constellation Boulevard, 19th Floor
15 Los Angeles, California 90067
Telephone: 310.553.3000
16 Attorneys for Wynn Resorts, Limited

17
18 UNITED STATES DISTRICT COURT
19 DISTRICT OF NEVADA

20
21 KAZUO OKADA, an individual,

22 Plaintiff,

23 v.
24

25 WYNN RESORTS, LIMITED, a Nevada
corporation,

26 Defendant.
27
28

CASE NO.: 2:13-cv-00136-JCM-NJK

WYNN RESORTS' ORDER DENYING
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION

1 Plaintiff Kazuo Okada's ("Okada") Motion for Preliminary Injunction against Defendant
2 Wynn Resorts, Limited ("Wynn Resorts") came before this Court for hearing on February 15,
3 2013. Charles H. McCrea, Esq. and Samuel Lionel, Esq., of Lionel Sawyer & Collins, and
4 Marc J. Sonnenfeld, Esq., of Morgan, Lewis & Bockius LLP, appeared on behalf of Okada.
5 James J. Pisanelli, Esq., and Debra L. Spinelli, Esq., of PISANELLI BICE PLLC, Robert
6 Shapiro, Esq., of Glaser Weil Fink Jacobs Howard Avchen & Shapiro LLP, and Bradley R.
7 Wilson, Esq., of Wachtell, Lipton, Rosen & Katz, appeared on behalf of Wynn Resorts. Having
8 considered the papers filed on behalf of all parties, the arguments of counsel presented at the
9 hearing, and good cause appearing therefor:

10 THE COURT HEREBY FINDS that Okada failed to demonstrate that the definitive proxy
11 statement Wynn Resorts filed with the SEC on January 3, 2013 in connection with the special
12 meeting of stockholders to be held on February 22, 2013 for the purpose of allowing the
13 stockholders to consider and vote on a proposal to remove Okada as a director of Wynn Resorts
14 contained false or misleading statements.

15 Accordingly, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the
16 Motion for Preliminary Injunction is DENIED.

17 IT IS SO ORDERED.

18
19 
UNITED STATES DISTRICT COURT JUDGE

20
21 CASE NO.: 2:13-cv-00136-JCM-NJK

22 DATED: March 1, 2013
23
24
25
26
27
28

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

EXHIBIT 8

1 LIONEL SAWYER & COLLINS
2 SAMUEL S. LIONEL (SBN 1766)
3 slionel@lionelsawyer.com
4 CHARLES H. McCREA, JR. (SBN 104)
5 cmccrea@lionelsawyer.com
6 STEVEN C. ANDERSON (SBN 11901)
7 sanderson@lionelsawyer.com
8 KETAN D. BHIRUD (SBN 10515)
9 1700 Bank of America Plaza
10 300 South Fourth Street
11 Las Vegas, Nevada 89101
12 Telephone: 702.383.8888
13 Facsimile: 702.383.8845

14 MORGAN, LEWIS & BOCKIUS LLP
15 MARC J. SONNENFELD*
16 msonnenfeld@morganlewis.com
17 1701 Market Street
18 Philadelphia, Pennsylvania 19103
19 Telephone: 215.963.5000
20 Facsimile: 215.963.5001

21 JOSEPH E. FLOREN*
22 jfloren@morganlewis.com
23 BENJAMIN P. SMITH*
24 bpsmith@morganlewis.com
25 CHRISTOPHER J. BANKS*
26 cbanks@morganlewis.com
27 One Market, Spear Street Tower
28 San Francisco, California 94105-1126
Telephone: 415.442.1000
Facsimile: 415.442.1001

Attorneys for Plaintiff,
KAZUO OKADA
*pro hac vice application submitted

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KAZUO OKADA, an individual,
Plaintiff,

v.

WYNN RESORTS, LIMITED, a Nevada
corporation,
Defendant.

Case No. 2:13-cv-00136-JCM-NJK

**NOTICE OF DISMISSAL WITHOUT
PREJUDICE**

NOTICE OF DISMISSAL WITHOUT PREJUDICE

Plaintiff hereby dismisses this action in its entirety, without prejudice, pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

Dated: March 4, 2013

LIONEL SAWYER & COLLINS
SAMUEL S. LIONEL (SBN 1766)
CHARLES H. McCREA, JR. (SBN 104)
STEVEN C. ANDERSON (SBN 11901)
KETAN D. BHIRUD (SBN 10515)

MORGAN, LEWIS & BOCKIUS LLP
MARC J. SONNENFELD*
JOSEPH E. FLOREN*
BENJAMIN P. SMITH*
CHRISTOPHER J. BANKS*

By /s/ Ketan D. Bhirud
Attorneys for Plaintiff
KAZUO OKADA
*pro hac vice application submitted

EXHIBIT 9

Debra Spinelli

From: Debra Spinelli
Sent: Tuesday, December 11, 2012 3:46 PM
To: 'Carlton, D. Scott'; Privette, Howard M.; cmccrea@lionelsawyer.com; sanderson@lionelsawyer.com; Reynolds, Timothy D.; Durrant, John S.; Zaccaro, Thomas A.
Cc: James Pisanelli; jcw@campbellandwilliams.com; djc@campbellandwilliams.com; WRU@juww.com; rs@glaserweil.com; brwilson@wlrk.com; Mark.Helm@mto.com; Jeffrey.Wu@mto.com; PKRowe@wlrk.com
Subject: RE: Wynn Resorts v. Okada, et al. - Initial Disclosures
Attachments: RE_Wynn_Okada -- Proposed Confidentiality Agreement.pdf; Wynn_Okada -- Proposed Confidentiality Agreement.pdf

Scott –

We'll agree to disagree on what you and Lionel Sawyer may think is not a rule or mandatory practice in Judge Gonzalez' court, though I do think the issue will have to be raised with the Court at some point so that you do not continue to think her rules (with which you are unfamiliar) are discretionary.

We intend to produce the Freeh appendix in a supplemental disclosure but not until an agreement on confidentiality is reached and entered by the Court, of course reserving any and all rights and privileges. On the issue of confidentiality, our designations on our required index was hardly "arbitrary." Rather, the designations stem from the definitions in the proposed confidentiality agreement and protective order I sent Charlie McCrae, on November 20, 2012 -- prior to the initial disclosure deadline. In response to his request, on November 24, 2012, I sent Mr. McCrae the same proposed stipulation in Word form. (The email exchanges are attached.) We have yet to hear back about any suggested changes. Given the allegations against your client as well as the litigation history between the parties (*e.g.*, that a protective order had to be entered in the writ proceeding before any confidential documents were produced to your client), all were on more than sufficient notice that Wynn Resorts was not going to just hand over sensitive company information and documents to Mr. Okada or his entities without court ordered protections. Our initial disclosures reiterated this position while at the same time complying with NRCP 16.1.

Please let me know if you have any suggested revisions to the proposed confidentiality agreement, so that we can move forward.

Thanks,
Debbie

Debra L. Spinelli
Pisanelli Bice PLLC
3883 Howard Hughes Pkwy, Suite 800
Las Vegas, NV 89169
tel 702.214.2100
fax 702.214.2101



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To ensure compliance with requirements imposed by the IRS, we inform you that any federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for purposes of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any transaction or tax-related matter addressed herein.

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From: Carlton, D. Scott [mailto:scottcarlton@paulhastings.com]
Sent: Thursday, December 06, 2012 6:31 PM
To: Debra Spinelli; Privette, Howard M.; cmccrea@lionelsawyer.com; sanderson@lionelsawyer.com; Reynolds, Timothy D.; Durrant, John S.; Zaccaro, Thomas A.
Cc: James Pisanelli; jcw@campbellandwilliams.com; djc@campbellandwilliams.com; WRU@juww.com; rs@glaserweil.com; brwilson@wlrk.com; Mark.Helm@mto.com; Jeffrey.Wu@mto.com; PKRowe@wlrk.com
Subject: RE: Wynn Resorts v. Okada, et al. - Initial Disclosures

Debbie:

Thank you for your response. As we understand your email, an index is not required by any rule or order entered by the court. Instead, you believe that Judge Gonzalez would order the production of an index if requested by one of the parties. This plainly does not make our clients "tardy" in providing an index with their Initial Disclosures. Nevertheless, as I stated in my previous email, we are happy to oblige your request and provide your clients with an index of the production in the reasonably near future.

As for the exact timing, we intend to provide an index next week – no later than December 14. Given our clients' voluminous production (over 14,000 pages), I hope you can appreciate the resources necessary to compile a reasonably specific index. In fact, the production of materials by our clients was over 10 times larger than the production by the Wynn Parties, even when including the documents that your clients decided to withhold based on an arbitrary determination of "confidentiality."

Surprisingly, neither Wynn Parties' initial production of documents nor its index included the appendix referenced in the so-called "Freeh Report" attached to Wynn Resorts' own complaint. We requested the appendix to the Freeh Report months ago directly from Mr. Pisanelli, which was declined, and Wynn Resorts (for some unexplained reason) has still not produced the appendix with the Initial Disclosures. We are assuming this is simply an oversight. Will Wynn Resorts be in a position to produce the appendix by December 12? If not, please provide the reason that the appendix was not included with the Initial Disclosures.

Best regards,

Scott Carlton

PAUL
HASTINGS **Scott Carlton | Associate**
Paul Hastings LLP | 515 South Flower Street, Twenty-Fifth Floor, Los Angeles, CA
90071 | Direct: +1.213.683.6113 | Main: +1.213.683.6000 | Fax: +1.213.996.3113 |
scottcarlton@paulhastings.com | www.paulhastings.com

From: Debra Spinelli [mailto:dls@pisanellibice.com]
Sent: Wednesday, December 05, 2012 7:21 PM
To: Carlton, D. Scott; Privette, Howard M.; cmccrea@lionelsawyer.com; sanderson@lionelsawyer.com; Reynolds, Timothy D.; Durrant, John S.; Zaccaro, Thomas A.
Cc: James Pisanelli; jcw@campbellandwilliams.com; djc@campbellandwilliams.com; WRU@juww.com; rs@glaserweil.com; brwilson@wlrk.com; Mark.Helm@mto.com; Jeffrey.Wu@mto.com; PKRowe@wlrk.com
Subject: RE: Wynn Resorts v. Okada, et al. - Initial Disclosures

Hi Scott --

While you're right that there is no express "state or local rule" that requires or recommends an index, Judge Gonzalez does, and she does so in all of her business court cases. That is why I said "our court" requires an index (though it is a fairly routine requirement in all of our courts here in Clark Court). I am surprised Lionel Sawyer is advising otherwise.

Though Judge Gonzalez waived the Rule 16 conference in this case due to the various motion practice between the parties, in her standard business court order scheduling the Rule 16 conference, she provides the rules of her court, with one entire section dedicated to discovery. I am certain it was not her intent when waiving the conference to waive the rules of her court that we in Nevada all know to be standard. So you know, her requirement is as follows:

"Documents produced in compliance with NRCP 16.1 or in response to a written discovery request, must be consecutively Bates stamped or numbered and accompanied by an index with a reasonably specific description of the documents."

If Lionel Sawyer does not have a copy of one of these standard orders (and I would be very surprised), please let me know and I will provide you an example from other cases. In fact, we may be able to get one from Judge Gonzalez directly.

I say all of this because while I do appreciate efforts to be courteous, you stated you would only produce an index "on this particular occasion" and ambiguously sometime in the "reasonably near future." I want to be clear on our respective obligations moving forward.

In light of the above new information, please let me know if and when the Okada Parties will provide an index of their 16.1 disclosures. Because it is already tardy and a form of index likely already exists on your end, Monday should be entirely reasonable, but please let me know if that is not the case. Also, should it be your position/belief that Judge Gonzalez's standard court rules do not apply in this case because she waived the Rule 16 conference, please let me know this as well so that the Wynn Parties can formally request that she issue her standard order in this case.

Thanks,
Debbie

Debra L. Spinelli
Pisanelli Bice PLLC
3883 Howard Hughes Pkwy, Suite 800
Las Vegas, NV 89169
tel 702.214.2100
fax 702.214.2101



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From: Carlton, D. Scott [<mailto:scottcarlton@paulhastings.com>]

Sent: Wednesday, December 05, 2012 6:42 PM

To: Debra Spinelli; Privette, Howard M.; cmccrea@lionelsawyer.com; sanderson@lionelsawyer.com; Reynolds, Timothy D.; Durrant, John S.; Zaccaro, Thomas A.

Cc: James Pisanelli; jcw@campbellandwilliams.com; djc@campbellandwilliams.com; WRU@juwww.com; rs@glaserweil.com; brwilson@wlrk.com; Mark.Helm@mto.com; Jeffrey.Wu@mto.com; PKRowe@wlrk.com
Subject: RE: Wynn Resorts v. Okada, et al. - Initial Disclosures

Debbie:

We conferred with Lionel Sawyer regarding the requirements for Initial Disclosures in Nevada. There appears to be no state or local rule that requires or even recommends providing an index with a party's Initial Disclosures. As a matter of courtesy on this particular occasion, however, we will endeavor to provide an index in the reasonably near future.

Best regards,

Scott Carlton

**PAUL
HASTINGS**

Scott Carlton | Associate

Paul Hastings LLP | 515 South Flower Street, Twenty-Fifth Floor, Los Angeles, CA
90071 | Direct: +1.213.683.6113 | Main: +1.213.683.6000 | Fax: +1.213.996.3113 |
scottcarlton@paulhastings.com | www.paulhastings.com

From: Debra Spinelli [<mailto:dls@pisanellibice.com>]

Sent: Monday, December 03, 2012 9:39 PM

To: Carlton, D. Scott; Privette, Howard M.; cmccrea@lionelsawyer.com; sanderson@lionelsawyer.com; Reynolds, Timothy D.; Durrant, John S.; Zaccaro, Thomas A.

Cc: James Pisanelli; jcw@campbellandwilliams.com; djc@campbellandwilliams.com; WRU@juwww.com; rs@glaserweil.com; brwilson@wlrk.com; Mark.Helm@mto.com; Jeffrey.Wu@mto.com; Paul Rowe (PKRowe@wlrk.com)

Subject: Wynn Resorts v. Okada, et al. - Initial Disclosures

Counsel –

We received Defendants Kazuo Okada, Aruze USA, Inc., and Universal Entertainment Corp.'s (collectively "Okada Parties") Initial Disclosures and the accompanying electronic disc. Our court requires that documents disclosed, especially disclosures of any significant number of pages, be accompanied by an index describing the documents produced and identifying the associated Bates numbers. We thought one may be on the disc you served, but it was not.

Accordingly, I ask that you please supplement your disclosures to disclose an index by on or before December 10, 2012. If you do not intend to do so, please advise so that we can set up any necessary EDCR 2.34 conference.

Thank you,
Debbie

Debra L. Spinelli
Pisanelli Bice PLLC
3883 Howard Hughes Pkwy, Suite 800
Las Vegas, NV 89169
tel 702.214.2100
fax 702.214.2101



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EXHIBIT 10

DISTRICT COURT
CLARK COUNTY, NEVADA

KAZUO OKADA, an individual,

Petitioner,

vs.

WYNN RESORTS, LIMITED, a
Nevada corporation,

Respondent.

CASE NO. A-12-654522-B
DEPT. NO. XI

DEPOSITION OF KAZUO OKADA
LAS VEGAS, NEVADA

TUESDAY, SEPTEMBER 18, 2012

REPORTED BY: CARRE LEWIS, CCR NO. 497

JOB NO. 165936

1 DEPOSITION OF KAZUO OKADA,
2 taken at 3883 Howard Hughes Parkway, Suite 800,
3 Las Vegas, Nevada, on Tuesday, September 18, 2012,
4 at 10:00 a.m., before Carre Lewis, Certified court
5 Reporter, in and for the State of Nevada.
6

7 APPEARANCES:

8 For Kazuo Okada:

9 DAVIS POLK & WARDWELL LLP
10 BY: PAUL SPAGNOLETTI, ESQ.
BY: JAMI JOHNSON, ESQ.
BY: HIROSHI SUGIYAMA, ESQ.
11 450 Lexington Avenue
New York, New York 10017
12 (212) 450-4577
paul.spagnoletti@davispolk.com
13 jami.johnson@davispolk.com
hiroshi.sugiyama@davispolk.com
14

15 LIONEL SAWYER & COLLINS
BY: CHARLES H. MCCREA, ESQ.
300 South Fourth Street, Suite 1700
16 Las Vegas, Nevada 89101

17 PAUL HASTINGS LLP
BY: HOWARD M. PRIVETTE, ESQ.
18 BY: WILLIAM F. SULLIVAN, ESQ.
BY: JOHN S. DURRANT, ESQ.
19 BY: THOMAS Z. ZACCARO, ESQ.
515 South Flower Street, 25th Floor
20 Los Angeles, California 90071
(213) 683-6000
21
22
23
24
25

1 APPEARANCES (continued):

2 For Respondent Wynn Resorts, Limited:

3 PISANELLI BICE, PLLC

4 BY: JAMES J. PISANELLI, ESQ.

5 BY: TODD L. BICE, ESQ.

6 BY: DEBRA L. SPINELLI, ESQ.

7 3883 Howard Hughes Parkway, Suite 800

8 Las Vegas, Nevada 89169

9 (702) 214-2100

10 dls@pisanellibice.com

11 jjp@pisanellibice.com

12 tlb@pisanellibice.com

13 see@pisanellibice.com

14 kap@pisanellibice.com

15 GLASER, WEIL, FINK, JACOBS, HOWARD & SHAPIRO

16 BY: ROBERT SHAPIRO, ESQ.

17 3763 Howard Hughes Parkway, Suite 300

18 Las Vegas, Nevada 89169

19 (702) 650-7900

20 rs@glaserweil.com

21 CAMPBELL & WILLIAMS

22 BY: DONALD J. CAMPBELL, ESQ.

23 700 South Seventh Street

24 Las Vegas, Nevada 89101

25 (702) 382-5222

djc@campbellandwilliams.com

WYNN RESORTS

BY: KIM SINATRA, ESQ.

3131 Las Vegas Boulevard South

Las Vegas, Nevada 89109

kim.sinatra@wynnresorts.com

WACHTELL LIPTON ROSEN & KATZ

BY: PAUL K. ROWE, ESQ.

51 West 52nd Street

New York, New York 10019

(212) 403-1210

1 APPEARANCES (continued):

2 Interpreters:

3 Roy Kawaguchi
4 (702) 737-1958

5 Teresa Sumiyoshi
6 (415) 310-7495

7 Manko Ihaya
8 (949) 334-7407

9 Misako Maki Sack
10 (415) 268-7007

11 The Videographer:

12 Litigation Services
13 By: Mark States
14 3770 Howard Hughes Parkway, Suite 300
15 Las Vegas, Nevada 89169
16 (702) 314-7200
17
18
19
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I N D E X

WITNESS: KAZUO OKADA

EXAMINATION

PAGE

By Mr. Pisanelli

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Kazuo Okada
Okada vs Wynn Resorts
Tuesday, September 18, 2012
Carre Lewis, CCR No. 497
E X H I B I T S

NUMBER		PAGE
Exhibit 1	Petition	60
Exhibit 2	First Amended Petition For Writ of Mandamus	98

1 LAS VEGAS, NEVADA; TUESDAY, SEPTEMBER 18, 2012;

2 10:00 A.M.

3 -oOo-

4 THE VIDEOGRAPHER: This is the beginning of
5 Videotape No. 1 in the deposition of Kazuo Okada,
6 taken by the defense in the matter of Okada versus
7 Wynn Resorts Limited. The case number is
8 A-12-654522-B, held at 3883 Howard Hughes Parkway,
9 Suite 800, Las Vegas, Nevada 89169, on September 18,
10 2012, at 10:22 a.m.

11 The court reporter is Carre Lewis. I'm
12 Mark States, the videographer, an employee of
13 Litigation Services, located at 3770 Howard Hughes
14 Parkway, Suite 300, Las Vegas, Nevada 89169.

15 This deposition is being videotaped at all
16 times unless specified to go off video record.

17 Would all present please identify
18 themselves, beginning with the witness.

19 THE WITNESS: Okada Kazuo.

20 INTERPRETER KAWAGUCHI: Roy Kawaguchi,
21 interpreter.

22 INTERPRETER SUMIYOSHI: Teresa Sumiyoshi,
23 check interpreter.

24 MR. SPAGNOLETTI: Paul Spagnoletti from
25 Davis Polk & Wardwell on behalf of Mr. Okada.

1 MR. PRIVETTE: Howard Privette of Paul
2 Hastings on behalf of Mr. Okada.

3 MR. MCCREA: Charles McCrea, Lyonel Sawyer
4 & Collins representing Mr. Okada.

5 MS. JOHNSON: Jami Johnson, Davis Polk &
6 Wardwell on behalf of Mr. Okada.

7 MR. SUGIYAMA: Hiroshi Sugiyama, Davis Polk
8 & Wardwell on behalf of Mr. Okada.

9 MR. SPAGNOLETTI: We also have with us
10 today as a representative from Universal,
11 Mr. Tokuda.

12 MR. ROWE: Paul Rowe from Wachtell Lipton
13 Rosen & Katz of New York for the defendant.

14 MS. SPINELLI: Debra Spinelli, Pisanelli
15 Bice for the respondent, Wynn Resorts.

16 MS. SINATRA: Kim Sinatra, Wynn Resorts.

17 MR. CAMPBELL: Donald J. Campbell, Campbell
18 & Williams, Las Vegas, Nevada on behalf of Steven A.
19 Wynn.

20 MR. PISANELLI: James Pisanelli on behalf
21 of Wynn Resorts.

22 On the telephone is my co-counsel, Robert
23 Shapiro.

24 MR. SHAPIRO: I am here and I am alone.
25 Thank you for allowing me to do this telephonically.

1 investigation concerning your unsuitability, do you
2 believe there are any other records that were hidden
3 from you as a director?

4 A. Once one has started having the
5 untrustworthy feeling, then one would start assuming
6 that there must be other such document.

7 Q. Other than that lack of trust, are there
8 any other reasons you believe that documents have
9 been hidden from you?

10 A. With respect -- with respect to the
11 donation to Macau University, I have not been given
12 any explanation whatsoever. So the actual donation
13 was not actually made to the Macau University, but
14 it was made to Macau University Fund. However, the
15 board has determined to make -- the Wynn Resorts'
16 board has determined to make the donation to Macau
17 University. That fact I think is apparently mis- --
18 mis --

19 INTERPRETER IHAYA: "Misleading, purposely
20 misleading."

21 INTERPRETER SACK: Yes. "Purposely
22 misleading, intentionally misleading. "

23 BY MR. PISANELLI:

24 Q. Are there any other documents you believe
25 have been hidden from the directors scrutiny?

1 A. I had determined -- or I had considered
2 reviewing everything from the very beginning of over
3 11 to 12 years [sic] period. I have decided -- I
4 have decided to --

5 (Discussion held in Japanese.)

6 I have considered reviewing everything,
7 starting with the very first point over the 11 to 12
8 years of time frame.

9 **Q. When did he make the decision to start**
10 **reviewing everything from the beginning?**

11 (Discussion held in Japanese.)

12 A. When the Wynn Resorts decided to make a
13 contribution, I had come to realize that I have
14 never been told anything about the -- about Macau
15 University.

16 **Q. My question is when did he [sic] decide to**
17 **go back to the beginning of Wynn Resorts to start**
18 **looking at everything?**

19 MR. SPAGNOLETTI: Object to form. Asked
20 and answered.

21 INTERPRETER SACK: You said "he." Do you
22 want to redo that?

23 MR. PISANELLI: I'm sorry.

24 BY MR. PISANELLI:

25 **Q. When did you decide to go back and review**

1 INTERPRETER SUMIYOSHI: No, but I'm saying
2 because the interpreter will pick a word and the
3 witness will answer the question that was posed in
4 Japanese, I'm just trying to get a clear record.

5 MR. PISANELLI: You seem to be making a
6 record creating ambiguity where the witness hasn't
7 even told us that he is confused by the question and
8 so --

9 INTERPRETER SUMIYOSHI: That's because it's
10 being interpreted as a particular word for auditor
11 and it occurs to me that might be leading to --

12 INTERPRETER SACK: But when he just asked
13 about the who, that would come out. So I think --
14 my belief of what the interpreter should do is to
15 the best of ability interpret, and along the
16 question, those ambiguities will come out.

17 MR. CAMPBELL: I want a separate clip of
18 this prepared today on disk, a separate clip of this
19 prepared.

20 THE VIDEOGRAPHER: A DVD?

21 MR. CAMPBELL: Whatever you call it.

22 BY MR. PISANELLI:

23 Q. Mr. Okada, who are the auditors that you
24 sent into Wynn Resorts to review its books and
25 records?

1 A. My -- I don't get involved -- I don't
2 handle actual business. My role is to make sure
3 that business is conducted properly and so the only
4 thing I have instructed Mr. Shoji is that if there
5 are any information that he cannot obtain, then let
6 me know.

7 (Discussion held in Japanese.)

8 BY MR. PISANELLI:

9 Q. I'm not sure that responds to my question.
10 I just want to know, Mr. Okada, do you know
11 the names of the auditing companies or firms that
12 came into Wynn Resorts on your behalf to review the
13 books and records?

14 A. What I assume or what I think is a auditing
15 company called BDO.

16 Q. Was there another auditing company by the
17 name BA TOKYO & Company?

18 A. Oh, yes, there was.

19 Q. And do these two firms provide you reports
20 about their work in reviewing the Wynn books and
21 records?

22 A. I myself have not seen them. I believe
23 executive directors and administrative people
24 have -- had a meeting and reviewed them.

25 (Discussion held in Japanese.)

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

DISC

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

JJP@pisanellibice.com

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

TLB@pisanellibice.com

Debra L. Spinelli, Esq., Bar No. 9695

DLS@pisanellibice.com

PISANELLI BICE PLLC

3883 Howard Hughes Parkway, Suite 800

Las Vegas, Nevada 89169

Telephone: 702.214.2100

Facsimile: 702.214.2101

Paul K. Rowe, Esq. (*pro hac vice* admitted)

pkrowe@wlrk.com

Bradley R. Wilson, Esq. (*pro hac vice* admitted)

brwilson@wlrk.com

WACHTELL, LIPTON, ROSEN & KATZ

51 West 52nd Street

New York, New York 10019

Telephone: 212.403.1000

Robert L. Shapiro, Esq. (*pro hac vice* admitted)

RS@glaserweil.com

GLASER WEIL FINK JACOBS HOWARD

AVCHEN & SHAPIRO, LLP

10250 Constellation Boulevard, 19th Floor

Los Angeles, California 90067

Telephone: 310.553.3000

Attorneys for Wynn Resorts, Limited, Linda Chen,

Russell Goldsmith, Ray R. Irani, Robert J. Miller,

John A. Moran, Marc D. Schorr, Alvin V. Shoemaker,

Kimmarie Sinatra, D. Boone Wayson, and Allan Zeman

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada
Corporation,

Plaintiff,

vs.

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

Defendants.

AND ALL RELATED CLAIMS

Case No.: A-12-656710-B

Dept. No.: XI

**WYNN RESORTS, LIMITED'S
RESPONSES AND OBJECTIONS TO
DEFENDANTS' FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS**

1 Pursuant to Nevada Rule of Civil Procedure 34, Plaintiff-Counter-Defendant
2 Wynn Resorts, Limited ("Wynn Resorts" or the "Company"), by and through its undersigned
3 counsel of record, hereby responds and objects to Defendants Kazuo Okada and
4 Defendants/Counterclaimants Aruze USA, Inc. and Universal Entertainment Corporation's
5 (collectively, "Defendants") First Request for Production of Documents.

6 **DEFINITIONS AND GENERAL OBJECTIONS**

7 A. "Nondiscoverable/Irrelevant" - The request in question concerns a matter that is
8 not relevant to the subject matter of this litigation or the claims and defenses asserted in the
9 action, and is not reasonably calculated to lead to the discovery of admissible evidence.

10 B. "Unduly burdensome" - The request in question seeks discovery that is unduly
11 burdensome or expensive, taking into account the needs of the case, limitations in the party's
12 resources, and the importance of the issues at stake in the litigation.

13 C. "Vague" - The request in question contains a word or phrase that is not adequately
14 defined, or the overall request is confusing or ambiguous, and Wynn Resorts is unable to
15 reasonably ascertain what documents Defendants seek in the request.

16 D. "Overly broad" - The request in question seeks documents beyond the scope of, or
17 beyond the time period relevant to, the subject matter of this litigation and, accordingly, seeks
18 documents that are nondiscoverable/irrelevant and the request is unduly burdensome.

19 E. Wynn Resorts objects to Defendants' requests to the extent they seek any
20 information protected by any absolute or qualified privilege or exemption, including, but not
21 limited to, the attorney-client privilege, a common interest privilege, the attorney work-product
22 doctrine, and the consulting expert exemption.

23 F. Wynn Resorts objects to Defendants' requests on the grounds that they are unduly
24 burdensome and that much of the documents requested may be obtained by Defendants from
25 other sources more conveniently, less expensively, and with less burden.

26 G. Documents will be provided on the basis of documents available to and located by
27 Wynn Resorts at this time. There may be other and further documents of which Wynn Resorts,
28 despite its reasonable investigation and inquiry to date, is presently unaware or remains in the

1 process of gathering and/or reviewing. Wynn Resorts, therefore, reserves the right to modify or
2 enlarge any response with such pertinent additional documents as it may subsequently discover.

3 H. No incidental or implied admissions will be made by the responses. The fact that
4 Wynn Resorts may respond or object to any request, or any part thereof, shall not be deemed an
5 admission that Wynn Resorts accepts or admits the existence of any fact set forth or assumed by
6 such request, or that such response constitutes admissible evidence. The fact that Wynn Resorts
7 responds to a part of any request is not to be deemed a waiver by it of its objections, including
8 privilege, to other parts of the request in question.

9 I. Wynn Resorts objects to any request to the extent that it would impose upon the
10 Company greater duties than are set forth under the Nevada Rules of Civil Procedure. When
11 necessary, Wynn Resorts will supplement its responses to requests as required by the Nevada
12 Rules of Civil Procedure.

13 J. Each response will be subject to all objections as to competence, relevance,
14 materiality, propriety, and admissibility, and to any and all other objections on any ground that
15 would require the exclusion from evidence of any statement herein if any such statements were
16 made by a witness present and testifying at trial, all of which objections and grounds are expressly
17 reserved and may be interposed at trial.

18 K. Wynn Resorts objects to Instruction 1 of the Requests, to the extent it purports to
19 require Wynn Resorts to produce documents that are not in its possession, custody or control, as it
20 imposes duties greater than those set forth under Nevada Rule of Civil Procedure 34.

21 L. Wynn Resorts objects to Instructions 2 and 11 of the Requests to the extent they
22 purport to require Wynn Resorts to provide a log of documents withheld on the basis of any
23 "limitation" other than a claim of privilege or work product protection, as it imposes duties greater
24 than those set forth under the Nevada Rules of Civil Procedure.

25 M. Wynn Resorts objects to the time period set forth in Instruction 4 of the Requests
26 as overly broad. To the extent that Wynn Resorts does not object to these Requests, it will search
27 for responsive documents during the time period April 21, 2000 to December 31, 2012.

28

OBJECTIONS AS TO "REQUESTED PRODUCTION FORMAT"

Wynn Resorts objects to the "Requested Production Format" attached as Appendix A to Defendants' Requests as unduly burdensome, overbroad and unreasonable. To the extent Defendants desired certain production specifications related to electronically stored information ("ESI"), Defendants should have sought to negotiate and agree upon a mutually agreeable protocol prior to the review process required pursuant to NRCP 16.1. The production specifications for Wynn Resorts' Responses to Defendants' First Request for Production of Documents are set forth in Appendix A to these Responses. To the extent the specifications in Appendix A to Defendants' Requests are not entirely consistent with the specifications in Appendix A to these Responses, Wynn Resorts expressly objects to Defendants' specifications (including, but not limited to, any purported requirements that: (i) document binders or paper document families are to be kept whole even where all the documents contained therein are not relevant to the subject matter and/or responsive to Defendants' Requests; (ii) that file paths, folder paths, text paths, and native paths be provided) on the grounds that they are overbroad, unduly burdensome, unreasonable, and seek information protected by the attorney-client privilege, the attorney work product doctrine, and any other applicable privilege or protection.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

All documents from April 21, 2000 to present concerning Wynn's and Wynn Resorts' business plans and activities in Macau, including but not limited to all documents concerning:

- A. The development of casino resorts in Macau;
- B. The obtaining of any governmental approvals, gaming licenses, and/or concession contracts, for the operation of any casino resort in Macau;
- C. Wynn Resorts (Macau), S.A.'s business plans and activities in Macau, from its establishment on October 17, 2001, through and until Wynn contributed his interest in Wynn Resorts (Macau), S.A. to the capital of Valvino Lamore, LLC on or about April 11, 2002;

1 D. The acquisition or potential acquisition of land rights in Macau, including but not
2 limited to the Land Concession Contract included as exhibit 10.1 to Wynn Resorts' Form 8-K
3 filing on May 2, 2012;

4 E. The payment of \$50 million to Tien Chiao Entertainment & Investment Co. Ltd.
5 by Palo Real Estate Company Limited as disclosed in exhibit 99.1 to Wynn Resorts' Form 8-K
6 filing on September 11, 2009, including but not limited to all documents concerning: (i) all public
7 disclosure made or considered concerning this payment and (ii) all agreements between
8 Wynn Resorts and Tien Chiao Entertainment & Investment Co. Ltd.;

9 F. Any communications with Tien Chiao Entertainment & Investment Co. Ltd. and/or
10 Palo Real Estate Company Limited, including but not limited to any communications with any
11 owners, principals, agents, or affiliates of Tien Chiao Entertainment & Investment Co. Ltd. and/or
12 Palo Real Estate Company Limited;

13 G. Business plans or activities in Macau concerning Tien Chiao Entertainment &
14 Investment Co. Ltd. and/or Palo Real Estate Company Limited;

15 H. Any consultants engaged by Wynn Resorts, Wynn Resorts (Macau), or any of their
16 affiliates engaged or otherwise consulted in connection with business plans and activities in
17 Macau;

18 I. All due diligence, assessments, investigations, and analyses concerning business
19 plans and activities in Macau; and

20 J. All donations considered and/or made in China, including but not limited to
21 China's special administrative regions, Macau and Hong Kong.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

23 Wynn Resorts objects to this Request on the following grounds: (1) it seeks documents
24 and information unrelated to the subject matter, claims and defenses in this action and thus is not
25 reasonably calculated to lead to the discovery of admissible evidence in this action (*e.g.*, "[a]ll
26 documents . . . concerning . . . [Wynn's] Land Concession Contract" in Cotai; "[a]ll documents . . .
27 concerning . . . [a]ll donations considered and/or made in China, including . . . Hong Kong");
28 (2) it is overly broad and unduly burdensome in time and scope (*e.g.*, "[a]ll documents . . .

1 concerning . . . the development of casino resorts in Macau, . . . [a]ny consultants, . . engaged or
2 otherwise consulted in connection with business plans and activities in Macau, . . . [a]ll due
3 diligence assessments, investigations, and analyses concerning business plans and activities in
4 Macau "); (3) the terms/phrases "development of casino resorts," "business plans,"
5 "activities," "due diligence," "analyses," and "affiliates" are undefined, vague, and ambiguous,
6 requiring speculation as to Defendants' intended meaning; (4) it seeks confidential and proprietary
7 information and trade secrets (much of which is unrelated to the claims or defenses in this action
8 and thus is not reasonably calculated to lead to the discovery of admissible evidence in this
9 action); (5) it is overly burdensome to the extent it seeks documents already in Defendants'
10 possession through this action and/or the writ proceeding; (6) it assumes facts (*i.e.*, that there are
11 "business plans" for the various subcategories listed in the Request); (7) to the extent this Request
12 seeks documents from Wynn Resorts (Macau) S.A., a non-party to this action, a Rule 34 request
13 is insufficient to compel the production of this third-party's records and Defendants are required
14 to follow the appropriate legal processes to compel the records of a third party; (8) to the extent
15 this Request seeks documents related to the bidding process and tender for the Macau license (*see*
16 subpart (B)), Wynn Resorts objects based upon Macao SAR Law n.º 16/2001, which is Macau's
17 gaming regulatory statute governing gaming concessionaires, operators, and the tender process.
18 Section I, Article 16 provides as follows: "The bidding processes, the documents and data
19 included, as well as all documents and data related to the tender, are confidential and cannot be
20 accessed or consulted by third parties"; (9) it seeks documents protected by the attorney-
21 client privilege, common interest privilege, and/or work product doctrine; (10) it is a fishing
22 expedition with an improper purpose; and (11) this Request is unduly burdensome to the extent
23 subpart J is duplicative of other Requests herein (*i.e.*, Request for Production Nos. 4 and 5).

24 With respect to subparts (A) through (I), Wynn Resorts will not produce documents unless
25 and until Defendants demonstrate their purported discoverability in this action and/or obtain a
26 court order compelling the production. With respect to subpart J, Wynn Resorts incorporates its
27 objections and responses to Request for Production Nos. 4 and 5 and though fully restated herein
28

1 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
2 as discovery continues.

3 **REQUEST FOR PRODUCTION NO. 2:**

4 All documents from April 21, 2000 to present concerning the "Macau Interest" and the
5 "Macau Reimbursement Amount," as those terms are used in the Third Amended and Restated
6 Operating Agreement of Valvino Lamore, LLC dated April 11, 2002, including but not limited to
7 all documents concerning the valuation of the "Macau Interest" and the "Macau Reimbursement
8 Amount".

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

10 Wynn Resorts objects to this Request on the following grounds: (1) it seeks documents
11 and information unrelated to the subject matter of this action and unrelated to any claim or
12 defense asserted in this action, and thus is overly broad, unduly burdensome, and not reasonably
13 calculated to lead to the discovery of admissible evidence; (2) it is unduly burdensome to the
14 extent it seeks documents already in Defendants' possession, custody, or control through the writ
15 proceeding and this action; (3) it is a fishing expedition with an improper purpose inasmuch as the
16 Request is broader than that made via the writ proceeding (*i.e.*, related to the "Macau Interest")
17 while Okada was a director (though not exercising any duties or responsibilities), but at the same
18 time seeks documents unrelated to a claim or defense in this action; (4) it seeks documents
19 protected by the attorney-client privilege, common interest privilege, and/or work product
20 doctrine related to the writ proceeding.

21 Subject to and without waiving said objections, Wynn Resorts responds as follows:
22 Please refer to documents previously produced and identified as WYNN000647- WYNN000650,
23 WYNN000651-WYNN000654, WYNN000655, WYNN000656- WYNN000664, WYNN000665,
24 WYNN000666, WYNN000667, WYNN000668, WYNN000669, WYNN000670,
25 WYNN000671, WYNN000672, WYNN000673, WYNN000674 WYNN000675, and
26 WYNN000676. Please also refer to documents disclosed and produced concurrently herewith
27 identified as WYNN00008727 - WYNN00008728, WYNN00008729 - WYNN00008729,
28

1 WYNN00009575 - WYNN00009577. Discovery is continuing, and Wynn Resorts reserves the
2 right to supplement this response as discovery continues.

3 **REQUEST FOR PRODUCTION NO. 3:**

4 All documents from April 21, 2000 to present concerning any Government Official of
5 China and/or Macau, including but not limited to all documents concerning any payment, benefit,
6 or gift provided to any such official, directly or indirectly, including any provision or payment of
7 meals, lodging, travel, or anything else for any governmental Official of China and/or Macau.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

9 Wynn Resorts objects to this Request on the following grounds: (1) it seeks documents
10 and information unrelated to the subject matter of this action and/or any claims or defenses in this
11 action and thus is overly broad, unduly burdensome, and is not reasonably calculated to lead to
12 the discovery of admissible evidence in this action; (2) it is overly broad and unduly burdensome
13 in time and scope (e.g., "[a]ll documents from April 21, 2000 to the present concerning any
14 Government Official of China and/or Macau . . ."); (3) it is overly burdensome to the extent it
15 seeks documents already in Defendants' possession through this action and/or the writ proceeding;
16 (4) it assumes facts (i.e., that Wynn Resorts makes payments to government officials); (5) it is
17 vague in that it does not state who would have made any alleged payment(s); (6) the term
18 "anything else" is vague and ambiguous and, at the same time, overly broad; (7) it is a fishing
19 expedition for the improper purpose to annoy and harass; and (8) it seeks information and
20 documents protected by the attorney-client privilege, common interest privilege, and/or work
21 product doctrine.

22 In light of the foregoing, Wynn Resorts will not produce documents in response to this
23 Request unless and until Defendants demonstrate its purported discoverability in this action
24 and/or obtain a court order compelling the production. Discovery is continuing, and
25 Wynn Resorts reserves the right to supplement this response as discovery continues.

26 **REQUEST FOR PRODUCTION NO. 4:**

27 All documents concerning Wynn Macau's May 2011 pledge to donate to the University of
28 Macau Development Foundation, including but not limited to all documents concerning:

- 1 A. The beneficiaries, directly or indirectly, of the donation;
- 2 B. All due diligence, assessments, investigations, and analyses concerning the
- 3 donation conducted by Wynn Resorts or any other individual or entity;
- 4 C. All notes, reports, communications, or other materials by, with, or otherwise
- 5 involving members of the Wynn Board;
- 6 D. All legal opinions and FCPA analysis relating to the donation, including but not
- 7 limited to advice provided by Gibson, Dunn & Crutcher LLP; and
- 8 E. Okada's objections to the donation, including but not limited to Okada's objection
- 9 to the donation during the April 2011 Wynn Board meeting referenced in Paragraph 76 of the
- 10 Counterclaim.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

12 Wynn Resorts objects to this Request on the following grounds: (1) the terms/phrases

13 "beneficiaries. . . indirectly," "due diligence," and "analyses" are undefined, vague, and

14 ambiguous, requiring speculation as to Defendants' intended meaning; (2) it assumes facts; (3) it

15 is unduly burdensome to the extent it seeks documents already in Defendants' possession through

16 this action and/or the writ proceeding; (4) it seeks documents protected by the attorney-client

17 privilege, common interest privilege, and/or work product doctrine; in fact, the Request expressly

18 seeks attorney advice and legal opinions; (5) it is unduly burdensome to the extent it seeks

19 documents in Defendants' possession, custody, and control regarding his supposed "objections to

20 the donation" that Wynn Resorts is seeking or will seek from Defendants in this action; (6) it is

21 unduly burdensome to the extent it seeks documents in the possession, custody, and/or control of

22 third parties (e.g., documents concerning the "beneficiaries, directly or indirectly, of the donation"

23 and Wynn Macau documents); and (7) to the extent this Request seeks documents from

24 Wynn Resorts (Macau) S.A., a non-party to this action, a Rule 34 request is insufficient to compel

25 the production of this third-party's records and Okada is required to follow the appropriate legal

26 processes to compel the records of a third party.

27 Subject to and without waiving said objections, Wynn Resorts responds as follows:

28 Please refer to documents previously produced and identified as WYNN000571-WYNN000572,

1 WYNN000573-WYNN000575, WYNN000576-WYNN000578, WYNN000579-WYNN000582,
2 WYNN000583-WYNN000589, and WYNN000749-WYNN000750.

3 Please also refer to documents disclosed and produced concurrently herewith, identified as
4 WYNN00003189 - WYNN00003189, WYNN00003190 - WYNN00003192, WYNN00003193,
5 WYNN00003194, WYNN00003195, WYNN00003196 - WYNN00003198, WYNN00003199,
6 WYNN00003200, WYNN00003201, WYNN00003202 - WYNN00003204, WYNN00004250 -
7 WYNN00004262, WYNN00006916 - WYNN00006997, WYNN00007870, WYNN00008084 -
8 WYNN00008185, WYNN00008740 - WYNN00008740, WYNN00008741 - WYNN00008742,
9 WYNN00009377 - WYNN00009379, WYNN00009661 - WYNN00009662, WYNN00009663 -
10 WYNN00009666, WYNN00009671 - WYNN00009673, WYNN00009674 - WYNN00009675.

11 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
12 as discovery continues.

13 **REQUEST FOR PRODUCTION NO. 5:**

14 All documents from April 21, 2000 to present concerning donations made by
15 Wynn Resorts, Wynn Macau and/or Wynn Las Vegas to any charitable organization.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

17 Wynn Resorts objects to this Request on the following grounds: (1) it is vague and overly
18 broad in time; (2) it is overly broad in scope in that it seeks "[a]ll documents . . . concerning
19 donations. . . ;" (3) it is also overly broad in that it seeks nondiscoverable/irrelevant information
20 unrelated to the subject matter of this action and/or any claims or defenses in this action
21 (e.g., Wynn Las Vegas' charitable donations anywhere) and (4) thus is not reasonably calculated
22 to lead to the discovery of admissible evidence; (5) it seeks documents in the possession, custody,
23 and control of third parties not party to this action; (6) to the extent this Request seeks documents
24 from Wynn Resorts (Macau) S.A., a non-party to this action, a Rule 34 request is insufficient to
25 compel the production of this third-party's records and Okada is required to follow the appropriate
26 legal processes to compel the records of a third party; (7) it is unduly burdensome to the extent it
27 is duplicative of other requests herein (e.g., Request No. 1(J)); (8) it is objectionable to the extent it

1 calls for documents protected by the attorney-client privilege; and (9) it is a fishing expedition for
2 an improper purpose and propounded to annoy and harass.

3 Subject to and without waiving said objections, Wynn Resorts responds as follows:
4 Please refer to documents previously produced and identified as WYNN000571-WYNN000572,
5 WYNN000573-WYNN000575, WYNN000576-WYNN000578, WYNN000579-WYNN000582,
6 WYNN000583-WYNN000589, and WYNN000749-WYNN000750.

7 Please also refer to documents disclosed and produced concurrently herewith, identified
8 as WYNN00004250 - WYNN00004262, WYNN00004551 - WYNN00004555, WYNN00004562
9 - WYNN00004562, WYNN00004563 - WYNN00004567, WYNN00007018 - WYNN00007036,
10 WYNN00007037 - WYNN00007044, WYNN00007045 - WYNN00007050, WYNN00007051 -
11 WYNN00007055, WYNN00007056 - WYNN00007064, WYNN00007065 - WYNN00007070,
12 WYNN00007071 - WYNN00007075, WYNN00007076 - WYNN00007080, WYNN00007081 -
13 WYNN00007085, WYNN00007086 - WYNN00007090, WYNN00007091 - WYNN00007095,
14 WYNN00007096 - WYNN00007098, WYNN00007099 - WYNN00007104, WYNN00007105 -
15 WYNN00007109, WYNN00007110 - WYNN00007116, WYNN00007117 - WYNN00007119,
16 WYNN00007120 - WYNN00007125, WYNN00007126 - WYNN00007128, WYNN00007129 -
17 WYNN00007135, WYNN00007136 - WYNN00007139, WYNN00007140 - WYNN00007143,
18 WYNN00007144 - WYNN00007147, WYNN00007148 - WYNN00007151, WYNN00007152 -
19 WYNN00007161, WYNN00007162 - WYNN00007163, WYNN00007164 - WYNN00007170,
20 WYNN00007171 - WYNN00007173, WYNN00007174 - WYNN00007176, WYNN00007177 -
21 WYNN00007180, WYNN00007181 - WYNN00007188, WYNN00007189 - WYNN00007192,
22 WYNN00007193 - WYNN00007212, WYNN00007213 - WYNN00007217, WYNN00007218 -
23 WYNN00007220, WYNN00007221 - WYNN00007225, WYNN00007226 - WYNN00007228,
24 WYNN00007229 - WYNN00007230, WYNN00007231 - WYNN00007236, WYNN00007237 -
25 WYNN00007238, WYNN00007239 - WYNN00007241, WYNN00007242 - WYNN00007243,
26 WYNN00007244 - WYNN00007245, WYNN00007246 - WYNN00007249, WYNN00007250 -
27 WYNN00007261, WYNN00007262 - WYNN00007266, WYNN00007267 - WYNN00007271,
28 WYNN00007272 - WYNN00007273, WYNN00007274 - WYNN00007275, WYNN00007276 -

1 WYNN00007277, WYNN00007278 - WYNN00007279, WYNN00007280 - WYNN00007281,
2 WYNN00007282 - WYNN00007283, WYNN00007284 - WYNN00007286, WYNN00007287 -
3 WYNN00007289, WYNN00007290 - WYNN00007292, WYNN00007293 - WYNN00007296,
4 WYNN00007297 - WYNN00007302, WYNN00007303 - WYNN00007312, WYNN00007313 -
5 WYNN00007315, WYNN00007316 - WYNN00007319, WYNN00007320 - WYNN00007320,
6 WYNN00007321 - WYNN00007324, WYNN00007325 - WYNN00007329, WYNN00007330 -
7 WYNN00007330, WYNN00007331 - WYNN00007334, WYNN00007335 - WYNN00007337,
8 WYNN00007338 - WYNN00007339, WYNN00007340 - WYNN00007342, WYNN00007343 -
9 WYNN00007349, WYNN00007350 - WYNN00007353, WYNN00007354 - WYNN00007355,
10 WYNN00007356 - WYNN00007361, WYNN00007362 - WYNN00007365, WYNN00007366 -
11 WYNN00007369, WYNN00007370 - WYNN00007374, WYNN00007375 - WYNN00007379,
12 WYNN00007380 - WYNN00007385, WYNN00007386 - WYNN00007387, WYNN00007388 -
13 WYNN00007389, WYNN00007390 - WYNN00007392, WYNN00007393 - WYNN00007394,
14 WYNN00007395 - WYNN00007396, WYNN00007397 - WYNN00007398, WYNN00007399 -
15 WYNN00007400, WYNN00007401 - WYNN00007402, WYNN00007403 - WYNN00007404,
16 WYNN00007405 - WYNN00007405, WYNN00007406 - WYNN00007408, WYNN00007409 -
17 WYNN00007409, WYNN00007410 - WYNN00007412, WYNN00007413 - WYNN00007427,
18 WYNN00007428 - WYNN00007430, WYNN00007431 - WYNN00007431, WYNN00007432 -
19 WYNN00007434, WYNN00007435 - WYNN00007439, WYNN00007440 - WYNN00007443,
20 WYNN00007444 - WYNN00007448, WYNN00007449 - WYNN00007456, WYNN00007457 -
21 WYNN00007465, WYNN00007466 - WYNN00007472, WYNN00007473 - WYNN00007476,
22 WYNN00007477 - WYNN00007487, WYNN00007488 - WYNN00007489, WYNN00007490 -
23 WYNN00007491, WYNN00007492 - WYNN00007492, WYNN00007493 - WYNN00007495,
24 WYNN00007496 - WYNN00007503, WYNN00007504 - WYNN00007508, WYNN00007509 -
25 WYNN00007513, WYNN00007514 - WYNN00007517, WYNN00007518 - WYNN00007534,
26 WYNN00007535 - WYNN00007540, WYNN00007541 - WYNN00007544, WYNN00007545 -
27 WYNN00007558, WYNN00007559 - WYNN00007560, WYNN00007561 - WYNN00007563,
28 WYNN00007564 - WYNN00007566, WYNN00007567 - WYNN00007571, WYNN00007572 -

1 WYNN00007575, WYNN00007576 - WYNN00007582, WYNN00007583 - WYNN00007583,
2 WYNN00007584 - WYNN00007587, WYNN00007588 - WYNN00007594, WYNN00007595 -
3 WYNN00007599, WYNN00007600 - WYNN00007603, WYNN00007604 - WYNN00007606,
4 WYNN00007607 - WYNN00007615, WYNN00007616 - WYNN00007620, WYNN00007621 -
5 WYNN00007627, WYNN00007628 - WYNN00007632, WYNN00007633 - WYNN00007637,
6 WYNN00007638 - WYNN00007642, WYNN00007643 - WYNN00007649, WYNN00007650 -
7 WYNN00007655, WYNN00007656 - WYNN00007661, WYNN00007662 - WYNN00007667,
8 WYNN00007668 - WYNN00007673, WYNN00007674 - WYNN00007679, WYNN00007680 -
9 WYNN00007685, WYNN00007686 - WYNN00007691, WYNN00007692 - WYNN00007697,
10 WYNN00007698 - WYNN00007703, WYNN00007704 - WYNN00007709, WYNN00007710 -
11 WYNN00007715, WYNN00007716 - WYNN00007721, WYNN00007722 - WYNN00007727,
12 WYNN00007728 - WYNN00007733, WYNN00007734 - WYNN00007739, WYNN00007740 -
13 WYNN00007746, WYNN00007747 - WYNN00007753, WYNN00007754 - WYNN00007759,
14 WYNN00007760 - WYNN00007765, WYNN00007766 - WYNN00007771, WYNN00007772 -
15 WYNN00007777, WYNN00007778 - WYNN00007782, WYNN00007783 - WYNN00007787,
16 WYNN00007788 - WYNN00007794, WYNN00007795 - WYNN00007802, WYNN00007803 -
17 WYNN00007804, WYNN00007805 - WYNN00007811, WYNN00007812 - WYNN00007817,
18 WYNN00007818 - WYNN00007820, WYNN00007821 - WYNN00007830, WYNN00007831 -
19 WYNN00007834, WYNN00007835 - WYNN00007840, WYNN00007841 - WYNN00007846,
20 WYNN00007847 - WYNN00007854, WYNN00007855 - WYNN00007867, WYNN00007868 -
21 WYNN00007869, WYNN00007871 - WYNN00007877, WYNN00007879 - WYNN00007880,
22 WYNN00007881 - WYNN00007882, WYNN00007883 - WYNN00007884, WYNN00007885 -
23 WYNN00007885, WYNN00007886 - WYNN00007897, WYNN00007898 - WYNN00007905,
24 WYNN00008084 - WYNN00008185, WYNN00008242 - WYNN00008343, WYNN00008740 -
25 WYNN00008740, WYNN00008741 - WYNN00008742, WYNN00009377 - WYNN00009379,
26 WYNN00009381 - WYNN00009384, WYNN00009503 - WYNN00009504, WYNN00009661 -
27 WYNN00009662, WYNN00009663 - WYNN00009666, WYNN00009667 - WYNN00009670,
28 WYNN00009714 - WYNN00009717, WYNN00009718 - WYNN00009719.

1 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
2 as discovery continues.

3 **REQUEST FOR PRODUCTION NO. 6:**

4 All documents from April 21, 2000 to present concerning, including but not limited to all
5 communications with, Chu Sai Cheong, Jose Vai Chi "Cliff" Cheong, John Crawford, Li Tai
6 Foon, Edmund Ho, Ho Ho, Lawrence Ho, Stanley Ho, Wilson Kwan, Yany Kwan, Darryl "Dax"
7 Turok, and Chi Seng Wong, and each person's agents, representatives, associates, attorneys, and
8 all other persons acting or purporting to act on each person's behalf or under each person's
9 control.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

11 Wynn Resorts objects to this Request on the following grounds: (1) it seeks
12 non-discoverable/irrelevant documents not related to the subject matter of this action and/or the
13 claims or defenses asserted in this action, in that it seeks "[a]ll documents . . . concerning" a list of
14 twelve individuals unconnected to any allegation, claim, or defense in this action, and thus is
15 unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence
16 in this action; (2) it is vague and overly broad in that it seeks "[a]ll documents concerning" the
17 twelve individuals; (3) it constitutes a fishing expedition unrelated to this action; and (4) is
18 objectionable to the extent it calls for documents protected by the attorney-client privilege,
19 common interest privilege, and/or the work product doctrine.

20 In light of the foregoing, Wynn Resorts will not produce documents in response to this
21 Request unless and until Defendants demonstrate its purported discoverability in this action
22 and/or obtain a court order compelling the production. Discovery is continuing, and
23 Wynn Resorts reserves the right to supplement this response as discovery continues.

24 **REQUEST FOR PRODUCTION NO. 7:**

25 All documents from April 21, 2000 to present concerning the Cotai Land
26 Development Co. Ltd., Companhia de Entretenimento e Investimento Chinese Limitada,
27 Palo Real Estate Development Co., Ltd., Wynn Cotai Holding Co., Ltd., Cotai Partner, Ltd., and
28 Tien Chiao Entertainment & Investment Co. Ltd., and each entity's predecessors, successors,

1 parents, subsidiaries, divisions or affiliates, and their respective current and former owners,
2 shareholders, members, officers, directors, agents, attorneys, accountants, employees, partners, or
3 other persons occupying similar positions or performing similar functions, and all other persons
4 acting or purporting to act on each entity's behalf or under each entity's control.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

6 Wynn Resorts objects to this Request on the following grounds: (1) it seeks
7 non-discoverable/irrelevant documents not related to the subject matter of this action and/or the
8 claims or defenses asserted in this action, and is thus not reasonably calculated to lead to the
9 discovery of admissible evidence in this action; (2) is unduly burdensome since this Request is
10 duplicative of other requests herein (*e.g.*, Request No. 1(D)-(G)); (3) is vague, ambiguous, overly
11 broad, harassing, unduly burdensome, and unintelligible in that it seeks "[a]ll documents . . .
12 concerning" a list of several entities, relates the entities to no allegation, claim, or defense, and
13 then follows it by a wide-sweeping list of "each entity's predecessors, successors, parents,
14 subsidiaries, divisions or affiliates, and their respective current and former owners, shareholders,
15 members, officers, directors, agents, attorneys, accountants, employees, partners, or other persons
16 occupying similar positions or performing similar functions, and all other persons acting or
17 purporting to act on each entity's behalf or under each entity's control," assuming that
18 Wynn Resorts would be aware of any and all such entities, persons, divisions, members, etc.;
19 (3) it is unduly burdensome to the extent it seeks documents already in Defendants' possession,
20 custody, and control; and (4) to the extent this Request seeks documents from
21 Wynn Resorts (Macau) S.A., a non-party to this action, a Rule 34 request is insufficient to compel
22 the production of this third-party's records and Defendants are required to follow the appropriate
23 legal processes to compel the records of a third party.

24 In light of the foregoing, Wynn Resorts will not produce documents in response to this
25 Request unless and until Defendants demonstrate its purported discoverability in this action
26 and/or obtain a court order compelling the production. Discovery is continuing, and
27 Wynn Resorts reserves the right to supplement this response as discovery continues.

28

1 **REQUEST FOR PRODUCTION NO. 8:**

2 All documents from April 21, 2000 to present concerning Wynn's visits to China,
3 including but not limited to all documents concerning:

- 4 A. Any visits initially planned, but later cancelled or postponed; and/or
5 B. Any use of Wynn Resorts' corporate plane or Wynn's private plane.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

7 Wynn Resorts objects to this Request on the following grounds: (1) it seeks
8 non-discoverable/irrelevant documents not related to the subject matter of this action and/or the
9 claims or defenses asserted in this action, and is thus not reasonably calculated to lead to the
10 discovery of admissible evidence in this action; (2) it is overly broad in time and scope, and
11 unduly burdensome because it asks for all of Mr. Wynn's travel records (planned, cancelled, and
12 postponed) to and from China from 2000 to the present, unrelated to any allegation, claim, or
13 defense in this action; (3) it is a fishing expedition intended to annoy and harass; and (4) to the
14 extent this Request seeks records other than those of the Company, this Request is not properly
15 directed to Wynn Resorts.

16 In light of the foregoing, Wynn Resorts will not produce documents in response to this
17 Request unless and until Defendants demonstrate its purported discoverability in this action and,
18 if there is a proper basis for discoverability, narrows the scope of the Request accordingly and/or
19 Defendants obtain a court order compelling production. Discovery is continuing, and
20 Wynn Resorts reserves the right to supplement this response as discovery continues.

21 **REQUEST FOR PRODUCTION NO. 9:**

22 All documents concerning the financial contributions made by Aruze to Wynn Resorts
23 and/or Valvino Lamore, LLC, including but not limited to all documents concerning the manner
24 in which Wynn, Wynn Resorts, or Valvino Lamore, LLC spent the \$120 million contributed by
25 Aruze to Valvino Lamore, LLC in April 2002.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

27 Wynn Resorts objects to this Request on the following grounds: (1) it seeks
28 non-discoverable/irrelevant documents not related to the subject matter of this action and/or the

1 claims or defenses asserted in this action, and is thus not reasonably calculated to lead to the
2 discovery of admissible evidence in this action; (2) it is unduly burdensome because it seeks
3 documents and information unrelated to any claim or defense in this action; (3) it is a harassing
4 fishing expedition; (4) is unduly burdensome to the extent it seeks documents already in
5 Defendants' possession through the writ proceeding or this action, and/or seeks documents already
6 in Defendant's possession without regard to these proceedings; (5) is objectionable to the extent it
7 calls for documents protected by the attorney-client privilege.

8 Subject to and without waiving said objections, Wynn Resorts responds as follows:
9 Please refer to documents previously produced and identified as WYNN000077-WYNN000096,
10 WYNN000097-WYNN000106, WYNN000651, WYNN000652, WYNN000653, WYNN000654,
11 WYNN000656- WYNN000664, WYNN000665, WYNN000666, WYNN000672,
12 WYNN000673, WYNN000676, WYNN000710, and WYNN000711-WYNN000713.

13 Please also refer to documents disclosed and produced concurrently herewith, identified as
14 WYNN00006676 - WYNN00006735, WYNN00008602 - WYNN00008603, WYNN00008604 -
15 WYNN00008610, WYNN00008611 - WYNN00008619, WYNN00008620 - WYNN00008625,
16 WYNN00008626 - WYNN00008630, WYNN00008631 - WYNN00008632, WYNN00008633 -
17 WYNN00008639, WYNN00008640 - WYNN00008644, WYNN00008645 - WYNN00008647,
18 WYNN00008648 - WYNN00008650, WYNN00008651 - WYNN00008657, WYNN00008658 -
19 WYNN00008667, WYNN00008674 - WYNN00008674, WYNN00008677 - WYNN00008678,
20 WYNN00008681 - WYNN00008684, WYNN00008685 - WYNN00008706, WYNN00008707 -
21 WYNN00008712, WYNN00008713 - WYNN00008714, WYNN00008715 - WYNN00008722,
22 WYNN00008723 - WYNN00008726, WYNN00008727 - WYNN00008728, WYNN00008729 -
23 WYNN00008729, WYNN00008730 - WYNN00008731, WYNN00008738 - WYNN00008739,
24 WYNN00008747 - WYNN00008748, WYNN00009191 - WYNN00009195, WYNN00009196 -
25 WYNN00009197, WYNN00009198 - WYNN00009198, WYNN00009251 - WYNN00009257,
26 WYNN00009283 - WYNN00009283, WYNN00009326 - WYNN00009326, WYNN00009342 -
27 WYNN00009342, WYNN00009362 - WYNN00009362, WYNN00009363 - WYNN00009364,
28 WYNN00009365 - WYNN00009368, WYNN00009571 - WYNN00009574, WYNN00009580 -

1 WYNN00009585, WYNN00009603 - WYNN00009604, WYNN00009605 - WYNN00009606,
2 WYNN00009607 - WYNN00009607, WYNN00009608 - WYNN00009612.

3 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
4 as discovery continues.

5 **REQUEST FOR PRODUCTION NO. 10:**

6 All documents concerning the financial contributions of Baron Asset Fund to
7 Wynn Resorts and/or Valvino Lamore, LLC.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 10:**

9 Wynn Resorts objects to this Request on the following grounds: (1) it seeks
10 non-discoverable/irrelevant documents not related to the subject matter of this action and/or the
11 claims or defenses asserted in this action, and thus is unduly burdensome and not reasonably
12 calculated to lead to the discovery of admissible evidence in this action; (2) it is a harassing
13 fishing expedition; (3) is unduly burdensome to the extent it seeks documents already in
14 Defendants' possession through the writ proceeding or this action, and/or seeks documents already
15 in Defendant's possession without regard to these proceedings; (5) is objectionable to the extent it
16 calls for documents protected by the attorney-client privilege.

17 Subject to and without waiving said objections, Wynn Resorts responds as follows:
18 Please refer to documents previously produced and identified as WYNN000077-WYNN000096,
19 WYNN000097-WYNN000106, WYNN000651, WYNN000652, WYNN000653, WYNN000654,
20 WYNN000656-WYNN000664, WYNN000665, WYNN000666, WYNN000667, WYNN000668,
21 WYNN000674, WYNN000675, and WYNN000676.

22 Please also refer to documents disclosed and produced concurrently herewith, identified as
23 WYNN00006676 - WYNN00006735, WYNN00008620 - WYNN00008625, WYNN00008626 -
24 WYNN00008630, WYNN00008631 - WYNN00008632, WYNN00008633 - WYNN00008639,
25 WYNN00008640 - WYNN00008644, WYNN00008648 - WYNN00008650, WYNN00008651 -
26 WYNN00008657, WYNN00008658 - WYNN00008667, WYNN00008675 - WYNN00008676,
27 WYNN00008679 - WYNN00008680, WYNN00008681 - WYNN00008684, WYNN00008685 -
28 WYNN00008706, WYNN00008707 - WYNN00008712, WYNN00008713 - WYNN00008714,

1 WYNN00008715 - WYNN00008722, WYNN00008723 - WYNN00008726, WYNN00008729 -
2 WYNN00008729, WYNN00008747 - WYNN00008748, WYNN00009191 - WYNN00009195,
3 WYNN00009196 - WYNN00009197, WYNN00009198 - WYNN00009198, WYNN00009251 -
4 WYNN00009257, WYNN00009283 - WYNN00009283, WYNN00009326 - WYNN00009326,
5 WYNN00009571 - WYNN00009574, WYNN00009580 - WYNN00009585, WYNN00009603 -
6 WYNN00009604, WYNN00009605 - WYNN00009606, WYNN00009607 - WYNN00009607,
7 WYNN00009608 - WYNN00009612, WYNN00009613 - WYNN00009614.

8 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
9 as discovery continues.

10 **REQUEST FOR PRODUCTION NO. 11:**

11 All books and records for Wynn Resorts and/or Valvino Lamore, LLC for the years 2000
12 to 2002.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

14 Wynn Resorts objects to this Request on the following grounds: (1) overly broad and
15 unduly burdensome in that it seeks "[a]ll books and records" for a two-year period unlimited in
16 scope or subject matter and therefore not reasonably calculated to lead to the discovery of
17 admissible evidence in this action; (2) the term "books and records" is vague, ambiguous, and
18 undefined, requiring speculation as to its intended meaning; (3) is unduly burdensome to the
19 extent it seeks documents already in Defendants' possession through the writ proceeding or this
20 action, and/or seeks documents already in Defendant's possession without regard to these
21 proceedings; (4) is objectionable to the extent it calls for documents protected by the
22 attorney-client privilege.

23 Subject to and without waiving said objections, Wynn Resorts responds as follows:
24 Please refer to documents previously produced and identified as WYNN000001-WYNN000003,
25 WYNN000004-WYNN000017, WYNN000018-WYNN000059, WYNN000060-WYNN000063,
26 WYNN000064-WYNN000066, WYNN000067-WYNN000071, WYNN000072-WYNN000073,
27 WYNN000074-WYNN000076, WYNN000077-WYNN000096, WYNN000097-WYNN000106,
28 WYNN000107-WYNN000111, WYNN000112-WYNN000115, WYNN000174-WYNN000183,

1 WYNN000230- WYNN000233, WYNN000234-WYNN000278, WYNN000279-
2 WYNN000289, WYNN000290- WYNN000291, WYNN000292- WYNN000305,
3 WYNN000306- WYNN000309, WYNN000310-WYNN000321, WYNN000322-WYNN000336,
4 WYNN000354- WYNN000359, WYNN000360- WYNN000363, WYNN000364-
5 WYNN000374, WYNN000375- WYNN000389, WYNN000390, WYNN000590-
6 WYNN000602, WYNN000603- WYNN000636, WYNN000637- WYNN000639,
7 WYNN000647- WYNN000650, WYNN000651- WYNN000654, WYNN000655,
8 WYNN000656- WYNN000664, WYNN000665, WYNN000676, WYNN000677-WYNN000680,
9 WYNN000681, WYNN000682- WYNN000686, WYNN000687, WYNN000710, WYNN000714-
10 WYNN000748, WYNN000749-WYNN000750, WYNN000751- WYNN000757,
11 WYNN000758- WYNN000768, WYNN000769- WYNN000770, WYNN000771-
12 WYNN000772, and WYNN000773- WYNN000776.

13 Please also refer to documents disclosed and produced concurrently herewith, identified as
14 WYNN00004635 - WYNN00004635, WYNN00004636 - WYNN00004636, WYNN00004637 -
15 WYNN00004637, WYNN00004642 - WYNN00004642, WYNN00006524 - WYNN00006586,
16 WYNN00008604 - WYNN00008610, WYNN00008620 - WYNN00008625, WYNN00008626 -
17 WYNN00008630, WYNN00008631 - WYNN00008632, WYNN00008633 - WYNN00008639,
18 WYNN00008640 - WYNN00008644, WYNN00008648 - WYNN00008650, WYNN00008651 -
19 WYNN00008657, WYNN00008658 - WYNN00008667, WYNN00008668 - WYNN00008673,
20 WYNN00008674 - WYNN00008674, WYNN00008675 - WYNN00008676, WYNN00008677 -
21 WYNN00008678, WYNN00008679 - WYNN00008680, WYNN00008681 - WYNN00008684,
22 WYNN00008685 - WYNN00008706, WYNN00008707 - WYNN00008712, WYNN00008713 -
23 WYNN00008714, WYNN00008715 - WYNN00008722, WYNN00008723 - WYNN00008726,
24 WYNN00008729 - WYNN00008729, WYNN00009151 - WYNN00009164, WYNN00009165 -
25 WYNN00009183, WYNN00009184 - WYNN00009190, WYNN00009191 - WYNN00009195,
26 WYNN00009196 - WYNN00009197, WYNN00009198 - WYNN00009198, WYNN00009251 -
27 WYNN00009257, WYNN00009258 - WYNN00009261, WYNN00009262 - WYNN00009265,
28 WYNN00009270 - WYNN00009273, WYNN00009274 - WYNN00009282, WYNN00009283 -

1 WYNN00009283, WYNN00009284 - WYNN00009297, WYNN00009298 - WYNN00009316,
2 WYNN00009317 - WYNN00009323, WYNN00009324 - WYNN00009325, WYNN00009326 -
3 WYNN00009326, WYNN00009327 - WYNN00009337, WYNN00009338 - WYNN00009341,
4 WYNN00009342 - WYNN00009342, WYNN00009343 - WYNN00009345, WYNN00009362 -
5 WYNN00009362, WYNN00009365 - WYNN00009368, WYNN00009405 - WYNN00009405,
6 WYNN00009406 - WYNN00009408, WYNN00009409 - WYNN00009410, WYNN00009411 -
7 WYNN00009412, WYNN00009413 - WYNN00009413, WYNN00009414 - WYNN00009415,
8 WYNN00009416 - WYNN00009418, WYNN00009419 - WYNN00009420, WYNN00009421 -
9 WYNN00009422, WYNN00009423 - WYNN00009427, WYNN00009428 - WYNN00009431,
10 WYNN00009432 - WYNN00009432, WYNN00009433 - WYNN00009435, WYNN00009505 -
11 WYNN00009529, WYNN00009530 - WYNN00009539, WYNN00009540 - WYNN00009552,
12 WYNN00009571 - WYNN00009574, WYNN00009575 - WYNN00009577, WYNN00009578 -
13 WYNN00009578, WYNN00009579 - WYNN00009579, WYNN00009580 - WYNN00009585,
14 WYNN00009586 - WYNN00009587, WYNN00009588 - WYNN00009600, WYNN00009607 -
15 WYNN00009607, WYNN00009608 - WYNN00009612.

16 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
17 as discovery continues.

18 **REQUEST FOR PRODUCTION NO. 12:**

19 All documents concerning any resolution to preclude Wynn or Wynn Resorts from
20 developing casino projects in the Philippines by the House of Representatives of the Philippines
21 or any other Government Official of the Philippines.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

23 Wynn Resorts objects to this Request on the following grounds: (1) it seeks documents
24 and information not reasonably calculated to lead to the discovery of admissible evidence; (2) it is
25 unduly burdensome because it seeks documents in the possession, custody, and control of
26 Defendants and/or a third party; (3) it is propounded with an improper purpose to annoy and/or
27 harass; and (4) it is overly broad in time (*i.e.*, seeks documents outside the scope of the relevant
28 time). Subject to and without waiving said objections, Wynn Resorts responds as follows:

1 Wynn Resorts is presently unaware of any responsive documents not otherwise privileged or
2 protected. Discovery is continuing, and Wynn Resorts reserves the right to supplement this
3 response as discovery continues.

4 **REQUEST FOR PRODUCTION NO. 13:**

5 All documents concerning Defendants' business plans and activities in the Philippines,
6 including but not limited to all documents concerning:

- 7 A. The development of casino resorts in the Philippines;
8 B. Communications involving Wynn Resorts regarding contractors or other
9 construction workers in the Philippines;
10 C. The obtaining of any Philippines governmental approvals, gaming licenses, and/or
11 concession contracts, for the operation of any casino in the Philippines;
12 D. The acquisition or potential acquisition of land rights in the Philippines; and,
13 E. All communications involving Defendants, Wynn Resorts, or Counterdefendants
14 concerning Defendants' business plans and activities in the Philippines, including but not limited
15 to Wynn's May 1, 2008 conference call to stock analysts that is referenced in Paragraph 60 of
16 Defendants' Counterclaim.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

18 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad and
19 unduly burdensome in time and scope (e.g., "[a]ll documents . . . concerning. . . the development
20 of casino resorts in the Philippines. . . "); (2) the terms/phrases "development of casino resorts,"
21 "business plans," and "activities" are undefined, vague, and ambiguous, requiring speculation as
22 to Defendants' intended meaning; (3) it is unduly burdensome to the extent it seeks documents in
23 Defendants' possession, custody, or control, and/or are part of the public domain (e.g., SEC
24 filings), making them as easy for Defendants to obtain; (4) it seeks documents protected by the
25 attorney-client privilege, common interest privilege, and/or the work product doctrine.

26 Subject to and without waiving said objections, Wynn Resorts responds as follows:
27 Wynn Resorts responds as follows: Please refer to documents previously produced and identified
28

1 as WYNN001396-WYNN001401, WYNN001402-WYNN001404), WYNN001540-
2 WYNN001586, and WYNN001587-WYNN003066.

3 Please also refer to documents disclosed and produced concurrently herewith, identified as
4 WYNN00003834 - WYNN00003834, WYNN00003835 - WYNN00003836, WYNN00003837 -
5 WYNN00003837, WYNN00003840 - WYNN00003840, WYNN00003841 - WYNN00003842,
6 WYNN00004894 - WYNN00004895, WYNN00004896 - WYNN00004896, WYNN00004897 -
7 WYNN00004898, WYNN00004899 - WYNN00004907, WYNN00005606 - WYNN00005606,
8 WYNN00005607 - WYNN00005607, WYNN00005608 - WYNN00005609, WYNN00005622 -
9 WYNN00005638, WYNN00006842 - WYNN00006844, WYNN00006998 - WYNN00006999,
10 WYNN00008740 - WYNN00008740, WYNN00008741 - WYNN00008742, WYNN00008747 -
11 WYNN00008748, WYNN00008749 - WYNN00008750, WYNN00008751 - WYNN00008763,
12 WYNN00008778 - WYNN00008790, WYNN00008802 - WYNN00008802, WYNN00008804 -
13 WYNN00008804, WYNN00008805 - WYNN00008805, WYNN00008845 - WYNN00008845,
14 WYNN00008846 - WYNN00008852, WYNN00008853 - WYNN00008854, WYNN00008855 -
15 WYNN00008856, WYNN00008857 - WYNN00008859, WYNN00008861 - WYNN00008878,
16 WYNN00008883 - WYNN00008883, WYNN00008884 - WYNN00008884, WYNN00008885 -
17 WYNN00008887, WYNN00008888 - WYNN00008888, WYNN00009023 - WYNN00009040,
18 WYNN00009041 - WYNN00009042, WYNN00009043 - WYNN00009045, WYNN00009046 -
19 WYNN00009048, WYNN00009049 - WYNN00009051, WYNN00009052 - WYNN00009052,
20 WYNN00009369 - WYNN00009370, WYNN00009375 - WYNN00009376, WYNN00009483 -
21 WYNN00009484, WYNN00009503 - WYNN00009504, WYNN00009634 - WYNN00009636.

22 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
23 as discovery continues.

24 **REQUEST FOR PRODUCTION NO. 14:**

25 All documents concerning Wynn's visits to the Philippines from 2000 to the present,
26 including but not limited to all documents concerning:

27 A. Wynn's visit to the Philippines in 2010 referenced in Paragraphs 72 to 74 of
28 Defendants' Counterclaim;

1 B. Any visits initially planned, but later cancelled or postponed, including but not
2 limited to a meeting with the President of the Philippines, Benigno Aquino III; or

3 C. Any use of Wynn Resorts' corporate plane or Wynn's private plane.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 14:**

5 Wynn Resorts objects to this Request on the following grounds: (1) subsection (C) is
6 overly broad and unduly burdensome, not related to any claim or defense in this action, and seeks
7 documents and information not reasonably calculated to lead to the discovery of admissible
8 evidence in this action; (2) is unduly burdensome because it seeks documents in the possession,
9 custody, and control of Defendants (who planned the trips referenced in the request); (3) seeks
10 documents protected by the attorney-client privilege, common interest privilege, and/or the work
11 product doctrine.

12 In light of the foregoing, Wynn Resorts states that it will not produce any documents in
13 response to subpart C of this Request unless and until Defendants demonstrate its purported
14 discoverability in this action and/or obtain a court order compelling the production.

15 Subject to and without waiving said objections, and with respect to subparts A and B only,
16 Wynn Resorts responds as follows: Please refer to documents disclosed and produced
17 concurrently herewith, identified as follows: WYNN00004575 - WYNN00004575,
18 WYNN00006890 - WYNN00006891, WYNN00006892 - WYNN00006892, WYNN00006893 -
19 WYNN00006893, WYNN00006898 - WYNN00006898, WYNN00006899 - WYNN00006899,
20 WYNN00006900 - WYNN00006901, WYNN00006902 - WYNN00006904, WYNN00006905 -
21 WYNN00006905, WYNN00006907 - WYNN00006908, WYNN00006909 - WYNN00006909,
22 WYNN00008843 - WYNN00008843, WYNN00008844 - WYNN00008844, WYNN00008879 -
23 WYNN00008880, WYNN00008881 - WYNN00008882.

24 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
25 as discovery continues.

1 **REQUEST FOR PRODUCTION NO. 15:**

2 All documents concerning any payments, benefits, and gifts allegedly made by Defendants
3 to former or current members of PAGCOR, including but not limited to all documents
4 concerning:

5 A. All visits allegedly made to Wynn Macau and Wynn Las Vegas by former or
6 current persons associated or affiliated with PAGCOR, including all alleged expenses incurred by
7 any such officials, including any guests accompanying the officials, during any such visits;

8 B. The authorization of alleged payments, benefits, or gifts to former or current
9 PAGCOR employees and officials;

10 C. Any disciplinary action taken against any former or current employee of
11 Wynn Resorts, Wynn Macau, or Wynn Las Vegas for alleged payments, benefits, and gifts
12 provided to former or current PAGCOR employees and officials; and

13 D. All receipts or records of expenses incurred and/or amounts paid by any person
14 affiliated with PAGCOR at Wynn Resorts properties, including but not limited to Wynn Macau
15 properties.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

17 Wynn Resorts objects to this Request on the following grounds: (1) to the extent it seeks
18 documents related to any visits of individuals "associated" or "affiliated" with PAGCOR other
19 than those that consisted of improper gifts or benefits of Defendants and that were the subject of
20 the Freeh Report, the Request seeks documents not relevant to the subject matter of and claims
21 and defenses in this litigation, and it is not reasonably calculated to lead to the discovery of
22 admissible evidence; (2) it is vague, ambiguous, and confusing as drafted. For instance, in
23 Section (B), the term "authorization" is vague and ambiguous, seemingly implying that
24 Wynn Resorts, Wynn Macau, or Wynn Las Vegas "authorized" Defendants' payment of benefits
25 to former or current members of PAGCOR. As another example, Section (C) seems to imply that
26 Defendants' bad acts would result in disciplinary action on Wynn Resorts' employees; (3) it is
27 vague and overly broad in that it seeks "[a]ll documents . . . concerning" an ambiguous list of
28 "former and current PAGCOR officials," imposing on Wynn Resorts the tasks of defining who

1 the list of these people may be; (4) it is unduly burdensome to the extent it seeks documents in the
2 possession, custody, or control of Defendants and/or third parties; (5) it seeks documents
3 containing personal information of third parties protected by the Macau Personal Data Privacy
4 Act; (6) the terms "benefits," "gifts," and "authorization" are vague, ambiguous, and undefined,
5 causing speculation as to Defendants' intended meaning; (7) it is unduly burdensome to the extent
6 it seeks records in the possession, custody, and control of a third party, namely Freeh Sporkin
7 n/k/a Pepper Hamilton, from whom Defendants could and should seek to obtain documents not
8 otherwise privileged or protected directly and with less expense and less burden; and (8) to the
9 extent this Request seeks documents from Wynn Resorts (Macau) S.A., a non-party to this action,
10 a Rule 34 request is insufficient to compel the production of this third-party's records and Okada
11 is required to follow the appropriate legal processes to compel the records of a third party.

12 Subject to and without waiving said objections, Wynn Resorts responds as follows:
13 Please refer to documents previously produced and identified as WYNN001540-WYNN001586
14 and WYNN001587-WYNN003066.

15 Please also refer to documents disclosed and produced concurrently herewith, identified as
16 WYNN00003834 - WYNN00003834, WYNN00003835 - WYNN00003836, WYNN00003837 -
17 WYNN00003837, WYNN00003838 - WYNN00003839, WYNN00003840 - WYNN00003840,
18 WYNN00003841 - WYNN00003842, WYNN00004556 - WYNN00004557, WYNN00004558 -
19 WYNN00004558, WYNN00004559 - WYNN00004560, WYNN00004561 - WYNN00004561,
20 WYNN00004568 - WYNN00004573, WYNN00004574 - WYNN00004574, WYNN00004575 -
21 WYNN00004575, WYNN00004576 - WYNN00004593, WYNN00004594 - WYNN00004597,
22 WYNN00004863 - WYNN00004874, WYNN00004877 - WYNN00004888, WYNN00004889 -
23 WYNN00004891, WYNN00006427 - WYNN00006438, WYNN00006737 - WYNN00006738,
24 WYNN00006739 - WYNN00006740, WYNN00006742 - WYNN00006760, WYNN00006761 -
25 WYNN00006779, WYNN00006781 - WYNN00006799, WYNN00006800 - WYNN00006818,
26 WYNN00006823 - WYNN00006841, WYNN00006842 - WYNN00006844, WYNN00007969 -
27 WYNN00007969, WYNN00007970 - WYNN00008033, WYNN00008065 - WYNN00008065,

1 WYNN00008066 - WYNN00008082, WYNN00008351 - WYNN00008396, WYNN00008464 -
2 WYNN00008524, WYNN00008905 - WYNN00008909.

3 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
4 as discovery continues.

5 **REQUEST FOR PRODUCTION NO. 16:**

6 All documents concerning all city ledger accounts kept by Wynn Resorts, Wynn Macau,
7 and Wynn Las Vegas, including but not limited to all documents concerning:

8 A. All statements for the Universal City Ledger Account, Aruze City Ledger Account,
9 or any other city ledger account associated with Defendants;

10 B. The 36 alleged instances of payments, benefits, and gifts provided to Philippine
11 Government Officials alleged in Paragraph 52(b) of the Complaint and pages 20 through 22 of the
12 Freeh Report, including but not limited to all receipts or records of all charges incurred by the
13 alleged beneficiaries listed in the Freeh Report;

14 C. All payments, benefits, and gifts allegedly provided to Korean Government
15 Officials at Wynn Macau and Wynn Las Vegas, as alleged in pages 31 and 32 in the Freeh
16 Report;

17 D. All deposits made by any of the Defendants to an account controlled by
18 Wynn Resorts for city ledger accounts associated with Defendants;

19 E. All expenses charged to the Universal City Ledger Account, Aruze City Ledger
20 Account, or any other city ledger account associated with any of the Defendants;

21 F. All invoices sent by Wynn Resorts to any of the Defendants concerning city ledger
22 accounts associated with Defendants;

23 G. All statements for city ledger accounts for Wynn, Wynn Resorts, or any
24 Counterdefendant;

25 H. All policies at Wynn Resorts, Wynn Macau and Wynn Las Vegas concerning city
26 ledger accounts, including but not limited to restrictions on payments made from such accounts,
27 oversight over city ledger accounts, monitoring of irregularities with respect to city ledger
28 accounts, and invoices provided to account holders;

1 I. Wynn Resorts' Memorandum to File referenced in the Freeh Report in footnote 12;
2 and,

3 J. Invoices provided to account holders.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

5 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
6 burdensome to the extent it seeks documents already in Defendants' possession, custody, or
7 control through this writ proceeding and this action; (2) it is overly broad (*i.e.*, unlimited) in time;
8 (3) it is overly broad in scope (*e.g.*, seeks "[a]ll documents . . . and "[a]ll statements for city ledger
9 accounts for . . . Wynn Resorts. . ." and "[i]nvoices provided to [all] account holders" other than
10 the Aruze and/or Universal City Ledger Accounts; (4) it seeks documents unrelated to any claim
11 or defense in this action to the extent it seeks "[a]ll documents related to . . . " "[a]ll statements for
12 city ledger accounts for Wynn, Wynn Resorts, or any Counterdefendant;" (5) it is not reasonably
13 calculated to lead to the discovery of admissible evidence because it seeks information and
14 documents unrelated to any claim or defense; (6) it is a harassing fishing expedition; (7) is unduly
15 burdensome to the extent it seeks documents in the possession, custody, and control of
16 Defendants; (8) is unduly burdensome to the extent it seeks records in the possession, custody,
17 and control of third parties; namely Freeh Sporkin n/k/a Pepper Hamilton, from whom
18 Defendants could and should seek to obtain documents not otherwise privileged or protected
19 directly and with less expense and less burden; and (9) to the extent this Request seeks documents
20 from Wynn Resorts (Macau) S.A., a non-party to this action, a Rule 34 request is insufficient to
21 compel the production of this third-party's records and Okada is required to follow the appropriate
22 legal processes to compel the records of a third party.

23 Subject to and without waiving said objections, Wynn Resorts responds as follows:
24 Please refer to documents disclosed and produced concurrently herewith, identified as
25 WYNN00003205 - WYNN00003205, WYNN00003206 - WYNN00003206, WYNN00003207 -
26 WYNN00003207, WYNN00003208 - WYNN00003216, WYNN00003217 - WYNN00003218,
27 WYNN00003219 - WYNN00003219, WYNN00003220 - WYNN00003261, WYNN00003262 -
28 WYNN00003262, WYNN00003263 - WYNN00003299, WYNN00003300 - WYNN00003300,

1 WYNN00003301 - WYNN00003330, WYNN00003331 - WYNN00003331, WYNN00003332 -
2 WYNN00003395, WYNN00003396 - WYNN00003396, WYNN00003397 - WYNN00003426,
3 WYNN00003427 - WYNN00003428, WYNN00003429 - WYNN00003430, WYNN00003431 -
4 WYNN00003484, WYNN00003485 - WYNN00003485, WYNN00003486 - WYNN00003533,
5 WYNN00003534 - WYNN00003535, WYNN00003536 - WYNN00003537, WYNN00003538 -
6 WYNN00003539, WYNN00003540 - WYNN00003540, WYNN00003541 - WYNN00003562,
7 WYNN00003563 - WYNN00003582, WYNN00003583 - WYNN00003584, WYNN00003585 -
8 WYNN00003593, WYNN00003594 - WYNN00003601, WYNN00003602 - WYNN00003602,
9 WYNN00003603 - WYNN00003608, WYNN00003609 - WYNN00003610, WYNN00003611 -
10 WYNN00003612, WYNN00003613 - WYNN00003619, WYNN00003620 - WYNN00003621,
11 WYNN00003622 - WYNN00003623, WYNN00003624 - WYNN00003629, WYNN00003630 -
12 WYNN00003672, WYNN00003673 - WYNN00003674, WYNN00003675 - WYNN00003687,
13 WYNN00003688 - WYNN00003689, WYNN00003690 - WYNN00003698, WYNN00003699 -
14 WYNN00003704, WYNN00003705 - WYNN00003713, WYNN00003714 - WYNN00003723,
15 WYNN00003724 - WYNN00003724, WYNN00003725 - WYNN00003727, WYNN00003728 -
16 WYNN00003745, WYNN00003746 - WYNN00003753, WYNN00003754 - WYNN00003797,
17 WYNN00003798 - WYNN00003798, WYNN00003799 - WYNN00003804, WYNN00003805 -
18 WYNN00003805, WYNN00003806 - WYNN00003831, WYNN00003832 - WYNN00003833,
19 WYNN00004574 - WYNN00004574, WYNN00004594 - WYNN00004597, WYNN00004778 -
20 WYNN00004782, WYNN00004783 - WYNN00004787, WYNN00004788 - WYNN00004792,
21 WYNN00007908 - WYNN00007968, WYNN00007969 - WYNN00007969, WYNN00007970 -
22 WYNN00008033, WYNN00008035 - WYNN00008064, WYNN00008065 - WYNN00008065,
23 WYNN00008066 - WYNN00008082, WYNN00008344 - WYNN00008345, WYNN00008346 -
24 WYNN00008348, WYNN00008349 - WYNN00008350, WYNN00008351 - WYNN00008396,
25 WYNN00008464 - WYNN00008524, WYNN00008905 - WYNN00008909, WYNN00009436 -
26 WYNN00009437, WYNN00009438 - WYNN00009438, WYNN00009439 - WYNN00009442,
27 WYNN00009443 - WYNN00009445, WYNN00009478 - WYNN00009482.

28

1 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
2 as discovery continues.

3 **REQUEST FOR PRODUCTION NO. 17:**

4 All documents from 2005 to the present concerning charges for lodging in each of the
5 hotel rooms at Wynn Las Vegas and Wynn Macau allegedly occupied by any of the PACGOR
6 officials named in the Freeh Report, including but not limited to:

7 A. all records, financial statements, and/or logs of charges incurred by guests in those
8 hotel rooms;

9 B. rates of the hotel rooms at issue at the time any charges were incurred; and

10 C. amount paid by guests for the hotel rooms.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

12 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
13 burdensome to the extent it is duplicative of other requests herein (*e.g.*, Request for Production
14 No. 15 above); (2) it is overly broad and unduly burdensome to the extent seeks documents
15 unrelated to the claims and defenses in this action (*i.e.*, it seeks hotel records of an unidentified
16 list of individuals regardless of whether the stay was paid for by and/or connected to Defendants;
17 (3) it seeks documents containing personal information of third parties protected by the Macau
18 Personal Data Privacy Act; (4) it is unduly burdensome to the extent it seeks records in the
19 possession, custody, and control of Defendants; (5) it is unduly burdensome to the extent it seeks
20 records in the possession, custody, and control of a third party, namely Freeh Sporkin n/k/a
21 Pepper Hamilton, from whom Defendants could and should seek to obtain documents not
22 otherwise privileged or protected directly and with less expense and less burden; (6) it seeks
23 documents protected by the attorney-client privilege, common interest privilege, and/or work
24 product doctrine; (7) the phrase "amount paid by guests" is vague and ambiguous (*e.g.*, who the
25 "guest" was, who paid the fee charged, if the guest actually paid) requiring speculation as to its
26 intended meaning; and (8) to the extent this Request seeks documents from
27 Wynn Resorts (Macau) S.A., a non-party to this action, a Rule 34 request is insufficient to compel
28

1 the production of this third-party's records and Okada is required to follow the appropriate legal
2 processes to compel the records of a third party.

3 Subject to and without waiving said objections, Wynn Resorts responds as follows:
4 Please refer to documents previously produced and identified as WYNN001540-WYNN001586
5 and WYNN001587-WYNN003066.

6 Please also refer to documents disclosed and produced concurrently herewith, identified as
7 WYNN00003835 - WYNN00003836, WYNN00003838 - WYNN00003839, WYNN00003841 -
8 WYNN00003842, WYNN00004568 - WYNN00004573, WYNN00004574 - WYNN00004574,
9 WYNN00004575 - WYNN00004575, WYNN00004576 - WYNN00004593, WYNN00004594 -
10 WYNN00004597, WYNN00007969 - WYNN00007969, WYNN00007970 - WYNN00008033,
11 WYNN00008065 - WYNN00008065, WYNN00008066 - WYNN00008082, WYNN00008351 -
12 WYNN00008396, WYNN00008464 - WYNN00008524, WYNN00008905 - WYNN00008909.

13 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
14 as discovery continues.

15 **REQUEST FOR PRODUCTION NO. 18:**

16 All documents concerning Defendants' business plans and activities in the Incheon Free
17 Economic zone in Korea.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

19 Wynn Resorts objects to this Request on the following grounds: (1) the terms "business
20 plans" and "activities" are vague and ambiguous, requiring speculation as to Defendants' intended
21 meaning; (2) is unduly burdensome to the extent it seeks documents in Defendants' possession,
22 custody, or control.

23 Subject to and without waiving said objections, Wynn Resorts responds as follows:
24 Please refer to documents disclosed and produced concurrently herewith, identified as
25 WYNN00006845 - WYNN00006846, WYNN00006847 - WYNN00006854, WYNN00006855 -
26 WYNN00006861, WYNN00006862 - WYNN00006868, WYNN00006869 - WYNN00006874,
27 WYNN00006875 - WYNN00006880, WYNN00006881 - WYNN00006885, WYNN00006886 -
28 WYNN00006889, WYNN00006890 - WYNN00006891, WYNN00006892 - WYNN00006892,

1 WYNN00006893 - WYNN00006893, WYNN00006907 - WYNN00006908, WYNN00006910 -
2 WYNN00006911, WYNN00008747 - WYNN00008748.

3 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
4 as discovery continues.

5 **REQUEST FOR PRODUCTION NO. 19:**

6 All documents concerning any payments, benefits, or gifts allegedly made by Defendants
7 to Government Officials of Korea, including but not limited to all documents concerning:

8 A. All visits allegedly made to Wynn Macau and Wynn Las Vegas by Korean
9 Government Officials, including all alleged expenses incurred by any such officials during any
10 such visits;

11 B. Any authorization of alleged payments, benefits, and gifts to Korean Government
12 Officials;

13 C. Any disciplinary actions taken against any former or current employee of
14 Wynn Resorts, Wynn Macau, or Wynn Las Vegas for alleged payments, benefits, and gifts
15 provided to any Korean Government Official; and

16 D. All receipts or records of expenses incurred by any Korean Government Official at
17 Wynn Resort properties.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

19 Wynn Resorts objects to this Request on the following grounds: Wynn Resorts objects to
20 this Request on the following grounds: (1) it is vague, ambiguous, and confusing as drafted. For
21 instance, in Section (B), the term "authorization" is vague and ambiguous, seemingly implying
22 that Wynn Resorts, Wynn Macau, or Wynn Las Vegas "authorized" Defendants' payment of
23 benefits to Korean Government Officials. As another example, Section (C) seems to imply that
24 Defendants' bad acts would result in disciplinary action on Wynn Resorts' employees; (2) it is
25 vague and overly broad in that it seeks "[a]ll documents . . . concerning" an ambiguous list of
26 "Korean Government Officials," imposing on Wynn Resorts the tasks of defining who the list of
27 these people may be; (3) it is unduly burdensome to the extent it seeks documents in the
28 possession, custody, or control of Defendants and/or third parties; (4) it seeks documents

1 containing personal information of third parties protected by the Macau Personal Data Privacy
2 Act; (5) the terms "benefits," "gifts," and "authorization" are vague, ambiguous, and undefined,
3 causing speculation as to Defendants' intended meaning; (6) it is unduly burdensome to the extent
4 it seeks records in the possession, custody, and control of a third party, namely Freeh Sporkin
5 n/k/a Pepper Hamilton, from whom Defendants could and should seek to obtain documents not
6 otherwise privileged or protected directly and with less expense and less burden; and (7) to the
7 extent this Request seeks documents from Wynn Resorts (Macau) S.A., a non-party to this action,
8 a Rule 34 request is insufficient to compel the production of this third-party's records and Okada
9 is required to follow the appropriate legal processes to compel the records of a third party.

10 Subject to and without waiving said objections, Wynn Resorts responds as follows:
11 Please refer to documents previously produced and identified as WYNN001540-WYNN001586
12 and WYNN001587-WYNN003066.

13 Please also refer to documents disclosed and produced concurrently herewith, identified as
14 WYNN00006897, WYNN00007969- WYNN00008033, WYNN00008065 - WYNN00008082,
15 WYNN00008351 - WYNN00008396, WYNN00008464 - WYNN00008524.

16 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
17 as discovery continues.

18 **REQUEST FOR PRODUCTION NO. 20:**

19 All documents concerning any of the Korean Government Officials named in the Freeh
20 Report, including but not limited to: Jong Cheol Lee; Woo Hyeung Lee; Min Yong Choi; and Ki
21 Dong Hur.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

23 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
24 burdensome to the extent it seeks records in the possession, custody, and control of a third party,
25 namely Freeh Sporkin n/k/a Pepper Hamilton, from whom Defendants could and should seek to
26 obtain documents not otherwise privileged or protected directly and with less expense and less
27 burden; (2) it is overly broad (i.e., unlimited) in time; (3) it is overly broad in scope and seeks
28 information and documents not related to any claim or defense (e.g., "[a]ll documents

1 concerning. . ." a list of individuals, unconnected or limited to any claim or defense in this action);
2 (4) it is not reasonably calculated to lead to the discovery of admissible evidence; (5) it is merely
3 a fishing expedition; and (6) it is vague and ambiguous and unduly burdensome to the extent the
4 list of "Korean Government Officials" "include[es] but [is] not limited to. . ." the four persons
5 identified and seeks to impose an undue burden on Wynn Resorts to identify the persons subject
6 to this request.

7 Subject to and without waiving said objections, Wynn Resorts responds as follows:
8 Please refer to documents previously produced and identified as WYNN001540-WYNN001586
9 and WYNN001587-WYNN003066.

10 Please also refer to documents disclosed and produced concurrently herewith, identified as
11 WYNN00006897, WYNN00007969- WYNN00008033, WYNN00008065- WYNN00008082,
12 WYNN00008351 - WYNN00008396, WYNN00008464 - WYNN00008524.

13 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
14 as discovery continues.

15 **REQUEST FOR PRODUCTION NO. 21**

16 All documents concerning any competition or potential competition between Defendants'
17 casino resort in the Philippines and Wynn Macau, as alleged in Paragraph 27 of the Complaint,
18 including but not limited to all documents concerning:

19 A. All due diligence, assessments, investigations, and analyses of the potential for
20 competition; and

21 B. Okada's alleged plans to "lure high-limit, VIP gamblers from China" to Universal's
22 casino resorts in the Philippines, "the same customer base as Wynn Macau," as alleged in
23 Paragraph 27 of the Complaint.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21**

25 Wynn Resorts objects to this Request on the following grounds: (1) the terms "due
26 diligence" and "analyses" are undefined, vague, and ambiguous, requiring speculation as to
27 Defendants' intended meaning; (2) the Request seeks confidential and proprietary information and
28

1 trade secrets; (3) the Request seeks documents protected by the attorney-client privilege, common
2 interest privilege, and/or the work product doctrine.

3 Subject to and without waiving said objections, Wynn Resorts responds as follows:
4 Please refer to documents disclosed and produced concurrently herewith, identified as
5 WYNN00008740 - WYNN00008742, WYNN00008747 - WYNN00008748, WYNN00009503 -
6 WYNN00009504, and WYNN00009634 - WYNN00009636.

7 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
8 as discovery continues.

9 **REQUEST FOR PRODUCTION NO. 22:**

10 All documents concerning the statement in Wynn Macau's IPO prospectus that Okada
11 does not hold, own, or control more than 5% voting interests in an entity which is reasonably
12 expected to compete with Wynn Macau, including but not limited to all communications and
13 drafts related to this language in Wynn Macau's IPO prospectus.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

15 Wynn Resorts objects to this Request on the following grounds: (1) the Request seeks
16 documents protected by the attorney-client privilege, common interest privilege, and/or work
17 product doctrine; and (2) it is unduly burdensome to the extent it seeks documents already in the
18 possession, custody, and control of Defendants; (3) the Request mischaracterizes the statements in
19 the Wynn Macau's IPO prospectus and the facts related thereto.

20 Subject to and without waiving said objections, Wynn Resorts responds as follows:
21 Please refer to documents previously produced and identified as WYNN000885-WYNN001253.

22 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
23 as discovery continues.

24 **REQUEST FOR PRODUCTION NO. 23:**

25 All documents concerning the non-compete clause set forth in Paragraph 6 of the
26 Stockholder's Agreement, including but not limited to all communications related to the drafting
27 of the non-compete clause.

28

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

Wynn Resorts objects to this Request on the following grounds: (1) the Request is unduly burdensome because it is duplicative of other requests herein; namely Request for Production No. 57(d); (2) the Request seeks documents protected by the attorney-client privilege, common interest privilege, and/or work product doctrine; (3) it is unduly burdensome to the extent it seeks documents already in the possession, custody, and control of Defendants. Subject to and without waiving said objections, Wynn Resorts responds as follows: Wynn Resorts is continuing its investigation for documents responsive to this Request (which asks for one aspect of one agreement) that are not privileged or otherwise protected. Wynn Resorts will supplement its response as its investigation and discovery proceeds. Discovery is continuing, and Wynn Resorts reserves the right to supplement this response as discovery continues.

REQUEST FOR PRODUCTION NO. 24:

All documents concerning Wynn's or Wynn Resorts' exploration into developing casino resorts in locations other than Las Vegas or Macau, including but not limited to all documents concerning:

- A. Any impact any such casino resorts would have on Wynn Resorts' businesses in Las Vegas or Macau;
- B. Any visits by Wynn to Monaco, including any visits initially planned but later cancelled; and
- C. Any use of Wynn Resorts' corporate plane or Wynn's private plane.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad (*i.e.*, unlimited) in time and hence unduly burdensome; (2) it is overly broad in scope and hence unduly burdensome (*e.g.*, "[a]ll documents concerning Wynn's or Wynn Resorts' exploration into developing casino resorts" outside of Las Vegas and Macau, "[a]ny use of Wynn Resorts' corporate plane or Wynn's private plane" and Mr. Wynn's trips to Monaco); (3) it seeks documents and information unrelated to the claims or defenses in this action and thus is not reasonably calculated to lead to the discovery of admissible evidence in this action (*e.g.*, Wynn's

1 visits to Monaco, Mr. Wynn and Wynn Resorts' strategies and plans for casino expansion, "[a]ny
2 use" of Wynn's or Wynn Resorts' company plane); (4) the terms/phrase "developing of casino
3 resorts" is undefined, vague, and ambiguous, requiring speculation as to Defendants' intended
4 meaning; (5) it seeks confidential and proprietary information, strategic plans, and trade secrets
5 without any relationship to the claims or defenses in this action; (6) it is unduly burdensome and
6 not reasonably calculated to lead to the discovery of admissible evidence to the extent it seeks
7 documents related to applications for licensing and any and all documents and communications
8 related to the Company's applications for gaming licenses, which are extremely sensitive, concern
9 personal information entirely unrelated to this case, are a massive number of documents, are
10 protected by various statutes in the other jurisdictions, and are unrelated to the subject matter of
11 this action; (7) it is a fishing expedition with an improper purpose; and (8) it seeks documents
12 protected by the attorney-client privilege, common interest privilege, and/or work product
13 doctrine.

14 Wynn Resorts will not produce documents in response to Request unless and until
15 Defendants demonstrate its purported discoverability in this action and/or obtain a court order
16 compelling the production. Discovery is continuing, and Wynn Resorts reserves the right to
17 supplement this response as discovery continues.

18 **REQUEST FOR PRODUCTION NO. 25:**

19 All documents identifying or otherwise concerning persons who have received
20 complimentary rooms, meals, gifts, gaming credits, or other things of value from Wynn Resorts
21 (including, but not limited to, Wynn Macau).

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

23 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad in
24 scope in that it seeks documents that are not relevant to the subject matter of or claims or defenses
25 in this litigation; (2) it is overly broad (*i.e.*, unlimited) in time; (3) it is not at all reasonably
26 calculated to lead to the discovery of admissible evidence; (4) it seeks documents not related or
27 relevant to any claim or defense and reveals a lack of knowledge or understanding of the gaming
28 and hotel industry; (5) it seeks confidential, sensitive, and personal information of third parties

1 entirely unrelated to this action (*i.e.*, hotel/casino patron information) as well as trade secrets
2 (*e.g.*, patron lists); (6) to the extent this Request seeks documents from Wynn Macau (as defined
3 by Defendants), a non-party to this action, a Rule 34 request is insufficient to compel the
4 production of this third-party's records and Okada is required to follow the appropriate legal
5 processes to compel the records of a third party; (7) to the extent it seeks documents from
6 Wynn Macau (as defined by Defendants) that reside only in Macau, the Request seeks documents
7 containing personal information of third parties protected by the Macau Personal Data Privacy
8 Act; and (8) the phrase "other things of value" is vague, ambiguous, and undefined, causing
9 speculation as to Defendants' intended meaning.

10 In light of the foregoing, Wynn Resorts will not produce documents in response to this
11 Request unless and until Defendants demonstrate its purported discoverability in this action
12 and/or obtain a court order compelling the production. Discovery is continuing, and
13 Wynn Resorts reserves the right to supplement this response as discovery continues.

14 **REQUEST FOR PRODUCTION NO. 26:**

15 All documents concerning any trade secrets owned by Wynn Resorts that any Defendant
16 allegedly misappropriated, including but not limited to all documents concerning:

- 17 A. Any damages to Wynn Resorts caused by Defendants' alleged misappropriation of
18 any such trade secrets;
- 19 B. The identity of any such trade secrets;
- 20 C. Wynn Resorts' ownership of any such trade secrets;
- 21 D. The independent economic value of any such trade secret, actual or potential, from
22 not being generally known to (and not being readily ascertainable by proper means by) the public
23 or any other persons who can obtain commercial or economic value from its disclosure or use;
- 24 E. All efforts by Wynn Resorts to maintain the secrecy of any such trade secrets; and
- 25 F. The allegedly improper means used by Defendants to obtain any such trade secrets.
- 26
27
28

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

Wynn Resorts has sought leave to file its proposed second amended complaint, and has sought to withdraw its previously asserted claim for misappropriation of trade secrets. Therefore, this Request is unduly burdensome, seeks irrelevant information unrelated to any claim or defense, and is not reasonably calculated to lead to the discovery of admissible evidence, and Wynn Resorts will not produce documents in response to this Request.

REQUEST FOR PRODUCTION NO. 27:

All documents concerning any confidential information, trademarks, or other intellectual property owned by Wynn Resorts (other than trade secrets) that Defendants allegedly used or intended to use for their own benefit or to the detriment of Wynn Resorts, including but not limited to all documents concerning:

A. Any damages to Wynn Resorts caused by Defendants' alleged use of any such confidential information, trademarks, or other intellectual property.

B. The confidential information, trademarks, or other intellectual property Okada allegedly used for his own benefit and to Wynn Resorts' detriment, as alleged in Paragraph 72 of the Complaint;

C. Wynn Resorts' ownership of such confidential information, trademarks, or other intellectual property; and

D. All efforts by Wynn Resorts to keep such information or property confidential.

RESPONSE TO REQUEST FOR PRODUCTION NO. 27:

Wynn Resorts has sought leave to file its proposed second amended complaint, and has sought to withdraw its previously asserted claim for misappropriation of trade secrets. Therefore, this Request is unduly burdensome, seeks irrelevant information unrelated to any claim or defense, and is not reasonably calculated to lead to the discovery of admissible evidence, and Wynn Resorts will not produce documents in response to this Request.

1 **REQUEST FOR PRODUCTION NO. 28:**

2 All documents concerning any information Defendants allegedly acquired from
3 Wynn Resorts that Defendant used or intended to use for their own benefit, including but not
4 limited to all documents concerning:

5 A. Any damages to Wynn Resorts caused by Defendants' alleged use of any such
6 information;

7 B. The alleged public statements by Universal that it would use information acquired
8 from Wynn Resorts for its own use, as alleged in Paragraphs 31 to 34 of the Complaint; and

9 C. The allegation that "Okada arranged to have several key individuals serve as
10 interns at the Wynn Macau property so that Wynn Macau 'know how' could be learned and
11 siphoned from Wynn Resorts" in Paragraph 35 of the Complaint.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

13 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
14 burdensome, seeks irrelevant information unrelated to any claim or defense, and is not reasonably
15 calculated to lead to the discovery of admissible evidence to the extent it seeks information
16 related to the misappropriation of trade secrets claim that Wynn Resorts seeks to withdraw via its
17 motion for leave to file a second amended complaint currently pending before the Court; (2) it is
18 unduly burdensome to the extent it seeks information in Defendants' possession, custody, or
19 control that Wynn Resorts is seeking or will seek to discovery from Defendants in this action;
20 (3) it is unduly burdensome to the extent it seeks documents in the public record and equally
21 accessible to Defendants; (4) it seeks communications and documents protected by the
22 attorney-client privilege, common interest privilege, and/or work product doctrine; (6) the
23 Request is premature and/or seeks to impose burdens on Wynn Resorts greater than those under
24 the Nevada Rules of Civil Procedure.

25 Subject to and without waiving said objections, Wynn Resorts responds as follows:
26 Wynn Resorts' investigation into documents responsive to this Request that are not privileged or
27 otherwise protected continues. Discovery is continuing, and Wynn Resorts reserves the right to
28 supplement this response as discovery continues, and will do so as its investigation proceeds.

1 **REQUEST FOR PRODUCTION NO. 29:**

2 All documents concerning Defendants' alleged linking of Wynn Resorts to Defendants'
3 separate business endeavors, including but not limited to all documents concerning:

4 A. Linking the website of Wynn Resorts and/or Wynn Macau to the websites
5 controlled by Defendants;

6 B. Any damages to Wynn Resorts caused by any such alleged linking of
7 Wynn Resorts to Defendants' separate business endeavors; and

8 C. The allegation that Wynn Resorts was harmed by Defendants' alleged "linking
9 Wynn Resorts to business endeavors in the Philippines that would necessarily suggest its
10 involvement with 'deeply ingrained' official corruption and a legal/regulatory framework
11 ill-aligned with American compliance and transparency standards" in Paragraph 36 of the
12 Complaint.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

14 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
15 burdensome, seeks irrelevant information unrelated to any claim or defense, and is not reasonably
16 calculated to lead to the discovery of admissible evidence to the extent it seeks information
17 related to the misappropriation of trade secrets claim that Wynn Resorts seeks to withdraw via its
18 motion for leave to file a second amended complaint currently pending before the Court; (2) it is
19 unduly burdensome to the extent it seeks information in Defendants' possession, custody, and
20 control which Wynn Resorts is seeking or will seek to discover from Defendants through the
21 discovery process in this action; and (3) it is unduly burdensome to the extent it seeks documents
22 in the public record and equally accessible to Defendants; (4) it is unduly burdensome to the
23 extent it is duplicative of other requests herein regarding Defendants' misrepresentation of a joint
24 venture or partnership with Wynn Resorts and/or Mr. Wynn in relation to the Okada Parties'
25 activities or conduct in the Philippines; and (5) it seeks communications and documents protected
26 by the attorney-client privilege, common interest privilege, and/or work product doctrine.

27 Subject to and without waiving said objections, Wynn Resorts responds as follows:
28 Please refer to documents previously produced and identified as WYNN001540-WYNN001586

1 and WYNN001587-WYNN003066. In addition, Wynn Resorts' investigation into documents
2 responsive to this Request that are not privileged or otherwise protected continues. Discovery is
3 continuing, and Wynn Resorts reserves the right to supplement this response as discovery
4 continues, and will do so as its investigation proceeds.

5 **REQUEST FOR PRODUCTION NO. 30:**

6 All documents concerning the possibility of Aruze pledging some of its shares in
7 Wynn Resorts or obtaining a loan in 2011, including but not limited to all documents concerning:

8 A. Wynn Resorts possibly making a loan to Aruze, including but not limited to any
9 legal analysis concerning any such loan;

10 B. The draft side letter prepared by Kimmarie Sinatra concerning a possible loan from
11 Wynn Resorts to Aruze, as alleged in Paragraph 88 of the Counterclaim;

12 C. Deutsche Bank's participation in any possible loan to Aruze in 2011;

13 D. The meeting held on May 16, 2011 involving Wynn, Kimmarie Sinatra, Matt
14 Maddox, and Okada concerning, among other things, Aruze possibly either pledging some of its
15 shares in Wynn Resorts or obtaining a loan; and

16 E. Wynn Resorts' Compliance Committee's review and decision on any possible loan
17 to Aruze.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

19 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
20 burdensome to the extent it seeks documents already in or solely in Defendants' possession,
21 custody, or control, which Wynn Resorts is seeking or will seek to discover from Defendants in
22 this action; (2) it explicitly seeks documents and communications protected by the attorney-client
23 privilege (e.g., "legal analysis concerning . . ."), common interest privilege, and/or the work
24 product doctrine; (3) it assumes facts (i.e., that the Compliance Committee reviewed a possible
25 loan to Aruze); and (4) it is unduly burdensome to the extent this Request seeks documents in the
26 possession, custody, and control of a third party (i.e., Deutsche Bank) from whom Defendants
27 could seek to obtain such documents directly with less expense and less burden.

28

1 Subject to and without waiving said objections, Wynn Resorts responds as follows:
2 Please refer to documents disclosed and produced concurrently herewith, identified as
3 WYNN00004908 - WYNN00004910, WYNN00004911 - WYNN00004912, WYNN00004913 -
4 WYNN00004914, WYNN00004915 - WYNN00004915, WYNN00004916 - WYNN00004916,
5 WYNN00006269 - WYNN00006269, WYNN00006270 - WYNN00006270, WYNN00006650 -
6 WYNN00006675, WYNN00008826 - WYNN00008826, WYNN00008827 - WYNN00008827,
7 WYNN00008828 - WYNN00008829, WYNN00008830 - WYNN00008831, WYNN00009053 -
8 WYNN00009056, WYNN00009057 - WYNN00009061, WYNN00009062 - WYNN00009065,
9 WYNN00009066 - WYNN00009069, WYNN00009070 - WYNN00009070, WYNN00009071 -
10 WYNN00009071, WYNN00009072 - WYNN00009072, WYNN00009073 - WYNN00009073,
11 WYNN00009074 - WYNN00009076.

12 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
13 as discovery continues.

14 **REQUEST FOR PRODUCTION NO. 31:**

15 All documents concerning Elaine Wynn transferring some or all of her shares of
16 Wynn Resorts to a new owner in 2011, including but not limited to documents concerning Aruze's
17 consent to any such transfer.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 31:**

19 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
20 burdensome to the extent it seeks documents in Defendants' possession, custody, or control,
21 which Wynn Resorts is seeking or will seek to discover from Defendants in this action; (2) it
22 seeks confidential and sensitive Company financial records; (3) it seeks documents and
23 communications protected by the attorney-client privilege and work product doctrine; (4) it is
24 unduly burdensome to the extent this Request seeks records other than those of the Company, this
25 Request is not properly directed to Wynn Resorts; and (5) it is unduly burdensome to the extent it
26 seeks documents in the public record that are equally accessible to Defendants.

1 Subject to and without waiving said objections, Wynn Resorts responds as follows:
2 Please refer to documents previously produced and identified as WYNN000878 and
3 WYNN000879-WYNN000873.

4 Please also refer to documents disclosed and produced concurrently herewith, identified as
5 WYNN00004908 - WYNN00004910, WYNN00004911 - WYNN00004912, WYNN00004913 -
6 WYNN00004914, WYNN00006650 - WYNN00006675, WYNN00006894 - WYNN00006895,
7 WYNN00006896 - WYNN00006896, WYNN00008826 - WYNN00008826, WYNN00008827 -
8 WYNN00008827, WYNN00008828 - WYNN00008829, WYNN00008889 - WYNN00008893,
9 WYNN00009070 - WYNN00009070, WYNN00009072 - WYNN00009072, WYNN00009073 -
10 WYNN00009073, WYNN00009074 - WYNN00009076.

11 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
12 as discovery continues.

13 **REQUEST FOR PRODUCTION NO. 32:**

14 All documents concerning Kimmarie Sinatra's role and duties with respect to any business
15 of Wynn and/or Wynn Resorts.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 32:**

17 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad
18 (*i.e.*, unlimited) in time and thus unduly burdensome; (2) it is overly broad in scope (*e.g.*, "[a]ll
19 documents concerning" Ms. Sinatra's roles and duties with respect to "any business" of the
20 Company or its Chief Executive Officer); (3) it seeks nondiscoverable/irrelevant documents that
21 are unrelated to the subject matter of this action and/or the claims and defenses asserted in this
22 action; (3) it is not reasonably calculated to lead to the discovery of admissible evidence;
23 (4) rather, the Request has been propounded with an improper purpose designed to annoy and
24 harass Ms. Sinatra and the Company; and (5) the Request is unduly burdensome to the extent it
25 seeks documents available in the public record and thus equally available to Defendants.

26 Subject to and without waiving said objections, Wynn Resorts responds as follows:
27 Please refer to documents disclosed and produced concurrently herewith, identified as
28 WYNN00009642 - WYNN00009659, WYNN00009660 - WYNN00009660

1 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
2 as discovery continues.

3 **REQUEST FOR PRODUCTION NO. 33:**

4 All documents concerning Kimmarie Sinatra's communications about Section 402 of the
5 Sarbanes-Oxley Act to any Defendant or Counterdefendant.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 33:**

7 Wynn Resorts objects to this Request on the following grounds: (1) it seeks attorney-
8 client communications between the Company's General Counsel, Ms. Sinatra, and the Company's
9 Board of Directors; (2) it is vague and/or overly broad in scope (e.g., "[a]ll communications
10 concerning . . . Section 402 of the Sarbanes-Oxley Act . . ."); (3) it is not reasonably calculated to
11 lead to the discovery of admissible evidence in this action; (4) it seeks information and documents
12 protected by the attorney-client privilege, common interest privilege, and/or work product
13 doctrine; and (5) it is a fishing expedition designed to annoy and harass.

14 Subject to and without waiving said objections, Wynn Resorts responds as follows:
15 Please refer to documents disclosed and produced concurrently herewith, identified as
16 WYNN00009053 - WYNN00009056, WYNN00009057 - WYNN00009061, WYNN00009062 -
17 WYNN00009065, WYNN00009066 - WYNN00009069, WYNN00009070 - WYNN00009070,
18 WYNN00009071 - WYNN00009071, WYNN00009072 - WYNN00009072, WYNN00009073 -
19 WYNN00009073, WYNN00009074 - WYNN00009076.

20 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
21 as discovery continues.

22 **REQUEST FOR PRODUCTION NO. 34:**

23 All documents concerning any investigation that Wynn Resorts conducted or
24 commissioned concerning Defendants or their businesses in the Philippines, including but not
25 limited to all documents concerning:

26 A. The "independent investigation and risk assessment of investing in the gaming
27 industry in the Philippines" commissioned by the Compliance Committee in January 2011, as
28 alleged in Paragraph 22 of the Complaint;

1 B. The "second independent investigation in the regulatory and compliance climate in
2 the Philippines" commissioned by the Wynn Board in August 2011, as alleged in paragraph 40 of
3 the Complaint;

4 C. The report presented by Robert J. Miller at the November 1, 2011 Wynn Board
5 meeting concerning the investigations conducted to that date; and

6 D. Any documents concerning any investigation or assistance provided by any person
7 engaged by Wynn or Wynn Resorts.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

9 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad in
10 that it seeks "[a]ll documents concerning . . . " or "[a]ny documents . . ." "concerning"
11 investigations; (2) the term "assistance" as used is undefined, vague, and ambiguous (and thus
12 overly broad), requiring speculation as to Defendants' intended meaning; (3) it is objectionable to
13 the extent it seeks information and documents protected by the attorney-client privilege, common
14 interest privilege, and/or work product doctrine; (4) it is unduly burdensome to the extent it seeks
15 documents already in Defendants' possession, custody, or control; (5) it is unduly burdensome to
16 the extent it seeks records in the possession, custody, and control of a third party, namely Freeh
17 Sporkin n/k/a Pepper Hamilton, and from whom Defendants could and should seek to obtain such
18 documents directly with less expense and less burden; and (6) this Request is unduly burdensome
19 and harassing to the extent it is duplicative of other Requests herein, namely Request for
20 Production No. 39.

21 Subject to and without waiving said objections, Wynn Resorts responds as follows:
22 Please see documents previously produced and identified as WYNN001540-WYNN001586 and
23 WYNN001587-WYNN003066. [

24 Please also refer to documents disclosed and produced concurrently herewith, identified as
25 WYNN00004861 - WYNN00004862, WYNN00004863 - WYNN00004874, WYNN00004875 -
26 WYNN00004876, WYNN00004877 - WYNN00004888, WYNN00004889 - WYNN00004891,
27 WYNN00004893 - WYNN00004893, WYNN00006427 - WYNN00006438, WYNN00006737 -
28 WYNN00006738, WYNN00006739 - WYNN00006740, WYNN00006742 - WYNN00006760,

1 WYNN00006761 - WYNN00006779, WYNN00006781 - WYNN00006799, WYNN00006800 -
2 WYNN00006818, WYNN00006823 - WYNN00006841, WYNN00007000 - WYNN00007000,
3 WYNN00008409 - WYNN00008463, WYNN00008732 - WYNN00008737, WYNN00008743 -
4 WYNN00008743, WYNN00008744 - WYNN00008744, WYNN00008745 - WYNN00008746,
5 WYNN00008747 - WYNN00008748, WYNN00008749 - WYNN00008750, WYNN00008751 -
6 WYNN00008763, WYNN00008764 - WYNN00008767, WYNN00008768 - WYNN00008770,
7 WYNN00008771 - WYNN00008773, WYNN00008774 - WYNN00008776, WYNN00008777 -
8 WYNN00008777, WYNN00008778 - WYNN00008790, WYNN00008798 - WYNN00008801,
9 WYNN00008839 - WYNN00008839, WYNN00008840 - WYNN00008842, WYNN00008845 -
10 WYNN00008845, WYNN00008846 - WYNN00008852, WYNN00008853 - WYNN00008854,
11 WYNN00008855 - WYNN00008856, WYNN00008857 - WYNN00008859, WYNN00008860 -
12 WYNN00008860, WYNN00008861 - WYNN00008878, WYNN00008883 - WYNN00008883,
13 WYNN00008884 - WYNN00008884, WYNN00008885 - WYNN00008887, WYNN00008888 -
14 WYNN00008888, WYNN00009016 - WYNN00009022, WYNN00009023 - WYNN00009040,
15 WYNN00009041 - WYNN00009042, WYNN00009043 - WYNN00009045, WYNN00009046 -
16 WYNN00009048, WYNN00009049 - WYNN00009051, WYNN00009052 - WYNN00009052,
17 WYNN00009353 - WYNN00009361, WYNN00009369 - WYNN00009370, WYNN00009375 -
18 WYNN00009376, WYNN00009485 - WYNN00009486, WYNN00009487 - WYNN00009487,
19 WYNN00009615 - WYNN00009615, WYNN00009634 - WYNN00009636.

20 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
21 as discovery continues.

22 **REQUEST FOR PRODUCTION NO. 35:**

23 All documents concerning communications by Wynn Resorts with Defendants (including
24 Defendants' representatives) concerning any investigation that Wynn Resorts conducted or
25 commissioned concerning Defendants or their businesses in the Philippines, including but not
26 limited to all documents concerning:

27 A. The meeting between Robert Faiss, Mark Clayton, Kimmarie Sinatra and Kevin
28 Tourek on September 30, 2011; and

1 B. The meeting held on October 4, 2011 between Wynn, Kimmarie Sinatra, Okada,
2 and Okada's counsel, including but not limited to the possible removal of Okada as Vice chairman
3 of Wynn Resorts and as a director of both Wynn Resorts and Wynn Macau, including the
4 purported grounds for any such removals, discussed at that meeting.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

6 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad
7 and/or vague and ambiguous to the extent it seeks "[a]ll documents. . ."; (2) it is objectionable to
8 the extent it seeks information and documents protected by the attorney-client privilege, common
9 interest privilege, and/or work product doctrine; and (3) it is unduly burdensome to the extent it
10 seeks documents in Defendants' possession, custody, or control that Wynn Resorts is seeking or
11 will seek from Defendants in this action.

12 Subject to and without waiving said objections, Wynn Resorts responds as follows:
13 Please refer to documents previously produced and identified as WYNN001420-WYNN001421,
14 WYNN001422-WYNN001423, WYNN001424, WYNN001425-WYNN001426, and
15 WYNN001427-WYNN001428.

16 Please also refer to documents disclosed and produced concurrently herewith, identified as
17 WYNN00006517 - WYNN00006521, WYNN00006842 - WYNN00006844, WYNN00008806 -
18 WYNN00008809, WYNN00008812 - WYNN00008812, WYNN00008813 - WYNN00008817,
19 WYNN00008818 - WYNN00008818, WYNN00008819 - WYNN00008821, WYNN00008822 -
20 WYNN00008822, WYNN00008823 - WYNN00008823, WYNN00008824 - WYNN00008824,
21 WYNN00008825 - WYNN00008825, WYNN00008833 - WYNN00008834, WYNN00008836 -
22 WYNN00008838, WYNN00008894 - WYNN00008894, WYNN00008910 - WYNN00008910,
23 WYNN00008911 - WYNN00008912, WYNN00008913 - WYNN00008915, WYNN00008916 -
24 WYNN00008919, WYNN00009371 - WYNN00009372, WYNN00009373 - WYNN00009374,
25 WYNN00009616 - WYNN00009616, WYNN00009620 - WYNN00009624, WYNN00009628 -
26 WYNN00009628, WYNN00009631 - WYNN00009632, WYNN00009634 - WYNN00009636.

27 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
28 as discovery continues.

1 **REQUEST FOR PRODUCTION NO. 36:**

2 All documents concerning Frank A. Schreck's resignation as Chairman of Universal's
3 Compliance Committee on September 27, 2011, including but not limited to all communications
4 to or from Frank A. Schreck, Wynn Resorts, and any of the Counterdefendants.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

6 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad and
7 unduly burdensome in scope; (2) it seeks nondiscoverable/irrelevant information unrelated to the
8 subject matter of this action and/or any claim or defense in this action (*e.g.*, "all communications
9 to or from Frank A. Schreck, Wynn Resorts, and any of the Counterdefendants"), and is thus not
10 reasonably calculated to lead to the discovery of admissible evidence; (3) to the extent it seeks all
11 communications between Frank A. Schreck and the Company or its Board not in any way related
12 to his "resignation as Chairman of Universal's Compliance Committee," the Request seeks
13 documents protected by the attorney-client privilege; and (4) it assumes facts (*i.e.*, that there were
14 any communications).

15 Subject to and without waiving said objections, Wynn Resorts responds as follows:
16 Wynn Resorts is unaware of any documents responsive to this Request. Discovery is continuing,
17 and Wynn Resorts reserves the right to supplement this response as discovery continues.

18 **REQUEST FOR PRODUCTION NO. 37:**

19 All documents concerning the law firms Brownstein Hyatt Farber Schreck, LLP and
20 Gordon Silver, including but not limited to any advice provided by them concerning alleged
21 actions by any of the Defendants and/or their businesses in the Philippines.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

23 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad
24 (*i.e.*, unlimited) in time, and thus also unduly burdensome; (2) it is overly broad and unduly
25 burdensome in scope in that it seeks "[a]ll documents," and is not limited to advice various people
26 at the two listed firms may have provided irrespective of subject matter or the advice that each
27 may have provided to the Board at the February 18, 2012 Board meeting; (3) it seeks
28 nondiscoverable irrelevant information unrelated to any claim or defense in this action (*e.g.*, "all

documents concerning the law firms. . ."), and is thus not reasonably calculated to lead to the discovery of admissible evidence; (4) it is objectionable to the extent it seeks documents and information protected by the attorney-client privilege that exists by and between the Company and its long time counsel, Brownstein Hyatt Farber Schreck (and/or any predecessor iterations); and (5) it is objectionable to the extent it seeks documents protected by the attorney-client privilege, common interest privilege and/or work product doctrine.

Subject to and without waiving said objections, Wynn Resorts responds as follows:
Please refer to documents previously produced and identified as WYNN001621-WYNN001630.

Please also refer to documents disclosed and produced concurrently herewith, identified as WYNN00004814 - WYNN00004826.

Discovery is continuing, and Wynn Resorts reserves the right to supplement this response as discovery continues.

REQUEST FOR PRODUCTION NO. 38:

All documents concerning the Arkin Group LLC, Arkin Kaplan Rice LLP, Stanley S. Arkin, and Jack Devine, including but not limited to any due diligence, assessments, investigations, and analyses conducted by the Arkin Group LLC and Arkin Kaplan Rice LLP concerning the Philippines, the gaming industry in the Philippines, and/or any of the Defendants.

RESPONSE TO REQUEST FOR PRODUCTION NO. 38:

Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad (*i.e.*, unlimited) in time and thus also unduly burdensome; (2) it is overly broad in scope in that it is "not limited to" documents related to the subject matter of this action and/or the claims or defenses asserted in this action and thus is not reasonably calculated to lead to the discovery of admissible evidence in this action; (3) due to its overbreadth, the Request appears to be an improper fishing expedition; (4) the Request is objectionable to the extent it seeks documents protected by the attorney-client privilege, common interest privilege, and/or work product doctrine; and (5) it is unduly burdensome to the extent the Request seeks documents already produced in this action.

1 Subject to and without waiving said objections, Wynn Resorts responds as follows:
2 Please refer to documents disclosed and produced concurrently herewith, identified as
3 WYNN00006742 - WYNN00006760, WYNN00006761 - WYNN00006779, WYNN00006781 -
4 WYNN00006799, WYNN00006800 - WYNN00006818, WYNN00006823 - WYNN00006841,
5 WYNN00008839 - WYNN00008839, WYNN00008840 - WYNN00008842, WYNN00008853 -
6 WYNN00008854, WYNN00008855 - WYNN00008856, WYNN00008857 - WYNN00008859,
7 WYNN00008861 - WYNN00008878, WYNN00008883 - WYNN00008883, WYNN00008884 -
8 WYNN00008884, WYNN00008885 - WYNN00008887, WYNN00008888 - WYNN00008888,
9 WYNN00009016 - WYNN00009022, WYNN00009023 - WYNN00009040, WYNN00009041 -
10 WYNN00009042, WYNN00009043 - WYNN00009045, WYNN00009046 - WYNN00009048,
11 WYNN00009049 - WYNN00009051, WYNN00009052 - WYNN00009052.

12 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
13 as discovery continues.

14 **REQUEST FOR PRODUCTION NO. 39:**

15 All documents concerning any investigation of any of the Defendants or their businesses
16 in the Philippines and Korea conducted by Freeh Sporkin, including but not limited to all
17 documents concerning:

18 A. The retention of Freeh Sporkin, including the terms of its compensation;

19 B. All information gathered, and analyses conducted, by Freeh Sporkin or any
20 consultants retained by Freeh Sporkin or Wynn, Wynn Resorts or any of the Counterdefendants,
21 including (i) all documents included in the appendix to -- and referenced in -- the Freeh Report,
22 (ii) all documents provided by Wynn Resorts and/or any of the Counterdefendants to Freeh
23 Sporkin for any investigation, and (iii) all documents provided by Freeh Sporkin or any
24 consultants to Wynn Resorts and/or any Counterdefendants;

25 C. All persons interviewed by Freeh Sporkin, including all documents used at, or
26 created as a result of, such interviews;

27 D. The interview of Okada conducted by Louis J. Freeh in Tokyo on February 15,
28 2012, including all documents used at, or created as a result of, such interviews;

1 E. All communications between Wynn, Wynn Resorts, and/or any Counterdefendant
2 concerning the Freeh Sporkin investigation;

3 F. All communications with Defendants concerning the investigation, including
4 opportunities for Defendants to respond to the Freeh Report; and

5 G. All diaries or other billing records related to the Freeh Sporkin investigation,
6 including how much Freeh or Freeh Sporkin were paid and how many hours they worked.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

8 Wynn Resorts objects to this Request on the following grounds: (1) it is unduly
9 burdensome to the extent it is duplicative of other requests herein; namely Request for Production
10 No. 34; (2) it is overly broad in that it seeks "[a]ll" or "any" documents "concerning"
11 investigations; (3) the Request is objectionable to the extent it seeks information and documents
12 protected by the attorney-client privilege, common interest privilege, and/or work product
13 doctrine; (4) it is unduly burdensome to the extent it seeks documents already in Defendants'
14 possession, custody, or control; and (5) it is unduly burdensome to the extent it seeks records in
15 the possession, custody, and control of a third party, namely Freeh Sporkin n/k/a Pepper
16 Hamilton, from whom Defendants could seek to obtain documents not otherwise privileged or
17 protected directly and with less expense and less burden.

18 Subject to and without waiving said objections, Wynn Resorts responds as follows:
19 Please refer to documents previously produced and identified as WYNN001540-WYNN001586
20 and WYNN001587-WYNN003066.

21 Please also refer to documents disclosed and produced concurrently herewith, identified as
22 WYNN00004889 - WYNN00004891, WYNN00006517 - WYNN00006521, WYNN00006522 -
23 WYNN00006523, WYNN00006737 - WYNN00006738, WYNN00006739 - WYNN00006740,
24 WYNN00006742 - WYNN00006760, WYNN00006761 - WYNN00006779, WYNN00006781 -
25 WYNN00006799, WYNN00006800 - WYNN00006818, WYNN00006823 - WYNN00006841,
26 WYNN00006842 - WYNN00006844, WYNN00006912 - WYNN00006913, WYNN00006915 -
27 WYNN00006915, WYNN00007000 - WYNN00007000, WYNN00008349 - WYNN00008350,
28 WYNN00008351 - WYNN00008396, WYNN00008397 - WYNN00008407, WYNN00008409 -

1 WYNN00008463, WYNN00008575 - WYNN00008575, WYNN00008576 - WYNN00008576,
2 WYNN00008832 - WYNN00008832, WYNN00009016 - WYNN00009022, WYNN00009023 -
3 WYNN00009040, WYNN00009041 - WYNN00009042, WYNN00009043 - WYNN00009045,
4 WYNN00009046 - WYNN00009048, WYNN00009049 - WYNN00009051, WYNN00009052 -
5 WYNN00009052, WYNN00009615 - WYNN00009615, WYNN00009620 - WYNN00009624.

6 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
7 as discovery continues.

8 **REQUEST FOR PRODUCTION NO. 40:**

9 All documents concerning any assessment by the Wynn Board of the accuracy of the
10 Freeh Report.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

12 Wynn Resorts objects to this Request on the following grounds: (1) it assumes facts and
13 attempts to impose a burden on the Company or its Board not otherwise imposed by law; (2) the
14 terms "assessment" and "accuracy" are undefined, vague, and ambiguous, requiring speculation as
15 to Defendants' intended meanings; and (3) the Request is objectionable to the extent it calls for
16 information and documents protected by the attorney-client privilege, common interest privilege,
17 and/or work product doctrine. Subject to and without waiving said objections, Wynn Resorts
18 responds as follows: Wynn Resorts is unaware of any documents responsive to this Request that
19 are not privileged or otherwise protected. Discovery is continuing, and Wynn Resorts reserves
20 the right to supplement this response as discovery continues.

21 **REQUEST FOR PRODUCTION NO. 41:**

22 All documents concerning any communications by Wynn, Wynn Resorts, or any
23 Counterdefendant with any person outside Wynn Resorts concerning the Freeh Report, including
24 but not limited to the Wall Street Journal.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

26 Wynn Resorts objects to this Request on the following grounds: (1) it is overly broad and
27 unduly burdensome in that it essentially seeks any and all documents that reference a
28 communication or statement by Wynn Resorts or any employee thereof regarding this action;

1 (2) it is not reasonably calculated to lead to the discovery of admissible evidence; (3) it is
2 objectionable to the extent it seeks information and/or documents protected by the attorney-client
3 privilege, common interest privilege, and/or work product doctrine; and (4) the term "any person
4 outside Wynn Resorts" is undefined and, under the circumstances, vague and ambiguous,
5 requiring speculation as to its intended meaning (*i.e.*, does it seek to invade a privilege or
6 protection).

7 Subject to and without waiving said objections, Wynn Resorts responds as follows: Due
8 to the overbreadth of this Request, if and when Defendants narrow the Request, Wynn Resorts
9 will provide responsive documents not privileged or otherwise protected. Discovery is
10 continuing, and Wynn Resorts reserves the right to supplement this response as discovery
11 continues.

12 **REQUEST FOR PRODUCTION NO. 42:**

13 All documents concerning Wynn Resorts' or Wynn's offer to purchase some or all of
14 Aruze's stock in 2011 or 2012.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

16 Wynn Resorts objects to this Request on the following grounds: (1) the Request is vague
17 and ambiguous as it is unclear whether the Request seeks information related to shares of stock in
18 Aruze or shares of Wynn Resorts' stock formerly held by Aruze; (2) it assumes facts (*i.e.*, that
19 offers to purchase were made by or on behalf of Wynn or Wynn Resorts at the times stated in the
20 Request); (3) it is objectionable to the extent it seeks information and/or documents protected by
21 the attorney-client privilege, common interest privilege, accountant/client privilege, and/or work
22 product doctrine; (4) it is unduly burdensome to the extent it seeks documents in the possession,
23 custody, or control of Defendants from whom the Company is seeking or will seek to discovery
24 from Defendants in this action; and (5) it is unduly burdensome to the extent it seeks documents
25 already produced in this action.

26 Subject to and without waiving said objections, Wynn Resorts responds as follows:
27 Please refer to documents disclosed and produced concurrently herewith, identified as
28

1 WYNN00004908 - WYNN00004910, WYNN00004911 - WYNN00004912, and
2 WYNN00004913-WYNN00004914.

3 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
4 as discovery continues.

5 **REQUEST FOR PRODUCTION NO. 43:**

6 All documents concerning the resolutions adopted by the Wynn Board on February 18,
7 2012, as alleged in Paragraph 97 of the Complaint, including but not limited to all documents
8 concerning:

9 A. The Wynn Board's determination that Aruze and Universal were likely to
10 jeopardize Wynn Resorts' and its affiliated companies' gaming licenses;

11 B. The Wynn Board's determination that Okada, Aruze, and Universal were
12 unsuitable persons under the Articles of Incorporation;

13 C. The Wynn Board's determination to redeem Aruze's shares in Wynn Resorts for
14 approximately \$1,936 billion through a promissory note; and

15 D. The basis for each of the Wynn Board's determinations set forth above, including
16 all information considered by the Wynn Board before making each of these determinations.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

18 Wynn Resorts objects to this Request on the following grounds: (1) it seeks
19 communications and documents protected by the attorney-client privilege, common interest
20 privilege, and/or work product doctrine; (2) it is overly broad to the extent it seeks "[a]ll
21 documents concerning"; and (3) it is unduly burdensome to the extent it seeks documents
22 already provided to Defendants in this action.

23 Subject to and without waiving said objections, Wynn Resorts responds as follows:
24 Please refer to documents previously produced and identified as WYNN000829,
25 WYNN000833-WYNN000836, WYNN001396-WYNN001401, WYNN001402-WYNN001404,
26 WYNN001540-WYNN001586, WYNN001587-WYNN003066, WYNN003067-WYNN003126,
27 and WYNN003127-WYNN003188.

28

Please also refer to documents disclosed and produced concurrently herewith, identified as WYNN00004861 - WYNN00004862, WYNN00004863 - WYNN00004874, WYNN00004875 - WYNN00004876, WYNN00004877 - WYNN00004888, WYNN00004889 - WYNN00004891, WYNN00005990 - WYNN00005992, WYNN00006517 - WYNN00006521, WYNN00006587 - WYNN00006649, WYNN00006737 - WYNN00006738, WYNN00006739 - WYNN00006740, WYNN00006742 - WYNN00006760, WYNN00006761 - WYNN00006779, WYNN00006781 - WYNN00006799, WYNN00006800 - WYNN00006818, WYNN00006823 - WYNN00006841, WYNN00006916 - WYNN00006997, WYNN00008084 - WYNN00008185, WYNN00008242 - WYNN00008343, WYNN00008409 - WYNN00008463, WYNN00008525 - WYNN00008525, WYNN00008526 - WYNN00008535, WYNN00008536 - WYNN00008538, WYNN00008539 - WYNN00008541, WYNN00008542 - WYNN00008544, WYNN00008545 - WYNN00008546, WYNN00008547 - WYNN00008548, WYNN00008549 - WYNN00008550, WYNN00008551 - WYNN00008552, WYNN00008553 - WYNN00008554, WYNN00008555 - WYNN00008556, WYNN00008557 - WYNN00008558, WYNN00008559 - WYNN00008560, WYNN00008561 - WYNN00008562, WYNN00008563 - WYNN00008564, WYNN00008565 - WYNN00008566, WYNN00008567 - WYNN00008568, WYNN00008569 - WYNN00008570, WYNN00008571 - WYNN00008572, WYNN00008573 - WYNN00008574, WYNN00008798 - WYNN00008801, WYNN00008810 - WYNN00008810, WYNN00008811 - WYNN00008811, WYNN00008895 - WYNN00008904, WYNN00008920 - WYNN00008920, WYNN00008942 - WYNN00008942, WYNN00008943 - WYNN00008943, WYNN00008946 - WYNN00008964, WYNN00008965 - WYNN00008968, WYNN00009103 - WYNN00009121, WYNN00009626 - WYNN00009627.

Discovery is continuing, and Wynn Resorts reserves the right to supplement this response as discovery continues.

REQUEST FOR PRODUCTION NO. 44:

All documents concerning any instances where the Wynn Board considered or made a determination whether a person was an unsuitable person under the Articles of Incorporation, other than the Wynn Board's determination concerning Okada on February 18, 2012.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

2 Wynn Resorts objects to this Request on the ground that it assumes facts (*i.e.*, that there
3 have been "unsuitable persons" as defined in the Company's Articles other than the Defendants
4 for which a determination thereunder was required). Subject to and without waiving said
5 objections, Wynn Resorts responds as follows: There are no documents responsive to this
6 Request. Discovery is continuing, and Wynn Resorts reserves the right to supplement this
7 response as discovery continues.

8 **REQUEST FOR PRODUCTION NO. 45:**

9 All documents concerning any instances where the Wynn Board considered whether to
10 redeem, or made a determination to redeem the shares of any shareholder pursuant to the Articles
11 of Incorporation, other than the Wynn Board's redemption of Aruze's shares on February 18,
12 2012.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

14 Wynn Resorts objects to this Request on the ground that it assumes facts (*i.e.*, that there
15 have been "unsuitable persons" as defined in the Company's Articles other than the Defendants
16 for which a redemption consideration or action was required). Subject to and without waiving
17 said objections, Wynn Resorts responds as follows: There are no documents responsive to this
18 Request. Discovery is continuing, and Wynn Resorts reserves the right to supplement this
19 response as discovery continues.

20 **REQUEST FOR PRODUCTION NO. 46:**

21 All documents concerning the valuation of Aruze's shares in Wynn Resorts for the
22 redemption in 2012, including but not limited to all documents concerning the valuation
23 conducted by Moelis & Company, including all documents provided to or by Moelis & Company
24 concerning the valuation.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 46:**

26 Wynn Resorts objects to this Request on the following grounds: (1) it is objectionable to
27 the extent it seeks communications and documents protected by the attorney-client privilege,
28 common interest privilege, and/or work product doctrine; (2) it is overly broad and unduly

1 burdensome to the extent it seeks "[a]ll documents . . ."; (3) is unduly burdensome to the extent
2 it seeks documents in the possession custody and control of Defendants from whom the Company
3 is seeking or will seek to recover in this action; and (4) it is unduly burdensome to the extent it
4 seeks documents already disclosed in this action.

5 Subject to and without waiving said objections, Wynn Resorts responds as follows:
6 Please refer to documents previously produced and identified as WYNN0003067-WYNN0003126
7 (Moelis).

8 Please also refer to documents disclosed and produced concurrently herewith, identified as
9 WYNN00003867, WYNN00003868 - WYNN00003922, WYNN00003923, WYNN00003924 -
10 WYNN00003975, WYNN00004032, WYNN00004033 - WYNN00004039, WYNN00004040 -
11 WYNN00004091, WYNN00004092, WYNN00004093 - WYNN00004144, WYNN00004145 -
12 WYNN00004146, WYNN00004147, WYNN00004148 - WYNN00004153, WYNN00004154 -
13 WYNN00004159, WYNN00004160 - WYNN00004165, WYNN00004827 - WYNN00004832,
14 WYNN00004917, WYNN00004918 - WYNN00004923, WYNN00004924 - WYNN00004925,
15 WYNN00004926, WYNN00004927 - WYNN00004981, WYNN00004986, WYNN00004987 -
16 WYNN00005038, WYNN00005039 - WYNN00005040, WYNN00005051, WYNN00005052 -
17 WYNN00005053, WYNN00005054, WYNN00005055 - WYNN00005106, WYNN00005107 -
18 WYNN00005108, WYNN00005109, WYNN00005110 - WYNN00005161, WYNN00005162 -
19 WYNN00005163, WYNN00005282, WYNN00005283 - WYNN00005337, WYNN00005338,
20 WYNN00005339 - WYNN00005345, WYNN00005494 - WYNN00005495, WYNN00005497,
21 WYNN00005498 - WYNN00005503, WYNN00005504, WYNN00005505 - WYNN00005510,
22 WYNN00005536, WYNN00005572 - WYNN00005573, WYNN00005574 - WYNN00005575,
23 WYNN00005610 - WYNN00005611, WYNN00005612, WYNN00005613 - WYNN00005618,
24 WYNN00005621, WYNN00005649, WYNN00005650 - WYNN00005651, WYNN00005652,
25 WYNN00005653 - WYNN00005704, WYNN00005705 - WYNN00005706, WYNN00005825,
26 WYNN00005826 - WYNN00005880, WYNN00005881, WYNN00005882 - WYNN00005936,
27 WYNN00006195 - WYNN00006196, WYNN00006197, WYNN00006198, WYNN00006199,
28 WYNN00006200, WYNN00006201, WYNN00006202, WYNN00006203, WYNN00006204,

1 WYNN00006217, WYNN00006218, WYNN00006219, WYNN00006220, WYNN00006263 -
2 WYNN00006268, WYNN00006282 - WYNN00006283, WYNN00006363 - WYNN00006364,
3 WYNN00006365 - WYNN00006416, WYNN00006417 - WYNN00006418, WYNN00006426,
4 WYNN00006450 - WYNN00006504, WYNN00006516, WYNN00006676 - WYNN00006735,
5 WYNN00006742 - WYNN00006760, WYNN00006761 - WYNN00006779, WYNN00006781 -
6 WYNN00006799, WYNN00006800 - WYNN00006818, WYNN00006823 - WYNN00006841,
7 WYNN00008186 - WYNN00008240, WYNN00008944 - WYNN00008945, WYNN00008965 -
8 WYNN00008968.

9 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
10 as discovery continues.

11 **REQUEST FOR PRODUCTION NO. 47:**

12 All documents concerning the valuation of Aruze's shares in Wynn Resorts for the
13 redemption in 2012, including but not limited to all documents concerning the valuation
14 conducted by Duff & Phelps, LLC, including all documents provided to or by Duff &
15 Phelps, LLC concerning the valuation.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

17 Wynn Resorts objects to this Request on the following grounds: (1) it is objectionable to
18 the extent it seeks communications and documents protected by the attorney-client privilege,
19 common interest privilege, and/or work product doctrine; (2) it is overly broad and unduly
20 burdensome to the extent it seeks "[a]ll documents"; (3) it is unduly burdensome to the
21 extent it seeks documents in the possession custody and control of Defendants from whom the
22 Company is seeking or will seek to recover in this action; (4) it is unduly burdensome to the
23 extent it seeks documents already disclosed in this action; (5) is vague and ambiguous as to the
24 use of the term "valuation; and (6) it assumes and/or mischaracterizes facts related to a purported
25 "valuation" by Duff & Phelps.

26 Subject to and without waiving said objections, Wynn Resorts responds as follows:
27 Please refer to documents previously produced and identified as WYNN003067-WYNN003126
28 and WYNN003127-WYNN003188.

1 Please also refer to documents disclosed and produced concurrently herewith, identified as
2 WYNN00003843, WYNN00003844 - WYNN00003854, WYNN00003855, WYNN00003856 -
3 WYNN00003866, WYNN00003976 - WYNN00003977, WYNN00003978 - WYNN00004031,
4 WYNN00004032, WYNN00004033 - WYNN00004039, WYNN00004040 - WYNN00004091,
5 WYNN00004166 - WYNN00004172, WYNN00004173 - WYNN00004215, WYNN00004833 -
6 WYNN00004835, WYNN00004836 - WYNN00004837, WYNN00004838 - WYNN00004849,
7 WYNN00004850 - WYNN00004860, WYNN00004982 - WYNN00004983, WYNN00004984 -
8 WYNN00004985, WYNN00005041 - WYNN00005042, WYNN00005043, WYNN00005044 -
9 WYNN00005050, WYNN00005164, WYNN00005165 - WYNN00005171, WYNN00005172,
10 WYNN00005173 - WYNN00005226, WYNN00005227, WYNN00005228 - WYNN00005281,
11 WYNN00005346, WYNN00005347 - WYNN00005398, WYNN00005399, WYNN00005400 -
12 WYNN00005442, WYNN00005443 - WYNN00005445, WYNN00005446 - WYNN00005448,
13 WYNN00005449, WYNN00005450, WYNN00005451 - WYNN00005493, WYNN00005496,
14 WYNN00005511, WYNN00005512 - WYNN00005522, WYNN00005523, WYNN00005524 -
15 WYNN00005534, WYNN00005535, WYNN00005537 - WYNN00005538, WYNN00005539,
16 WYNN00005540 - WYNN00005541, WYNN00005542 - WYNN00005552, WYNN00005553 -
17 WYNN00005554, WYNN00005555 - WYNN00005565, WYNN00005566 - WYNN00005568,
18 WYNN00005569 - WYNN00005571, WYNN00005576 - WYNN00005577, WYNN00005578 -
19 WYNN00005579, WYNN00005580, WYNN00005581 - WYNN00005582, WYNN00005583,
20 WYNN00005584, WYNN00005595 - WYNN00005601, WYNN00005602 - WYNN00005603,
21 WYNN00005604, WYNN00005605, WYNN00005619 - WYNN00005620, WYNN00005639 -
22 WYNN00005640, WYNN00005641, WYNN00005642 - WYNN00005648, WYNN00005707,
23 WYNN00005708 - WYNN00005714, WYNN00005715, WYNN00005716 - WYNN00005769,
24 WYNN00005770, WYNN00005771 - WYNN00005824, WYNN00005937, WYNN00005938 -
25 WYNN00005989, WYNN00005990 - WYNN00005992, WYNN00005993 - WYNN00005999,
26 WYNN00006000, WYNN00006001 - WYNN00006052, WYNN00006053, WYNN00006054 -
27 WYNN00006096, WYNN00006097, WYNN00006098 - WYNN00006140, WYNN00006142 -
28 WYNN00006144, WYNN00006145 - WYNN00006146, WYNN00006147, WYNN00006148 -

1 WYNN00006149, WYNN00006150 - WYNN00006192, WYNN00006193 - WYNN00006194,
2 WYNN00006205, WYNN00006206 - WYNN00006216, WYNN00006221 - WYNN00006222,
3 WYNN00006223 - WYNN00006224, WYNN00006225, WYNN00006226 - WYNN00006227,
4 WYNN00006228, WYNN00006229 - WYNN00006230, WYNN00006231 - WYNN00006232,
5 WYNN00006233 - WYNN00006259, WYNN00006260 - WYNN00006261, WYNN00006262,
6 WYNN00006271 - WYNN00006281, WYNN00006284 - WYNN00006294, WYNN00006295 -
7 WYNN00006301, WYNN00006302 - WYNN00006355, WYNN00006356 - WYNN00006362,
8 WYNN00006419 - WYNN00006425, WYNN00006426, WYNN00006439 - WYNN00006449,
9 WYNN00006505 - WYNN00006515, WYNN00006516, WYNN00006587 - WYNN00006649,
10 WYNN00008944 - WYNN00008945, WYNN00008965 - WYNN00008968.

11 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
12 as discovery continues.

13 **REQUEST FOR PRODUCTION NO. 48:**

14 All documents concerning Kenneth Moelis' and Moelis & Company's work for Wynn or
15 Wynn Resorts prior to the valuation of Aruze's shares in 2011 and/or 2012.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

17 Wynn Resorts objects to this Request on the following grounds: (1) the Request seeks
18 documents that are not relevant to the subject matter, claims and defenses in this action and is not
19 reasonably calculated to lead to the discovery of admissible evidence; (2) the Request assumes
20 facts (*i.e.*, that Kenneth Moelis and/or Moelis & Company provided services to Wynn or
21 Wynn Resorts); (3) it is unduly burdensome and to the extent it seeks records other than those of
22 the Company, this Request is not properly directed to Wynn Resorts; (4) the Request is overly
23 broad and unduly burdensome as it seeks information and documents unrelated to the subject
24 matter of this action and any claim or defense in this action; and (5) the Request is a fishing
25 expedition designed to annoy and harass.

26 Subject to and without waiving said objections, Wynn Resorts responds as follows: There
27 are no documents responsive to this Request. Discovery is continuing, and Wynn Resorts
28 reserves the right to supplement this response as discovery continues.

REQUEST FOR PRODUCTION NO. 49:

All documents concerning Duff & Phelps, LLC's work for Wynn or Wynn Resorts prior to the valuation of Aruze's shares in 2011 and/or 2012.

RESPONSE TO REQUEST FOR PRODUCTION NO. 49:

Wynn Resorts objects to this Request on the following grounds: (1) the Request seeks documents that are not relevant to the subject matter, claims and defenses in this action and is not reasonably calculated to lead to the discovery of admissible evidence; (2) the Request assumes facts (*i.e.*, that Duff & Phelps provided services to Mr. Wynn or Wynn Resorts); (3) it is unduly burdensome and to the extent it seeks records other than those of the Company, this Request is not properly directed to Wynn Resorts; (4) the Request is overly broad and unduly burdensome as it seeks information and documents unrelated to the subject matter of this action and any claim or defense in this action; and (5) the Request is a fishing expedition designed to annoy and harass.

Subject to and without waiving said objections, Wynn Resorts responds as follows: There are no documents responsive to this Request. Discovery is continuing, and Wynn Resorts reserves the right to supplement this response as discovery continues.

REQUEST FOR PRODUCTION NO. 50:

All documents concerning any valuation of Aruze's shares in Wynn Resorts, including but not limited to valuations included or referenced in filings with the United States Securities and Exchange Commission ("US SEC"), court filings, or the letter from Robert L. Shapiro to Aruze's counsel dated December 15, 2011.

RESPONSE TO REQUEST FOR PRODUCTION NO. 50:

Wynn Resorts objects to this Request on the following grounds: (1) it seeks communications and documents protected by the attorney-client privilege, common interest privilege, and/or work product doctrine; and (2) it is unduly burdensome to the extent it seeks documents in the public record and equally accessible to Defendants.

Subject to and without waiving said objections, Wynn Resorts responds as follows: Please refer to documents previously produced and identified as WYNN001438-WYNN001439

1 (Shapiro ltr re redemption), WYNN003067-WYNN003126 (Moelis), and WYNN003127-
2 WYNN003188 (Duff).

3 Please also refer to documents disclosed and produced concurrently herewith, identified as
4 WYNN00006426, WYNN00006516, WYNN00008965 - WYNN00008968. Discovery is
5 continuing, and Wynn Resorts reserves the right to supplement this response as discovery
6 continues.

7 Discovery is continuing, and Wynn Resorts reserves the right to supplement this response
8 as discovery continues.

9 **REQUEST FOR PRODUCTION NO. 51:**

10 All documents concerning the land concession contract permitting Wynn Macau to
11 develop a casino resort in Cotai, as referenced in Wynn Resorts' March 2, 2012 and May 2, 2012
12 Form 8-K filings, including but not limited to all documents concerning:

- 13 A. The date Wynn Resorts began negotiations for such concession contract;
14 B. The date such concession contract was executed;
15 C. The disclosure of such concession contract in Wynn Resorts' initial Form 8-K
16 filing on March 2, 2012;
17 D. Wynn Resorts' March 2, 2012 retraction of the initial March 2, 2012 Form 8-K
18 filing as having been filed by "mistake" by the "Company's agent," including all communications
19 with the Company's agent referenced in the retraction; and
20 E. Wynn Resorts' May 2, 2012 Form 8-K filing, including any documents concerning
21 changes in the wording of the May 2, 2012 Form 8-K filing from the initial March 2, 2012
22 Form 8-K filing.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 51:**

24 Wynn Resorts objects to this Request on the following grounds: (1) it seeks documents
25 and information unrelated to the subject matter, claims or defenses in this action and thus is not
26 reasonably calculated to lead to the discovery of admissible evidence in this action
27 (e.g., Wynn Macau's land concession); (2) it is overly broad and unduly burdensome in scope
28 (e.g., "[a]ll documents concerning the land concession contract permitting Wynn Macau to

1 develop a casino resort in Cotai"; (3) it seeks confidential and proprietary information
2 (which, again, is unrelated to the claims or defenses in this action and thus is not reasonably
3 calculated to lead to the discovery of admissible evidence in this action); (4) it is overly
4 burdensome to the extent it seeks documents apparently already in Defendants' possession and
5 which Defendants have unilaterally and improperly injected into the public record in violation of
6 Defendants' fiduciary duties then owed to the Company; (5) to the extent this Request seeks
7 documents from Wynn Macau, a non-party to this action, a Rule 34 request is insufficient to
8 compel the production of this third-party's records and Defendants are required to follow the
9 appropriate legal processes to compel the records of a third party; (6) to the extent the Request
10 seeks documents from Wynn Macau that reside only in Macau, the Request seeks documents
11 containing personal information of third parties protected by the Macau Personal Data Privacy
12 Act; (7) to the extent this Request seeks documents related to the bidding process and tender for
13 the Macau license (which includes land), Wynn Resorts objects based upon Macao SAR Law
14 n.º 16/2001, which is Macau's gaming regulatory statute governing gaming concessionaires,
15 operators, and the tender process. Section I, Article 16 provides as follows: "The bidding
16 processes, the documents and data included, as well as all documents and data related to the
17 tender, are confidential and cannot be accessed or consulted by third parties"; and (8) the
18 Request it seeks documents protected by the attorney-client privilege, common interest privilege,
19 and/or work product doctrine.

20 Subject to and in light of the foregoing, Wynn Resorts will not respond to this Request
21 unless and until Defendants demonstrate how the Request is reasonably calculated to lead to the
22 discovery of admissible evidence in relation to any allegation or defense and/or a court order
23 compels the production after a finding of discoverability.

24 **REQUEST FOR PRODUCTION NO. 52:**

25 All documents concerning the removal of Okada as Vice Chairman of Wynn Resorts and
26 as a director of both Wynn Resorts and Wynn Macau.