Fayemi v. Hambrecht & Quist, Inc., 174 F.R.D. 319, 326 (S.D.N.Y. 1997) (the court may utilize its inherent authority to preclude use of wrongfully obtained information even where the documents are otherwise subject to disclosure during the normal course of discovery). Nor does the wrongfulness of the conduct depend on whether the documents are proprietary, confidential, or privileged, although the documents at issue are, in fact, confidential and proprietary. (Fujihara Decl. ¶¶ 12, 18, 38). *Glynn*, 2010 WL 3294347, at *5 ("The parties dispute whether the information listed above is proprietary, confidential, or protected by the attorney-client or work product privileges. I need not resolve these issues because, regardless of their merits, I believe it was inappropriate for [plaintiff and his counsel] to acquire these internal [opposing party] documents outside the normal discovery channels.").

3. WRL Caused Fujihara to Breach his Confidentiality Obligations to UEC

In procuring UEC's confidential and proprietary documents and information outside the course of discovery, WRL tortiously interfered with Fujihara's contractual confidentiality obligations to UEC.[10] Fujihara's Sworn Oath and the UEC Employment Rules prohibited Fujihara from disclosing the information and documents he provided WRL. (Fujihara Decl., Ex. A (Sworn Oath); Ex. B (UEC Employment Rules).) Indeed, Fujihara was not even authorized to

[10] To establish tortious interference with contractual relations, a plaintiff must show (1) a valid and existing contract; (2) the defendant's knowledge of the contract; (3) intentional acts intended or designed to disrupt the contractual relationship; (4) actual disruption of the contract, and (5) resulting damages. *J.J. Indus., LLC v. Bennett*, 119 Nev. 269, 274, 71 P.3d 1264, 1267 (2003). The confidentiality provisions in Fujihara's Signed Oath and UEC's Employment Rules constitute valid contractual obligations which WRL should reasonably have inferred and understood would exist because Fujihara is a current UEC employee. *Id.* ("the plaintiff must demonstrate that the defendant knew of the existing contract, or at the very least, establish facts from which the existence of the contract can reasonably be inferred.") Fujihara's confidentiality obligations can also reasonably be inferred from his notice to WRL that the documents WRL requested were outside of the scope of his authority to obtain. WRL nevertheless undertook intentional acts intended and designed to disrupt Fujihara's confidentiality obligations by encouraging Fujihara to disclose UEC's confidential documents, including by apparently paying for his travel expenses, facilitating his movements, and arranging for his interviews. As a result, Fujihara breached his confidentiality obligations by disclosing confidential and proprietary UEC information and documents to DOJ and WRL, including documents that he was not authorized to access, thereby resulting in damages to UEC.

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access, much less share outside UEC, some of the documents he obtained and disclosed to WRL. (Fujihara Decl. ¶ 33.) The violation of Fujihara's confidentiality obligations to UEC, and WRL's tortious actions in inducing the breach, reinforce the wrongfulness of WRL's conduct and the necessity of imposing sanctions.

B. The Court Should Permit Expedited Discovery to Determine the Full Extent of WRL's Wrongful Conduct.

The full extent of WRL's wrongful conduct is unknown at this point. To rectify the invasions of their rights as soon as possible, UEC and Aruze USA seek the issuance of a Letter Rogatory to Japan and the following discovery on an expedited basis. UEC and Aruze USA reserve all rights to seek additional discovery within the expedited schedule to be set by the Court.

1. Application for Issuance of a Letter Rogatory to Japan

Pursuant to Nevada Rule of Civil Procedure 28(b), UEC and Aruze USA hereby apply for the issuance of a Letter Rogatory to the Appropriate Judicial Authority in Japan in order to compel the deposition in Japan of Kosaka, who has evidence critical to determining the extent of WRL's improper conduct. Because Kosaka is a Japanese national who resides in Japan, he is beyond the subpoena power of this Court.

Nevada law permits depositions to be taken in foreign countries pursuant to a letter rogatory. NRCP 28(b). Moreover, it is well settled that the Court has inherent authority to issue a letter rogatory to a foreign tribunal. *See United States v. Staples*, 256 F.2d 290, 292 (9th Cir. 1958). Furthermore, the U.S. Department of State has the authority to "receive a letter rogatory issued . . . by a tribunal in the United States" and transfer it to the appropriate foreign tribunal. 28 U.S.C. § 1781(a).

Nevada law requires that a letter rogatory "shall be issued on application and notice and on terms that are just and appropriate." NRCP 28(b). Courts interpreting "just and appropriate" standards similar to the one in Nevada have found that the terms of a letter rogatory are "just and appropriate" when the discovery sought by the letter rogatory is "reasonably calculated to lead to the discovery of admissible evidence." *DBMS Consultants Ltd. v. Computer Associates Int'l.,*

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Inc., 131 F.R.D. 367, 369 (D. Mass. 1990). Because Nevada rules permit discovery of any matter that "is relevant to the subject matter involved in the pending action," it is incumbent upon the party opposing an application for a letter rogatory to demonstrate that the discovery request exceeds the state's liberal discovery rules. NRCP 26(b); *see Brake Parts, Inc. v. Lewis*, 2009 WL 1939039, at *3 (E.D. Ky. July 6, 2009); *see also Evanston Ins. Co. v. OEA, Inc.*, 2006 WL 1652315 at *2 (E.D. Cal. June 13, 2006) ("[T]his court will apply the rule that letters of rogatory shall issue unless good cause is shown otherwise").

UEC's and Aruze USA's Letter Rogatory to Japan for Kosaka's deposition easily clears the relevance requirements of the Nevada rules. Kosaka had a prominent role in WRL's efforts to contact UEC employees and obtain UEC's confidential and proprietary information outside of the discovery process. Evidence from Kosaka is crucial to determine the full extent of WRL's improper conduct, including the volume and identity of specific documents obtained by WRL, payments by WRL for obtaining information, and identification of other UEC employees whom WRL may have contacted (directly or through Kosaka). *See Evanston,* 2006 WL 1652315 at *2 (granting motion for issuance of letters rogatory where declarant's deposition was relevant and necessary to prosecution of the action). Of course, UEC and Aruze USA will comply with any requirement to reimburse this Court for any expenses incurred in connection with the execution of this Letter Rogatory.

For the foregoing reasons, UEC and Aruze USA respectfully submit that the Court should grant their application and issue the proposed Letter Rogatory (attached hereto as Exhibit 4). UEC and Aruze USA also request the Court to return the Letter Rogatory to UEC's and Aruze USA's counsel for delivery to the proper authorities at the U.S. Department of State, who will ensure that the Letter Rogatory is transferred to the Appropriate Judicial Authority in Japan.

2. Expedited Responses to Interrogatories and Requests for Production of Documents and Deposition of James Stern

UEC and Aruze USA also respectfully request that this Court order that WRL respond by Wednesday, May 27, 2015 to UEC's and Aruze USA's Fourth Set of Requests for Production of Documents ("RFPs") (Exhibit 5) and Interrogatories (Exhibit 6), served concurrently with this

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Motion on April 24, 2015. UEC and Aruze USA request that this Court order that WRL produce all non-privileged responsive documents in response to the RFPs by Wednesday May 27, 2015 and subsequently produce the privilege log associated therewith by Tuesday, June 2, 2015. [11] These RFPs and Interrogatories are limited in scope and serve to inquire into the extent of WRL's improprieties, in particular its interactions with UEC's and Aruze USA's employees including but not limited to Fujihara; the nature of WRL's working relationship with Kosaka; and the knowledge of the improper conduct by WRL personnel and its legal team. [12] *See Shell Oil*, 143 F.R.D. 105 (under the court's inherent authority, ordering offending party to identify and produce the documents it received from opposing party's employee). UEC and Aruze USA further respectfully request that this Court order the deposition of WRL Senior Vice President of Corporate Security James Stern take place on June 10, 2015, in accordance with the deposition notice served concurrently with this Motion (Exhibit 7).[13] UEC and Aruze USA similarly request that the Court order the 30(b)(6) deposition of WRL's designee take place on June 18, 2015 in accordance with, and on the topics identified in, the Notice of 30(b)(6) Deposition to WRL, served concurrently with this Motion (Exhibit 8).[14] The depositions are scheduled after WRL's production of documents in order to permit the documents' use in the examinations. Because the documents may reveal further information not yet known to UEC and Aruze USA, UEC and Aruze USA respectfully request that they be permitted to finalize the 30(b)(6) deposition topics

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[11] UEC and Aruze USA request that disputes, if any, regarding UEC's and Aruze USA's specific requests and proposed response times be resolved at oral argument at the initial hearing on this Motion.

[12] Because these Interrogatories were necessitated by WRL's wrongful conduct, we respectfully request the Court should order that they not count towards the 40 interrogatories permitted under NRCP 33.

[13] Because this deposition is necessitated by WRL's wrongful conduct, the Court should order that UEC and Aruze USA are granted leave pursuant to NRCP 30(a)(2) to take a deposition of James Stern in the future on this action's claims and defenses.

[14] Because this deposition is necessitated by WRL's wrongful conduct, the Court should order that UEC and Aruze USA are granted leave pursuant to NRCP 30(a)(2) to take a future 30(b)(6) deposition of a WRL on this action's claims and defenses and a future deposition of WRL's designee in this instance on this action's claims and defenses.

on or by Thursday, June 11, 2015. In order to narrow the issues before this Court at the hearing on further sanctions, UEC and Aruze USA anticipate serving Requests for Admission to WRL on or by Thursday, June 11, 2015. Accordingly, UEC and Aruze USA respectfully request that this Court order that WRL respond to UEC's and Aruze USA's Requests for Admission by Monday, June 22, 2015.

UEC and Aruze USA would be prejudiced if they cannot promptly depose Stern and WRL's 30(b)(6) designee and receive answers to interrogatories and responses to the document requests. WRL has deliberately concealed its wrongful conduct for over two years; WRL has had the benefit of UEC's improperly obtained confidential and proprietary information for the duration of that period; and WRL has failed to disclose that Stern had discoverable information. Discovery is necessary to determine the extent of WRL's improper conduct, including the volume and identity of specific documents obtained by WRL, payments by WRL for obtaining information, identification of all WRL personnel with knowledge and responsibility, and identification of other current or former UEC employees whom WRL may have contacted. The depositions of Stern and WRL, answers to interrogatories and production of documents are also necessary to determine whether Stern communicated with other employees or agents of WRL about his communications with, and receipt of UEC's confidential and proprietary documents from, current or former UEC employees. Any further delay deepens the prejudice to UEC's and Aruze USA's right to a fair proceeding.

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C. The Court Should Impose Sanctions Against WRL for Its Willful Misconduct

WRL's conduct is sanctionable. "Under its inherent powers, a district court may sanction a party for wrongfully obtaining the property or confidential information of an opposing party." *Glynn*, 2010 WL 3294347, at *3.[15]

[15] Courts have imposed sanctions even when the full extent of the improper conduct is unclear. *See e.g. Shell Oil*, 143 F.R.D. at 108 ("The facts regarding the contact are not entirely known."); *see also Jackson*, 211 F.R.D. at 431 (noting that "the parties have bickered for months over the exact manner in which [plaintiff] obtained" the confidential information).

1. Sanctions Warranted Now

a) Return of and Prohibition on the Use of UEC's Illegally Procured Documents

The Court should order the return of UEC's documents that were obtained from Fujihara and prohibit WRL's use of those documents in this litigation. *See Pure Power Boot Camp, Inc. v. Warrior Fitness Boot Camp*, 587 F. Supp. 2d 548, 570 (S.D.N.Y. 2008) (precluding illegally obtained e-mails from being used as evidence); *Fayemi*, 174 F.R.D. at 326 (use of wrongfully obtained information precluded where plaintiff gained access to private areas of defendant's business without permission or authority and copied confidential materials).[16]

b) Prohibition on Further *Ex Parte* Contact by WRL with UEC's and Aruze USA's Current and Former Employees

The Court should put an end to WRL's improper conduct by precluding it from contacting UEC's and Aruze USA's current and former employees on an *ex parte* basis. This sanction is necessary to preserve the integrity of the judicial proceeding where, as here, WRL obtained documents from its adversary's employee, using a former employee as a conduit, regardless of whether the employees contacted are considered a "party" under the "no-contact" rule. *Shell Oil*, 143 F.R.D. at 109 (under the court's inherent authority, barring further *ex-parte* contact with opposing party's employees where party previously contacted opposing party's employees and obtained opposing party's documents); *Giardina,* 2001 WL 1628597 at *4 (exercising court's inherent authority to prohibit all *ex parte* contact between plaintiff and employees of defendant).

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[16] *Lynn v. Gateway Unified Sch. Dist.*, No. 2:10-CV-00981-JAM , 2011 WL 6260362, at *6-7 (E.D. Cal. Dec. 15, 2011) (employee's theft of emails immediately following termination of employment and disclosure to his attorney warranted sanctions prohibiting the introduction of evidence about the contents of the emails); *Shell Oil Refinery*, 143 F.R.D. at 108 (exercising the court's inherent authority to prohibit a party's use of documents received from opposing party's employee); *Giardina*, 2001 WL 1628597 at *4 (exercising court's inherent authority to prohibit use of privileged letter obtained by plaintiff through *ex parte* contact with unknown employee of defendant); *Lahr v. Fulbright & Jaworski, L.L.P.*, No. 3-94-CV-0981-D, 1995 WL 17816334 (N.D. Tex. Oct. 25, 1995) (appropriation and delivery of defendant's documents by defendant's employee to plaintiff was improper, and ordered return of the documents and prohibited use in the litigation), *aff'd Lahr v. Fulbright & Jaworski, L.L.P.*, No. 3:94-CV-0981-D, 1996 WL 34393321 (N.D. Tex. July 10, 1996).

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2. Additional Sanctions This Court Should Order Following Expedited Discovery

a) Monetary Sanctions

In order to deter WRL from similar misconduct in the future, the Court should impose monetary sanctions, including reimbursement by WRL of UEC's and Aruze USA's attorneys' fees incurred in bringing this motion and in conducting discovery necessitated in pursuing this motion. *See Chamberlain Grp., Inc. v. Lear Corp.*, 270 F.R.D. 392, 398 (N.D. Ill. 2010) (plaintiff's failure to disclose receipt of privileged and confidential documents from defendant's former employee was a breach of its ethical duty and warranted monetary sanctions); *Glynn*, 2010 WL 3294347 (monetary sanctions to punish and deter plaintiff for acquiring internal company documents from defendant's employee); *Ashman v. Solectron Corp.*, 2008 WL 5071101 (N.D. Cal. Dec. 1, 2008) (costs and attorney fees for defendant's motion to preclude the use of the unlawfully obtained documents where plaintiff accessed defendant's computer system without authorization after termination of his employment and retrieved confidential documents for use in litigation).

b) Dismissal of WRL's Claims

The Court should dismiss WRL's claims relating to the illegally procured documents as a sanction for its wrongful conduct. In determining whether to dismiss any of WRL's claims, the Court may consider (1) the degree of willfulness of the offending party; (2) the extent to which the victimized party would be prejudiced by a lesser sanction; (3) the severity of the sanction of dismissal relative to the severity of the discovery abuse; (4) whether any evidence has been irreparably lost; (5) the feasibility and fairness of alternative, lesser sanctions; (6) the policy favoring adjudication on the merits; (7) whether sanctions unfairly operate to penalize a party for the misconduct of counsel; and (8) the need to deter both the parties and future litigants from future abuses. *Young*, 106 Nev.at 93, 787 P.2d at 780.

WRL's conduct was willful. WRL pursued UEC's most senior accounting and finance manager and pressured him to disclose UEC's confidential and proprietary information and documents. This is not a case where WRL inadvertently stumbled upon UEC's documents, gaining access to confidential information by mistake. WRL's willfulness is reflected by its

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secrecy. WRL's plan seems to have been to bury its impropriety by failing to make required NRCP 16.1(a) disclosures,[17] omitting Stern, Kosaka, and Fujihara from its list of individuals likely to have discoverable information, and by failing in the last two years to produce documents concerning its communications with Fujihara, much less the documents WRL obtained from Fujihara.[18] (*See* Exhibit 9; *see also* Declaration of Robert J. Cassity, Esq. ("Cassity Decl.") (attached hereto as Exhibit 1) ¶ 8.) Due to the willfulness and severity of WRL's misconduct deliberately executed over the course of multiple *ex parte* meetings on two continents over many months, as well as WRL's concealment of its misconduct, dismissal is appropriate. *Jackson*, 211 F.R.D. at 430-33 (dismissing action after finding that plaintiff intentionally stole defendant's proprietary secrets, attorney-client work product, and confidential information both before and after he left his employment with defendant).

UEC and Aruze USA would be prejudiced in defending this lawsuit by the application of lesser sanctions because WRL has gained a tactical advantage by utilizing improperly obtained UEC confidential and proprietary information, as well as contacting UEC's most senior Finance and Accounting Manager, in formulating WRL's discovery and litigation strategy. Assessment of monetary sanctions alone would convey a "message to litigants that money could cure one's improper acts." *Perna*, 916 F. Supp. at 400. Further, WRL, by apparently paying for Fujihara's participation, has already demonstrated that money is less important to it than improperly obtaining an edge over UEC and Aruze USA. Even if WRL were to return the documents,

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[17] The Wynn Parties' Seventh Supplemental Disclosures Pursuant to NRCP 16.1 is attached as Exhibit 9 to this Motion with the omission of the production log, attached as Exhibit A to the Disclosures.

[18] UEC and Aruze USA requested on January 2, 2013 that WRL produce "[a]ll documents concerning communications by Wynn Resorts with Defendants (including Defendants' representatives) concerning any investigation that Wynn Resorts conducted or commissioned concerning Defendants or their businesses in the Philippines." RFP No. 35. While WRL agreed to produce responsive documents to this request, WRL's NRCP 16.1 Disclosures omit James Stern, Toshihiko Kosaka, and Yoshitaka Fujihara from their list of individuals likely to have discoverable information and WRL's production of documents, to date, does not include documents concerning its communications with Yoshitaka Fujihara or documents WRL obtained from Fujihara. (Cassity Decl. ¶ 8.).

knowledge of UEC's proprietary information cannot be erased. *See id.* (once plaintiff reviewed the documents his knowledge of the proprietary information could not be erased; defendant had suffered prejudice which could only be cured by dismissal); *see also Lipin v. Bender*, 84 N.Y.2d 562 (N.Y. App. Div. 1993) (dismissing action where plaintiff obtained and reviewed internal memoranda prepared by opposing counsel because the wrongdoing and knowledge were the party's own "so that neither suppression of the document nor suppression of the information was a realistic alternative" to dismissal), *aff'd* 193 A.D. 2d 424 (N.Y. App. Div. 1993).

Moreover, dismissal is necessary to deter future abuses. No other sanction will deter WRL and future litigants from engaging in similar behavior as well as dismissal. *Perna*, 916 F. Supp. at 401. ("[D]ismissal is the only form of discipline that will insure the orderly administration of justice and the integrity of the courts.").

V. CONCLUSION

In sum, UEC and Aruze USA request that this Court order (i) expedited discovery to be completed by June 22, with disputes if any regarding UEC's and Aruze USA's specific requests and proposed response times to be resolved at the initial oral argument on this Motion; (ii) initial sanctions against WRL, specifically the return of, and prohibition on the use of, illegally procured documents, and a prohibition on further ex parte contact with Aruze Party employees; and (iii) oral argument after expedited discovery on UEC's and Aruze USA's requests for further sanctions, using the following overall schedule:

Date	Event
To be determined (but no earlier than May 4)	Oral argument on requests for • expedited discovery (including the resolution of any disputes over the particulars of discovery being served on WRL concurrently with this Motion); • issuance of a letter rogatory; and • initial sanctions. (including return of UEC's documents wrongfully misappropriated by WRL, precluding the use of such documents in this proceeding and prohibiting further *ex parte* contact between WRL and current and former UEC and Aruze USA employees)

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Wed., May 27	Service by Wynn Resorts, Limited's ("WRL") of • responses to UEC's and Aruze USA's First Set of Interrogatories (served April 24); and • non-privileged documents responsive to UEC's and Aruze USA's 4th Request for Production of Documents (served April 24)
Tues., June 2	Service of WRL's privilege log in response to UEC's and Aruze USA's 4th Request for Production of Documents
Wed., June 10	Deposition of James Stern
Thurs., June 11	Deadline • for service of any requests for admission (responses due by close of expedited discovery); and • to finalize topics for Deposition of 30(b)(6) designee(s).
Thurs., June 18	Deposition of 30(b)(6) designee(s)
Mon., June 22	Completion of expedited discovery
Mon., June 29	Service of WRL's opposition to the request for further sanctions
Mon., July 6	Service of UEC's and Aruze USA's reply papers
To be determined (UEC and Aruze USA request Fri., Jul. 10)	Oral argument on Motion's request for further sanctions

DATED this 24th day of April, 2015.

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of April, 2015, a true and correct copy of the foregoing **UNIVERSAL ENTERTAINMENT CORP.'S AND ARUZE USA INC.'S MOTION FOR EXPEDITED DISCOVERY AND SANCTIONS** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Please see the attached E-Service Master List

☐ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

☐ Facsimile: by faxing a copy to the following numbers referenced below:

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DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada corporation, Plaintiff, v. 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 **APPENDIX OF EXHIBITS REFERENCED IN UNIVERSAL ENTERTAINMENT CORPORATION'S AND ARUZE USA INC.'S MOTION FOR EXPEDITED DISCOVERY AND SANCTIONS** Electronic Filing Case Hearing Date: Hearing Time:

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Dated: April 24, 2015

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CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of April, 2015, a true and correct copy of the foregoing **APPENDIX OF EXHIBITS REFERENCED IN UNIVERSAL ENTERTAINMENT CORPORATION'S AND ARUZE USA INC.'S MOTION FOR EXPEDITED DISCOVERY AND SANCTIONS** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Please see the attached Master E-Service List

☐ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

☐ Email: by electronically delivering a copy via email to the following e-mail address:

☐ Facsimile: by faxing a copy to the following numbers referenced below:

/s/ Valerie Larsen
An Employee of Holland & Hart LLP

Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
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E-Service Master List
For Case
null - Wynn Resorts, Limited, Plaintiff(s) vs. Kazuo Okada, Defendant(s)

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EXHIBIT 1

EXHIBIT 1

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DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada corporation, Plaintiff, v. 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 **DECLARATION OF ROBERT J. CASSITY, ESQ. IN SUPPORT OF UNIVERSAL ENTERTAINMENT CORP.'S AND ARUZE USA INC.'S MOTION FOR EXPEDITED DISCOVERY SANCTIONS** Electronic Filing Case

I, Robert J. Cassity, Esq., declare as follows:

1. I am over 18 years of age and am competent to testify as to the matters set forth in this Declaration based upon my own personal knowledge.

2. I am an attorney at Holland & Hart LLP, counsel for Universal Entertainment Corporation ("UEC") and Aruze USA Inc. ("Aruze USA") in this action.

3. I make this Declaration in support of the UEC's and Aruze USA's Motion for Expedited Discovery and Sanctions ("Motion").

4. Attached as Exhibit 2 to the Motion is the Translated Declaration of Yoshitaka Fujihara.

5. Attached as Exhibit 3 to the Motion is the original, Japanese-language Declaration of Yoshitaka Fujihara.

6. Attached as Exhibit 4 to the Motion is the Aruze Parties' proposed Request to Japan for International Judicial Assistance (Letter Rogatory).

7. Attached as Exhibits 5, 6, 7 and 8 to the Motion are true and correct copies of the following discovery papers, which are being served concurrently with the Motion:

- UEC's and Aruze USA's Fourth Request for Production of Documents to Wynn Resorts, Limited;
- UEC's and Aruze USA's First Set of Interrogatories to Wynn Resorts, Limited;
- UEC's and Aruze USA's Deposition Notice to James Stern, Senior Vice President of Wynn Resorts, Limited; and
- UEC's and Aruze USA's 30(b)(6) Deposition Notice to Wynn Resorts, Limited.

8. Attached as Exhibit 9 to the Motion are true and correct copies of WRL's most recent NRCP 16.1 Disclosures, specifically The Wynn Parties' Seventh Supplemental Disclosures Pursuant to NRCP 16.1 (omitting the production log attached as Exhibit A to the Disclosures), served by WRL on April 13, 2015. WRL's NRCP 16.1 Disclosures omit James Stern, Toshihiko Kosaka, and Yoshitaka Fujihara from their list of individuals likely to have discoverable information. Moreover, WRL's production of documents, to date, does not include documents concerning its communications with Yoshitaka Fujihara or documents WRL obtained from Fujihara.

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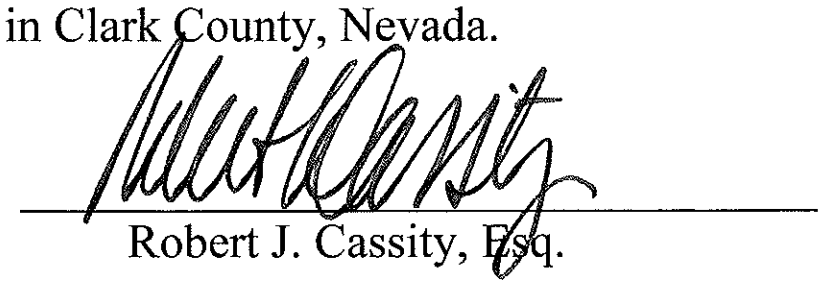
I declare under penalty of perjury that the foregoing is true and correct.

Executed this 24th day of April, 2015, in Clark County, Nevada.



Robert J. Cassity, Esq.

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EXHIBIT 2

EXHIBIT 2

DECL

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DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada **corporation,** **Plaintiff,** **v.** **KAZUO OKADA, an individual, ARUZE USA, INC., a Nevada corporation, and UNIVERSAL ENTERTAINMENT CORP., a Japanese corporation,** **Defendants.**	**CASE NO.: A-12-656710-B** **DEPT. NO.: XI** **DECLARATION OF YOSHITAKA FUJIHARA** Electronic Filing Case
AND ALL RELATED CLAIMS.	

I, Yoshitaka Fujihara, declare as follows:

1. I have personal knowledge of the matters set forth in this declaration and would be competent to testify to the same if called upon to do so.

A. Role at UEC

2. I am the Assistant General Manager for the Finance and Accounting Department at Universal Entertainment Corporation ("UEC") in Tokyo, Japan. I joined UEC in July 2008 as Section Manager in the Finance and Accounting Department. I assumed my current position in May 2009, and since July 2010 I have been the most senior manager in the Finance and Accounting Department.

3. As Assistant General Manager for Finance and Accounting since July 2010, I have been responsible for managing the Finance and Accounting Department. I report directly to the UEC Chief Financial Officer. I am in charge of preparing and finalizing UEC's quarterly and annual financial statements. Accordingly, I have authority to determine the proper accounting for all UEC transactions. My managerial responsibilities include overseeing, supervising and managing the tasks and responsibilities of all the Finance and Accounting Department employees. My authorization is necessary, along with that of other UEC officers, to disburse funds.

4. I executed a declaration when I began my employment at UEC agreeing that I will not intentionally disclose or give to any third party confidential information of the company or group companies. I also agreed that I will not reproduce or duplicate, without permission from the company, confidential information handled in the performance of my work and that I will use such information only for the performance of my work duties. Attached as Exhibit A is a true and correct copy of my executed declaration dated July 22, 2008.

5. In the declaration I executed when I began my employment at UEC, I also agreed to be bound by UEC's rules and regulations, including a prohibition on divulging business information or secrets of the company to third parties and a prohibition on accessing company information beyond the scope of my authorization. Under UEC employment

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rules, divulging confidential information of the company to third parties is cause for discipline. Attached as Exhibit B is a true and correct copy of the UEC Employment Rules.

B. Contacts with Kosaka and Other Former Employees: Mid-2009 to April 2012

6. In mid-2009, I was responsible for closing the books on UEC's first quarter 2009 financial statements. At that time, I commenced contacts with Toshihiko Kosaka, who had been the President of AZ Games International Corporation ("AZ Games"). AZ Games had borrowed significant monies from UEC (including a $1 billion yen loan) and subsequently began liquidation in late 2009. My initial contacts with Mr. Kosaka were for the purpose of negotiating the loan repayment agreement term and properly accounting for the transaction. Mr. Kosaka had been an employee of UEC before he left UEC in 2008 to establish AZ Games in May 2008, and thus he was familiar with UEC and its employees.

7. As a result of my interactions with Mr. Kosaka, we became friendly and he invited me to dinners with other former UEC employees, including Mikio Tanji, Toru Nishiyama, Yoshiyuki Shoji and Namie Kamoda. During those dinners and on other occasions in this time period, Mr. Kosaka frequently inquired about UEC business matters and the relationship and status of senior officers at UEC, including UEC Chairman Kazuo Okada.

C. Mid-May 2012 to October 2012: Kosaka Requests Information

8. By May 2012, the AZ Games loan was still outstanding to UEC. On either May 30 or June 1, 2012, I met with Chairman Okada and UEC's Director of Legal Affairs to discuss the AZ Games loan. Chairman Okada was critical of the way in which I was handling this matter.

9. Shortly after the meeting, I received a call from Mr. Kosaka, who asked me to meet him. I did so on the first floor of the UEC office building. Mr. Kosaka told me that he knew that I was in trouble and that I was going to be sued by UEC. He said that my only choice to avoid a lawsuit was to work with him to destroy Chairman Okada.

10. Shortly after that meeting, Mr. Kosaka contacted me again to tell me that I was on a list with the United States Department of Justice and Federal Bureau of Investigation. He said

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that my only choice was to cooperate with the DOJ and FBI against Chairman Okada to avoid criminal prosecution myself.

11. Over the next several months, I continued to meet with Mr. Kosaka, Mr. Tanji, and Mr. Shoji for dinner. Mr. Kosaka repeatedly pressed me for information to use to attack Chairman Okada. In our discussions, I revealed information about Chairman Okada providing an initial personal loan for the purchase of land to be used for UEC's Philippines Project to build a casino resort. I surmised that Chairman Okada might have benefitted personally as a result of the exchange rates when the loan was repaid.

12. Mr. Kosaka requested that I obtain UEC confidential and proprietary business documents relating to the Chairman Okada loan and exchange rate issue. Between July and November 2012, I made copies of loan agreements in Japanese and English and a flow chart of funds and gave them to Mr. Kosaka.

13. In addition, Mr. Kosaka repeatedly asked me for contact information for former UEC employees. I did not have a means to get this information and thus did not provide it to Mr. Kosaka.

D. <u>November 12, 2012 Meeting with Wynn Chief of Security James Stern</u>

14. In early November 2012, Mr. Kosaka contacted me to ask that I meet with someone who he did not identify.

15. On November 12, 2012, I met Mr. Kosaka at the Starbucks on the 1st floor of ARK Hills, near the ANA Intercontinental Hotel, in Tokyo. After a few minutes, Mr. Kosaka led me to a hotel room in the ANA Hotel. Mr. Kosaka explained to me that he wanted me to meet a foreigner. Then a man joined us in the room. Mr. Kosaka knew this man. I later learned that this foreigner was James Stern, Director of Security for Wynn Resorts and a former FBI Agent.

16. Mr. Stern told me that he was collecting information concerning UEC and Chairman Okada, that he needed my cooperation, and that together we could destroy Chairman Okada. He then asked me whether I knew about financial transactions relating to the Philippines Project. I told Mr. Stern that I was willing to cooperate.

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E. First Meeting with Department of Justice and FBI on December 12, 2012

17. Shortly after this November 12 hotel meeting, Mr. Kosaka called me to say that he wanted me to travel to San Francisco to meet with some people from the United States Department of Justice and Federal Bureau of Investigation. He reiterated his prior statements that the way to help myself, and hurt Chairman Okada, was to cooperate with the DOJ and FBI. I agreed to travel to the United States.

18. In preparation for my trip to the United States, I copied approximately 35 confidential and proprietary business documents from UEC that I intended to bring with me and provide to the DOJ and FBI that related to the Philippines Project's financial transactions. I provided a copy of those documents to Mr. Kosaka.

19. I requested leave from UEC for my travel to the United States without disclosing the reason for my leave request.

20. On December 13, in accordance with Mr. Kosaka's directions, I went to Narita Airport to meet him at the JAL check-in counter for our trip to San Francisco. At the check-in counter, Mr. Kosaka showed his JAL mileage account card and obtained his ticket. I did not have such an account but received my ticket as well. I did not pay for my ticket. Both my ticket and Mr. Kosaka's ticket were for business class.

21. When Mr. Kosaka and I arrived in San Francisco airport, we were greeted by Mr. Stern and a driver who appeared to be working for him who took us into San Francisco. Mr. Stern invited us to tour the city to recover from jet lag and took Mr. Kosaka and me on a cable car and then for clam chowder at Fisherman's Wharf. Mr. Stern paid for the cable car and clam chowder.

22. We then arrived at the JW Marriott Union Square hotel to check in. Mr. Kosaka instructed me to wait in the lobby while he and Mr. Stern checked us into the hotel. As I observed them check in, Mr. Kosaka did not remove his wallet, so I assumed that Mr. Stern paid for the hotel rooms.

23. After checking in, I went to my hotel room, where I fell asleep. I had turned off my mobile phone at Mr. Kosaka's direction because he said that the ring tone for any caller

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would identify that I was in the United States. Mr. Kosaka later woke me and invited me to dinner in the hotel restaurant. Mr. Kosaka charged the dinner to his hotel room.

24. The next morning, December 14, Mr. Kosaka and I had breakfast, which he charged to his room, and he told me to wait in my room until he called me again.

25. I then received a call from Mr. Kosaka who directed me to come to the lobby. When I arrived in the lobby, I saw Mr. Kosaka, Mr. Stern and the driver from the day before. Mr. Kosaka informed me that a prosecutor from the DOJ and an FBI agent were in the business center of the hotel to meet with me.

26. I went to the business center where I met and exchanged business cards with Joey Lipton, Esq., DOJ Trial Attorney, Michael T. Solari, FBI Special Agent, and Yumi Ito, an interpreter. (Exhibit C). Neither Mr. Kosaka or Mr. Stern participated in our meeting. At the outset of our meeting, Mr. Lipton informed me that my statement might be used later in a criminal proceeding, that I had the right to remain silent, and if I was not truthful, I could be charged with a crime. Mr. Lipton and Mr. Solari asked me questions about the Philippines Project.

27. Several times, I showed Mr. Lipton and Mr. Solari the confidential and proprietary business documents that I had brought with me. However, I did not give the documents to the DOJ or FBI to retain. The interview lasted several hours. At the conclusion of the interview, Mr. Lipton asked me to let him know if I learned any additional information.

28. After the conclusion of the interview, I left the hotel business center and saw Mr. Kosaka, who was waiting for me. He said that he was about to be interviewed by the DOJ and FBI as well and instructed me to go back to my room. I did so. In about an hour, Mr. Kosaka called me on the hotel phone and then came to my room. He asked me what questions Mr. Lipton and Mr. Solari asked me and I told him. He did not tell me about his interview with them. After about 20 minutes, he left my room, telling me that he would meet me in the lobby for dinner at a specified time.

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29. When I went to the lobby to meet Mr. Kosaka for dinner, Mr. Stern and his driver were waiting for us and took us by car to a restaurant for steak and seafood. Mr. Stern paid for the dinner.

30. During the dinner, Mr. Stern said that he would like me to cooperate with Mr. Wynn and together we would get rid of Chairman Okada. I agreed to do so.

31. On December 15, Mr. Kosaka and I left the hotel. Mr. Kosaka and Mr. Stern handled the hotel check-out and Mr. Stern's driver took the four of us to the airport. During our return trip, Mr. Kosaka instructed me that I must not tell anyone, including my family, about my trip to San Francisco.

F. <u>January and February 2013: Stealing UEC Documents</u>

32. In January 2013, Mr. Kosaka called me to ask that I find information and documents at UEC and provide it to him regarding a member of the Japanese Diet ("Diet Member #1"), and a past stay at Wynn Las Vegas. In particular, he was interested in the decision making process about payment of Diet Member #1's expenses while in Las Vegas and bills relating to Trans Orbit, a travel agency that I understand is owned by Chairman Okada.

33. Because that information is confidential and proprietary, it is maintained on the executive floor of UEC headquarters, and I had no right of access to it. I told Mr. Kosaka that it might be difficult for me to obtain the information. Despite this, Mr. Kosaka pressured me to retrieve this information.

34. To find this information, I went to the executive floor at UEC headquarters, where I was not permitted without permission, and falsely told persons there that I was searching for information relating to my responsibilities for quarterly financial closing. I looked through files to find information about Diet Member #1's trip to Las Vegas. I was unable to find this information about Diet Member #1's trip, but I did find and copy a package of information about large expenses by Trans Orbit and a request for approval of a business trip by Mitsuo Hida, who led the Philippines Project.

35. After doing so, I had two meetings with Mr. Kosaka, Mr. Tanji and Mr. Shoji at a Chinese restaurant called "Ronji" in January and February 2013 to explain that I was unable to find

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information on Diet Member #1. I provided the documents I had stolen from UEC to Mr. Shoji, who explained that he would translate some of them from Japanese into English to provide to Wynn Resorts to use against Chairman Okada.

36. In February 2013, I received a call from Mr. Kosaka who said that Wynn is angry because Wynn had learned that I was hiding information from him. I told Mr. Kosaka that I was not hiding any materials from him, had not provided any documents to others, and that I did not have access to those materials because they were located on the executive floor. Mr. Kosaka responded that he wanted me to go to the United States again and meet with Wynn Resorts and the DOJ and FBI to explain this directly to them. He instructed me that if I could not get any materials regarding Diet Member #1, that I should bring whatever useful documents I could get my hands on. In particular, he mentioned that I should look for documents relating to another Diet Member ("Diet Member #2"). I told him that I needed to finish my work on quarterly closing of UEC's financial statements before I could go to the United States again.

37. Thereafter, I searched UEC's files and found confidential and proprietary business documents relating to Diet Member #2. I copied these documents and provided them to Mr. Kosaka.

38. Also in January 2013, I learned that Chairman Okada had stated that he wanted to fire me. Within an hour of my hearing this, Mr. Kosaka called me on my mobile phone to tell me that he had heard that Chairman Okada was mad at me and ready to fire me. No employment action was taken against me, but I was very surprised that Mr. Kosaka was receiving information about the internal workings of UEC from others and so quickly.

G. <u>February 2013 Meeting with Wynn Director of Security and DOJ/FBI</u>

39. In mid-February, I requested vacation time from UEC, the undisclosed purpose of which was to travel to the United States again to meet with Mr. Stern and DOJ/FBI.

40. On February 22, 2013, I went to Narita Airport to take a flight on Singapore Airlines to Los Angeles. Mr. Kosaka had previously provided me with the flight information so I was able to check myself in. I received a business class ticket that I had not paid for. Mr.

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Kosaka travelled with me on the plane, although we did not check-in together. Upon arrival in Los Angeles, Mr. Kosaka and I were met by the Wynn driver and taken to the Marina Del Ray Marriott Hotel. Mr. Kosaka and/or the driver checked us into the hotel. Again, I did not pay for the hotel.

41. That evening Mr. Kosaka and I ate at a restaurant near the hotel. Mr. Kosaka paid for the dinner.

42. The next day, February 23, Mr. Kosaka and I had breakfast in the hotel, which he paid for, and Mr. Kosaka told me to give the new documents I had obtained, relating to Diet Member #2, to the DOJ.

43. Mr. Kosaka then summoned me to the lobby, where I found Mr. Kosaka with Mr. Stern, Mr. Lipton from the DOJ and Mr. Solari from the FBI. I then went into a private room in the hotel restaurant with Mr. Lipton, Mr. Solari, and Ms. Ito, the same interpreter that I had met in San Francisco. Mr. Lipton asked me if I had new information, and I explained the Diet Member #2-related information that I had obtained. Mr. Lipton did not seem particularly interested in that information. He then asked me if I had any new information regarding the Philippines Project. I stated that I did not have any such information. The interview ended shortly thereafter and I returned to the hotel lobby where Mr. Kosaka and Mr. Stern were waiting. I told them that I was done with the interview. When Mr. Lipton and Mr. Solari entered the lobby, Mr. Stern and Mr. Kosaka went over to them and had a conversation for about five minutes. I do not know who paid for the bill for the room in the hotel restaurant.

44. Mr. Stern, with his driver, took me and Mr. Kosaka to lunch at a restaurant near the hotel. During the lunch, Mr. Stern repeatedly asked me if I had documents relating to Diet Member #1 and told me that if I got them I should contact him. I told him that I had not yet obtained them because I did not have authorization to have such documents and that they were maintained on a floor to which I did not have access and it will take me some time to get them. Later that day, Mr. Stern and his driver took us out to dinner and again

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pressed me about contacting him if I found any documents. I did not pay for any meals and believe that Mr. Stern paid for our meals.

45. On February 24, Mr. Kosaka checked himself and me out of the hotel and I did not pay for the hotel. Mr. Stern and his driver took us to the airport. When he parted, Mr. Stern told me that he wanted me to somehow find documents related to Diet Member #1 and to contact him when I find them.

46. After we returned from Los Angeles, Mr. Kosaka repeatedly called me asking if I had documents relating to Diet Member #1 and asking me questions about Chairman Okada and UEC President Fujimoto but I did not provide him with any such documents.

H. <u>March 2013: FLASH Report on Diet Member #2</u>

47. In March 2013, a Japanese weekly magazine called "FLASH" reported on the relationship between UEC and Diet Member #2 and the report contained a copy of one of the documents that I had obtained regarding UEC and Diet Member #2's wife. I believed that this article resulted from Mr. Kosaka providing the materials I gave him to FLASH. When I confronted Mr. Kosaka about it, he said that Takafumi Nakano, a former UEC employee, had leaked the information.

I. <u>No Further Contact with Kosaka After October 2013</u>

48. In October 2013, UEC filed a lawsuit against Mr. Kosaka. After the lawsuit was filed, I stopped receiving calls from Mr. Kosaka and have not had any further communication with him.

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I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory or insular possession subject to the jurisdiction of the United States.

Executed on the *17* (date) day of *April* (month), *2015* (year), at *ARS Mandai Higashi 1107, Dairyo 2-5-3, Sumiyoshi-ku, Osaka-shi, Osaka-fu* (city or other location and state), *Japan* (country).

Yoshitaka Fujihara

(printed name)

Fujihara Yoshitaka [Stamp: Fujihara Yoshitaka]

(signature)

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EXHIBIT 2A

EXHIBIT 2A

Written Oath

Aruze Corp.
Hajime Tokuda, Chief Executive Officer

Date: *July 22, 2008*

Address *2-5-3 Dairyo, Sumiyoshi-ku, Osaka*
Ars Bandai Higashi 1107
Name *Fujihara Yoshitaka* Stamp [Stamp]

I swear, as an employee of this company to sincerely obey the following items in performing work duties.

Remark

1. I will not do anything to cause damage to the company, such as intentionally telling or conveying to another person secrets in the course of business of the company or group companies, or personal information possessed by the company.
2. I will not cause damage to the company or to customers, or cause problems, by intentionally failing to deposit funds to the company that should be so deposited, such as sales receipts for the company, or by delaying deposits or bank transfers.
3. I promise, concerning illegal modification of all gaming machines such as slot machines, pachinko machines and so on, or parts from companies other than this, and handling of test machines, including of course contact with related companies, to have no part in sales thereof. At the same time, if I obtain any information about the foregoing, I will report it promptly.
4. When involved in the collection of personal information for business reasons, or in the use or management of personal information possessed by the company, I will strictly follow the relevant laws and regulations, such as the Personal Information Protection Law, company internal rules related to the Personal Information Protection Regulations, and business instructions of the company.
5. I will only use personal information possessed by the company when necessary for company business reasons, and I will not use it for any other purpose.
6. I will not reproduce or duplicate any secrets in the course of business or personal information handled while conducting company business, without the permission of the company. Furthermore, when I receive company permission and reproduce or duplicate such items, these are to be used only for business purposes, and, concerning the control, return, and destruction thereof, I will follow company instructions.
7. If I deviate from my normal tasks, or when I am faced with a decision that exceeds my authority, I will strive to promptly report, communicate, and consult.
8. If I cause damage to the company due to negligence or an unexpected situation, or if I can foresee such damage, I will promptly report to a superior, discuss a proposal for an optimal resolution, and work to prevent even greater damage to the company.
9. When, in the performance of my work, company secrets or personal information held by the company is disclosed to me, or when I engage in duties that involve such information or might lead to disclosure of such information, I promise in advance to voluntarily sign and seal a separately specified written oath if requested by the company.
10. When retiring from the company, for a period of at least 3 years after retirement, I promise to not work for entities in the amusement industry, slot machine industry, or pachinko machine industry.
    Simultaneously, concerning information, technical know-how and other secrets or personal information possessed by the company that is related to the company and group companies and is learned during my employment, if there are reproductions or duplicates of these at the time of retirement, they will be returned or disposed of according to company instructions, and even after retirement this information will not be provided or disclosed to any person, and I swear to not use it myself.
    Furthermore, regardless of personal or company convenience, if the company so requests at retirement, I promise to sign a new contract agreeing to hold confidential for a given time period information specified separately by the company.
11. I acknowledge that if I fail to observe any of the above provisions and cause damage to the Company, I have the responsibility to pay damages to the Company.

End

Cho_79 [Date revised: 5-13-08]

EXHIBIT 2B

EXHIBIT 2B

Employee Work Rules

Universal Entertainment Corporation

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Article 1 General Rules

(Purpose)

Section 1 These rules define items related to the employment of employees of Universal Entertainment, Corp. (the "Company", below).

2. Items not determined by these regulations shall be determined by the Labor Standards Act and other related laws.

(Definition of Employee)

Section 2 In these rules, an Employee means a person who is hired by the Company after a certain selection to engage in company affairs, and is defined as follows.

(1) Regular employee A person who is hired by the Company according to the regulations in Article 2 (Hiring), and who, in principle, works full-time

(2) Contract employee A person who is employed for a determined period of employment

(3) Part timer In principle, a person who works for a period of time shorter than a regular employee, or for a fewer number of days, and whose compensation is paid according to an hourly wage

2. These rules apply to the contract employees and part-timers in the previous subsection, except for items determined separately in rules or an employment contract.

3. Deleted

(Definition of Management)

Section 2-2 Management, in these rules, means Manager or higher in charge of each division, specialists (Senior Specialist, Middle Specialist rank 1 to 4, Chief Engineer) and General Manager.

(Compliance Duties)

Section 3 The Company and Employees must sincerely observe the items determined in these rules, to mutually respect the dignity of others, honor responsibilities, work diligently, and cooperate to execute professional duties.

Article 2 Hiring

(Hiring)

Section 4 The Company shall hire as regular employees, from those desiring employment, persons who pass a selective examination and complete required procedures.

(Period of Employment)

Section 5 For persons newly hired as regular employees, a three-month trial period will be provided. However, for persons hired into management positions (including candidates), it shall be six months. Note that at the conclusion of the trial period, the trial period can be extended if considered necessary.

2. Persons who completed the trial period are formally hired as regular employees. However, for persons who change from a contract employee to a regular employee, no trial period is provided.
3. The trial period is added to the consecutive years of service.

(Personal Guarantor)

Section 6 Employees must select one person as a personal guarantor, recognized by the Company as suitable, who is an adult living by independent means.

2. The employee must select a new one personal guarantor every five years after entering the Company. However, selecting the same personal guarantor as before is not prevented.
3. If the personal guarantor has died, or if the guarantee contract is canceled or if the capability to guarantee is lost, then regardless of the rule in the previous item, a new guarantor must be selected.

(Documents to be submitted by hirees)

Section 7 Persons hired as employees must submit the following documents to the Company within two weeks.

(1) Résumé (with attached photograph)
(2) Certificate of residence (for all members of the household)
(3) Employee registration master
(4) Personal identification and seal registration certificate of the personal guarantor
(5) Written oath
(6) Health examination form (completed within three months)
(7) If required, certificate of (expected) graduation, academic transcript, and technical skills certificate
(8) For persons with previous employment, welfare pension book, employment insurance recipient certificate, and withholding of employment income certificate
(9) Application for commuter allowance or application for approval to commute with personal car

(10) Notification (change) of bank transfer account for salary and bonus
(11) Other documents that the Company requires to be submitted

Article 3 Attendance and Absence

(Absence from work)

Section 8 In the case of absence from work due to illness or another unavoidable reason, notification must be given in advance and the permission of the supervisor must be obtained. Note that when it is impossible to notify in advance due to an accident and so on, notification shall be given soon after the event.

2. If the procedure in the previous item is neglected, the absence shall be handled as an unexcused absence.

(Long-term work absence, vacation report)

Section 8-2 When the number of days taken for work absence, paid time off or other vacation exceeds seven consecutive business days, a long-term work absence/vacation report must be submitted.

2. In the case of absence due to injuries or sickness, the Company may request the submission of a doctor's medical certificate for the absentee worker.

(Tardiness, leaving early, and going out for private reasons)

Section 9 Employees must notify their supervisor in advance and obtain permission if they will be tardy, leave early, or leave during business hours.

2. If advance notification cannot be made due to an emergency or other unavoidable reason, then notification must be given soon after the event and permission obtained.

3. When delayed due to a delay in public transportation, and a delay certificate showing a delayed time that is thought appropriate is submitted, then it will be considered as coming to work during regular hours. However, in principle, any delay in bus transportation is not recognized.

(Starting and ending work and working away from the office)

Section 10 Employees must record by themselves their work starting and ending times according to the predetermined method. If there is no record, it may be treated as tardiness, absence, or leaving early.

2. Employees must leave work quickly after their work has been finished.

3. When going outside the office for business purposes, notification of the destination, reason, and time of return to the Company must be given and the permission of the supervisor obtained.

4. Direct travel to appointments and direct return from appointments must be reported to and approved by the supervisor.

(Business travel)

Section 11 A business trip may be ordered when necessary for business reasons. Employees may not refuse this without an appropriate reason.

2. Handling related to business trips is in accordance with the "Domestic Business Travel Expense Regulations" and the "International Business Travel Expense Regulations" specified separately.

(Leave of Absence)

Section 12 A leave of absence will be required for employees in the case of the following items applying. Supervisors of employees for whom a leave of absence is ordered must submit a Leave of Absence Request to the Company.

(1) When work absence for personal convenience or other reasons has continued for one month or more

If an employee who has been continuously absent from work comes to work, and then is absent from work again for the same or a similar reason, if that time at work does not reach 15 days, then the previous and following work absence shall be considered continuous.

(2) When unable to come to work for a reasonable time period due to involvement in a criminal case or lawsuit

However, this does not apply in the case of committing a serious crime where disciplinary termination of employment may be deemed appropriate.

(3) In addition to the preceding items, when there is a special circumstance where a leave of absence is considered appropriate

2. When taking a leave of absence for illness or injury as in previous item 1, a doctor's medical certificate clearly specifying the time period necessary for medical leave and treatment must be submitted. In this case, expenses are the employee's responsibility. Note that the Company shall be able to request an examination by a physician specified by an industrial physician and so on, or to request a meeting with the doctor who created the medical certificate, and the employee must cooperate with this.

(Period of Leave of Absence)

Section 13 The period of the leave of absence in the previous items shall be as follows.

(1) Item 1 in the previous section (leave of absence for personal convenience)

(Consecutive years of service)	(Length of leave of absence)
Less than 1 year (except probationary employees)	3 months
1 year to less than 3 years	6 months
3 years to less than 5 years	9 months
5 years to less than 10 years	1 year
10 years or more	1 year 6 months

(2) In the case of item 2 in the previous section (leave of absence due to criminal case, etc.), the period until judgment is finalized

(3) In the case of item 3 in the previous section (leave of absence due to special circumstances), determined on a case-by-case basis

2. The leave of absence in items (2) and (3) shall be less than 3 years. However, if there are special circumstances, then the leave of absence can be extended.

(Handling during the Leave of Absence)

Section 14 Employees who are given a leave of absence for the items in Section 12 (1) are handled as described below.

(1) The period of the leave of absence is calculated from the start day of the leave of absence, and said period is added to the length of service.

(2) In principle, salary and bonus are not paid. Furthermore, during the leave of absence, salary review and promotion or demotion are not conducted. If there are items that should be the responsibility of the employee, such as social insurance premiums, they shall be paid to the Company by the date indicated on an invoice issued by the Company.

(3) Employees who take a leave of absence due to illness or injury must devote themselves to treatment during the leave of absence period. Furthermore, they must provide a progress report to the Company periodically. If the Company deems it necessary, there must be a meeting periodically with the Company's industrial physician. Expenses for this must be borne by the employee.

(4) During a leave of absence taken for injury or illness or when a leave of absence is ordered, considering the physical and emotional state of the employee, notification to the employee's family may be made for purposes of status reports and status confirmation. These notifications to the family are, in principle, performed after notifying the person in question, but if that person cannot be contacted, or if an appropriate response is not received, or advance notification is judged to be inappropriate considering the physical and mental condition of the employee, then this advance notification might not be made.

(Wages during the Leave of Absence period)

Section 15 Deleted

(Returning to work)

Section 16 When an employee returns to work, a Work Return Request must be submitted, documenting the fact that the reason for the leave of absence has been eliminated, and the approval of the Company must be obtained. If the employee is returning from a leave of absence due to illness or injury, then it must be submitted together with a doctor's medical certificate stating that there is no obstacle to work, and a meeting must be held with the Company's industrial physician. However, the Company shall be able to request a meeting with the doctor who submitted the medical certificate, and the employee must cooperate with this.

2. In the event that the Company determines, based on the opinion of the industrial physician, that returning to the existing duties or that working for the regular hours is difficult or not suitable, then the work location, the duties performed, the working hours, and so on can be changed. Note that in such cases, the salary might be lower than the salary before returning to work. Also, at the time of return to work the Company will decide the job position.

3. Employees who have returned from a leave of absence due to illness or injury must work to maintain or improve their health based on the instructions from the primary physician and the Company's industrial physician after returning to work as well. Furthermore, these employees must not neglect to make the required reports concerning their health status and work status and so on to the Company and the Company's industrial physician.

Article 4 Human Resources

(Change notification)

Section 17 If there is a change in the information on the documents submitted in Section 7, the employee must promptly submit the specified form to the Company.

(Relocation order)

Section 18 The Company may, for business needs, order relocation or transfer, or order changes in workplace or work assignment. Note that relocation depends on the "Relocation Regulations", and transfer depends on the "Transfer Regulations".

2. Employees may not refuse a relocation order without an appropriate reason.

(Personnel evaluation)

Section 19 Handling of personnel evaluations of employees is according to the separately specified "Human Resource Evaluation Regulations."

Article 5 Retirement

(Retirement age)

Section 20 The retirement age of employees is 60 years, and retirement occurs on the salary cutoff date of the month when the retirement age (birthday) is reached. However, if the employee desires and there is no applicable reason for termination of employment or retirement, and if all of the standards as described in and valid under the Senior Employment Stabilization Law Partial Revised Law Article 3 and in the Labor Contract based on Article 9 Paragraph 2 of the Senior Employment Stabilization Law pre-revision (below, "the standards") are fulfilled, employment continues until age 65, whereas for employees who do not meet any of the standards, employment continues until the appropriate age in the standards. Note that, in principle, extension of employment is a contract renewal performed each year.

2. In the case of the previous item, concerning application of the corresponding standard in the period shown in the left column in the following table, according to the period in the left column of the same table, employees of the age or higher shown respectively in the right column are subject to retirement.

Category	Applicable age
From April 1, 2013 to March 31, 2016	61 years
From April 1, 2016 to March 31, 2019	62 years

From April 1, 2019 to March 31, 2022	63 years
From April 1, 2022 to March 31, 2025	64 years

3. When continuing employment, the assigned department and work duties are determined after individual consultation. Furthermore, working hours, number of workdays, salary and bonus, and similar conditions are fixed in the individual employment contract considering the type of work, work achievement capacity, and responsibility.

(Retirement)

Section 21 When an employee meets any of the following items, that day is considered their retirement date and they lose their qualification as an employee. However, in the case of item 1, the day before the date in question is treated as the retirement day.

(1) When assuming the role of a Corporate Director or Corporate Auditor (except a director with employee status)

(2) When retirement was notified and the Company approved

(3) When employment of a person hired with a fixed employment period reaches the end of the period, and the contract is not renewed

(4) When it is not possible to return to previous duties at the end of a leave of absence

(5) When continued employment after reaching retirement age is not desired, or when the standards in the labor-management agreement determined in Section 20 are not fulfilled after exceeding the applicable age

(6) When employment is terminated

(7) Upon death

(Retirement notification)

Section 22 Employees who fall under items 2, 3, 4, or 5 of the previous section must submit a retirement notification or written oath at least 14 days in advance.

2. Employees who submit a retirement notification according to the rules of the previous section must continue to perform duties until the Company gives approval.

3. Employees in management roles must give notification at least two months in advance.

(Retirement request)

Section 23 Deleted

(Items returned at time of retirement)

Section 24 When employees retire, all items loaned by the Company, including personal computers, mobile phones, employee IDs, company badges, business cards, keys, cards, uniforms, and business documents, must be returned without delay.

2. Deleted

(Responsibilities related to retirement)

Section 25 When employees retire, they must transfer business affairs under their responsibility to their successor.

2. Retiring employees must not disclose to others any secrets learned during employment.

(Termination of employment)

Section 26 For employees for whom any of the following items apply, the Company can provide employment termination notification 30 days in advance, or can pay the average wage for 30 days and terminate employment immediately. However, the number of days of advance notification may be reduced by the number of days that wages were paid, and probationary employees with less than 14 days since entering the Company can be terminated immediately without the 30 day advance notification or payment of the 30 days of average wages.

(1) When there is an unavoidable business reason, or an avoidable situation such as a natural disaster or the equivalent, or when it is difficult to continue the business

(2) When it is recognized that work cannot be handled due to mental or physical impairment

(3) When work capacity is significantly degraded and it is not possible to change the job placement

(4) When it is recognized that even though the employee was hired as an experienced employee, he or she does not have the anticipated work capability

(5) When it is recognized that the work results and work conditions are extremely poor and unsuitable to employment

(6) When it is recognized by the end of the probationary employment period that the employee is not suitable

(7) When an employee who is receiving injury and disease compensation benefits under the Workman's Accident Compensation Insurance Law (called "workers compensation law", below) has exceeded three years since the start of treatment and compensation for discontinuance was paid

(8) When there is a reason based on the foregoing items

(Restrictions on termination of employment)

Section 27 During a period when any one of the following items applies, the Company will not terminate the employment of an employee. However, this restriction does not apply in cases where item 1 is applicable and the compensation for discontinuance was paid according to item 7 in the previous section.

(1) During a leave of absence for a work injury or during treatment for an illness, or for 30 days thereafter

(2) During a period in which a woman is taking leave before or after childbirth according to the rules of Article 65 (Before and After Childbirth) of the Labor Standards Law, or for 30 days thereafter

Article 6 Working Hours and Breaks

(Regular working hours)

Section 28 Regular working hours are seven hours and 30 minutes of actual work excepting break times, and work starting time, ending time, and break time are as follows.

Starting time	Ending time	Break time	Break time when working outside of regular hours
9:00 AM	5:30 PM	Noon to 1:00 PM	5:30 PM to 6:00 PM

However, for employees assigned to research and development, the starting time, ending time, and break times are as follows.

Starting time	Ending time	Break time	Break time when working outside of regular hours
9:30 AM	6:00 PM	Noon to 1:00 PM	6:00 PM to 6:30 PM

Also, for employees assigned to the factory and Techno-Center, the starting time, ending time, and break times are as follows.

Starting time	Ending time	Break time	Break time when working outside of regular hours
8:50 AM	5:30 PM	Noon to 1:00 PM 3:00 PM to 3:10 PM	5:30 PM to 6:00 PM

For employees working in the factory, a three-shift system is utilized during busy season, and in that case the starting time, ending time, and break times are as follows.

	Starting time	Ending time	Break time	Break time when working outside of regular hours
1	8:50 AM	5:30 PM	Noon to 1:00 PM 3:00 PM to 3:10 PM	5:30 PM to 6:00 PM
2	5:00 PM	1:30 AM	9:00 PM to 10:00 PM	1:30 AM to 2:00 AM
3	1:00 AM	9:30 AM	4:00 AM to 5:00 AM	9:30 AM to 10:00 AM

Among employees working in the factory, employees assigned to customer service work in a two-shift system and the starting time, ending time, and break times are as follows.

	Starting time	Ending time	Break time	Break time when working outside of regular hours
1	8:50 AM	5:30 PM	Noon to 1:00 PM 3:00 PM to 3:10 PM	5:30 PM to 6:00 PM
2	2:30 PM	11:00 PM	7:00 PM to 8:00 PM	11:00 PM to 11:30 PM

2. Regardless of the foregoing rules, if a labor-management agreement has been signed, alternate break times may be granted.

(Discretionary work)

Section 29 When sales activities or similar work is performed outside of the working place, or when it is difficult to convert to working hours, then work is considered to have occurred during the working hours in the previous section. However, this does not apply if the supervisor has previously given a separate instruction.

2. Concerning discretionary work as stipulated by the Labor Standards Law, if a labor-management agreement has been concluded, then employees who perform discretionary work are considered to have worked the hours specified in the labor-management agreement.
3. For business trips or other company affairs performed outside of the working place, when it is difficult to convert to working hours, then work is considered to have occurred during the working hours in the previous section.

(Changes to starting and ending times)

Section 30 If necessary for business reasons and so on, the starting, ending, and break times in Section 28 can be changed for all or some employees. However, in this case, the regular working hours for one day shall not exceed seven hours and 30 min., and workers less than 18 years of age shall not work between 10 PM and 5 AM.

(Work outside of regular hours)

Section 31 When it cannot be avoided for business reasons, employees may be ordered to work outside regular working hours.

2. When ordered to work outside of regular working hours, employees cannot refuse this without a proper reason.

(Late night work)

Section 32 When it cannot be avoided for business reasons, employees may be ordered to work late nights.

2. When ordered to work late at night, employees cannot refuse this without a proper reason.

(Holiday work)

Section 33 When it cannot be avoided for business reasons, employees may be ordered to work on a holiday.

2. When ordered to work on a holiday, employees cannot refuse this without a proper reason.

Article 7 Holiday/Vacation

(Holiday)

Section 34 Holidays are as follows.

(1) Saturdays

(2) Sundays

(3) National holidays

(4) Mondays when a national holiday is on a Sunday

(5) Deleted

(6) Year-end/New year holidays (4 days)

(7) Other days specified by the Company

2. Sunday is a legal holiday in the Labor Standards Law, per item 2 of the previous section.

(Shifting holidays)

Section 35 The holidays in the previous section may be replaced with other days for business reasons. In such cases, employees are notified of the day specified as a shifted holiday by the preceding day.

2. When work is ordered on a holiday, if work is ordered on a day that was a holiday before it was shifted to another day to replace the holiday, then work on the normal holiday is not considered to be holiday work.

3. The shifting of the holiday in the previous item is decided after hearing the opinions of the employees in advance.

(Compensatory holiday)

Section 35-2 The Company may order working on holidays for business reasons.

2. When coming to work on a holiday due to the previous item, a compensatory holiday may be taken within the same wage calculation period.

3. In cases where, for business reasons or other unavoidable reasons, taking a compensatory holiday within the same wage calculation period is not possible, then when recognized by the Company, the period for taking the compensatory holiday in the previous item can be extended for up to three months.

(Annual paid vacation)

Section 36 Annual paid vacation is granted according to the following table. When granting, employees who came to work for 80% or more of the total working days from the grant date to the next grant date (for new hires, from first day to first grant date) are granted annual paid vacation.

Table

Years of service	6 mos.	1 yr 6 mos.	2 yrs 6 mos.	3 yrs 6 mos.	4 yrs 6 mos.	5 yrs 6 mos.	6 yrs 6 mos. or higher
Days granted	10	11	12	14	16	18	20

(2) When calculating the number of days worked, annual paid vacation, special vacation, menstrual leave, maternity leave, outpatient leave, nursing leave, leave of absence due to injuries suffered by the employee during work or for treatment of illness, childcare leave, and family care leave are considered to be days worked.

(3) Annual paid vacation can be carried over only to the following year.

2. Annual paid vacation in the previous item may be taken in half day increments. Half day increments of annual paid vacation (called "half-day" below) can be taken as morning half-day or afternoon half-day, and when a half-day is taken, the work hours are as follows.

Half day taken	9:00 AM to 1:45 PM	1:45 PM to 5:30 PM
Morning half-day	Vacation	Working hours
Afternoon half-day	Working hours	Vacation

When research and development employees take a half-day, the work hours are as follows.

Half day taken	9:30 AM to 2:15 PM	2:15 PM to 6:00 PM
Morning half-day	Vacation	Working hours
Afternoon half-day	Working hours	Vacation

When factory and Techno-Center employees take a half-day, the work hours are as follows.

Half day taken	8:50 AM to 1:35 PM	1:35 PM to 5:30 PM
Morning half-day	Vacation	Working hours
Afternoon half-day	Working hours	Vacation

3. Half-day vacations can only be taken by employees whose regular working hours stipulated in Section 28 are 9:00 AM to 5:30 PM, 9:30 AM to 6:00 PM, or 8:50 AM to 5:30 PM.
4. Days taken as annual paid vacation are considered to be working days and the normal salary is paid.
5. Employees wishing to request annual paid vacation must submit a request to their supervisor in advance. However, when it is unavoidable, notification shall be given soon after the event.
6. Annual paid vacation is granted in the season during which the employee requests it. However, when it cannot be avoided for business reasons, that season can be changed.

(Congratulation or condolence leave)

Section 37 Employees for whom the following reasons apply are granted congratulation or condolence leave as follows. However, any holiday that occurs during the congratulation or condolence leave is not counted as a congratulation or condolence leave day.

Granting reason		Number of days of congratulation or condolence leave	
Marriage	Employee	Total before and after ceremony	5 days
	1 Parent or blood relative (biological parents, biological child)	Day of ceremony	1 day
	2 Parent or blood relative (Grandparent, sibling)	Day of ceremony	1 day
Birth	Birth by spouse		2 days
Bereavement	Spouse	Within 1 week	5 days
	1 Parent or blood relative (biological parents, biological child)	Within 1 week	5 days
	2 Parent or blood relative (Grandparent, sibling)	Days living together Days living separately	3 days 2 days

	3 Parent or blood relative (parent's sibling, niece or nephew)	1 day
	Parents of spouse	Days living together 3 days Days living separately 2 days
	Parents or siblings of spouse	Days living together 2 days Days living separately 1 day

2. Notification must be given in advance when taking congratulation or condolence leave. However, when it is unavoidable, notification shall be given as soon as possible after the event. When necessary, submission of evidence may be part of the notification.
3. Days taken as congratulation and condolence leave are considered to be paid and the normal salary is paid.

(Special vacation)

Section 38 Employees for whom the following items apply are granted special leave as follows.

(1) When carrying out civil rights or public duties, the time needed for performance or exercise thereof is granted as leave. However, it is unpaid.

(2) When work is prohibited in order to prevent communicable diseases, a medical certificate or a document showing the reason is submitted, and when approved by the general manager, the necessary time is granted as leave. However, it is unpaid.

(3) If the employee's current residence is destroyed, significantly damaged or damaged in a similar way to this due to a natural disaster, fire, or similar accident, the required number of days corresponding to that damage are granted as leave.

(4) Deleted

(5) When recognized by the Company in accordance with the previous items, the required number of days of paid or unpaid leave is granted.

2. Notification must be given in advance when taking special leave. However, when it is unavoidable, notification shall be given as soon as possible after the event. However, when necessary, submission of evidence may be part of the notification.

(Menstrual leave)

Section 39 When leave is requested by female employees for whom working is difficult on menstrual days, leave of the necessary number of days is granted. However, menstrual leave is unpaid.

(Maternity leave)

Section 40 When female employees request leave within six weeks before birth (in the case of multiple pregnancy, 14 weeks, and the date of birth is counted as before birth), maternity leave is granted. Furthermore, even if there is no request for leave during the eight weeks after delivery, leave is granted. However, this shall not apply if 6 weeks have passed since delivery, the employee has requested to start work, and the doctor approves it. However, leave before and after childbirth is unpaid.

(Outpatient leave)

Section 41 If the expectant or nursing mother requests, then the time necessary to take insurance guidance and health examinations based on the Maternal and Child Health Law is granted as outpatient leave. However, outpatient leave is unpaid.

(Nursing time)

Section 42 When requested by female employees who are raising an infant up to age 1, two 30-minute nursing times per day are granted in addition to break time. However, nursing time is unpaid.

(Leave for nursing of child)

Section 43 For employees who are raising children before they start elementary school, in order to care for a child who is injured or sick, leave can be granted each year to care for children, separately from the annual paid leave stipulated in the Employee Work Rules Section 36, limited to five days per year starting from April 1. However, this nursing leave is unpaid.

(Childcare leave)

Section 44 Childcare leave is according to the separately specified law regarding childcare leave and the "Child/Family Care Leave Handling Regulations."

(Family care leave)

Section 45 Family care leave is according to the separately stipulated law regarding nursing leave and the "Child/Family Care Leave Handling Regulations."

(Leave notification)

Section 46 Employees wishing to request leave stipulated in Section 7 must submit a request to their supervisor in advance. However, when it is unavoidable, notification shall be given soon after the event.

Article 8 Discipline

(Basic discipline rules)

Section 47 Employees must sincerely observe company policies, various rules and directives as well as instructions and commands of superiors and, along with working diligently, must strive to cooperate mutually and maintain workplace order.

2. Superiors must respect the personality of subordinates as well as guiding them, and must take the initiative in carrying out duties.

(Working rules and discipline)

Section 48 Employees must observe the following items regarding work, and work diligently at their duties.

(1) Employees must always mind their health.

(2) Employees must always keep the workplace tidy and in order, and strive to prevent theft and accidents.

(3) Employees must not perform any act that damages the trustworthiness of the Company or dishonors the Company.

(4) Arbitrary acts that exceed one's authority must not be taken.

(5) During one's duties, when a complaint is received from a customer or when there has been a failure in one's duties, it must be reported promptly to superiors.

(6) Employees must prepare to start work at the regular time, and when the signal to start work is given must immediately start working. Furthermore, preparations to leave work must not be made before the work ending time.

(7) When becoming a director or employee of another company or organization, an order or permission of the Company must be received. Furthermore, in any case, business duties that compete with the Company must not be performed.

(8) Use of the Company name or one's position to conduct private business involving lending of money or goods, guarantees, gifts, or entertainment must not be accepted.

(9) Abuse of authority and use of the Company name for financial transactions related to private business without a proper reason or for other documents must not incur damage to the Company.

(10) Company machines, equipment, vehicles and other borrowed items must be handled carefully, and any breakage, damage, or loss must be reported immediately to superiors. Furthermore, private use is not allowed.

(11) Information and secrets concerning company business learned from one's duties must not be disclosed.

(12) Employees who are loaned a mobile phone must keep it in a condition where they can always receive calls during working hours.

(13) Inside company facilities, permission must be received from the Company in advance when attempting to perform for a purpose other than one's duties acts such as meetings, broadcasts, document distribution (including electronic media), document posting, taking pictures, taking videos, audio recording, and so on.

(14) Non-employees must not be brought inside the Company without the permission of the Company.

(15) Religious activities, political activities, and other activities that are unrelated to one's duties must not be performed inside the company grounds or facilities without permission of the Company.

(16) There must be no affiliation or contact whatsoever with any antisocial force or organization, or individual that follows such, or that risks a negative impact on the Company.

(17) In principle, there must be no monetary exchanges between employees.

(18) Gambling or similar acts must not be conducted inside the Company.

(19) All money and goods owned by the Company must not be loaned to other persons or used for private purposes.

(20) Working under the influence of alcohol is not allowed.

(21) Fire, weapons, and other items thought to be dangerous that are not required for one's duties must not be carried.

(22) Specified company notifications, procedures, and the like must not be neglected.

(23) Tardiness, leaving early, and being absent is not allowed without a proper reason. Furthermore, during working hours employees must focus diligently on their duties, and may not depart from their assignment without permission.

(24) Employees must strive to work efficiently, and must not work overtime without permission of a superior.

(25) In order to realize a healthy working environment, in no case may acts corresponding to sexual harassment or power harassment be conducted.

(26) Performing acts that violate the preceding items, and abetting or supporting such acts of violation, are not allowed.

(Protection of personal information)

Section 48-2 Employees must respect the protection of personal information. Note that personal information is information related to an individual, and it indicates names, birth dates, and other descriptions that can be used to identify a specific individual.

2. Personal information may only be used to the extent necessary for business tasks, and only by persons who receive authorization from the Company.

(Duty to maintain secrets)

Section 48-3 In order to prevent the disclosure of Company confidential information (including customer information and personal information of employees, and so on) relating to sales, management, and technology learned in the course of one's duties, employees must not make disclosures to third parties without the authorization of the Company, and must not access (for example transmit to/from a home PC), copy, duplicate, or photograph beyond the authorized limits, or make use for personal reasons. Furthermore, upon retirement, all confidential information must be returned to the Company, and absolutely no duplicates or the like may remain, and confidentiality must be maintained after retirement as well.

(Creation of employee inventions, ideas, and designs)

Section 49 When employees create inventions, ideas, or designs concerning items applying to the business scope of the Company, they must notify superiors without delay and via the specified procedure, and if the Company confirms that said invention, idea, or design creation relates to current or past duties, the right to receive the industrial property rights must be assigned to the Company. The compensation for this and other handling is determined separately in the "Invention Design Regulations."

(Meetings for personal purposes)

Section 50 During work hours, meeting visitors for personal purposes is not allowed. However, this does not apply in the case of any meeting in a specified place for which permission has been received from a superior.

(Order to leave work)

Section 51 Employees who do not observe these Employee Work Rules and are obstructing work duties may be ordered to leave work.

Article 9 Rewards and Disciplinary Actions

(Objective of rewards and disciplinary actions)

Section 52 By having the employees strictly observe the various rules, the Company aims to perform business smoothly by following the items specified in this section to impartially carry out rewards and disciplinary actions.

(Rewards and disciplinary actions)

Section 53 Disciplinary actions for employees shall be in accordance with the separately stipulated "Reward and Disciplinary Action Rules."

(Awards)

Section 54 If an employee falls under one of the following items, awards will be granted based on the separately stipulated "Reward and Disciplinary Action Rules."

(1) When there is a significant business success

(2) When an improvement, invention, idea, or discovery that is valuable for businesses is made, and then is adopted

(3) When damage, danger, or impediment to business is prevented, or when damage is minimized

(4) When the employee is recognized as a model for particular good conduct, diligent effort, and superior skill

(5) When there is a national or social achievement, or when there is an act that brings honor to the Company

(6) When the employee is recognized for a meritorious deed or service on par with the previous items

(7) Other items

(Award method)

Section 55 The awards in the previous section are performed by presenting a certificate, trophy, or monetary award.

(Types of disciplinary action)

Section 56 Disciplinary actions for employees comprise the following 6 types, for which a written apology is collected.

(1)	Reprimand	Admonish and warn against future incidents.
(2)	Salary reduction	The salary is reduced. However, one salary reduction will not exceed half of one day's wage, and the total amount will not exceed 10% of the total wages for one pay period.
(3)	Work suspension	Work suspension for up to 14 days, during which time wages are not paid.
(4)	Demotion	Remove from a position or reduce a qualification, and warn against future incidents.
(5)	Instructed dismissal	Resignation is recommended, and when resignation is accepted, it is considered resignation for personal reasons. When resignation is not accepted, employment is terminated.
(6)	Punitive dismissal	Employment is terminated on the same day without prior notification. In such cases, when approved by the governmental agency, the dismissal payment is not paid.

(Disciplinary reasons)

Section 57 When employees fall under any of the following items, they are subject to reprimand, work reduction, work suspension, and demotion.

(1) When a disciplinary rule stipulated in Article 8 is violated

(2) When there is frequent tardiness, leaving early, and/or going outside for personal reasons without a proper reason, or when there is an unexcused work absence

(3) When there is neglect of duties and sincerity towards work duties is not recognized

(4) When work results are poor and no improvement is seen

(5) When one has left one's own workplace without permission during working hours

(6) When procedures related to work or other procedures are falsified

(7) When tangible or intangible damage to the Company is caused due to intentional or gross negligence

(8) When bad behavior has disturbed the public morals or orderliness of the Company

(9) When fraudulent or immoral acts have damaged the honor and trustworthiness of the Company

(10) When there are frequent violations of these rules or various rules stipulated by the Company

(11) When rules determined by the Company are changed by one's own self-serving judgment

(12) When a disaster, damage or other accident has occurred due to work-related negligence or failure to exercise proper oversight

(13) When road traffic laws are violated while driving a Company vehicle

(14) When a Company vehicle has been used for personal reasons without permission

(15) After driving without a license or qualification

(16) When a mobile phone was used while driving

(17) When driving is done while under the influence of alcohol or drunk

(18) When alcoholic drinks are provided to people who are at risk of driving under the influence, when promoting the consumption of alcohol beverages, or knowing that driving under the influence or drunken-driving would occur and having allowed it to happen

(19) When a traffic accident was caused, but was not reported immediately to the Company

(20) When an expensive gift, entertainment, ticket, money, or some kind of special treatment was received from a customer or the like, and was not reported to the Company

(21) When a false report was made to the Company

(22) When an act was conducted for one's own self interest regardless of work duties, causing damage to the Company

(23) When the Company was invoiced for expenses due to personal matters

(24) When official paperwork is lost and a verbal promise or contract is made, causing expenses for subcontracting or purchasing of goods

(25) When confidential information of the Company has been leaked outside the Company, regardless of whether it was intentional or negligent, or when information management rules have been violated

(26) When information that has an effect on the Company or is important was not directly conveyed to superiors

(27) When submission of work-related reports to one's superior has been neglected

(28) When others have been informed while one's responsibilities regarding reports to management of information that is important for business reasons and business reports to superiors have been neglected

(29) When having not responded to a request from another department, or having not given an insincere response, has caused problems for work

(30) When being uncooperative at work has damaged the spirit of cooperation

(31) When instructions from superiors have been ignored and unimplemented

(32) When, knowing of the possibility of problems occurring or knowing that a problem is occurring, having not informed others, thus allowing the problem to continue or grow

(33) When, even though a problem had occurred, it was handled without reporting it to superiors

(34) When one has refused to work despite a work order of the Company

(35) When one has refused without a justifiable reason a placement transfer ordered by the Company

(36) When one has exceeded one's authority in applying the Company seal

(37) When one has acted alone in writing a notation (on a memo, business card, etc.) for confirmation of promises made to a third party outside the Company

(38) When one has handled work by ignoring communication rules between departments and without the approval of the division manager, directly requesting work or giving instructions to members of that division

(39) When a task was executed without following the procedures for, or obtaining approval of a circular memo or an advance approval application

(40) When a stamp impression (individual or Company stamp) was requested without a thorough explanation to a manager

(41) When a media or journalist interview was accepted without authorization of management

(42) When a false report by subordinates was knowingly allowed

(43) When a subordinate was knowingly allowed to conduct an act of self interest regardless of work duties, causing damage to the Company

(44) When overtime by subordinates was not appropriately managed

(45) When Company or customer personal information was leaked

(46) When there has been another reason equivalent to the foregoing items

(Disciplinary reasons for management)

Section 57-2 When persons in management fall under any of the following items, they are subject to reprimand, wage reduction, work suspension, and demotion.

(1) When management has neglected to establish concrete objectives and carry out work strategically according to plan

(2) When management has not communicated with related persons and has failed to hold a coordination meeting, regardless of it being important for business, and a problem has occurred

(3) When management has not ordered a subordinate to submit a written explanation, even though the subordinate is subject to disciplinary action

(4) When a work policy is left in an unclear state, and management neglects to establish countermeasures such as discussion

(5) When management has stamped documents with a seal (personal seal or Company seal) without confirming the contents or getting an explanation

(6) When management has performed an unauthorized action without obtaining the approval of the Company, or has allowed an act of a subordinate without authorization, and there is damage to the Company

(Disciplinary termination of employment and Instructed termination of employment)

Section 58 When employees fall under any of the following items, they are subject to disciplinary termination of employment or instructed termination of employment. However, depending on the circumstances, this may be limited to a reprimand, wage reduction, work suspension, or demotion.

(1) When unexcused absences continue without a justifiable reason for more than 7 days, and there is no response to a demand to come to work

(2) When the written oath is violated, and even though a warning was given, the violation was not corrected

(3) When an employee has acted with violence or threats against another person, or has impeded work

(4) When, going beyond one's authority and not obeying the instructions or commands of a superior, an employee has conducted unauthorized acts and has disturbed the orderliness of the workplace, or has caused damage to the Company

(5) When an employee has not cooperated with assigned tasks and lacks an ability to coordinate, and, even with instruction, has been completely unsuitable as an employee

(6) When an employee has falsified important résumé information, or has been hired by otherwise improper means

(7) When an employee has intentionally caused a disaster or accident, or has damaged company facilities and equipment

(8) When Company rules have been frequently violated, and even with instruction it is judged that there has been no sign of contrition

(9) When work has been intentionally obstructed, or when there has been an act that significantly disturbs the orderliness and public morals of the Company, and even though instructions were given, this was not corrected

(10) When critical business information or secrets have been disclosed, or when the reputation of the Company has been substantially damaged

(11) When hired on as a director, or managing a business oneself, without Company approval and while remaining a current employee

(12) When fraudulent and unlawful money or goods related to work have been accepted

(13) When work-related embezzlement was performed, or when there has been a breach of trust

(14) When Company money or goods have been fraudulently taken away, or when other's valuables have been stolen, regardless of whether it is inside or outside the Company

(15) When the honor of the Company has been damaged, or when the trustworthiness of the Company has been significantly harmed

(16) When a criminal law has been violated and a judgment of guilty is received

(17) When due to borrowing funds from a consumer loan or other financial business, and there are frequent demands to pay made at the Company, thereby hindering the operation of company business

(18) When there is a significant work failure due to intentional or gross negligence

(19) When an employee has incited, agitated, or helped another person to cause an act falling under Section 57, or has attempted to do so

(20) When a serious accident was caused while driving without a license or qualification

(21) When a serious accident was caused while driving under the influence or driving drunk

(22) When subject to the disciplinary reasons of the Sexual Harassment Rules

(23) When an act amounting to Power Harassment has been performed, and even though caution was given, has not been corrected

(24) When personal information of the Company or a customer was intentionally leaked

(25) When among the foregoing disciplinary violation acts, multiple acts, and in particular serious violations have been confirmed

(26) When there have been other acts similar to the foregoing items

(Supervisory responsibility)

Section 59 When subordinates are disciplined, depending on the degree of the discipline, the superior who guides and supervises that employee may be disciplined as well.

(Penalties)

Section 60 Besides disciplinary actions, the Company can require compensation for all damages suffered or a portion thereof.

Article 10 Salary, Bonus, and Retirement Payment

(Salary)

Section 61 Salary for employees is stipulated separately in the "Employee Salary Regulations."

(Bonus)

Section 62 Bonuses may be paid to employees who are currently employed on the date of payment, divided into a first half year and second half year, and details are stipulated separately in the "Employee Salary Regulations."

(Retirement payment)

Section 63 Deleted

Article 11 Health & Safety

(Compliance Duties)

Section 64 Employees must observe these rules and other rules related to safety and health, work to create a comfortable workplace as well as to prevent accidents, and in particular they must strictly observe the following items.

(1) Follow the instructions and commands of safety managers, health managers, and other health and safety supervisors

(2) Strive to have a clean and orderly workplace

(3) Inspect machinery, equipment, and tools before use, and if a failure or dangerous location is discovered, suspend use and report the reason to the safety manager

(4) When leaving one station, the operation of lifting machines and motors must be stopped

(5) Safety equipment, fire extinguishing equipment and other health and safety facilities provided must not be removed or changed without authorization, or otherwise have their effectiveness reduced

(6) Work that involves driving various types of vehicles, cranes, forklifts and so on shall not be performed by people other than those possessing a license, those possessing a qualification, or those who are designated by the Company.

(7) In locations where use or wearing of hazard prevention gear is required, the specified protective equipment, safety shoes, and work clothes must always be correctly used or worn

(Measures when an accident occurs)

Section 65 When employees find an accident has occurred or become aware of that danger, they must immediately inform supervisors and follow their instructions. However, when urgency is required, measures must be taken as necessary and then reported to supervisors.

(Preventive measures)

Section 66 When measures are recognized as necessary due to work restrictions, treatment, or otherwise for sanitation, employees must follow the instructions of the health manager. However, when urgency is required, measures must be taken as necessary and then reported to supervisors.

(Work prohibition)

Section 67 Employees afflicted with the following illnesses can obtain the certification of a physician and be prohibited from working.

(1) Mental illness

(2) Infectious diseases designated by law and other infectious diseases

(3) Illnesses that may be worsened by working

(Notification of infectious disease)

Section 68 When a housemate or neighborhood individual is afflicted with an infectious disease designated by law or is suspected of being afflicted, the employee must immediately report that fact.

(Periodic health examinations)

Section 69 Health examinations of employees are performed regularly on an annual basis. However, when necessary, full or partial provisional health examinations of employees are performed.

(Persons requiring protection)

Section 70 For employees who are recognized as requiring protection for reasons of illness or physical weakness or other reasons, measures can be taken as necessary, such as work restrictions, placement transfer, treatment and other insurance and health measures.

(Confidentiality of health management)

Section 71 The Company, health managers, and other persons performing health examinations must not reveal any secrets learned from that work.

Article 12 Accident Compensation

(Work accidents)

Section 72 When an employee suffers a work accident, then according to the stipulated part of the Labor Standards Law, the Company shall compensate with sufficient payment and so on for treatment of that employee.

2. When employees who receive compensation in the previous item receive insurance payments under the Labor Insurance Law for the same reason, then within the scope of this payment amount, the Company is not obligated for the payment.

(Commuting accident)

Section 73 When employees are injured or become ill due to commuting or when a residual disability or death has occurred due to a commuting accident, the stipulated part of the Labor Insurance Law applies.

Article 13 Education

(Education)

Section 74 Newly hired employees are subject to education required for business duties.

(External training)

Section 75 In addition to the previous section, and in particular as needed, specific individuals are selected and sent to external training facilities, lecture meetings, and so on, and for a specified period of time they study and research specialized knowledge and skills.

2. When employees desire to take part in lectures, training, and other education externally, the Company shall provide this opportunity to the extent possible.

Article 14 Welfare

(Congratulatory and condolence payments)

Section 76 Handling of employee congratulatory and condolence payments is according to the separately specified "Congratulatory and Condolence Payments Rules."

(Property accumulation savings)

Section 77 Handling of employee property accumulation savings is according to the separately specified "Employee Property Accumulation Savings Handling Rules."

(Company housing)

Section 78 Handling of company housing for employees is according to the separately specified "Relocation Rules" and "Leased Company Housing Rules."

(Welfare Facilities)

Section 79 Employees, after completing a given procedure, may use cultural, physical education, or health facilities provided by the Company for the health and welfare of employees and their families.

Annex

1. The managing director obtains the opinions of employee representatives and proposes revision or abolishment of these rules, and makes a decision based on the opinion of the Board of Directors. Furthermore, correction of text that has no impact and minor revisions such as changing department names in accordance with organizational changes shall be determined by the decision of the representative director

2. These rules were implemented as of November 10, 1995

3. Revision date, October 17, 1997
   However, Section 16 and Section 33 were implemented as of April 1, 1998.

4. Revision date, April 1, 1999

5. Revision date, June 11, 1999

6. Revision date, March 26, 2000

7. Revision date, November 10, 2000

8. Revision date, July 15, 2002

9. Revision date, June 26, 2003

10. Revision date, October 26, 2005

11. Revision date, April 1, 2006

12. Revision date, June 13, 2006

13. Revision date, June 26, 2007

14. Revision date, February 1, 2008

15. Revision date, November 1, 2009

16. Revision date, March 26, 2010

17. Revision date, April 1, 2011

18. Revision date, April 1, 2013

EXHIBIT 2C

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EXHIBIT 2D

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DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada corporation, Plaintiff, v. 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 **DECLARATION OF TRANSLATOR** Electronic Filing Case

I, William Clemens, declare as follows:

1. I, William Clemens, am a professional translator working with TransPerfect Translations.
2. TransPerfect Translations is a professional translation agency and international communications firm whose process management and translation service are ISO 9001:2008 and EN 15038:2006 certified to ensure quality translation products.
3. I have worked as a professional translator for 20 years, 5 of them with TransPerfect Translations.
4. I am fluent in Japanese and English.
5. My native language is English; I have formal education in Japanese.
6. I am certified by the TransPerfect Linguist Certification Program to perform Japanese to English translations.
7. I am also certified by the American Translators Association (ATA) to perform Japanese to English translations, which is one of the industry's most respected and recognized credentials.
8. I hereby certify that the following is, to the best of my knowledge and belief, a true and accurate translation of the accompanying documents from Japanese to English:
    a. Declaration of Yoshitaka Fujihara
    b. Written Oath of Yoshitaka Fujihara
    c. Universal Entertainment Corporation Employee Work Rules

Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

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

Executed on the 20 (date) day of 4 (month), 2015 (year), at Berkeley (city), CA (state).

William Clemens

(printed name)

William Clemens

(signature)

Holland & Hart LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134

consent, directly or indirectly, engage in the development of or own, operate, lease, manage, control or invest in, act as consultant or advisor to or otherwise assist any Person that engages in (a) casino operations in Clark County, Nevada, or Macau or (b) Internet gaming anywhere in the world; provided, however, that either Aruze Parent or Kazuo Okada may operate a business offering Internet gaming if the forms of gaming offered by such business are restricted to games derived from pachinko or pachi-slot machines or other games not authorized for manufacture or distribution in the State of Nevada or Macau and any of Aruze, Aruze Parent, Kazuo Okada or an entity which is at least 80% owned by Kazuo Okada or Aruze Parent ("Okada Entity") may license content from any gaming device manufactured by Aruze, Aruze Parent or Okada Entity to a business offering Internet gaming. Nothing herein shall preclude Aruze, Aruze Parent, an Okada Entity and/or Kazuo Okada from engaging in the sale of gaming devices in the aforementioned jurisdictions.

7. Stockholders' Option to Purchase Bankrupt Stockholder's Shares.

(a) Upon the institution of a Bankruptcy by or against a Stockholder (a **"Bankrupt Stockholder"**), the Stockholders, not including the Bankrupt Stockholder, shall have the option (the **"Purchase Option"**) to purchase the Bankrupt Stockholder's Shares in Wynn for a price agreed upon by the Stockholders, not including the Bankrupt Stockholder, on the one hand, and the Bankrupt Stockholder, on the other hand, or if no price can be agreed upon, the Fair Market Value of such Shares at the time of such Bankruptcy. If information is not available to determine the Fair Market Value of such Shares at the time of such Bankruptcy, the price shall be the fair market value as determined by an Independent Qualified Appraiser. The Stockholders wishing to purchase all or a part of the Shares of the Bankrupt Stockholder (the **"Purchasing Stockholders"**) shall pay the agreed price, the Fair Market Value or the fair market value as determined by an Independent Qualified Appraiser, as applicable, of such Shares to the Bankrupt Stockholder, in cash or its equivalent, by one hundred and twenty (120) days after the date the Bankruptcy petition is filed by or against the Bankrupt Stockholder. Each Purchasing Stockholder must notify the other Stockholders of such Purchasing Stockholder's desire to purchase all or a portion of the Bankrupt Stockholder's Shares in writing by twenty (20) days after the date the Bankruptcy petition is filed by or against the Bankrupt Stockholder. Unless they agree otherwise, if there is more than one Purchasing Stockholder, each Purchasing Stockholder may purchase the proportion of the Bankrupt Stockholder's Shares that such Purchasing Stockholder's Percentage Interest bears to the aggregate Percentage Interests of all Purchasing Stockholders. If neither any remaining Stockholder wishes to purchase the Bankrupt Stockholder's Shares, or the Purchasing Stockholders do not purchase the Bankrupt Stockholder's Shares within the earlier of the time periods set forth above, then all rights to purchase the Bankrupt Stockholder's Shares pursuant to this Section shall terminate.

(b) Any Stockholder that exercises its right under this Section 7 to purchase the Bankrupt Stockholder's Shares may, in its sole and absolute discretion, assign such rights to Wynn.

8. Restrictions on Transfer of Ownership Interests in Stockholders.

(a) Except for a Transfer to a Permitted Transferee, any Transfer or issuance of an ownership interest in Aruze or in any entity that directly or indirectly owns a majority ownership interest in a Stockholder an **"Upstream Ownership Interest"**) shall be prohibited unless in compliance with the procedures and requirements set forth in this Section 8.

(b) The Shares that would be indirectly transferred by the transfer of the Upstream Ownership Interest shall be referred to as the **"Indirect Transfer Shares"**. If any holder of an Upstream Ownership Interest (an **"Upstream Transferor"**) intends to Transfer all or any part of its Upstream Ownership Interest pursuant to a bona fide offer received from any Person (the **"Upstream Offeror"**), prior to accepting such offer the Upstream Transferor shall provide written notice to each Stockholder, other than the Stockholder holding the Indirect Transfer Shares, which notice shall set forth the terms and conditions of the offer so received, including the purchase price and the identity of the Upstream Offeror. If the Upstream Transferor does not provide such notice, the Stockholder holding the Indirect Transfer Shares shall provide such notice to each other Stockholder promptly upon learning that such transaction will occur or has occurred. Within 15 days following receipt of such notice by the Stockholders other than the Stockholder holding the Indirect Transfer Shares, or if later, within 30 days of such other Stockholders learning that the Transfer of the Upstream Ownership Interest has occurred, such other Stockholders (i) if information is available to determine the Fair Market Value of such Indirect Transfer Shares, may elect to purchase the percentage of the Indirect Transfer Shares available for purchase equal to such holder's Percentage Interest (determined for this purpose by excluding the Indirect Transfer Shares) at the Fair Market Value of such Shares, or (ii) if information is not available to determine the Fair Market Value of such Indirect Transfer Shares, may, by notice to the Stockholder holding the Indirect Transfer Shares, elect to obtain an appraisal by an Independent Qualified Appraiser of the fair market value of the Indirect Transfer Shares. Within 15 days following receipt by the Stockholders other than the Stockholder holding the Indirect Transfer Shares of the results of the appraisal, each such other Stockholder may elect to purchase the percentage of the Indirect Transfer Shares available for purchase equal to such holder's Percentage Interest (determined for this purpose by excluding the Indirect Transfer Shares) at the appraisal price of such Shares. To the extent a Stockholder shall determine not to purchase all the Indirect Transfer Shares available to that Stockholder, the other Stockholders exercising the right to purchase the Indirect Transfer Shares may purchase additional Indirect Transfer Shares on a pro rata basis in proportion to their Percentage Interests (and the foregoing procedure shall be repeated in respect of any Indirect

Transfer Shares not purchased until such other Stockholders have had an opportunity to purchase any remaining Indirect Transfer Shares).

Notwithstanding anything to the contrary in this Section 8, any Transfer or issuance of shares in Aruze Parent shall not constitute an Upstream Transfer if immediately following such Transfer or issuance Kazuo Okada has the right to directly or indirectly exercise more than fifty percent of the voting power of the shareholders of Aruze Parent.

(c) The closing of a purchase of Indirect Transfer Shares by a Stockholder under this Section 8 shall occur within 10 days following the expiration of the last period during which a Stockholder might elect to purchase any of the Indirect Transfer Shares, or at such later date when all approvals required by the Gaming Laws are obtained (such approvals to be obtained as soon as is reasonably practicable).

(d) Any Stockholder that exercises its right under this Section 8 to purchase the Indirect Transfer Shares may, in its sole and absolute discretion, assign such rights to Wynn.

9. Right of First Refusal.

(a) Any Stockholder (a **"Transferor"**) who wishes to Transfer any or all of its Shares (the **"Offered Shares"**) to any Person other than a Permitted Transferee and who receives a bona fide offer from any Person (the **"Offeror"**) who is not a Prohibited Transferee for the purchase of all or any portion of such Stockholder's Shares shall, prior to accepting such offer, provide written notice (the **"Notice of Offer"**) thereof to each other Stockholder holding Shares, which notice shall set forth the terms and conditions of the offer so received, including the purchase price and the identity of the Offeror. Following the delivery to the other Stockholders of the Notice of Offer, each other Stockholder may elect to purchase that percentage of the Offered Shares which is equal to the Total Shares (excluding the Offered Shares) owned by each such Stockholder divided by the Total Shares (excluding the Offered Shares) owned by all such Stockholders (**"Applicable Percentage"**) during a fifteen-day refusal period (the **"Refusal Period"**) on the terms set forth in the Notice of Offer. To the extent any Stockholder shall determine not to purchase its Applicable Percentage prior to the expiration of the Refusal Period, the accepting Stockholders (the **"Accepting Purchasers"**) may purchase such Shares on a pro rata basis in proportion to the number of Shares owned by each of them (and the foregoing procedure shall be repeated in respect of any Shares not purchased until all Accepting Purchasers have had an opportunity to purchase any remaining Shares).

(b) Subject to the requirements of Section 4, including but not limited to the requirement that a transferee execute this Agreement and a Proxy, if all or any of the Offered Shares shall remain unsold after completion of the

procedures set forth in Section 9(a), the Transferor may sell such remaining Offered Shares to the Offeror within six months of the completion of such procedures on terms no more favorable than those set forth in the Notice of Offer; provided that the Offeror is not a Prohibited Transferee. To the extent any of the Offered Shares are not sold in accordance with the foregoing, the Stockholders shall continue to have a right of first refusal under this Section 9 with respect to any Transfers to any Person which are subsequently proposed by such Transferor.

(c) The closing of a purchase by a Stockholder under this Section 9 shall occur within ten days after the end of the Refusal Period or at such later date when all approvals required by the Gaming Laws are obtained (such approvals to be obtained as soon as is reasonably practicable). At such closing the Transferor and the relevant Accepting Purchaser (and any or all other Stockholders as may be required) shall execute an assignment and assumption agreement and any other instruments and documents as may be reasonably required by such Stockholder to effectuate the transfer of such Shares free and clear of any liens, claims or encumbrances, other than as specifically permitted hereunder. Any Transfer to any Person that does not comply with the provisions of this Section 9, other than a Transfer expressly provided for in the other provisions of this Agreement, shall be null and void of no effect whatsoever.

(d) Any Stockholder may, in its sole and absolute discretion, assign its right of first refusal under this Section 9 to purchase the Offered Shares to Wynn with respect to any incident in which its right of first refusal is triggered under this Section 9.

(e) Except for Shares transferred pursuant to Sections 2(b), 4, 7, 8, 10 and 11, no Shares may be Transferred until the provisions of this Section 9 have been complied with.

10. Tag-Along Rights.

If any party is the Transferor required to provide the Notice of Offer under Section 9(a), then each of the other two non-selling parties to this Agreement shall each have a right (in addition to its rights under Section 9) to participate in such Transfer pursuant to the provisions of this Section 10. During the fifteen-day Refusal Period described in Section 9(a), each of non-selling parties may, by written notice to the Transferor, elect to participate in such Transfer and to sell that percentage of the Total Shares owned by each non-selling party as the case may be, which is equal to the Total Shares that will be sold by the Transferor in such Transfer divided by the Total Shares owned by the Transferor. The terms and conditions of such Transfer (including the purchase price per Share sold in such Transfer, the identity of the buyer(s), and the consequences resulting from the other Stockholder's exercise of any rights of first refusal) shall be no less favorable to the non selling parties than to the Transferor; provided, however, that in the event that SAW or Aruze is the Transferor, he or Aruze may enter into service, noncompetition, or similar

agreements with the buyer and receive appropriate consideration thereunder in which other Stockholders do not share.

11. Release of Shares. Each of SAW and Aruze agree that commencing on January 6, 2010, and continuing on each January 6 for a total of ten events, a number of Shares owned by EW equal to $10,000,000 divided by the closing price of Wynn shares on January 5, 2010 (or if January 5 is not a trading day, the trading day immediately preceding January 5) shall be released from the restrictions set forth in this Agreement (once released, the "EW Released Shares"). If EW desires to sell any EW Released Shares, she shall provide written notice of such desire to SAW and, for a period of 48 hours from SAW's receipt of such notice, SAW shall have the right to purchase any or all of such Shares for a price equal to the closing price of the Shares on the trading day immediately preceding the date of notice. SAW shall notify EW of his election to purchase or not within 48 hours from the date of receipt of the original notice. If SAW elects to purchase hereunder, the purchase price shall be payable in cash no later than 3 business days after the date of election. Notices to SAW under this Section 11 shall be transmitted by fax and email to SAW at his last known business address and residence address (currently c/o cindy.mitchum@wynnresorts.com and 702.770.1111), with copies to the General Counsel of Wynn (currently Kim Sinatra (kim.sinatra@wynnresorts.com and 702.770.1349)) and to James J. Jimmerson, Esq., Jimmerson Hansen, P.C., 415 S. Sixth Street, Suite 100, Las Vegas, NV 89101 (jjj@jimmersonhansen.com and 702.387.1167) and notices to EW under this Section 11 shall be transmitted by fax and email to EW at her last known business address and residence address (currently c/o Elaine.Wynn@wynnresorts.com, and 702.770.1103), with copies to Donald Schiller, Esq., Schiller, DuCanto & Fleck, LLP, 200 North LaSalle Street, 30th Floor, Chicago, IL 60601 (dschiller@sdflaw.com, and 312.641.6361) and Gary R. Silverman, Esq., Silverman, DeCaria & Kattelman, Chtd., 140 Plumas Street, Suite 200, Reno, NV 89519 (silverman@silverman-decaria.com and 775.322.3649). If SAW does not elect to purchase hereunder, the EW Released Shares will thereafter be held by EW free and clear of any further restrictions on sale under this Agreement.

12. Recapitalization. In the event of a stock dividend or distribution, or any change in the Shares (or any class thereof) by reason of any split-up, recapitalization, merger, combination, exchange of shares or the like, the term "Shares" shall include, without limitation, all such stock dividends and distributions and any shares into which or for which any or all of the Shares (or any class thereof) may be changed or exchanged as may be appropriate to reflect such event.

13. Stockholder Capacity. Notwithstanding any provisions to the contrary contained herein, no Stockholder or any of its Affiliates shall be deemed to make any agreement or understanding herein in a capacity other than that as stockholder of Wynn.

14. Miscellaneous.

(a) Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof, including without limitation, the Existing Agreement.

(b) Legend. **Certificates and all electronic records evidencing** Shares subject to this Agreement shall each bear the following restrictive legend (the **"Legend"**) (in addition to any other legend required by applicable gaming laws):

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE TERMS AND CONDITIONS OF AN AMENDED AND RESTATEDSTOCKHOLDERS AGREEMENT DATED AS OF JANUARY 6, 2010, WHICH PLACES CERTAIN RESTRICTIONS ON THE VOTING AND TRANSFER OF THE SHARES REPRESENTED HEREBY. ANY PERSON ACCEPTING ANY INTEREST IN SUCH SHARES SHALL BE DEEMED TO HAVE AGREED TO AND SHALL BECOME BOUND BY ALL THE PROVISIONS OF SUCH STOCKHOLDERS AGREEMENT. A COPY OF SUCH STOCKHOLDERS AGREEMENT WILL BE FURNISHED TO THE RECORD HOLDER OF THIS CERTIFICATE WITHOUT CHARGE UPON WRITTEN REQUEST TO THE COMPANY AT ITS PRINCIPAL PLACE OF BUSINESS."

(i) Each Stockholder agrees that, from and after the date of this Agreement and ending as of the Termination Date, it shall not, and shall cause each of its Affiliates who Beneficially Own any of the Designated Stockholder's Shares not to, allow Wynn to remove, and shall not permit to be removed (upon registration of transfer, reissuance or otherwise), the Legend from any such certificate and shall place or cause to be placed the Legend on any new certificate issued to represent Shares it or any of its Affiliates shall Beneficially Own.

(c) Transfers in Violation Void Any transfer or sale of any Shares in violation of this Agreement shall be null and void *ab initio*.

(d) Amendments, Waivers, Etc. This Agreement may not be amended, changed, supplemented, waived or otherwise modified or terminated, except upon the execution and delivery of a written agreement executed by the parties hereto.

(e) Notices. Other than as provided in Section 11 above, all notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly received if so given) by hand delivery, telegram, telex or telecopy, or by mail (registered or certified mail, postage prepaid, return receipt requested) or by any courier

service, such as Federal Express, providing proof of delivery. All communications hereunder shall be delivered to the respective parties at the following addresses or the addresses set forth on the signature pages hereto:

If to Aruze:

Aruze USA, Inc.
745 Grier Drive
Las Vegas, Nevada 89119
Facsimile: 702-361-3403
Attention: Sam Basile

With a copy to:

Universal Entertainment Corporation
Ariake Frontier Bldg. A, 3-7-26 Ariake, Koto, Ku
Tokyo, Japan
Facsimile: 81-3-5530-3097
Attention: Kazuo Okada

If to SAW:

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

With a copy to:

Wynn Resorts, Limited
3131 Las Vegas Boulevard South
Las Vegas, NV 89109
Facsimile: 702-770-1349
Attention: General Counsel

If to EW:

Elaine P. Wynn
Box 17007
Las Vegas, NV
Facsimile: 702-770-1103

With copies to:

Brentwood Management Group
11812 San Vicente Boulevard, Suite 200
Los Angeles, CA 90049
Facsimile: 310-820-5354
Attention: Matt Fishburn

Stan Maron
1250 Fourth Street, 5th Floor
Santa Monica, CA
Fascimile: _____

or to such other address as the person to whom notice is given may have previously furnished to the others in writing in the manner set forth above.

(f) Severability. Whenever possible, each provision or portion of any provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law but if any provision or portion of any provision of this Agreement is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision or portion of any provision in such jurisdiction, and this Agreement shall be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

(g) Specific Performance. Each of the parties hereto recognizes and acknowledges that a breach by any party hereto of any covenants or agreements contained in this Agreement will cause the other parties hereto to sustain damages for which they would not have an adequate remedy at law for money damages, and therefore each of the parties hereto agrees that in the event of any such breach the parties shall be entitled to the remedy of specific performance of such covenants and agreements and injunctive and other equitable relief in addition to any other remedy to which he may be entitled, at law or in equity.

(h) Further Assurances. From time to time, the Stockholders shall execute and deliver such additional documents as may be necessary or desirable to consummate and make effective, in the most expeditious manner practicable, the transactions contemplated by this Agreement.

(i) Remedies Cumulative. All rights, powers and remedies provided under this Agreement or otherwise available in respect hereof at law or in equity shall be cumulative and not alternative, and the exercise of any thereof by any party shall not preclude the simultaneous or later exercise of any other such right, power or remedy by such party.

(j) No Waiver. The failure of any party hereto to exercise any right, power or remedy provided under this Agreement or otherwise available in respect hereof at law or in equity, or to insist upon compliance by any other party hereto with its obligations hereunder, and any custom or practice of the parties at variance with the terms hereof, shall not constitute a waiver by such party of its right to exercise any such or other right, power or remedy or to demand such compliance.

(k) No Third Party Beneficiaries. This Agreement is not intended to be for the benefit of, and shall not be enforceable by, any person or entity who or which is not a party hereto; provided that, the obligations of the Designated Stockholders hereunder shall inure to their transferees, successors and heirs.

(l) No Assignment. Except as otherwise explicitly provided herein, neither this Agreement nor any right, interest or obligation hereunder may be assigned (by operation of law or otherwise) by any Stockholder without the prior

written consent of the parties hereto and any attempt to do so will be void; provided, however, that the rights under this Agreement may be assigned to the transferee in connection with a Transfer that does not violate the terms of the Agreement.

(m) Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Nevada, without giving effect to the principles of conflicts of law thereof.

(n) Jurisdiction. Each party hereby irrevocably submits to the exclusive jurisdiction of the state courts in the State of Nevada in any action, suit or proceeding arising in connection with this Agreement, and agrees that any such action, suit or proceeding shall be brought only in such court (and waives any objection based on forum non conveniens or any other objection to venue therein); provided, however, that such consent to jurisdiction is solely for the purpose referred to in this paragraph and shall not be deemed to be a general submission to the jurisdiction of the courts of the State of Nevada other than for such purposes. Each party hereto hereby waives any right to a trial by jury in connection with any such action, suit or proceeding.

(o) Descriptive Headings. The descriptive headings used herein are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.

(p) Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement. This Agreement shall not be effective as to any party hereto until such time as this Agreement or a counterpart thereof has been executed and delivered by each party hereto.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by Wynn and a duly authorized officer of Aruze and Baron on the day and year first written above.

/s/ Stephen A. Wynn
Stephen A. Wynn

/s/ Elaine P. Wynn
Elaine P. Wynn

ARUZE USA, INC.

By: /s/ Kazuo Okada

Name: Kazuo Okada
Title: President

Exhibit A

IRREVOCABLE PROXY

By its execution hereof, and in order to secure obligations under the Amended and Restated Stockholders Agreement of even date herewith among Stephen A. Wynn, an individual ("SAW"), Elaine P. Wynn, an individual ("EW"), and Aruze USA, Inc., a Nevada corporation (the "Agreement"), EW, Aruze USA, Inc. and each Designated Stockholder (as defined in the Agreement) other than SAW (collectively "Proxy Grantors"), hereby irrevocably constitutes and appoints SAW, with full power of substitution and resubstitution, from the date hereof to the termination of the Agreement, as such Proxy Grantors' true and lawful attorney and proxy (its "Proxy"), for and in such Proxy Grantors' name, place and stead to vote each of the Shares of each such Proxy Grantor as such Proxy Grantor's Proxy at every annual, special or adjourned meeting of stockholders of Wynn (as defined in the Agreement), and to sign on behalf of such Proxy Grantor (as a stockholder of Wynn) any ballot, proxy, consent, certificate or other document relating to Wynn that law permits or requires, for the election of directors as more specifically provided and in a manner consistent with the Agreement. This Proxy is coupled with interest and each Proxy Grantor intends this Proxy to be irrevocable to the fullest extent permitted by law. Each Proxy Grantor hereby revokes any proxy previously granted by such Proxy Grantor with respect to such Proxy Grantor's Shares. Capitalized terms used but not defined herein shall have the meaning set forth in the Agreement. Each Proxy Grantor shall perform such further acts and execute such further documents and instruments as may reasonably be required to vest in SAW or any of his designees, the power to carry out and give effect to the provisions of this Proxy. This Irrevocable Proxy shall be in full force and effect until the Termination Date.

IN WITNESS WHEREOF, the undersigned has executed this Irrevocable Proxy this ____ day of January 2010.

ARUZE USA, INC.

By:

Name:

Title:

ELAINE P. WYNN

EXHIBIT F

EXHIBIT F

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

FORM 10-K

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**
For the fiscal year ended December 31, 2009

OR

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

Commission File No. 000-50028

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

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

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

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

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

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

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

None

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

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

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

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

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

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

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐	Smaller reporting company	☐

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

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

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

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

PART I

ITEM 1. BUSINESS

Overview

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

Due to a number of factors, including disruptions in global economies, stagnant credit markets, and reduced consumer spending, 2009 was a difficult year for the casino resort business, particularly for U.S. operations. Auto traffic into Las Vegas, airline capacity and air travel to McCarran International Airport have declined, resulting in lower casino volumes and a reduced demand for hotel rooms. The current adverse global economic conditions will likely continue to cause us to experience lower than historical hotel occupancy rates, room rates, casino volumes and profitability in Las Vegas.

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

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

Our Resorts

Wynn Las Vegas

Wynn Las Vegas opened on April 28, 2005. We believe that the resort offers exceptional accommodations, amenities and service with 2,716 rooms and suites, including 36 fairway villas and 6 private-entry villas for our premium guests. In 2010, for the fourth year in a row, The Tower Suites at Wynn Las Vegas has received both the Forbes five-star and AAA five-diamond distinctions. The Spa at Wynn Las Vegas earned five-star recognition from Forbes for the second year in a row. The Spa at Wynn Las Vegas and the Spa at Encore are the only spas in Las Vegas to be recognized with the Forbes five-star award.

The approximately 110,000 square foot casino features approximately 130 table games, a baccarat salon, private VIP gaming rooms, a poker room, approximately 1,920 slot machines, and a race and sports book. The resort's 22 food and beverage outlets feature six fine dining restaurants, including restaurants helmed by award winning chefs. Wynn Las Vegas also offers two nightclubs, a spa and salon, a Ferrari and Maserati automobile dealership, wedding chapels, an 18-hole golf course, approximately 223,000 square feet of meeting space and an approximately 74,000 square foot retail promenade featuring boutiques from Alexander McQueen, Brioni, Cartier, Chanel, Dior, Graff, Louis Vuitton, Manolo Blahnik, Oscar de la Renta and Vertu. Wynn Las Vegas also has a showroom which features "Le Rêve," a water-based theatrical production. We believe that the unique experience of Wynn Las Vegas drives the significant visitation experienced since opening.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Market Information

Our common stock trades on the NASDAQ Global Select Market under the symbol "WYNN." The following table sets forth the high and low sale prices for the indicated periods, as reported by the NASDAQ Global Select Market.

	High	Low
Year Ended December 31, 2009		
First Quarter	$ 55.41	$ 14.50
Second Quarter	$ 50.77	$19.52
Third Quarter	$ 74.90	$29.05
Fourth Quarter	$ 71.50	$ 51.73
Year Ended December 31, 2008		
First Quarter	$ 124.77	$ 90.90
Second Quarter	$116.54	$77.66
Third Quarter	$ 119.74	$69.27
Fourth Quarter	$ 83.69	$ 28.06

Holders

There were approximately 203 record holders of our common stock as of February 17, 2010.

Dividends

Wynn Resorts is a holding company and, as a result, our ability to pay dividends is dependent on our ability to obtain funds and our subsidiaries' ability to provide funds to us. As a result of the sale of shares in Wynn Macau, Limited in October 2009, we have a total of approximately $1.2 billion of available cash that is not subject to such restrictions. Restrictions imposed by our subsidiaries' debt instruments significantly restrict certain key subsidiaries holding a majority of our assets, including Wynn Las Vegas, LLC and Wynn Macau, S.A., from making dividends or distributions to Wynn Resorts. Specifically, Wynn Las Vegas, LLC and certain of its subsidiaries are restricted under the indenture governing the first mortgage notes from making certain "restricted payments," as defined in the indenture. These restricted payments include the payment of dividends or distributions to any direct or indirect holders of equity interests of Wynn Las Vegas, LLC. Restricted payments cannot be made unless certain financial and non-financial criteria have been satisfied. In addition, the terms of the other loan agreements of Wynn Las Vegas, LLC and Wynn Macau, S.A. contain similar restrictions.

On November 6, 2009, our Board of Directors declared a cash dividend of $4.00 per share on our outstanding common stock. This dividend was paid on December 3, 2009, to stockholders of record on November 19, 2009. Our Board of Directors also approved the commencement of a regular cash dividend program beginning in 2010. Our Board of Directors will continue to periodically assess the level and appropriateness of any cash dividends.

In each of November 2006 and 2007, our Board of Directors declared a cash distribution of $6.00 per common share which was paid in the following month.

EXHIBIT G

EXHIBIT G

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

SCHEDULE 14A

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

Filed by the Registrant ☒

Filed by a Party other than the Registrant ☐

Check the appropriate box:

- ☐ Preliminary Proxy Statement
- ☒ Definitive Proxy Statement
- ☐ Definitive Additional Materials
- ☐ Soliciting Material Pursuant to §240.14a-11(c) or §240.14a-12
- ☐ **Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**

WYNN RESORTS, LIMITED

(Name of Registrant as Specified In Its Charter)

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

Payment of Filing Fee (Check the appropriate box):

- ☒ No fee required.
- ☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
  - (1) Title of each class of securities to which transaction applies:
  - (2) Aggregate number of securities to which transaction applies:
  - (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):
  - (4) Proposed maximum aggregate value of transaction:
  - (5) Total fee paid:
- ☐ Fee paid previously with preliminary materials.
- ☐ Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.
  - (1) Amount Previously Paid:
  - (2) Form, Schedule or Registration Statement No.:
  - (3) Filing Party:
  - (4) Date Filed:

Kazuo Okada. Mr. Okada, 67, has served as Vice Chairman of the Board of the Company since October 2002. Mr. Okada also serves as a member of the Board of Directors of Wynn Macau, Limited, a majority owned subsidiary of the Company. In 1969, Mr. Okada founded Universal Lease Co. Ltd., which became Aruze Corp. in 1998. In November 2009, the name of Aruze Corp. was changed to Universal Entertainment Corp and is a Japanese manufacturer of pachislot and pachinko machines, amusement machines, and video games. Universal has been issued a manufacturer license by the Nevada Gaming Commission. The Nevada Gaming Commission has also approved Universal's suitability as the 100% shareholder for a subsidiary, Aruze USA, Inc. Aruze USA has been found suitable by the Nevada Gaming Commission as a major shareholder of the Company. Mr. Okada currently serves as Director and Chairman of the Board of Universal and as Director, President, Secretary and Treasurer of Aruze USA. Aruze Gaming America is privately owned by Mr. Okada and holds manufacturer, distributor, and operator licenses from the Nevada Gaming Commission. Mr. Okada also serves as Director, President, Secretary and Treasurer of Aruze Gaming America, Inc.

Mr. Okada, a founding stockholder along with Mr. Wynn, as well as the Company's Vice Chairman, brings an international perspective that is essential to the Company's strategic vision. In addition, his primary business as a manufacturer and developer of gaming equipment adds significant value to our operations.

Robert J. Miller. Mr. Miller, 64, has served as a director of the Company since October 2002. Since July 2005, he has been a principal of Dutko Worldwide, a multidisciplinary governmental affairs strategy and management firm. From January 1999 until he joined Dutko Worldwide, Mr. Miller was a partner of the Nevada law firm of Jones Vargas. He was a partner in Miller & Behar Strategies from January 2003 to August 2007 and has been a partner in Nevada Rose, LLC since November 2004. From January 1989 until January 1999, Mr. Miller served as Governor of the State of Nevada, and, from 1987 to 1989, he served as Lieutenant Governor of the State of Nevada. Mr. Miller also serves as a director of Zenith National Insurance Corp., Newmont Mining Corporation and International Game Technology. Mr. Miller received a B.A. degree in political science from the University of Santa Clara in 1967 and a Juris Doctor from Loyola Law School in 1971.

Governor Miller's extensive experience in Nevada and federal politics brings unique expertise and insight into state regulatory and public policy issues that directly impact the Company's operations. In addition, his legal background and service as our Compliance Director and Chair of the Company's Compliance Committee is an important element of maintaining our regulatory structure and probity.

Allan Zeman. Mr. Zeman, 61, has served as a director of the Company since October 2002. He is also Vice Chairman and a member of the Board of Directors of Wynn Macau, Limited, a majority owned subsidiary of the Company. Mr. Zeman has been chairman of Lan Kwai Fong Holdings Limited, a Hong Kong based company engaged in property investment and development, since July 1996. Mr. Zeman is also chairman of Ocean Park, a major theme park in Hong Kong and serves on the Board of Directors of Pacific Century Premium Developments Limited (since 2004), Tsim Sha Tsui Properties Limited (since 2004) and Sino Land Company Limited (since 2004). In 2001, he was appointed a Justice of the Peace in Hong Kong and, in 2004, he was awarded the Gold Bauhinia Star by the Chief Executive of Hong Kong.

Mr. Zeman, a Hong Kong citizen and successful Hong Kong entrepreneur, has been a guiding force in the development of our Macau operations and the continued operation and strategic focus of Wynn Macau. His extensive knowledge of the Company's background, development and marketing strategy in Asia contribute to the Board's oversight of these aspects of the Company's operations.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of March 1, 2010, (unless otherwise indicated), certain information regarding the shares of the Company's common stock beneficially owned by: (i) each director and nominee for director; (ii) each stockholder who is known by the Company to beneficially own in excess of 5% of the outstanding shares of the Company's common stock based on information reported on Form 13D or 13G filed with the SEC; (iii) each of the executive officers named in the Summary Compensation Table; and (iv) all executive officers, directors and director nominees as a group. There were 123,296,373 shares outstanding as of March 1, 2010.

	Beneficial Ownership Of Shares(1)	
Name and Address of Beneficial Owner(2)	Number	Percentage
Stephen A. Wynn(3)	11,076,708	8.95%
Elaine P. Wynn(3)	11,076,709	8.95%
Kazuo Okada/Aruze USA, Inc.(3)(4) 745 Grier Drive Las Vegas, NV 89119	24,549,222	19.84%
Waddell & Reed Financial, Inc.(5) 6300 Lamar Avenue Overland Park, KS 66202	17,647,556	14.26%
Morgan Stanley(6) 1585 Broadway New York, NY 10036	8,902,269	7.20%
Marsico Capital Management, LLC(7) 1200 17th Street, Suite 1600 Denver, Colorado 80202	6,227,417	5.03%
Linda Chen(8)	341,667	*
Russell Goldsmith(9)	32,000	*
Ray R. Irani(10)	15,000	*
Robert J. Miller(11)	37,500	*
John A. Moran(11)(12)	187,500	*
Alvin V. Shoemaker(11)	47,500	*
D. Boone Wayson(11)	87,500	*
Allan Zeman(11)	37,500	*
Matt Maddox(13)	163,333	*
Marc D. Schorr(14)	315,800	*
John Strzemp(15)	255,500	*
Kim Sinatra (16)	50,000	*
All Directors, Director Nominees, and Executive Officers as a Group (15 persons)(17)	48,278,439	39.02%

* Less than one percent

(1) This table is based upon information supplied by officers, directors, nominees for director, principal stockholders and the Company's transfer agent, and contained in Schedules 13D and 13G filed with the SEC. Unless otherwise indicated in the footnotes to this table and subject to community property laws, where applicable, the Company believes each of the stockholders named in this table has sole voting and investment power with respect to the shares indicated as beneficially owned. Executives and directors have voting power over shares of Restricted Stock, but cannot transfer such shares unless and until they vest.

(2) Unless otherwise indicated, the address of each of the named parties in this table is: c/o Wynn Resorts, Limited, 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

(3) Does not include shares that may be deemed to be beneficially owned by virtue of the Amended and Restated Stockholders Agreement, dated as of January 6, 2010 (the "Stockholders Agreement"), by and among Mr. Wynn, Elaine P. Wynn and Aruze USA, Inc.

(4) Aruze USA, Inc. is a wholly owned subsidiary of Universal Entertainment Corporation of which Mr. Kazuo Okada owns a controlling interest and is the Chairman. The subject securities were acquired and are owned by Aruze USA, Inc. but Universal and Mr. Okada may also be considered beneficial owners of the shares because Aruze USA, Universal and Mr. Okada may be deemed to have shared voting and dispositive power over the shares. The information provided is based upon a Schedule 13D/A filed on January 6, 2010.

(5) Waddell & Reed Financial Inc. ("Waddell") has beneficial ownership of these shares as of December 31, 2009. The information provided is based upon a Schedule 13G/A dated February 12, 2010, filed by Waddell.

(6) Reflects, as of December 31, 2009, the securities beneficially owned by certain operating units (collectively, the "MS Reporting Units") of Morgan Stanley and its subsidiaries and affiliates (collectively, "MS") and does not reflect securities, if any, beneficially owned by any operating units of MS whose ownership of securities is disaggregated from that of the MS Reporting Units. Morgan Stanley has sole dispositive power over these shares and sole voting power over 8,736,508 shares. The information provided is based upon a Schedule 13G/A, dated February 12, 2010, filed by Morgan Stanley.

(7) Marsico Capital Management LLC ("Marsico") has beneficial ownership of these shares as of December 31, 2009. Marsico has sole dispositive power over these shares and sole voting power over 5,584,510 shares. The information provided is based upon a Schedule 13G/A, dated February 12, 2010, filed by Marsico.

(8) Includes: (i) 100,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on July 31, 2012; (ii) 100,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016; (iii) 66,667 shares subject to an immediately exercisable option to purchase Wynn Resorts common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (iv) 26,250 shares owned by Linda Chen, as trustee.

(9) Includes: (i) 10,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; (ii) 2,500 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan; and (iii) 3,800 shares owned by family members through trusts and companies for which Mr. Goldsmith disclaims beneficial ownership of 2,300 shares.

(10) Includes: (i) 10,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.

(11) Includes: (i) 30,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 7,500 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.

(12) Includes: 150,000 shares of the Company's common stock held by John A. Moran, as Trustee.

(13) Includes: (i) 83,333 shares subject to immediately exercisable options to purchase Wynn Resorts Common Stock pursuant to Wynn Resorts' 2002 Stock Incentive Plan; (ii) 50,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Purchase Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016; and (iii) 10,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Purchase Plan and subject to a Restricted Stock Agreement which provides such grant will vest on May 7, 2012.

(14) Includes: (i) 250,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016; and (ii) 50,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts 2002 Stock Incentive Plan.

(15) Includes (i) 500 shares of the Company's common stock held by Mr. Strzemp's mother, for which Mr. Strzemp disclaims beneficial ownership; and (ii) 60,000 shares subject to immediately exercisable options to purchase Wynn Resorts Common Stock pursuant to Wynn Resorts' 2002 Stock Incentive Plan.

(16) Includes: (i) 25,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016; and (ii) 25,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on July 31, 2011.

(17) Includes 430,000 shares subject to immediately exercisable stock options.

Committee receives notice of the occurrence of all pre-approved transactions. All other transactions with related persons are subject to approval or ratification by the Committee. In determining whether to approve or ratify a transaction, the Committee will take into account, among other factors it deems appropriate, whether the transaction is on terms no less favorable than terms generally available to an unaffiliated third-party under the same or similar circumstances and the extent of the related person's interest in the transaction.

The following are the material transactions or agreements between the Company and related persons. The Audit Committee has approved or ratified all of these transactions that occurred after the date of the adoption of the policy.

Stockholders Agreement. On January 6, 2010, Mr. Wynn, the Chairman of the Board and Chief Executive Officer of the Company, Elaine P. Wynn, a director of the Company, and Aruze USA, a greater than 5% stockholder of the Company, entered into an Amended and Restated Stockholders Agreement (the "Amended and Restated Stockholders Agreement") whereby that certain Stockholders Agreement, entered into as of April 11, 2002, between Mr. Wynn and Aruze, as amended by that certain Amendment to Stockholders Agreement, entered into as of November 8, 2006, between Mr. Wynn and Aruze, the Waiver and Consent, dated July 31, 2009, and the Waiver and Consent, dated August 13, 2009, was amended and restated in its entirety. Pursuant to the Amended and Restated Stockholders Agreement, Elaine P. Wynn (a) became a party to the Amended and Restated Stockholders Agreement in connection with her ownership of 11,076,709 shares of the Company's common stock that were transferred to Elaine P. Wynn by Mr. Wynn and (b) became subject to the covenants and provisions thereof, including with respect to voting agreements, preemptive rights, rights of first refusal, tag-along rights and certain other restrictions on transfer of such shares subject to release of $10 million of such shares on January 6, 2010 and on each of the following nine anniversaries thereof. In addition, the Amended and Restated Stockholders Agreement amended the voting agreement provision to provide that each of Mr. Wynn, Elaine P. Wynn and Aruze agree to vote all shares of the Company held by them and subject to the terms of the Amended and Restated Stockholders Agreement in a manner so as to elect to the Company's Board of Directors each of the nominees contained on each and every slate of directors endorsed by Mr. Wynn, which slate will include, subject to certain conditions, Elaine P. Wynn and, so long as such slate results in a majority of directors at all times being candidates endorsed by Mr. Wynn, nominees approved by Aruze.

Art Gallery. Since June 2006, the Company has leased a portion of The Wynn Collection from Mr. Wynn and Elaine P. Wynn for an annual fee of one dollar ($1). The Company is responsible for all expenses incurred in exhibiting and safeguarding those works from The Wynn Collection that it exhibits in its properties, including the cost of insurance (including terrorism insurance) and taxes.

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

Villa Lease. Mr. Wynn and Elaine P. Wynn each lease from year to year a villa suite in the Wynn Las Vegas resort. Pursuant to a lease agreement that was effective commencing July 1, 2008, the rent was $520,000 per year for a villa suite. In March 2009, the lease was amended to add an additional unit with no change in rent due to the significant deterioration in the rental market in Las Vegas.

On March 17, 2010, Elaine P. Wynn and Wynn Las Vegas entered into an Agreement of Lease (the "New EW Lease") for the lease of a villa suite as Elaine P. Wynn's personal residence. The New EW Lease was

EXHIBIT H

EXHIBIT H

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): November 24, 2010

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

Nevada	**000-50028**	**46-0484987**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

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

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

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

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

£ Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

£ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

£ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

£ Pre-commencements communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement

On November 24, 2010, Stephen A. Wynn ("Mr. Wynn"), the Chairman of the Board of Directors and Chief Executive Officer of Wynn Resorts, Limited (the "Registrant"), Elaine P. Wynn, a member of the Board of Directors of the Registrant ("Ms. Wynn"), and Aruze USA, Inc. ("Aruze"), a Nevada corporation, entered into a Waiver and Consent (the "Waiver and Consent") with respect to that certain Amended and Restated Stockholders Agreement, dated January 6, 2010, by and among Mr. Wynn, Ms. Wynn and Aruze (the "Stockholders Agreement"). Pursuant to the Waiver and Consent, (a) each of Mr. Wynn and Ms. Wynn consented to the transfer by Aruze of up to 1,445,805 shares (the "Aruze Released Shares") of common stock, par value $0.01, of the Registrant ("Common Stock") from the Stockholders Agreement, and (b) each of Mr. Wynn, Ms. Wynn and Aruze consented to the transfer by each of Mr. Wynn and Ms. Wynn of up to 1,000,000 shares (collectively, the "Wynn Released Shares") of Common Stock from the Stockholders Agreement. The parties agreed that the Aruze Released Shares and the Wynn Released Shares shall be released from all terms and restrictions set forth in the Stockholders Agreement upon the transfer of such shares. The parties further agreed that until any such transfer, the Aruze Released Shares and the Wynn Released Shares shall remain subject to all terms and restrictions set forth in the Stockholders Agreement.

The foregoing description of the Waiver and Consent does not purport to be complete and is qualified in its entirety by reference to the Waiver and Consent which is filed herewith as Exhibit 10.1 and is incorporated herein by this reference.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits:

Exhibit Number	Description
10.1	Waiver and Consent, dated November 24, 2010, by and among Aruze USA, Inc., Stephen A. Wynn and Elaine P. Wynn.

SIGNATURES

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

Date: November 24, 2010

WYNN RESORTS, LIMITED

By: /s/ Kevin Tourek
Kevin Tourek
Assistant Secretary

Exhibit 10.1

WAIVER AND CONSENT

This Waiver and Consent is made as of the 24 day of November, 2010 by and among Aruze USA, Inc. ("Aruze"), Stephen A. Wynn ("SW") and Elaine P. Wynn ("EW").

RECITALS

A. Aruze, SW and EW are parties to that certain Amended and Restated Stockholders' Agreement dated as of January 6, 2010, modified by a Release dated April 14, 2010 (together, the "Agreement").

B. The Agreement provides that each party is required to obtain prior written consent of the others to Transfer any shares of Wynn Resorts, Limited ("WRL") subject to the Agreement.

C. Prior to the date hereof, SAW and EW collectively have obtained a release of 2,445,805 shares of common stock of WRL from the terms of the Agreement and Aruze has obtained the release of 2,000,000 shares from the terms of the Agreement.

D. The parties have each consented to the Transfer by each of them of up to certain shares of WRL common stock currently subject to the Agreement.

Now therefore, in consideration of the foregoing and the agreements set forth below, the parties hereto agree as follows:

1. Definitions. All capitalized terms used herein shall have the meanings set forth in the Agreement.

2. Consent. Each of SW and EW consents to the Transfer by Aruze of up to 1,445,805 shares of common stock of WRL currently subject to the Agreement and Aruze, and SW and EW each consent to the Transfer by SW and EW of up to 1,000,000 shares of common stock of WRL currently subject to the Agreement and each confirms that such shares of common stock of WRL shall be released from all terms and restrictions set forth in the Agreement upon a Transfer. It is understood and agreed that until any such Transfer, the shares shall remain subject to all terms and restrictions set forth in the Agreement.

In witness whereof, the parties have set their hand to this Agreement on the day and year first written above.

Aruze USA, Inc.

By: /s/ Kazuo Okada
Name: Kazuo Okada, President

/s/ Stephen A. Wynn
Stephen A. Wynn

/s/ Elaine P. Wynn
Elaine P. Wynn

EXHIBIT I

EXHIBIT I

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

FORM 8-K

CURRENT REPORT

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

Date of Report (Date of earliest event reported): December 15, 2010

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

Nevada	**000-50028**	**46-0484987**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

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

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

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

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

☐ Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencements communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement

On December 15, 2010, Stephen A. Wynn ("Mr. Wynn"), the Chairman of the Board of Directors and Chief Executive Officer of Wynn Resorts, Limited (the "Registrant"), Elaine P. Wynn, a member of the Board of Directors of the Registrant ("Ms. Wynn"), and Aruze USA, Inc. ("Aruze"), a Nevada corporation, entered into a Waiver and Consent (the "Waiver and Consent") with respect to that certain Amended and Restated Stockholders Agreement, dated January 6, 2010, by and among Mr. Wynn, Ms. Wynn and Aruze (the "Stockholders Agreement"). Pursuant to the Waiver and Consent, (a) the parties agreed to accelerate the release of 61,956 shares (the "EW Released Shares") of common stock, par value $0.01, of the Registrant ("Common Stock") to Ms. Wynn pursuant to Section 11 of the Stockholders Agreement from January 6, 2011 to December 15, 2010, (b) Mr. Wynn agreed to waive his right of first refusal with respect to the EW Released Shares and (c) each of Mr. Wynn and Ms. Wynn consented to the transfer by Aruze of up to 1,000,000 shares (the "Aruze Released Shares") of Common Stock from the Stockholders Agreement. The parties agreed that the Aruze Released Shares shall be released from all terms and restrictions set forth in the Stockholders Agreement upon the transfer of such shares. The parties further agreed that until any such transfer, the Aruze Released Shares shall remain subject to all terms and restrictions set forth in the Stockholders Agreement.

The foregoing description of the Waiver and Consent does not purport to be complete and is qualified in its entirety by reference to the Waiver and Consent which is filed herewith as Exhibit 10.1 and is incorporated herein by this reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits:

Exhibit Number	Description
10.1	Waiver and Consent, dated December 15, 2010, by and among Aruze USA, Inc., Stephen A. Wynn and Elaine P. Wynn.

SIGNATURES

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

Date: December 15, 2010

WYNN RESORTS, LIMITED

By: /s/ Matt Maddox
Matt Maddox
Chief Financial Officer and
Treasurer

WAIVER AND CONSENT

This Waiver and Consent is made as of the 15th day of December, 2010 by and among Aruze USA, Inc. ("Aruze"), Stephen A. Wynn ("SW") and Elaine P. Wynn ("EW").

RECITALS

A. Aruze, SW and EW are parties to that certain Amended and Restated Stockholders' Agreement dated as of January 6, 2010, modified by a Release dated April 14, 2010 and a Waiver and Consent dated November 26, 2010 (together, the "Agreement").

B. The Agreement provides that each party is required to obtain prior written consent of the others to Transfer any shares of Wynn Resorts, Limited ("WRL") subject to the Agreement.

C. Prior to the date hereof, SAW and EW collectively have obtained a release of 4,445,805 shares of common stock of WRL from the terms of the Agreement and Aruze has obtained the release of 2,000,000 shares from the terms of the Agreement and has obtained the consent of EW and SAW to Transfer an additional 1,445,805 shares. Additionally, in January 2010, 147,383 shares owned by EW were released pursuant to Section 11 of the Agreement and in April 2010, EW gifted 35,000 shares to Communities in Schools.

D. Section 11 of the Agreement provides that on each January 6 for a remaining 9 events, EW is entitled to a release of $10 million worth of shares from the terms of the Agreement and EW has requested, and SAW and Aruze have agreed, to accelerate the release scheduled for January 6, 2011.

E. The parties wish to clarify the provisions of Section 2(b) of the Agreement.

F. Aruze has requested that EW and SAW consent to the Transfer by Aruze of an additional 1,000,000 shares such that Aruze shall have the right to Transfer a number of shares equal to those released and/or Transferred by EW and SAW (other than those shares released and to be released by EW pursuant to Section 11).

G. The parties have each agreed to the amendments described above.

Now therefore, in consideration of the foregoing and the agreements set forth below, the parties hereto agree as follows:

1. Definitions. All capitalized terms used herein shall have the meanings set forth in the Agreement.

2. Section 11 Release. The parties agree that the shares scheduled to be released to EW on January 6, 2011, pursuant to Section 11 shall be released as of the date of the full execution of this Waiver and Consent. The parties have agreed that 61,956 shares shall be the EW Released Shares (with a valuation date of December 6, 2010, and a deduction for the number of shares gifted to CIS in April 2010), and SAW has further agreed to waive his right of first refusal with respect these EW Released Shares only. All further releases pursuant to Section 11, are specifically subject to such right of first refusal.

3. Section 2(b). The parties agree that the first sentence of Section 2(b) is hereby replaced with the following: "Other than as expressly set forth in Section 11 and the last sentence of this Section 2(b), none of EW, SAW or Aruze (nor any of their respective Permitted Transferees) shall Transfer, or permit any of their respective Affiliates to Transfer, any Shares Beneficially Owned by such Person other than to a Permitted Transferee without the prior written consent of each of the others.

4. Consent. Each of SW and EW consents to the Transfer by Aruze of up to 1,000,000 shares of common stock of WRL currently subject to the Agreement and each confirms that such shares of common stock of WRL shall be released from all terms and restrictions set forth in the Agreement upon a Transfer. It is understood and agreed that until any such Transfer, the shares shall remain subject to all terms and restrictions set forth in the Agreement.

In witness whereof, the parties have set their hand to this Agreement on the day and year first written above.

Aruze USA, Inc.

By: /s/ Kazuo Okada
Name: Kazuo Okada, President

/s/ Stephen A. Wynn
Stephen A. Wynn

/s/ Elaine P. Wynn
Elaine P. Wynn

EXHIBIT J

EXHIBIT J

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

FORM 8-K

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

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

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

Nevada	**000-50028**	**46-0484987**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

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

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

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

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01. Entry into a Material Definitive Agreement.

On February 18, 2012, the Board of Directors of Wynn Resorts, Limited (the "Company") determined that Aruze USA, Inc. ("Aruze"), Universal Entertainment Corporation and Mr. Kazuo Okada, a member of the Board of Directors of the Company, are "unsuitable" under the provisions of the Company's Articles of Incorporation. As a result of the finding of unsuitability, the Company issued to Aruze on that date a promissory note (the "Note") in redemption of Aruze's 24,549,222 shares of the Company.

The Note has a principal amount of $1,936,442,631.36, matures on February 18, 2022 and bears interest at the rate of 2% per annum, payable annually in arrears on each anniversary of the date of the Note. The Company may, in its sole and absolute discretion, at any time and from time to time, and without penalty or premium, prepay the whole or any portion of the principal or interest due under the Note. In no instance shall any payment obligation under the Note be accelerated except in the sole and absolute discretion of the Company or as specifically mandated by law. The indebtedness evidenced by the Note is and shall be subordinated in right of payment, to the extent and in the manner provided in the Note, to the prior payment in full of all existing and future obligations of the Company or any of its affiliates in respect of indebtedness for borrowed money of any kind or nature.

The foregoing summary of the Note does not purport to be a complete description of all of its terms and is qualified in its entirety by the full text of the Note, which is filed as Exhibit 10.1 to this Current Report on Form 8-K and incorporated herein by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The information set forth in Item 1.01 is incorporated into this Item 2.03 by reference.

Item 8.01. Other Events.

On February 19, 2012, the Company issued a press release stating that, among other things, the Company's Board of Directors had concluded a year-long investigation of Mr. Okada after receiving a report from Freeh, Sporkin and Sullivan, LLP detailing numerous apparent violations of U.S. anti-corruption laws; that, based on the report, the Board of Directors determined that Aruze, Universal Entertainment Corporation and Mr. Okada are "unsuitable" under the provisions of the Company's Articles of Incorporation; and that, pursuant to the finding of unsuitability, the Company had issued to Aruze a promissory note in redemption of Aruze's shares of the Company. A copy of the press release is filed as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits:

Exhibit Number	Description
10.1	Promissory Note, dated February 18, 2012, made by Wynn Resorts, Limited to Aruze USA, Inc.
99.1	Press Release, dated February 19, 2012, of Wynn Resorts, Limited.

SIGNATURES

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

Dated: February 21, 2012

WYNN RESORTS, LIMITED

By: /s/ Matt Maddox
Matt Maddox
Chief Financial Officer and Treasurer

REDEMPTION PRICE PROMISSORY NOTE

U.S.$1,936,442,631.36 February 18, 2012

WYNN RESORTS, LIMITED, a Nevada corporation ("Maker"), whose address is 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109, for value received, hereby promises to pay to the order of ARUZE USA, INC, a Nevada corporation (" Aruze"), whose address is 745 Grier Drive, Las Vegas, Nevada 89119, the principal amount of ONE BILLION NINE HUNDRED THIRTY-SIX MILLION FOUR HUNDRED FORTY-TWO THOUSAND SIX HUNDRED THIRTY-ONE AND 36/100 DOLLARS (U.S.$1,936,442,631.36), together with accrued interest thereon as hereinafter provided, subject to the terms and conditions set forth in this promissory note (this " Note").

1. Maturity Date. Notwithstanding Section 5 hereof, the entire outstanding principal balance of this Note, together with all accrued and unpaid interest thereon as provided herein, shall be due and payable in full on the tenth (10th) anniversary of the date of this Note (the " Maturity Date").

2. Interest. The balance of principal outstanding from time to time under this Note shall bear interest at the rate of two percent (2%) per annum (the "Interest Rate"), provided that no interest shall accrue on any principal amount of this Note in respect of the day on which such principal amount is paid. All computations of interest shall be made on the basis of a year of 365 or 366 days, as the case may be, and the actual number of days elapsed. Interest shall be payable annually in arrears on each anniversary of the date of this Note, and, with respect to any principal amount, on the date of payment of such principal amount, including, as applicable, the Maturity Date.

3. Optional Prepayment. Maker may, in its sole and absolute discretion, at any time and from time to time, and without penalty or premium, prepay the whole or any portion of the principal or interest due under this Note. In no instance shall any payment obligation hereunder be accelerated except in the sole and absolute discretion of Maker or as specifically mandated by law.

4. Payments. All payments, including optional prepayments, shall be applied first to the payment of accrued and unpaid interest and then to the reduction of principal. Whenever any payment to be made under this Note shall be due on a Saturday, Sunday or any other day on which commercial banks in Las Vegas, Nevada, are authorized or required by law to close (any other day being a " Business Day"), such payment may be made on the next succeeding Business Day. Payments shall be made in the lawful money of the United States of America, and shall be payable by wire transfer and in immediately available funds.

5. Subordination.

(a) The indebtedness evidenced by this Note is and shall be subordinated in right of payment, to the extent and in the manner provided in this Section 5, to the prior payment in full of all existing and future obligations of Maker or any of its affiliates in respect of indebtedness for borrowed money of any kind or nature (collectively, "Senior Indebtedness"). The provisions of this Section 5 are made for the benefit of the holders of any Senior Indebtedness, each of which is made a beneficiary of this Section 5 and any one or more of which may enforce such provisions.

(b) Upon any distribution to creditors of the Maker in any bankruptcy, insolvency, liquidation or similar proceeding relating to the Maker or its property:

(i) holders of Senior Indebtedness shall be entitled to receive payment in full of all obligations due in respect of such Senior Indebtedness (including interest after the commencement of any such proceeding at the rate (if any) specified in the applicable Senior Indebtedness) before Aruze shall be entitled to receive any payment with respect to this Note; and

(ii) until all obligations with respect to Senior Indebtedness (as provided in clause (i) above) are paid in full, any distribution to which Aruze would be entitled but for this Section 5 shall be made ratably to holders of Senior Indebtedness.

(c) Upon the occurrence and during the continuance of any "default" or "event of default" under any Senior Indebtedness (or combination thereof) with an original aggregate principal amount in excess of $25,000,000, Maker shall not make any payment, whether of interest, principal or otherwise, in respect of this Note.

(d) In the event that Aruze receives any payment of any obligations in contravention of this Section 5 with respect to this Note, such payment shall be held by Aruze, in trust for the benefit of, and shall be paid forthwith over and delivered, upon written request, ratably to, the holders of Senior Indebtedness or their representative under the indenture or other agreement (if any) pursuant to which Senior Indebtedness may have been issued, for application to the payment of all obligations with respect to Senior Indebtedness remaining unpaid to the extent necessary to pay such obligations in full and in cash in accordance with their terms, after giving effect to any concurrent payment or distribution to or for the holders of Senior Indebtedness.

(e) The terms of this Note shall be deemed automatically and immediately modified to the extent necessary to comply with any law or regulation (including, without limitation, gaming laws, rules and regulations) from time to time applicable to Maker or any of its affiliates or to prevent a default under, breach of, event of default under or acceleration of any Senior Indebtedness. Any payment of principal and interest under this Note shall be made only if and to the extent that (a) payment of a distribution (as defined in Nevada Revised Statutes 78.191) to Maker's stockholders could immediately thereafter be made in accordance with Nevada Revised Statutes 78.288 and (b) such payment would not violate or contravene any law or regulation (including, without limitation, gaming laws, rules and regulations) then applicable to Maker or any of its affiliates.

6. Restrictions on Transfer. Without the prior written consent of Maker in each instance, Aruze shall not assign, transfer, pledge, hypothecate or otherwise cause or permit any person or entity to possess or control any right, interest or participation in this Note (each, a "Transfer"). Notwithstanding any such consent by Maker, no Transfer shall be effected except in strict compliance with all applicable securities and gaming laws, rules and regulations. Any Transfer in violation or contravention of this Section 6 shall be void and of no effect whatsoever.

7. Right to Set-Off. Maker shall have the right, at any time and from time to time (and without notice or demand), to withhold, retain and set off against any amounts otherwise payable under this Note, any unpaid amount, obligation or liability of Aruze from time to time owing or payable to Maker.

8. Usury Savings Clause. If at any time the Interest Rate exceeds the maximum rate of interest permitted to be charged under applicable law, then the portion of any payment attributable to interest charged in excess of such maximum rate shall be deemed to be a prepayment of principal.

9. Reservation of Rights. Maker has entered into this Note without waiver of or prejudice to any and all rights and remedies (including, without limitation, indemnification and injunctive relief)

available to Maker under its articles of incorporation or applicable law (including, without limitation, gaming laws, rules and regulations), all of which are hereby expressly reserved.

10. Maker Not Liable for Taxes. Aruze (and not Maker) shall be solely responsible for reporting all interest due under this Note (whether such interest is paid or imputed under applicable law) and shall be obligated to pay any associated tax obligation arising therefrom.

11. Waivers. No term or provision of this Note (including, without limitation, the rights of Maker hereunder) shall be waived except by an instrument in writing signed by the party waiving the same and then only to the extent set forth in such writing.

12. Amendments. Except as otherwise provided in Section 5(e), no term or provision of this Note may be modified or amended except by an instrument in writing signed by Maker and Aruze.

13. Governing Law. This Note shall be governed by and construed and enforced in accordance with the internal laws of the State of Nevada without regard to any choice of law or conflicts of law provisions thereof. Any action, suit or proceeding arising out of or relating to this Note shall be brought and maintained exclusively in the courts of the State of Nevada sitting in Clark County, Nevada.

14. Severability. Except as otherwise provided in Section 8, if any term or provision of this Note is invalid, illegal or unenforceable, then such term or provision shall be enforceable to the maximum extent permitted by law and in a manner so as to preserve, to the greatest extent possible, the original intent of such term or provision. The invalidity, illegality or unenforceability of any term or provision of this Note shall not affect any other term or provision hereof.

[Signature appears on the following page.]
[Remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, Maker has duly executed this Redemption Price Promissory Note as of the date first written above.

WYNN RESORTS, LIMITED

By: /s/ Stephen A. Wynn
Name: Stephen A. Wynn
Title: Chief Executive Officer

WYNN RESORTS

PRESS RELEASE

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

Board Finds Okada-Controlled Entity "Unsuitable"

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

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

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

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

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

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

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

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

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

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

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

Source: Wynn Resorts

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Wynn Resorts
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or
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212-687-8080 / 415-618-8750 / 310-201-2040

EXHIBIT K

EXHIBIT K

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

SCHEDULE 14A

PROXY STATEMENT PURSUANT TO SECTION 14(a) OF THE SECURITIES EXCHANGE ACT OF 1934

Filed by the Registrant ☒

Filed by a Party other than the Registrant ☐

Check the appropriate box:

☒ Preliminary Proxy Statement
☐ Definitive Proxy Statement
☐ Definitive Additional Materials
☐ Soliciting Material Pursuant to § 240.14a-12

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

WYNN RESORTS, LIMITED

(Name of Registrant as Specified in Its Charter)

N/A

(Name of Person(s) Filing Proxy Statement, if Other Than the Registrant)

Payment of Filing Fee (Check the appropriate box):

☒ No fee required.

☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

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

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

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

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

☐ Fee paid previously with preliminary materials.

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

(1) Amount previously paid:

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

(3) Filing Party:

(4) Date Filed:

PRELIMINARY COPY

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

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

To Our Stockholders:

Notice is hereby given that a Special Meeting of Stockholders (the "Special Meeting") of Wynn Resorts, Limited, a Nevada corporation (the "Company"), will be held at [*location*], on [ ], 2012, at [*time*] (local time), for the following purposes (which are more fully described in the proxy statement, which is attached and made a part of this Notice):

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

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

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

The Executive Committee believes that:

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

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

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

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

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

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

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

Stephen A. Wynn
Chairman of the Board of Directors

Las Vegas, Nevada
March [ ], 2012

PROXY STATEMENT
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WYNN RESORTS, LIMITED

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

SPECIAL MEETING OF STOCKHOLDERS — [ ], 2012

PROXY STATEMENT

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

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

1. To consider and vote on a proposal to remove Mr. Kazuo Okada as a director of the Company (the "Removal Proposal"); and

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

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

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

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

Date, Time and Place

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

Principal Executive Offices

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

Executive Committee

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

Record Date; Stockholders Entitled to Vote

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

Quorum

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

Required Vote

The NRS and the Bylaws provide that approval of the Removal Proposal requires the affirmative vote of the holders of not less than two-thirds (2/3) of the voting power of the issued and outstanding stock of the Company entitled to vote generally in the election of directors. If a quorum is present, the Adjournment Proposal will be approved if the number of votes cast in favor of the Adjournment Proposal exceeds the number of votes cast in opposition.

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

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

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

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

REMOVAL PROPOSAL

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

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

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

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

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

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

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

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

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

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

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

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

ADJOURNMENT PROPOSAL

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

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

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

VOTING AND PROXY PROCEDURES

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

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

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

Proxies

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

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

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

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

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

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

Revocation of Proxies

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

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

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

SOLICITATION OF PROXIES

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

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

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

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

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

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

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of March 1, 2012 (unless otherwise indicated), certain information regarding the shares of the Company's common stock beneficially owned by: (i) each director; (ii) each stockholder who is known by the Company to beneficially own in excess of 5% of the outstanding shares of the Company's common stock based on information reported on Form 13D or 13G filed with the SEC; (iii) each of the Company's named executive officers; and (iv) all executive officers and directors as a group. There were 100,537,724 shares outstanding as of March 2, 2012.

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

* Less than one percent

(1) This table is based upon information supplied by officers, directors, nominees for director, principal stockholders and the Company's transfer agent, and contained in Schedules 13D and 13G filed with the SEC. Unless otherwise indicated in the footnotes to this table and subject to community property laws, where applicable, the Company believes each of the stockholders named in this table has sole voting and investment power with respect to the shares indicated as beneficially owned. Executives and directors have voting power over shares of Restricted Stock, but cannot transfer such shares unless and until they vest.

(2) Unless otherwise indicated, the address of each of the named parties in this table is: c/o Wynn Resorts, Limited, 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

(3) Does not include shares that may be deemed to be beneficially owned by virtue of the Amended and Restated Stockholders Agreement, dated as of January 6, 2010 (the "Stockholders Agreement"), to which Mr. Wynn and Elaine P. Wynn are parties. Mr. Wynn and Elaine P. Wynn have shared voting and dispositive power with respect to shares subject to the Stockholders Agreement. Each disclaims beneficial ownership of shares held by the other.

(4) Waddell & Reed Financial, Inc. ("Waddell") has beneficial ownership of these shares as of December 31, 2011. The information provided is based upon a Schedule 13G/A filed on February 14, 2012 by Waddell.

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

(5) Marsico Capital Management LLC ("Marsico") has beneficial ownership of these shares as of December 31, 2011. The information provided is based upon a Schedule 13G/A filed on February 14, 2012 by Marsico. Marsico has sole dispositive power as to 8,476,973 shares and sole voting power as to 4,320,237 shares.

(6) Includes: (i) 100,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on July 31, 2012; and (ii) 100,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016.

(7) Includes: (i) 12,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; (ii) 2,500 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan; (iii) 1,300 shares owned as Trustee for which Mr. Goldsmith disclaims beneficial ownership; and (iv) 1,500 shares through a company for which Mr. Goldsmith disclaims beneficial ownership of 1,470 shares.

(8) Includes: (i) 13,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.

(9) Includes: (i) 13,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares and 2,500 vested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.

(10) Includes: (i) 33,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares and 2,500 vested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.

(11) Includes: (i) 23,000 shares subject to immediately exercisable options to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares and 2,500 vested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.

(12) Includes: 150,000 shares of the Company's common stock held by John A. Moran, as Trustee.

(13) Includes: 250,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016.

(14) Includes: (i) 50,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Purchase Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016; and (ii) 10,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Purchase Plan and subject to a Restricted Stock Agreement which provides such grant will vest on May 7, 2012.

(15) Includes: (i) 500 shares of the Company's common stock held by Mr. Strzemp's mother, for which Mr. Strzemp disclaims beneficial ownership; and (ii) 50,000 shares subject to immediately exercisable options to purchase Wynn Resorts Common Stock pursuant to Wynn Resorts' 2002 Stock Incentive Plan.

(16) Includes: 25,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on December 5, 2016.

(17) Includes 210,000 shares subject to immediately exercisable stock options.

OTHER MATTERS AND ADDITIONAL INFORMATION

Stockholder Proposals

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

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

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

Householding

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

PRELIMINARY COPY

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

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

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

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

(Continued and to be signed on reverse side)

FOLD AND DETACH HERE

WYNN RESORTS, LIMITED

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

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

OR

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

CONTROL NUMBER: _____

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

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

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

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

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

☐ FOR ☐ AGAINST ☐ ABSTAIN

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

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

☐ FOR ☐ AGAINST ☐ ABSTAIN

☐ CHECK HERE IF YOU PLAN TO ATTEND THE SPECIAL MEETING

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

Signature _____ Signature if held jointly _____

Dated _____, 2012

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

EXHIBIT L

EXHIBIT L

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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.	Case No.: A-12-656710-B Dept. No.: XI **AFFIDAVIT OF ROBERT J. MILLER IN SUPPORT OF WYNN PARTIES' OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION** Date of Hearing: October 2, 2012 Time of Hearing: 8:30 a.m.

STATE OF NEVADA
ss:
COUNTY OF CLARK

ROBERT J. MILLER, being duly sworn, deposes and says:

1. I am a resident of Clark County, Nevada and a director of Wynn Resorts, Limited ("Wynn Resorts"), Chairman of the Compliance Committee of Wynn Resorts, and Chairman of the Nominating and Corporate Governance Committee of the board. I also serve as presiding director for executive sessions of the independent members of the Wynn Resorts board. From 1989 to 1999, I served as Governor of the State of Nevada.

2. I make this affidavit in opposition to the motion by Aruze USA, Inc. ("Aruze") and Universal Entertainment Corp. ("Universal") for a preliminary injunction. I have personal knowledge of the facts set forth herein unless otherwise so stated and could, if called to testify as a witness, testify competently to them.

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LAS VEGAS, NEVADA 89169

The Wynn Resorts board

3. Wynn Resorts has a twelve-member board of directors. Excluding Kazuo Okada, eight of Wynn Resorts' eleven directors have no employment relationship with the Company (myself, Russell Goldsmith, Ray R. Irani, John A. Moran, Alvin V. Shoemaker, D. Boone Wayson, Elaine P. Wynn, and Allan Zeman). Stephen A. Wynn, Chairman and Chief Executive Officer of Wynn Resorts, Linda Chen, President of Wynn International Marketing, Limited and Chief Operating Officer of Wynn Resorts (Macau), S.A., and Marc D. Schorr, Chief Operating Officer of Wynn Resorts, are the only members of Wynn Resorts' management on the board.

The Compliance Committee

4. In 2002, the Company adopted a "Compliance Program," which has been periodically reviewed and amended. The Compliance Program states that it is designed to mitigate the "dangers of unsuitable associations and compliance with regulatory requirements." It describes the duties of the Compliance Committee and provides that the Committee has an affirmative obligation to investigate all senior executives, directors, and key employees "in order to protect the Company from becoming associated with an Unsuitable Person." Under the program, the term "Unsuitable Person" refers to anyone "that the Company determines is

unqualified as a business associate of the Company or its Affiliates based on, without limitation, that Person's antecedents, associations, financial practices, financial condition, or business probity."

5. The Compliance Program also requires the Company to report to Nevada gaming authorities to keep them "advised of the Company's compliance efforts in Nevada and other jurisdictions." Specifically, the Company has an obligation to self-report — that is, to inform the gaming regulators of significant compliance-related issues.

History of compliance concerns related to Mr. Okada

6. As Chairman of the Compliance Committee, I have reviewed certain investigative reports, and from these, I have learned the following facts. Mr. Okada began developing a large casino resort in the Philippines some time in 2007 or 2008. Wynn Resorts was not a partner or participant in the project, and Mr. Okada attempted to persuade Wynn Resorts to participate in the project in some way.

7. In the summer of 2010, a senior executive of Wynn Resorts prepared a report on the business climate in the Philippines that caused the Compliance Committee to become increasingly concerned about Mr. Okada's business involvement in that country. Thereafter, in early 2011, management retained an independent third-party firm to do preliminary investigative work concerning the Philippines and Mr. Okada's activities there.

8. The Wynn Resorts board discussed the results of that preliminary investigation at a board meeting on February 24, 2011. Mr. Okada was present at the meeting. At that time, Mr. Wynn advised the board that Mr. Okada had arranged a meeting for him with Philippine President Aquino. Based on the information the board had received about endemic corruption in the Philippines, the independent directors unanimously advised management that any involvement in the Philippines was inadvisable, and the board strongly recommended that Mr. Wynn cancel the meeting with President Aquino. Management agreed with the board's recommendation. At this board meeting, Mr. Okada was clearly made aware that the board was greatly concerned about any direct or indirect Wynn Resorts involvement in the Philippines.

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9. Also at the February 24, 2011 board meeting, Kim Sinatra, Wynn Resorts' General Counsel, updated the board on Foreign Corrupt Practices Act ("FCPA") matters, particularly with respect to Wynn Resorts' program of director compliance and education. Such updates were and are part of the Compliance Committee's efforts, as part of the overall Compliance Program, to insure that Wynn Resorts does not risk compliance problems that could affect its present and future licensing status, which in turn is critical to the Company's business and its prospects for the future.

10. In the course of this meeting, Mr. Okada made the surprising and disturbing comment that, in his view, making gifts to government officials was a recognized and accepted way of doing business in parts of Asia, and that it was all a question of using third parties. Needless to say, this comment raised concerns for me and others about Mr. Okada's ability and willingness to comply with Wynn Resorts' compliance policies and with anti-corruption statutes such as the FCPA.

11. The Wynn Resorts board again discussed Mr. Okada's business activities in the Philippines at a board meeting held on July 28, 2011. Mr. Okada confirmed to the board that he was proceeding with the Philippines project. In the course of the meeting, certain of the Company's independent directors, including me, expressed concern with regard to probity issues related to Mr. Okada and the possible effect that Mr. Okada's involvement in the Philippines would have on Wynn Resorts. Following that board meeting, in August 2011, the Company received additional information from a separate independent investigatory firm that raised further questions about the business climate in the Philippines and Mr. Okada's activities there.

12. At a meeting held on September 27, 2011, the Compliance Committee reviewed the results of a third-party investigative report that had been conducted at the Company's request and that addressed the current political environment in the Philippines and the issues related to Mr. Okada's project there. Three days later, at the direction of the Committee, representatives of the Company met with Mr. Okada's lawyers to discuss the Committee's concerns with regard to Mr. Okada's involvement in the Philippines project. These concerns included, among other

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things, whether Mr. Okada had violated Philippine law in acquiring the land for his project. I was informed that the discussion at this meeting with Mr. Okada's representatives was unproductive.

13. On October 31, 2011, Mr. Okada failed to attend a long-scheduled training session for board members concerning the Foreign Corrupt Practices Act. Every other Wynn Resorts director attended, either in person or by telephone. Management informed the directors that Mr. Okada had RSVP'd for the training session in mid-September, and later asked the Company to translate the training materials into Japanese, which they did. But in the end, Mr. Okada did not participate.

The Freeh investigation

14. On October 29, 2011, the Compliance Committee determined to retain Freeh Sporkin & Sullivan, LLP, and specifically Louis Freeh. Mr. Freeh is the former director of the FBI and a former federal judge. We believed his experience and reputation were the finest in the field, and that his firm had the resources to pursue the somewhat difficult task of investigating matters arising out of Mr. Okada's conduct in Asia. That decision was based on the concerns raised by and the information gathered in the preliminary investigations that had been conducted by firms retained by the Company, and on Mr. Okada's troubling comments about FCPA compliance.

15. The Wynn Resorts board met on November 1, 2011. Mr. Okada was told at this meeting that the Compliance Committee intended to retain Mr. Freeh to do an in-depth investigation of his activities, and Mr. Okada attempted to persuade us not to engage Mr. Freeh. At this meeting, Mr. Wynn explained to Mr. Okada that Mr. Okada would be breaching his fiduciary duties as a director of Wynn Resorts if Mr. Okada — as it appeared he was planning — used information he obtained as a Wynn Resorts director concerning the Company's marketing to Asian customers to siphon off to the Philippines profitable business from Wynn Resorts' existing and planned Macau properties. Mr. Okada strongly disagreed.

16. Also at the November 1, 2011 board meeting, the Wynn Resorts board ratified the Compliance Committee's decision to hire Mr. Freeh and the Committee formally retained

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Mr. Freeh to conduct an investigation and produce a report related to Mr. Okada and his business activities in the Philippines.

17. Over a three-month period, Mr. Freeh and/or his colleagues made several trips to the Philippines and Macau; conducted numerous interviews; and engaged in detailed documentary research of public records. By early 2012, Mr. Freeh and his team had uncovered detailed prima facie evidence of serious wrongdoing by Mr. Okada and his associates.

18. In early 2012, I received a preliminary briefing from Mr. Freeh indicating that his investigation had revealed serious issues concerning the legality, under Philippine law, of Mr. Okada's purchase and title to the land on which his new casino project was to be built. Moreover, Mr. Freeh had found evidence from records maintained by Wynn Macau, and from interviews of Wynn Macau personnel, that Aruze provided gifts of value at Wynn Macau to senior officials of PAGCOR (including its Chairman, Mr. Cristino Naguiat), and that Mr. Okada was aware of this. (PAGCOR is a Philippine governmental agency that is both the regulator and operator of gaming in that country.) Mr. Freeh also uncovered evidence that Mr. Okada's associates had requested anonymity for a VIP guest they did not wish to be registered. This individual was later determined to be Chairman Naguiat of PAGCOR.

19. As Chairman of the Compliance Committee, I decided that before Mr. Freeh concluded his investigation and produced his report, Mr. Okada should be offered the opportunity to submit exculpatory evidence. For several weeks, Mr. Okada would not commit to a date for an interview with Mr. Freeh. Finally, Mr. Okada agreed to let Mr. Freeh interview him, in Tokyo, on February 15, 2012. I was informed that one or more of Mr. Okada's attorneys from the Paul Hastings firm were present at the interview.

20. As is reflected in the 47-page "Freeh Report" that was presented to the Compliance Committee and the Wynn Resorts board on February 18, 2012, Mr. Freeh concluded that Mr. Okada had not presented any persuasive evidence whatsoever to rebut what Mr. Freeh had found, and that while Mr. Okada had offered broad denials of involvement in any of the misconduct, the evidence uncovered in Mr. Freeh's investigation cast substantial doubt on Mr. Okada's credibility. The Freeh Report is attached hereto as Exhibit 1.

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The February 18, 2012 board meeting and the redemption of Aruze's shares

21. The first portion of the Wynn Resorts board meeting on February 18, 2012 was devoted to a consideration of the response to the Court's order in the books-and-records case brought by Mr. Okada. Mr. Okada then joined the meeting by telephone. In response to a question regarding whether Mr. Okada had joined the meeting alone, an attorney from Mr. Okada's U.S. law firm responded that he was in the room with Mr. Okada, along with a colleague and certain Universal executives. Mr. Okada was reminded that Company policy provided that board members attend meetings without personal lawyers. Thereafter, Mr. Okada's counsel advised that everyone would leave the room except for Mr. Okada and his translator. Following confirmation from Mr. Okada's translator that all other persons had departed, the meeting continued. As the focus of the meeting turned to the Freeh Report, the meeting was interrupted constantly by issues relating to translation. The question was asked of Mr. Okada's translator whether he was a licensed translator, and he replied that he was, in fact, not a professional translator, but a Japanese attorney for Mr. Okada. That person was asked to leave the meeting. Subsequently, the meeting proceeded with Mr. Okada having the discussion at the meeting translated for him by a professional translator provided by the Company.

22. Mr. Freeh provided the board (including Mr. Okada) with a detailed summary of his investigation and his findings. The Chairman then declared that there would be a two-hour recess to allow the board members who had executed a confidentiality agreement to read the Freeh Report — that is, all members other than Mr. Okada, who refused to execute the agreement, which had been translated into Japanese — following which the meeting would resume with a discussion of the Freeh Report. Prior to taking the recess, the Chairman inquired of Mr. Okada whether he had any questions or comments. Mr. Okada did not respond. Thereafter, the decision was made that Mr. Okada would not be re-connected to the portion of the meeting that would involve a discussion of the Freeh Report.

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23. When the board meeting reconvened, there was a general discussion of the Freeh Report and its implications for Wynn Resorts and its shareholders. The board then received advice from two attorneys from separate law firms, each of whom is expert in gaming law, and asked questions of them. There was a consensus among the members of the board that Aruze's status as a substantial shareholder of the Company jeopardized the gaming licenses held by Wynn Resorts and could jeopardize future efforts by Wynn Resorts to become licensed in other jurisdictions.

24. After further extensive discussion, the directors present voted unanimously to declare Mr. Okada, Aruze, and Universal "Unsuitable Persons" within the meaning and according to the criteria specified in Article VII of the Wynn Resorts Articles of Incorporation. (The Articles are attached as Exhibit 2 to this affidavit.) In connection with this determination, the board received advice from the gaming law experts present at the meeting, including on the topics of the likely response of Nevada gaming regulators to a lack of action by the board, to a delay in action by the board, and related matters.

25. The board then considered the amount at which to value the Aruze shares within the meaning of Article VII, and whether to redeem the Aruze shares with cash or with a promissory note having the terms specified in Article VII. In connection with these questions, the board received information and advice from the independent investment banking firm of Moelis & Company, from Duff & Phelps, and from the Company's chief financial officer.

26. In determining the "fair value" of the securities to be redeemed, the board first considered what would be the fair value of unrestricted shares of Wynn Resorts and determined that it would be the then current NASDAQ market price. The board then considered the transfer restrictions applicable to Aruze's shares under the stockholders agreement among Aruze, Mr. Wynn, and Ms. Wynn, as well as the size of Aruze's block, and determined that it would be appropriate to apply a discount to the then current NASDAQ market price to account for these restrictions. In determining what discount to apply, the board was guided by the view of Moelis & Company that the transfer restrictions on Aruze's shares (restrictions that would travel with the shares to any potential buyer) were as restrictive as any other restrictions it had identified

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in respect of the shares of a U.S. public company. In addition, the board was guided by the advice of Moelis & Company that the size of Aruze's block would make it more difficult to sell. Based on this information, and following further discussion, the board determined to apply a 30% discount to the then current NASDAQ market price of Wynn Resorts shares in calculating the fair value of Aruze's shares.

27. The board then considered whether to pay cash or to issue a promissory note to Aruze to effect the redemption. In consideration of the potential negative effects on the Company's balance sheet and the borrowing costs associated with a cash payment, as well as the related negative impact on the Company's public shareholders, the board determined to issue to Aruze a promissory note on the terms set forth in the Articles of Incorporation. That promissory note is attached as Exhibit 3 to this affidavit. In connection with the decision to pay by note rather than by cash, the board received advice from outside expert gaming counsel, and it considered the potential views of the Nevada gaming authorities.

28. The board instructed management to advise Aruze of the redemption of its shares and the board's decision to issue to it a promissory note in exchange. That redemption notice is attached as Exhibit 4 to this affidavit.

29. On February 18, 2012, Wynn Resorts gave notice to the Nevada State Gaming Control Board that the board had found Mr. Okada, Aruze, and Universal to be "Unsuitable Persons" and redeemed Aruze's shares pursuant to Article VII in exchange for a promissory note. To my knowledge, the Gaming Control Board has expressed no concern with respect to the board's unsuitability determination, the redemption of Aruze's shares, or the board's decision to issue a promissory note to Aruze.

30. I understand that, in this motion, Aruze is making two main arguments — first, that Aruze's shares are not subject to the redemption provisions that the board invoked because Article VII has never applied to them; and, second, that the redemption was a "sham" meant to advance a plan by Steve Wynn to increase control over Wynn Resorts, and that the board has

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treated Mr. Okada unfairly because the directors are simply carrying out Steve Wynn's personal wishes. I am unaware of any evidence that would support these contentions.

ROBERT J. MILLER

Subscribed and sworn to in my presence this 20th day of September, 2012

Laurie Nady
Notary Public

LAURIE NADY
Notary Public State of Nevada
No. 06-105584-1
My appt. exp. Mar. 7 2014

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EXHIBIT M

EXHIBIT M

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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.

CASE NO.: A-12-656710-B
DEPT. NO.: XI

AFFIDAVIT OF STEPHEN A. WYNN IN SUPPORT OF OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION

Date of Hearing: October 2, 2012
Time of Hearing: 8:30 a.m.

STATE OF NEVADA
ss:
COUNTY OF CLARK

STEPHEN A. WYNN, being duly sworn, deposes and says:

1. I am a resident of Clark County, Nevada and the Chairman and Chief Executive Officer of Wynn Resorts, Limited ("Wynn Resorts" or "the Company"). I make this affidavit based upon personal knowledge unless otherwise so stated and, if called to testify as a witness, could testify competently to the contents hereof.

2. I make this affidavit in opposition to the motion for preliminary injunction made by Aruze USA, Inc. (a Nevada corporation) and its parent Universal Entertainment Corporation (together, "Aruze").

3. Aruze's motion should be denied for the following reasons. First, contrary to Aruze's submission to the Court, there was never any agreement or understanding between Kazuo Okada/Aruze and Wynn Resorts (or myself) that Aruze's shares would be exempt from the redemption provisions contained in and contemplated by the governing documents of Wynn Resorts and its predecessor. In fact, the *purpose* of these redemption provisions in the first instance was to put the Company in a position to address any gaming license issue that might arise with respect to Aruze's ownership of Wynn Resorts stock because of the uncertainty existing in 2002 as to whether Mr. Okada could or would be approved as a gaming licensee or found suitable by the Nevada gaming regulators. The suggestion that Mr. Okada was somehow deceived on this point when he made his contribution to Wynn Resorts is completely untrue. I explain the reasons for the redemption provisions, the details of their inclusion in the governing corporate documents, and Wynn Resorts' public disclosures about the provisions, in paragraphs 11 through 39 of this affidavit.

4. The allegation that Wynn Resorts' investigation of Mr. Okada was retaliation for his dissenting vote with respect to the Macau pledge is categorically untrue. The fact is that Mr. Okada objected to the Macau pledge *after* the Company was already investigating him. In view of Mr. Okada's efforts to develop a casino in the Philippines, Wynn Resorts management prepared an internal report in 2010 addressing concerns about corruption in that country. And in early 2011, management retained an outside firm to investigate the general business climate in the Philippines and, more specifically, Mr. Okada's activities there.

5. I personally had concerns about Mr. Okada since at least 2010 when I learned that he was trading on Wynn Resorts' reputation as part of his plan to build a gaming resort in the Philippines — a plan the Wynn Resorts board told Mr. Okada it wanted no part of in February 2011. These concerns deepened as independent investigators developed detailed evidence of Mr. Okada's questionable conduct involving Philippine government gaming regulators. Throughout this time period, my concern has been to uphold Wynn Resorts' high standards, protect its existing licenses and future opportunities, and do what is best for the

company and its stockholders. At no point was I acting out of a desire to punish Mr. Okada, either as a response to his vote against the Macau pledge, or for any other reason.

6. Further, Aruze's contention that I engineered the redemption of its shares in order to increase my "control" over Wynn Resorts is contrary to fact and logic. Prior to the redemption I had sole power, under a stockholders agreement, to vote approximately 35.9% of the issued and outstanding Wynn Resorts shares — my own stake of approximately 8%, Elaine Wynn's stake of approximately 7.9% and Aruze's stake of approximately 20%. This stockholders agreement, among Aruze, Ms. Wynn, and me, is dated January 6, 2010, and is attached as Exhibit 1 to this affidavit (the "2010 Stockholders Agreement"). Following the redemption of Aruze's shares, and at the present time, I have the power to vote only approximately 19.8% of the shares of Wynn Resorts — mine and Elaine Wynn's.[1] The "public float" of Wynn Resort shares has *increased* from about 64% to more than 80%. That is hardly the result that someone seeking to *increase* his control over a public company would seek.

7. Aruze's claim that the redemption was a "sham" is both outrageous and incorrect. As I explain below, the reason the Wynn Resorts board invoked the redemption provisions in Article VII of the Wynn Resorts Articles of Incorporation was because we received clear evidence of illicit conduct by Mr. Okada and his associates, conduct which threatened the existing and potential future gaming licenses of Wynn Resorts. This information came from an impeccable source, former FBI Director and federal judge Louis B. Freeh, who had conducted an investigation over the course of more than three months. The investigation included Mr. Freeh flying to Tokyo to conduct a full day interview of Mr. Okada, following which Mr. Freeh concluded that Mr. Okada had not presented any credible evidence that would rebut Mr. Freeh's own findings.

8. In particular, the redemption is not a "sham" because it results in Aruze becoming a debtholder. The Wynn Resorts board concluded, in exercising its business judgment, that issuing a promissory note to Aruze — in accordance with the express provisions of the

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[1] As a result of the redemption, the shares held by those shareholders who were not redeemed increased their relative ownership percentage by approximately 25%.

Wynn Resorts Articles of Incorporation — was the only practical option reasonably available to the Company to effectuate the redemption of a stockholder that had been determined by the board to be an "Unsuitable Person" under Article VII of the Articles. If, at the time of Aruze's redemption, Wynn Resorts had been required to spend $1.9 billion in cash to buy out Aruze, the unnecessary drain on the Company's financial resources would have been against the interests of Wynn Resorts and its public stockholders. In effect, they would have suffered as a result of Mr. Okada's illicit conduct. This is particularly true since Wynn Resorts is currently engaged in a major expansion of its Macau properties, which will require approximately $4 billion to complete. The provision of the Wynn Resorts Articles of Incorporation expressly permitting the issuance of a promissory note to Aruze made it possible for the Company to eliminate an Unsuitable Person as a stockholder while avoiding these negative effects on the Company and its remaining stockholders.

9. The relief Aruze seeks from this Court would damage Wynn Resorts and serve no discernible purpose. Requiring Wynn Resorts to re-issue Aruze's cancelled shares for some period of time pending a trial would change the existing *status quo*. Wynn Resorts' official transfer agent is American Stock Transfer ("AST"); it issues our stock certificates and maintains the official stock ledger of the Company. Following the redemption, AST cancelled Aruze's shares on February 23, 2012, pursuant to notification from Wynn Resorts. The relief sought would also cause severe damage to Wynn Resorts and confusion in the marketplace. Wynn Resorts has disclosed the redemption to the investing public; and investors have bought and sold shares during this period in reliance on the fact that the Wynn Resorts board had protected the Company from potential consequences related to Mr. Okada's wrongdoing.

10. Nevada's gaming regulations as well as Wynn Resorts' own Compliance Program prohibit any licensee from continuing to associate with someone who is unsuitable to be a licensee. The Wynn Resorts board has made a determination that Aruze is an "Unsuitable Person" as a stockholder because of its conduct. Restoring Aruze's status as a stockholder by reissuing the redeemed shares will not reverse that determination, but it would put Wynn Resorts at risk from a compliance perspective.

Mr. Okada was not deceived about the applicability of the redemption provision to Aruze's shares, and that provision was fully applicable to all of Aruze's shares.

11. Aruze's contention that it is exempt from the Articles of Incorporation of Wynn Resorts is completely contrary to the clear and precise meaning of the documents that have governed Aruze's relationship with me, and with Wynn Resorts and its predecessor, from the beginning of our relationship. In the following paragraphs, I will describe this history in detail.

12. Before I do so, however, I want to explain the purpose of the redemption provision embodied in Article VII of the Articles. As I was obtaining financing to build the Wynn Las Vegas casino-hotel, I learned from our lending banks (led by Deutsche Bank) that they were concerned that the property would not be able to open for business as soon as construction was complete because of delays in obtaining licensing and other approvals for Mr. Okada (which, given his substantial equity interest, were necessary for Wynn Las Vegas to be licensed). I was already an approved licensee, but Mr. Okada was experiencing difficulties with a pending application he was making to transfer assets between his companies. I understood from Aruze that the source of these difficulties was a tax proceeding in Japan involving companies controlled by Mr. Okada. The banks were naturally concerned that if the Commission eventually decided *not* to license Mr. Okada, then the opening of Wynn Las Vegas could be delayed for a substantial period of time while a buyer for Mr. Okada's interest was located. To allay the banks' concerns and help ensure the continued viability of the project, and to avoid the risks and operational delays associated with a heavily negotiated buy-out process in the event Mr. Okada was not licensed, it was in everyone's interest to prearrange an orderly procedure whereby Aruze's shares could be redeemed with minimal delay and disruption to the Company's financial and operational stability.

13. We addressed the licensing concern by agreeing that all Wynn Resorts shares — including specifically shares held by Aruze, Universal and/or Mr. Okada — would be subject to redemption by the Company upon the occurrence of specified events. In executing the Contribution Agreement, the Operating Agreement, the 2002 Stockholders Agreement and the Buy-Sell Agreement (which I will describe in detail below), Mr. Okada was represented by highly

competent U.S. legal counsel with expertise in both corporate law and gaming regulation. The claim that Mr. Okada obtained or relied upon an "exemption" from the redemption provisions could not be more false, given that the provisions were designed, in the first instance, to deal with the problems created by the need for *Mr. Okada* to be licensed, and the insistence of the banks that there be a "Plan B" in the event that *Mr. Okada* could not obtain the necessary approvals.

The agreements providing for redemption of Aruze's shares

14. I organized Valvino Lamore, LLC ("Valvino") as a Nevada limited liability company on April 21, 2000. At that time, I was the sole member of Valvino, and at all times, I was Valvino's managing member.

15. On June 23, 2000, I caused Valvino to acquire from Starwood Hotels & Resorts Worldwide, Inc., the former Desert Inn Resort & Casino ("Desert Inn") in Las Vegas, as well as the Desert Inn golf course, certain residential lots located in the vicinity, and other related interests. Valvino closed the hotel and casino at the Desert Inn site in August 2000 and began to develop a new resort and hotel casino on the site, which ultimately became Wynn Las Vegas.

16. Between April 2000 and September 2000, I made equity contributions to Valvino in an aggregate amount of approximately $220.7 million. Also, in June 2000, I made a loan to Valvino in the amount of $100 million.

17. On October 3, 2000, Aruze made its initial $260 million capital contribution to Valvino, and Aruze was admitted as a member of Valvino and received a 50% member's interest. At that time, I held the other 50% member's interest.[2]

18. To reflect Aruze's admission as a member of Valvino, Aruze and I entered into the Amended and Restated Operating Agreement of Valvino, dated October 3, 2000 (the "Operating Agreement"). The Operating Agreement is attached to this affidavit as Exhibit 2.

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[2] As of April 2002, following additional contributions to Valvino by me, Aruze, and non-party Baron Asset Fund, Aruze and I each owned 47.5% of the Valvino member's interests, with Baron Asset Fund owning the remainder.

19. The Operating Agreement addressed the subject of gaming licenses. It provided that if a member received notice of a "Gaming Problem" and did not eliminate it promptly, Valvino had the right to redeem that member's interest. Exhibit 2 § 12.3(b).

20. Under the Operating Agreement, the issue of whether a "Gaming Problem" existed with respect to a member or its affiliate was to be determined by me in my capacity as the Managing Member. Exhibit 2 at 4-5. This allowed Valvino to act proactively to address any "Gaming Problem" promptly, rather than waiting for gaming regulators to step in and potentially take adverse action against Valvino's licenses or any pending license application.

21. These provisions in the Operating Agreement establishing Valvino's right to redeem the member's interest of any member that was deemed to create a potential "Gaming Problem" remained in place until such time as Valvino became a wholly-owned subsidiary of Wynn Resorts, which occurred just prior to the time of the Wynn Resorts initial public offering ("IPO"). More detail was added to these redemption provisions in the second amendment to the Operating Agreement, which Aruze and I executed on February 18, 2002 (the "Second Amendment"). The Second Amendment is attached to this affidavit as Exhibit 3.

22. The principal purpose of the Second Amendment was to spell out Valvino's options in the event that the redemption provisions in the Operating Agreement were invoked to require the redemption of Aruze's interest. Among other things, the Second Amendment set the price that Valvino would be required to pay. Exhibit 3 ¶ 1. In addition, the Second Amendment provided that Valvino would have the option to issue a promissory note in the face amount of the purchase price, plus interest of 2% per year. Exhibit 3 ¶ 4.

23. On April 11, 2002, Aruze and I (as well as Baron Asset Fund, which was being admitted as an additional member of Valvino) executed a third amendment to the Operating Agreement (the "Third Amendment"). The Third Amendment is attached to this affidavit as Exhibit 4.

24. The Third Amendment contained an agreement among the parties that the redemption provisions contained in the Operating Agreement, as amended, *would be carried over to the organizational documents for Wynn Resorts.* Exhibit 4 § 20.

25. Also on April 11, 2002, Aruze, Baron Asset Fund and I entered into a stockholders agreement (the "2002 Stockholders Agreement"). That agreement is attached as Exhibit 5 to this affidavit. Like the Third Amendment to the Operating Agreement, the 2002 Stockholders Agreement contained an agreement among the parties that the redemption provisions in the Operating Agreement for Valvino would be carried over to Wynn Resorts. Exhibit 5 § 11.

26. Wynn Resorts was formed on June 3, 2002. In a Contribution Agreement dated June 10, 2002 (the "Contribution Agreement"), which is attached as Exhibit 6 to this affidavit, Aruze, Baron Asset Fund and I agreed that, on the Closing Date, we would contribute to Wynn Resorts all of our respective member's interests in Valvino in exchange for Wynn Resorts common stock. The exchange contemplated by the Contribution Agreement was subject to certain conditions and did not take place immediately. The contract provided that on the Closing Date, each party to the Contribution Agreement would deliver an Assignment of Membership Interest and present all of its Valvino membership certificates for cancellation.

27. Importantly, the Contribution Agreement contained an integration clause. This clause provided that (a) the Contribution Agreement, (b) the Operating Agreement, and (c) the 2002 Stockholders Agreement together constituted the "entire understanding of the parties with respect to the subject matter" of the contribution of Aruze's member's interest in Valvino to Wynn Resorts in exchange for Wynn Resorts shares. Exhibit 6 § 8.10.

28. On June 13, 2002, Mr. Okada, Aruze, Aruze's former parent corporation and I entered into a Buy-Sell Agreement (the "Buy-Sell Agreement"). That agreement is attached as Exhibit 7 to this affidavit. The purpose of the Buy-Sell Agreement was to provide additional protection in the event that Mr. Okada, Aruze, or its parent failed to obtain all necessary gaming licenses and approvals from the Nevada Gaming Commission.

29. The Buy-Sell Agreement authorized me to purchase some or all of the Wynn Resorts stock owned by Aruze in the event that Mr. Okada, Aruze, or its parent failed to obtain the necessary gaming licenses and approvals, whether because of a determination of unsuitability by the Gaming Commission, or for some other reason. That same provision established that the purchase price for the redeemed shares would be the *lesser* of "Fair Market

Value" and the "Investment Amount" — in essence, the aggregate amount of Aruze's contributions to Valvino less the aggregate amount of any distributions from Valvino to Aruze. The Buy-Sell Agreement also required me to pay the redemption price by delivering a 10-year promissory note with an annual interest rate of 2%. Exhibit 7 § 3(a).

30. The Buy-Sell Agreement thus addressed the concerns of the bank lenders who wanted assurance that in the event of a "Licensing Event" with respect to Aruze, I could be required to purchase Aruze's shares, rather than relying solely on Wynn Resorts (the borrower) to do so. While the Buy-Sell Agreement did not require me to purchase any of Aruze's shares upon the occurrence of a Licensing Event, Wynn Resorts and I entered into a separate agreement at that time that empowered the Company to compel me to buy all of Aruze's shares in that circumstance. That agreement is attached as Exhibit 8 to this affidavit.

Wynn Resorts' SEC filings in connection with the IPO disclosed the redemption provisions in the Articles.

31. Wynn Resorts made a number of public filings in the months leading up to its IPO. These public filings contained extensive disclosures about the redemption provisions in Article VII of the Wynn Resorts Articles of Incorporation. For example, the initial registration statement filed by Wynn Resorts on June 17, 2002, stated — reflecting the agreements reached by Aruze and me in the Third Amendment to the Operating Agreement and the 2002 Stockholders Agreement — that the amended and restated Articles of Incorporation of Wynn Resorts would provide for the redemption of shares held by unsuitable persons:

> **Redemption of Securities Owned By an Unsuitable Person.**
>
> Wynn Resorts' articles of incorporation will provide that, to the extent a gaming authority makes a determination of unsuitability or to the extent deemed necessary or advisable by the board of directors, Wynn Resorts may redeem shares of its capital stock or other interests in its securities that are owned or controlled by an unsuitable person or its affiliates. The redemption price will be the amount, if any, required by the gaming authority or, if the gaming authority does not determine the price, the sum deemed reasonable by Wynn Resorts .... The redemption price may be paid in cash, by

> promissory note, or both, as required, and pursuant to the terms established by, the applicable gaming authority and, if not, as Wynn Resorts elects.

Exhibit 9 (Form S-1, filed June 17, 2002) at 92-93.

32. Wynn Resorts' final registration statement — signed by Mr. Okada as required by the federal securities laws — contained this same disclosure, as did the Company's final IPO prospectus. *See* Exhibits 10, 11. None of Wynn Resorts' public filings in connection with the IPO contained any reference to any exemption for shares held by Aruze.

> Aruze contributed its membership interest in Valvino to Wynn Resorts *after* the Articles of Incorporation were amended to include the redemption provisions.

33. Aruze's central argument is that Mr. Okada contributed his interests in Wynn to the Company at a time when the Wynn Articles did not contain a provision subjecting his shares to possible redemption, and that the Articles were amended only after the contribution and without his knowledge. Aruze, however, has presented an erroneous chronology of events.

34. For the first few months of its existence, Wynn Resorts was a shell corporation with no assets, and during that time, its Articles contained a very simple set of provisions, as is typical for a newly-incorporated entity with no assets or operations. As discussed above, however, agreements between Aruze and me executed in April 2002 already provided that the Articles would be amended prior to the IPO to include redemption-for-unsuitability provisions — specifically, this was set forth in the Third Amendment to the Operating Agreement and the 2002 Stockholders Agreement. Mr. Okada signed those agreements on behalf of Aruze.

35. On September 10, 2002, I, acting as the sole director and sole stockholder of Wynn Resorts at that time, caused the Articles to be amended. As disclosed in the SEC filings that Mr. Okada signed, and as contemplated by the Third Amendment and the 2002 Stockholders Agreement, that amendment included, among other things, the redemption-for-unsuitability provisions that are contained to this day in Article VII. I am informed that the "Amended and Restated Articles of Incorporation of Wynn Resorts, Limited" (attached hereto as Exhibit 12) were filed with the Nevada Secretary of State the day they were adopted. Six days later, on September 16, 2002, I caused Wynn Resorts to adopt the "Second Amended and Restated Articles

of Incorporation of Wynn Resorts, Limited," which remain in effect today. I am informed that the second amended and restated Articles were filed with the Nevada Secretary of State the day they were adopted. Notably, the Second Amended and Restated Articles did not make any changes to the redemption-for-unsuitability provisions that had been adopted six days earlier.

36. Aruze would have it that the amendment to the Articles to include the redemption-for-unsuitability provisions was made without its knowledge or with the understanding that it would not apply to Aruze. The only argument Aruze offers in support of this is that the Contribution Agreement was signed at a time when the initial Articles for the newly-formed shell entity were in place. This contention ignores all of the other documents (described in paragraphs 18-30 above) binding Aruze and demonstrating the intent of the parties to have redemption-for-unsuitability provisions in the Articles, but it is also false and misleading as a matter of chronological fact.

37. This assertion by Aruze is false and misleading because the Contribution Agreement did not effectuate the actual contribution of Aruze's member's interests when it was executed on June 10, 2002. The Contribution Agreement was an executory contract. It called for the parties to execute "Assignments of Membership Interest" with respect to their interests in Valvino and deliver those executed Assignments to the Company at a later date. In fact, Aruze did not execute and deliver the Assignment with respect to its interest, and therefore did not actually assign and transfer such interest, until September 24, 2002 — 14 days after the amended and restated Articles containing the redemption-for-unsuitability provisions were filed with the Nevada Secretary of State. The "Assignment of Membership Interest" that Mr. Okada executed on Aruze's behalf on September 24, 2002 is attached as Exhibit 13 to this affidavit.

38. In short, contrary to Aruze's contention today, Aruze made its contribution of member's interests in Valvino to Wynn Resorts at a time when Article VII in its current form *was* part of the Articles. If Mr. Okada and Aruze had believed — contrary to Aruze's undertakings in the Third Amendment to the Operating Agreement and the 2002 Stockholders Agreement and contrary to the public disclosures that Mr. Okada signed — that Aruze's shares were going to be exempt from the Articles, then Aruze would simply not have presented its Assignment of

Membership Interest to exchange its member's interest in Valvino for a significant interest in Wynn Resorts on September 24, 2002. But, of course, it did.

39. In exchange for Aruze's contribution of its Valvino member's interests, Aruze received a stock certificate, dated September 24, 2002, evidencing its ownership of 18.9 million Wynn Resorts shares. That certificate is attached as Exhibit 14 to this affidavit. Printed on the reverse side of the certificate that Aruze received — in bold, capital letters — were a series of legends describing certain restrictions that applied to the shares. The last of these legends stated:

> **THE SHARES OF STOCK REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO A RIGHT OF REDEMPTION AND OTHER RESTRICTIONS PURSUANT TO THE CORPORATION'S ARTICLES OF INCORPORATION AND BYLAWS, AS AMENDED, A COPY OF WHICH IS ON FILE AT THE OFFICE OF THE CORPORATION, AND MADE A PART HEREOF AS FULLY AS THOUGH THE PROVISIONS OF SAID ARTICLES OF INCORPORATION AND BYLAWS WERE IMPRINTED IN FULL ON THIS CERTIFICATE, TO ALL OF WHICH THE HOLDER OF THIS CERTIFICATE, BY ACCEPTANCE HEREOF, ASSENTS AND AGREES TO BE BOUND....**

This language from Aruze's own stock certificate puts to rest any conceivable doubt that Aruze's shares were somehow "exempt" from the redemption provisions in the Articles of Incorporation.

STEPHEN A. WYNN

Subscribed and sworn to in my presence this 20th day of September, 2012

Notary Public

LAURIE NADY
Notary Public State of Nevada
No. 06-105684-1
My appt. exp. Mar. 7 2014

CERTIFICATE OF SERVICE

I certify that I am an employee of Campbell & Williams and that I did, on the 20th day of September 2012, serve upon the attorneys in this action a copy of the foregoing **Affidavit of Stephen A. Wynn in Support of Opposition to Motion for Preliminary Injunction** by depositing a true copy of the foregoing document in the U.S. Mail, postage prepaid, addressed as follows:

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By: */s/ Nancy Gregory*
An Employee of Campbell & Williams

EXHIBIT N

EXHIBIT N

Wynn Resorts Ltd. (WYNN) - NasdaqGS ★ Follow

201.34 ↑1.14 (0.57%) 4:00PM EDT

- Nasdaq Real Time Price

Historical Prices

Get Historical Prices for: GO

Set Date Range

Start Date: Feb 13 2012 Eg. Jan 1, 2010

End Date: Feb 24 2012

- (•) Daily
- ( ) Weekly
- ( ) Monthly
- ( ) Dividends Only

Get Prices

First | Previous | Next | Last

Prices

Date	Open	High	Low	Close	Volume	Adj Close*
Feb 24, 2012	116.94	119.49	116.80	118.10	2,087,200	102.30
Feb 23, 2012	117.68	118.13	115.79	116.34	1,894,300	100.77
Feb 22, 2012	118.51	120.15	117.19	117.74	2,340,900	101.98
Feb 21, 2012	118.65	121.58	117.99	119.40	8,347,500	103.42
Feb 17, 2012	114.20	114.84	112.45	112.69	2,115,100	97.61
Feb 16, 2012	111.58	112.90	110.63	112.67	1,680,100	97.59
Feb 15, 2012	111.48	112.74	111.06	111.41	2,250,300	96.50
Feb 14, 2012	109.80	111.85	109.18	111.16	2,115,800	96.28
Feb 14, 2012				0.50 Dividend		
Feb 13, 2012	113.24	113.25	110.00	110.56	3,733,800	95.33

* Close price adjusted for dividends and splits.

First | Previous | Next | Last

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Currency in USD.

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DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada corporation, Plaintiff, v. KAZUO OKADA, an individual, ARUZE USA, INC., a Nevada corporation, and UNIVERSAL ENTERTAINMENT CORP., a Japanese corporation, Defendants.	CASE NO.: A-12-656710-B DEPT NO.: XI **UNIVERSAL ENTERTAINMENT CORP.'S AND ARUZE USA INC'S MOTION FOR EXPEDITED DISCOVERY AND SANCTIONS** Electronic Filing Case Hearing Date: Hearing Time:
AND ALL RELATED CLAIMS.	

Defendants and Counterclaimants Aruze USA, Inc. ("Aruze USA") and Universal Entertainment Corp. ("UEC"), by and through their counsel of record, hereby move the Court for expedited discovery, issuance of a letter rogatory, initial sanctions[1] and, following completion of expedited discovery, for further sanctions against Wynn Resorts, Limited ("WRL").

This Motion is based upon the following Memorandum of Points and Authorities, the Declaration of Yoshitaka Fujihara, the Declaration of Robert J. Cassity, Esq., the papers and pleadings on file in this action, and any oral argument this Court may allow.

DATED this 24th day of April, 2015.

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[1] UEC and Aruze USA will be separately submitting an Application for Order Shortening Time in a matter of days for the hearing of this Motion. In an effort to present the Court with an agreed-upon hearing date and briefing schedule in that Application, UEC and Aruze USA will allow WRL to review the Motion and confer with UEC and Aruze USA regarding an appropriate hearing date to propose for the order shortening time.

NOTICE OF MOTION

PLEASE TAKE NOTICE that the foregoing **UNIVERSAL ENTERTAINMENT CORP.'S AND ARUZE USA INC.'S MOTION FOR EXPEDITED DISCOVERY AND SANCTIONS** will come on for hearing before Department XI of the above-entitled court, on the ____ day of _____ 2015, at _____ a.m./p.m.

Dated: April 24, 2015

By: */s/ Robert J. Cassity*
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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF UNIVERSAL ENTERTAINMENT CORP.'S AND ARUZE USA INC.'S MOTION FOR EXPEDITED DISCOVERY AND SANCTIONS

Universal Entertainment Corporation ("UEC") and Aruze USA, Inc. ("Aruze USA") have discovered egregiously wrongful conduct by Wynn Resorts, Limited ("WRL"), undertaken covertly in the course of this litigation. Accordingly, UEC and Aruze USA bring this Motion for Expedited Discovery and Sanctions against WRL to cut-off any continuing wrongful conduct by WRL; to ascertain expeditiously the full extent of WRL's past misconduct; and, following the completion of expedited discovery, for additional sanctions, scheduled and detailed as follows:

Date	Event
To be determined (but no earlier than May 4)[2]	Oral argument on requests for • expedited discovery (including the resolution of any disputes over the particulars of discovery being served on WRL concurrently with this Motion); • issuance of a letter rogatory; and • initial sanctions (including return of UEC's documents wrongfully misappropriated by WRL, precluding the use of such documents in this proceeding and prohibiting further *ex parte* contact between WRL and current and former UEC and Aruze USA employees)
Mon., June 22	Completion of expedited discovery
Mon., June 29	Service of WRL's opposition to the request for further sanctions
Mon., July 6	Service of UEC's and Aruze USA's reply papers
To be determined	Oral argument on request for further sanctions

UEC and Aruze USA have allowed time in this proposed schedule to permit them and WRL, before the initial oral argument, to meet-and-confer regarding the specifics of the discovery

[2] As discussed *supra*, UEC and Aruze USA intend to file an Application for Order Shortening Time in the coming days after conferring with WRL on the subject.

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requests being served on WRL concurrently with this Motion. During that pre-argument period, UEC and Aruze USA hope to narrow any differences regarding that discovery. UEC and Aruze USA must proceed with their Motion now, however, due to the urgency both of cutting off any continuing wrongful conduct by WRL and of rectifying all WRL violations of UEC's and Aruze USA's rights.

I. INTRODUCTION

After WRL instituted this lawsuit by filing a complaint against UEC and Aruze USA at 2 am on Sunday, February 19, 2012, WRL improperly circumvented the discovery process in violation of UEC's and Aruze USA's rights to a fair proceeding. At least between May 2012 and October 2013, WRL, acting through its Senior Vice President for Corporate Security, James Stern ("Stern"), and through a former UEC employee, Toshihiko Kosaka ("Kosaka"), made *ex parte* contact with UEC's Assistant General Manager for Finance and Accounting, Yoshitaka Fujihara ("Fujihara"), with the explicit purpose of obtaining internal, confidential and proprietary UEC documents in contravention of the rules governing discovery.[3] Stern persuaded Fujihara to breach his confidentiality obligations to UEC by transmitting such documents to him and Kosaka. Indeed, WRL succeeded in improperly obtaining important information outside of the Nevada Rules of Civil Procedure and the proper supervision of this Court. Compounding WRL's blatant impropriety, WRL has never acknowledged or disclosed the documents or potential witnesses in discovery under NRCP 16.1, as it was required to do.

What is already known about WRL's wrong and sanctionable conduct calls for certain immediate sanctions: the return of all misappropriated UEC documents, and a bar on further *ex parte* contact by WRL with employees and former employees of UEC and Aruze USA. The full extent of WRL's wrongful conduct, however, is not yet known. But it must be discovered, as soon as possible, to allow UEC and Aruze USA to begin rectifying, to the extent they can, the violations of their rights. Accordingly, UEC and Aruze USAseek expedited discovery to identify,

[3] Mr. Stern's referenced title is based on information and belief.

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among other things:

- all of WRL's direct and indirect contacts with current and former employees of UEC and Aruze USA;
- direct and indirect payments to current and former employees of UEC and Aruze USA;
- direct and indirect efforts to wrongfully obtain internal, confidential and proprietary UEC documents and information;
- all documents WRL directly or indirectly obtained in a wrongful manner; and
- WRL's communications in planning and implementing these efforts.

In addition, UEC and Aruze USA seek a letter rogatory to discover information from Kosaka, a Japanese resident.

UEC and Aruze USA also request that, following completion of expedited discovery, this Court impose appropriate additional sanctions to punish WRL, to remedy the harm WRL's wrongful conduct has caused, and to deter similar misconduct in the future. In particular, UEC and Aruze USA intend to seek a monetary sanction and dismissal of claims relating to the illegally procured documents.[4]

II. FACTUAL BACKGROUND

A. Mr. Fujihara is a Key Manager at UEC

Yoshitaka Fujihara joined UEC in July 2008 as Section Manager in its Finance and Accounting Department. (Translated Declaration of Yoshitaka Fujihara ("Fujihara Decl.") ¶ 2, attached hereto as Exhibit 2.)[5] In May 2009, Fujihara was promoted to Assistant General Manager for the Finance and Accounting Department at UEC. In July 2010, he became the

[4] UEC and Aruze USA reserve their right to supplement their Motion to seek further sanctions and/or relief based on facts developed in expedited discovery.

[5] The exhibits to this Motion are authenticated in the Cassity Decl., attached hereto as Exhibit 1. The English translation of the Fujihara Declaration, attached hereto as Exhibit 2, is attested to be a true and correct translation by a certified professional translator whose own Declaration, describing his qualifications and certifying the accuracy of the translation, is attached to the translation. The original Fujihara Declaration, attested to in Japanese, is attached hereto as Exhibit 3.

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senior-most manager in the Department. (Fujihara Decl. ¶ 2.) Since July 2010, Fujihara has been responsible for managing UEC's Finance and Accounting Department, reporting directly to UEC's Chief Financial Officer. (*Id.* ¶ 3.) His managerial responsibilities include "overseeing, supervising and managing the tasks and responsibilities of all the Finance and Accounting Department employees." (*Id.*) He is in charge of preparing and finalizing UEC's quarterly and annual financial statements. (*Id.*) His authorization is required, along with that of other UEC officers, for UEC to disburse certain funds. (*Id.*)

When Fujihara joined UEC, he signed a sworn oath agreeing that he would not intentionally disclose to any third party confidential information of the company or group companies. (Ex. 1, Fujihara Decl. at Ex. A thereto ("Sworn Oath," dated July 22, 2008).) He also agreed that he would not reproduce or duplicate, without permission from the company, confidential information handled in the performance of his work, and that he would use such information only for the performance of his work duties. (*Id.*). In executing the Sworn Oath, Fujihara also agreed to be bound by UEC's rules and regulations, including prohibitions on (i) divulging business information or secrets of the company to third parties and (ii) accessing company information beyond the scope of his authorization. (*Id.*, Ex. B (UEC Employment Rules).)

B. Toshihiko Kosaka, Working with WRL's James Stern, Contacted Fujihara

In May 2012, with the litigation between WRL and UEC and Aruze USA well underway, Toshihiko Kosaka, a former UEC employee, contacted Fujihara to obtain UEC's confidential and proprietary information in an effort to damage UEC and Aruze USA in this litigation. (Fujihara Decl. ¶¶ 9-11.) As Fujihara only learned later, Kosaka was in fact working with James Stern, WRL's director of security.[6] (*Id.* ¶ 15.) Ultimately, Kosaka covertly arranged for Fujihara to

[6] On information and belief, Stern has worked for Wynn Resorts since he left the Federal Bureau of Investigation's ("FBI's") Las Vegas Field Office in 2007. Stern had a long career with the FBI before retiring to join Wynn Resorts. In his last government position, he served for years in the FBI's Las Vegas office and as chief of the Asian Criminal Enterprise Unit. Stern, a WRL Senior Vice President, speaks Japanese. As noted below, it appears that he has maintained close contacts with former colleagues in the FBI Las Vegas Field Office and the Department of Justice ("DOJ").

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meet with Stern and provide him with confidential and proprietary UEC documents.

Kosaka worked assiduously to convince Fujihara to provide UEC's confidential and proprietary information. Initially, in the spring and summer of 2012, Kosaka misrepresented to Fujihara that UEC was going to sue him; he argued that the only way to avoid a lawsuit by UEC was to work with Kosaka to "destroy" Mr. Okada. (Fujihara Decl. ¶ 9.) Next, Kosaka asserted that Fujihara was on a "list" with the U.S. Department of Justice ("DOJ") and the Federal Bureau of Investigation ("FBI") and that his only choice was to cooperate against Mr. Okada to avoid criminal prosecution. (*Id.* ¶ 10.) During these discussions, Fujihara revealed that Mr. Okada provided a personal loan for the purchase of land for UEC's casino project in the Philippines (the "Philippines Project"), so Kosaka urged Fujihara to obtain these confidential and proprietary UEC business documents. (*Id.* ¶ 11.) As a result, between July and November 2012 Fujihara made copies of the loan agreements in Japanese and English, and a flow chart of the funds. He provided these confidential and proprietary documents to Kosaka as requested.[7] (*Id.* ¶ 12.)

C. First Meeting with WRL's Stern, November 2012

In early November 2012, Kosaka told Fujihara that he wanted him to meet with an unidentified person at the ANA Intercontinental Hotel in Tokyo. (Fujihara Decl. ¶ 14.) Only at the ensuing meeting did Fujihara learn that this person was James Stern of WRL. (*Id.* ¶ 15.) Stern told Fujihara that he wanted information concerning UEC and Mr. Okada and that he needed Fujihara's cooperation to "destroy" Mr. Okada. (*Id.* ¶ 16.) In particular, Stern inquired about whether Fujihara knew about financial transactions relating to the Philippines Project. Fujihara agreed to provide the information Stern requested. (*Id.* ¶ 16.)

D. Second Meeting with WRL's Stern, December 2012

After Fujihara's initial meeting with Stern, Kosaka continued to pressure Fujihara, requesting that he accompany Kosaka to San Francisco to meet with DOJ and FBI personnel and

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[7] UEC and Aruze USA are not in a position to confirm or deny whether these documents or others subsequently disclosed by Fujihara to Kosaka and his affiliates are official UEC business records. UEC and Aruze USA are not waiving by this motion any future objections to the authentication or foundation of said documents.

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stating that Fujihara otherwise might be prosecuted. (Fujihara Decl. ¶ 17.) Kosaka instructed Fujihara to tell no one, including his family, that he was going to San Francisco. (*Id.* ¶ 32.) It appears that Kosaka and Stern were working together to get Fujihara to San Francisco. Fujihara did not have to make his travel arrangements, nor pay his expenses. (*Id.* ¶ 21.) Stern provided a driver in San Francisco; he toured San Francisco with Fujihara and Kosaka; and he paid for their entertainment, meals, and apparently their hotel rooms. (*Id.* ¶¶ 21-22.) It also appears that WRL may have paid for Fujihara's business-class roundtrip airfare directly or indirectly through Stern or Kosaka. (*Id.* ¶ 20.)

Prior to the trip and at the request of Kosaka, Fujihara copied approximately 35 confidential and proprietary UEC business documents regarding the Philippines Project. (Fujihara Decl. ¶ 18.) Kosaka obtained copies of the approximately 35 confidential and proprietary UEC documents just prior to the trip. (*Id.*) In San Francisco, Fujihara was interviewed by a DOJ attorney who later appeared before this Court to request a stay of discovery, and FBI Special Agent Michael Solari from Stern's old office in Las Vegas. (*Id.* ¶ 26). During the interview, Fujihara showed UEC's confidential and proprietary documents regarding the Philippines Project. (*Id.* ¶ 27.) Subsequently, Kosaka questioned Fujihara about the contents of the interview. (*Id.* ¶ 28.) WRL's Stern was with Fujihara immediately before he was interviewed by DOJ and immediately afterwards for dinner. (*Id.* ¶¶ 25, 29.) During dinner, Stern again beseeched Fujihara to cooperate with Mr. Wynn to "get rid of" Mr. Okada. (*Id.* ¶ 30.) Shortly after Fujihara's disclosure of UEC's confidential and proprietary documents about the Philippines Project, Reuters published an article alleging improprieties by UEC on the Philippines Project in which it noted reviewing UEC's records.

E. Theft of UEC Documents for WRL in January and February 2013

In January 2013, Kosaka kept up the pressure; he called Fujihara to disclose an alleged rumor that Mr. Okada had threatened to fire him, although no employment action was ever taken. (Fujihara Decl. ¶ 38.) Kosaka took this opportunity to request specific information and documents at UEC about the alleged payment of travel expenses for a Japanese government official during a past stay at Wynn Las Vegas. (*Id.* ¶ 32.) Fujihara advised Kosaka that he had no

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legitimate access to such information, if it even existed. (*Id.* ¶ 33.) Kosaka nonetheless continued to pressure him so Fujihara attempted to retrieve this information under false pretenses. (*Id.*) Fujihara was able to misappropriate other travel documents, including a request for approval of a business trip by a manager overseeing the Philippines Project. (*Id.* ¶ 34.) Fujihara provided these documents to Yoshiyuki Shoji, another former UEC employee affiliated with Kosaka, who indicated that he would translate some of the documents into English to provide to WRL for use against Mr. Okada. (*Id.* ¶ 35.)

In February 2013, Kosaka again contacted Fujihara and said "Wynn is angry because he had learned that [Fujihara] was hiding information from him." (*Id.* ¶ 36.) Kosaka then instructed Fujihara to obtain any UEC materials he could regarding government officials' travel. Accordingly, Fujihara provided Kosaka with additional confidential and proprietary UEC business documents. (*Id.* ¶ 37.)

F. Third Meeting with WRL's Stern

WRL continued to use Kosaka as its conduit. At Kosaka's behest, Fujihara traveled in mid-February 2013 to Los Angeles to meet with Stern for a third time and to meet with the DOJ and FBI for a second time. (Fujihara Decl. ¶ 39.) Again, Fujihara did not make any travel arrangements, nor was he required to pay for any of his expenses. This obligation apparently fell directly or indirectly to Kosaka and WRL's Stern. (*Id.* ¶ 40.) And again, Stern met with Fujihara before and after the DOJ/FBI interview. (*Id.* ¶ 43.) Stern took Fujihara to lunch after the interview and repeatedly insisted that Fujihara provide him with documents related to Japanese government officials that were the subject of discussion with the DOJ and FBI, which Fujihara could not access. (*Id.* ¶ 44.) After returning to Japan, Kosaka – who had accompanied Stern at all times in Los Angeles including the lunch – continued the pressure, repeatedly asking Fujihara for documents related to one of the government officials, as well as Mr. Okada and UEC President Jun Fujimoto. (*Id.* ¶ 46). Kosaka ceased contacting Fujihara after UEC filed a lawsuit against Kosaka in October 2013. (*Id.* ¶ 48.)

G. Chronology of Events

To summarize, the chronology of WRL's pursuit of UEC Assistant General Manager

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Fujihara indirectly through former employee Kosaka, and directly through Stern is telling:

- February 19, 2012: WRL initiated this lawsuit by filing a complaint against UEC and Aruze USA alleging claims involving travel and entertainment expenses for Philippine government officials during September 2009 and October 2010. *See* Complaint, ¶ 44.

- May-November 2012: Former UEC employee Kosaka met with Fujihara numerous times requesting information and documents to "destroy" Mr. Okada. Fujihara provided confidential and proprietary UEC documents to Kosaka about Mr. Okada's loan regarding the Philippines Project, and the flow of funds.

- Early November 2012: WRL's Senior Vice President for Corporate Security Stern was introduced to Fujihara by Kosaka at the ANA Hotel in Tokyo. Stern asked for documents regarding the Philippines Project to "destroy" Mr. Okada.

- November 16, 2012: Reuters published an article alleging improprieties by UEC on the Philippines Project in obtaining tax and licensing concessions. These issues had not been part of WRL's initial complaint of February 19, 2012.

- December 13-14, 2012: Fujihara traveled with Kosaka to San Francisco. Stern met them at the airport, and transported them to the hotel. Fujihara did not pay for his business-class airfare or other travel expenses; he understood that Stern paid for the hotel because Stern went to the registration desk. Stern met with Fujihara before he was interviewed by the DOJ attorney and FBI Special Agent Solari from the Las Vegas Field Office where Stern previously served. Fujihara showed the DOJ and FBI proprietary and confidential UEC documents requested by Kosaka. Beforehand, he provided copies of approximately 35 confidential and proprietary documents to Kosaka. Fujihara and Kosaka had dinner with Stern who again implored Fujihara to "cooperate" to "get rid of" Mr. Okada.

- December 31, 2012: Reuters published another article regarding allegations of UEC impropriety on the Philippines Project in obtaining tax and licensing concessions.

- January 3, 2013: DOJ issued the first grand jury subpoena to Aruze USA seeking documents regarding the Reuters' allegations on the Philippines Project.

- January-February, 2013: At the urging of Kosaka, Fujihara stole confidential and proprietary UEC documents regarding expenses for Japanese government officials, which Fujihara provided to Kosaka.

- February 23-24, 2013: At the request of Kosaka, Fujihara traveled with him to Los Angeles to meet with the DOJ lawyer and FBI Special Agent Solari. WRL's driver met Fujihara and Kosaka at the airport and transported them to their hotel. Again, Fujihara did not pay for business-class airfare or other travel expenses. Following his interview, Fujihara met Stern and Kosaka at the hotel. Fujihara observed Stern and Kosaka meet with the DOJ lawyer and FBI Agent Solari in the hotel lobby. Stern bought Fujihara lunch and dinner, where he pressed him for more documents regarding Japanese officials. Stern then transported Fujihara back to the airport the same day.

- April 8, 2013: DOJ filed a Motion to Intervene in this lawsuit seeking a stay of discovery.

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- April 22, 2013: WRL filed the Second Amended Complaint in which it added the Reuters' allegations regarding improper payments on the Philippines Project by UEC.

- May 2, 2013: The Court granted DOJ's Motion to Intervene and Stay of Discovery.

III. LEGAL STANDARD

Nevada law recognizes the "inherent power of a court to levy sanctions in response to abusive litigation practices." *Young v. Ninth Judicial Dist. Court*, 107 Nev. 642, 646, 818 P.2d 844, 847 (1991) (citing *Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764-66 (1980)). In addition, "courts have inherent equitable powers to dismiss actions or enter default judgments for ... abusive litigation practices." *Young v. Johnny Ribeiro Bldg., Inc.*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990) (quoting *TeleVideo Systems, Inc. v. Heidenthal*, 826 F.2d 915, 916 (9th Cir. 1987). The "district court's inherent equitable power to [assess] the appropriate sanctions [is] based upon the criteria of willfulness, bad faith, and prejudice." *Bahena v. Goodyear Tire & Rubber Co.*, 126 Nev. Adv. Op. 57, 245 P.3d 1182, 1188 (Nev. 2010).[8] Thus, the Court has authority to fashion a range of sanctions, including, but not limited to, preclusion of evidence, monetary sanctions, or dismissal of claims.

IV. ARGUMENT

A. WRL's Conduct Was Wrongful and Prejudicial to the Judicial Process.

WRL's circumvention of the discovery process in procuring UEC's confidential and proprietary business documents was improper and damaged the integrity of the judicial system. WRL deliberately set out to abuse the judicial process in order to obtain information and documents outside of discovery beginning shortly after it filed the complaint in this matter. It is clear from the facts and chronology of events that a senior WRL official misappropriated confidential and proprietary UEC materials. WRL's Senior Vice for Corporate Security manipulated a former UEC employee to act as a conduit, but that attempt to conceal WRL's

[8] Nevada jurisprudence does not follow the federal model of requiring progressive sanctions against a party for failing to comply with a discovery order. *Bahena*, 245 P.3d at 1184 (citing *Higgs v. State*, 222 P.3d 648, 658 (Nev. 2010)).

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wrongdoing will not protect it. Stern used the former employee to obtain documents improperly; he used the former employee to pressure the UEC employee to steal confidential and proprietary documents; he met with the UEC employee himself on three different occasions imploring him to join in "collecting information concerning UEC" and "destroy[ing]" Mr. Okada; he connected the UEC employee to DOJ attorneys and an FBI agent at his former office, and it appears that he may have paid for the UEC employee to come to the United States to meet with him and the DOJ and FBI. The timeline demonstrates that WRL's improper and concerted strategy to obtain documents and information from a current UEC employee occurred at times immediately preceding critical events – DOJ's decision to initiate a grand jury investigation and the filing of WRL's amended complaint.

What we do not know, but are entitled to find out, is the extent of the misconduct and how far this strategy went within WRL. Indeed, to address the conduct fully, it is imperative to get to the bottom of WRL's blatant impropriety through discovery and to subsequently punish and deter WRL through sanctions.

1. WRL Illegally Procured UEC's Confidential and Proprietary Documents Outside the Discovery Process.

A party may not procure its adversary's internal documents outside the discovery process. *See, e.g., In re Shell Oil Refinery*, 143 F.R.D. 105, 108 (E.D. La. 1992)[9] (finding that party's *ex-parte* contact with opposing party's employee for the purpose of obtaining documents resulted in receipt of "proprietary documents in [a] manner [that] was inappropriate and contrary to fair play"), *amended on other matters*, 144 F.R.D. 73 (E.D. La. 1992); *see also Glynn v. Edo Corp.*, 2010 WL 3294347 (D. Md. Aug. 20, 2010) (holding that plaintiff's receipt of defendant's internal documents from defendant's employee "undermines the efficacy of the discovery process and this Court's ability to resolve litigation in a fair and orderly manner"); *Giardina v. Ruth U. Fertel, Inc.*, 2001 WL 1628597 (E.D. La. Dec. 17, 2001) (finding that plaintiff's receipt of opposing

[9] Nevada courts have previously looked to federal case law for guidance on the exercise of the court's inherent authority. *Young, 107 Nev. at 646, 818 P.2d at 847.*

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party's privileged correspondence through *ex parte* contact with unidentified employee of defendant was improper); *Herrera v. Clipper Group, L.P.*, 1998 WL 229499, at *2 (S.D.N.Y. May 6, 1998) ("The discovery process is not meant to be supplemented by the unlawful conversion of an adversary's proprietary information.").

In *Shell Oil*, for example, the court found that the conduct threatened the "judicial integrity and the adversary processes" because the offending party "prevented [the opposing party] from being able to argue against production." *Shell Oil,* 143 F.R.D. at 108. The court concluded that the conduct was wrongful regardless of whether the party's communication with its adversary's employee was permitted under the so-called "no-contact" rule prohibiting an attorney from communicating with some, though not all, employees of a represented corporate adversary. *Id.*; *see also Glynn*, 2010 WL 3294347, at *5 ("Permitting communication . . . [with an adversary's employee] is materially different, however, from permitting [a party] to secrete documents from" that adversary; the no-contact rule "says nothing about authorizing the latter conduct."). Further, WRL's possible payment for Fujihara's expenses, including travel to the United States, to facilitate the receipt of documents would be "egregious in the extreme." *Jackson v. Microsoft Corp.*, 211 F.R.D. 423, 431 (W.D. Wash. 2002) (finding that plaintiff's receipt from an unknown source of defendant's confidential and proprietary information in return for $1,000 was "egregious in the extreme" and justified dismissal sanction), aff'd 78 F. App'x 588 (9th Cir. 2003).

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2. The Impropriety of the Conduct Does Not Depend on the Character of the Misappropriated Documents.

Regardless of the contents of the documents and the information disclosed by Fujihara, WRL's conduct was per se wrongful. Indeed, WRL's "unauthorized conduct of viewing the defendant's documents, irrespective of whether or not the documents were privileged, work-product, or relevant, is the type of scandalous behavior that must not be condoned. It is the act that necessitates discipline." *Perna v. Electronic Data Sys., Corp.*, 916 F. Supp. 388, 400 (D.N.J. 1995). The impropriety of WRL's actions does not depend on the substantive content of the documents or whether they are relevant to the litigation or otherwise subject to discovery.

IN THE SUPREME COURT OF THE STATE OF NEVADA

WYNN RESORTS, LIMITED,

Petitioner,

v.

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

Respondents,

and

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

Real Parties in Interest.

Supreme Court No. 68439

District Court Case No. A-12-656710-B

SUPPLEMENTAL APPENDIX IN SUPPORT OF REAL PARTIES' ANSWER TO PETITION FOR WRIT OF PROHIBITION OR ALTERNATIVELY, MANDAMUS

VOL. I of III

(SA0001-SA0250)

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FILED UNDER SEAL

Date	Description	Vol. #	Page Nos.
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CERTIFICATE OF SERVICE

Pursuant to NRAP 25, I hereby certify that I am an employee of Holland & Hart; that I am familiar with the firm's practice of collection and processing documents for mailing; that, in accordance therewith, I caused the following document, **SUPPLEMENTAL APPENDIX IN SUPPORT OF REAL PARTIES' ANSWER TO PETITION FOR WRIT OF PROHIBITION OR ALTERNATIVELY, FOR, MANADAMUS VOL. I of III**, to be served as indicated below on the 14th day of October 2015:

VIA U.S. MAIL ON 10/14/2015
Judge Elizabeth Gonzalez
Eighth Judicial District Court of
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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 PARTIES' ~~PROPOSED~~ PROTECTIVE ORDER WITH RESPECT TO CONFIDENTIALITY

The Wynn Parties hereby propose that the handling of confidential material in these proceedings shall be governed by the provisions set forth below:

1. **Applicability of this Protective Order: Subject to Section 20 below,** this Protective Order does not and will not govern any trial proceedings in this action but will otherwise be applicable to and govern the handling of documents, depositions, deposition exhibits, interrogatory responses, responses to requests for admissions, responses to requests for production of documents, and all other discovery obtained pursuant to Nevada Rules of Civil Procedure or other legal process by or from, or produced on behalf of, a party or witness in connection with this action (this information hereinafter shall be referred to as "Discovery Material"). As used herein, "Producing Party" or "Disclosing Party" shall refer to the parties and nonparties that give testimony or produce documents or other information in connection with this action; "Receiving Party" shall refer to the parties in this action that receive such information, and "Authorized Recipient" shall refer to any person or entity authorized by Sections 10 and 11 of this Protective Order to obtain access to Confidential Information, Highly Confidential Information, or the contents of such Discovery Material.

2. **Designation of Information:** Any Producing Party may designate Discovery Material that is in its possession, custody, or control produced to a Receiving Party as "Confidential" or "Highly Confidential" under the terms of this Protective Order if the Producing Party in good faith reasonably believes that such Discovery Material contains nonpublic, confidential information as defined in Sections 4 and 5 below.

3. **Exercise of Restraint and Care in Designating Material for Protection:** Each Producing Party that designates information or items for protection under this Protective Order must take care to limit any such designation to specific material that qualifies under the appropriate standards. Indiscriminate designations are prohibited.

4. **Confidential Information:** For purposes of this Protective Order, "Confidential Information" means any Protected Data (as defined below) or any information that constitutes, reflects, or discloses nonpublic information, trade secrets, know-how, or other financial, proprietary, commercially sensitive, confidential business, marketing, regulatory, or strategic

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information (regarding business plans or strategies, technical data, and nonpublic designs), the disclosure of which the Producing Party believes in good faith might reasonably result in economic or competitive, or business injury to the Producing Party (or its affiliates, personnel, or clients) and which is not publicly known and cannot be ascertained from an inspection of publicly available sources, documents, material, or devices. Confidential Information shall also include sensitive personal information that is not otherwise publicly available, such as home addresses; social security numbers; dates of birth; employment personnel files; medical information; home telephone records/numbers; employee disciplinary records; family court documents sealed by the family court pursuant to NRS 125.110 or designated Confidential by agreement of the parties to the family court proceedings at issue; wage statements or earnings statements; employee benefits data; tax records; and other similar personal financial information. A party may also designate as "CONFIDENTIAL" compilations of publicly available discovery materials, which would not be known publicly in a compiled form.

(a) Protected Data. The term "Protected Data" shall refer to any information that a party believes in good faith to be subject to federal, state or foreign data protection laws or other privacy obligations. Protected Data constitutes highly sensitive materials requiring special protection. Examples of such laws include, but are not limited to, the Macau Personal Data Protection Act ("MDPA"), Macao Special Administrative Region Law n.° 16/2001 ("Judicial system for operating games of fortune in casinos"), and other state, federal, and/or foreign law(s) that impose special protections.

5. **Highly Confidential Information:** For purposes of this Protective Order, Highly Confidential Information is any Protected Data and/or Confidential Information as defined in Section 4 above that also includes (a) extremely sensitive, highly confidential, nonpublic information, consisting either of trade secrets or proprietary or other highly confidential business, financial, regulatory, private, or strategic information (including information regarding business plans, technical data, and nonpublic designs), the disclosure of which would create a substantial risk of competitive, business, or personal injury to the Producing Party, and/or (b) nonpublic documents or information reflecting the substance of conduct or communications that are the

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subject of state, federal, or foreign government investigations. Certain Protected Data may compel alternative or additional protections beyond those afforded Highly Confidential Information, in which event the parties shall meet and confer in good faith, and, if unsuccessful, the party seeking any greater protection shall move the Court for appropriate relief. A party may re-designate material originally "CONFIDENTIAL" as "HIGHLY CONFIDENTIAL" by giving notice of such a re-designation to all parties.

6. **Designating Confidential Information or Highly Confidential Information.** If any party in this action determines in good faith that any information, documents, things, or responses produced in the course of discovery in this action should be designated as Confidential Information or Highly Confidential Information (the "Designating Party"), it shall advise any party receiving such material of this fact, and all copies of such document, things, or responses, or portions thereof deemed to be confidential shall be marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" (whether produced in hard copy or electronic form) at the expense of the designating party and treated as such by all parties. A Designating Party may inform another party that a document is Confidential or Highly Confidential by providing the Bates number of the document in writing. If Confidential or Highly Confidential Information is produced via an electronic form on a computer readable medium (*e.g.*, CD-ROM), other digital storage medium, or via Internet transmission, the Producing Party or Designating Party shall affix in a prominent place on the storage medium or container file on which the information is stored, and on any container(s) for such medium, the legend "Includes CONFIDENTIAL INFORMATION" or "Includes HIGHLY CONFIDENTIAL INFORMATION." Nothing in this section shall extend confidentiality or the protections associated therewith to any information that does not otherwise constitute "Confidential Information" or "Highly Confidential Information" as defined in Sections 4 and 5 herein.

7. **Redaction Allowed:** Any Producing Party may redact from the documents or things it produces matter that the Producing Party claims is subject to the attorney-client privilege, the work product doctrine, a legal prohibition against disclosure, or any other privilege from disclosure. Any Producing Party also may redact information that is both personal and

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nonresponsive, such as a social security number. A Producing Party may not withhold nonprivileged, responsive information solely on the grounds that such information is contained in a document that includes privileged information. The Producing Party shall mark each redaction with a legend stating "REDACTED," and include an annotation indicating the specific reason for the redaction (*e.g.*, "REDACTED—Work Product"). All documents redacted based on attorney client privilege or work product immunity shall be listed in an appropriate log in conformity with Nevada law and Nevada Rule of Civil Procedure 26(b)(5). Where a document consists of more than one page, the page on which information has been redacted shall so be marked. The Producing Party shall preserve an unredacted version of such document. In addition to the foregoing, the following shall apply to redactions of Protected Data:

(a) Any party may redact Protected Data that it claims, in good faith, requires protections under the terms of this Protective Order.

(b) Protected Data shall be redacted from any public filing not filed under seal.

(c) The right to challenge and the process for challenging redactions shall be the same as the right to challenge and the process from challenging the designation of Confidential Information or Highly Confidential Information.

8. **Use of Confidential Information or Highly Confidential Information.** Except as provided herein, Confidential Information and Highly Confidential Information designated or marked shall be maintained in confidence, used solely for the purposes of this action, to the extent not otherwise prohibited by an order of the Court, shall be disclosed to no one except those persons identified herein in Sections 10 and 11, and shall be handled in such manner until such designation is removed by the Designating Party or by order of the Court. Confidential or Highly Confidential information produced by another party shall not be used by any Receiving Party for any commercial, competitive or personal purpose. Nothing in this Protective Order shall govern or restrict a Producing Party's use of its own Confidential or Highly Confidential Information in any way.

9. Once the Court enters this Protective Order, a party shall have thirty (30) days to designate as Confidential or Highly Confidential any documents previously produced in this

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action, which it can do by stamping "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL" on the document, or informing the other parties of the Bates-numbers of the documents so designated.

10. **Use of Confidential Information and Highly Confidential Information in Depositions.** Counsel for any party shall have the right to disclose Confidential or Highly Confidential Information at depositions, provided that such disclosure is consistent with this Protective Order, including Sections 10 and 11. Any counsel of record may request that all persons not entitled under Sections 10 or 11 of this Protective Order to have access to Confidential Information or Highly Confidential Information leave the deposition room during the confidential portion of the deposition. Failure of such other persons to comply with a request to leave the deposition shall constitute substantial justification for counsel to advise the witness that the witness need not answer the question where the answer would disclose Confidential Information or Highly Confidential Information. Additionally, at any deposition session, (1) upon inquiry with regard to the content of any discovery material(s) designated or marked as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY;" (2) whenever counsel for a party deems that the answer to a question may result in the disclosure or revelation of Confidential or Highly Confidential Information; and/or (3) whenever counsel for a party deems that the answer to any question has resulted in the disclosure or revelation of Confidential or Highly Confidential Information, counsel to any party may designate portions of a deposition transcript and/or video of any deposition (or any other testimony) as containing Confidential or Highly Confidential Information in accordance with this Order by a statement on the record during the deposition or by notifying all other parties in writing, within thirty (30) calendar days of receiving the transcript or video that it contains Confidential or Highly Confidential Information and designating the specific pages, lines, and/or counter numbers as containing Confidential or Highly Confidential Information. If a designation is made via a statement on the record during a deposition, counsel must follow up in writing within thirty (30) calendar days of receiving the transcript or video, identifying the specific pages, lines, and/or counter numbers containing the Confidential or Highly Confidential Information. If no confidentiality designations are made within the thirty calendar (30) day period, the entire

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transcript shall be considered nonconfidential. During the thirty (30) day period, the entire transcript and video shall be treated as Confidential Information (or Highly Confidential Information). All originals and copies of deposition transcripts that contain Confidential Information or Highly Confidential Information shall be prominently marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" on the cover thereof and, if and when filed with the Court, the portions of such transcript so designated shall be filed under seal. Counsel must designate portions of a deposition transcript as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" within thirty calendar (30) days of receiving the transcript. Any DVD or other digital storage medium containing Confidential or Highly Confidential deposition testimony shall be labeled in accordance with the provisions of Section 6.

11. **Persons Authorized to Receive Confidential Information.** Confidential Information produced pursuant to this Protective Order may be disclosed or made available only to the Court, its employees, other court personnel, any discovery referee, mediator or other official who may be appointed by the Court, and to the persons below:

(a) A party, or officers, directors, employees, and agents of a party deemed necessary by counsel to aid in the prosecution, defense, or settlement of this action;

(b) Counsel for a party (including in house attorneys, outside attorneys associated with a law firm(s) of record, and paralegal, clerical, and secretarial staff employed by such counsel);

(c) Persons retained by a party to provide litigation support services (photocopying, videotaping, translating, preparing exhibits or demonstrations, organizing, storing, retrieving data in any form or medium, etc.);

(d) Consultants or expert witnesses (together with their support staff) retained for the prosecution or defense of this litigation, **provided that such an expert or consultant is not a current employee of a direct competitor of a party named in this action;** (fn)

(e) Court reporter(s) and videographers(s) employed in this action;

(f) Any authors or recipients of the Confidential Information;

(fn) A party may seek leave of court to provide information to a consultant employed by a competitor

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(g) A witness at any deposition or other proceeding in this action, who shall sign the Confidentiality Agreement attached as "Exhibit A" to this Protective Order before being shown a confidential document; and

(h) Any other person as to whom the parties in writing agree or that the Court in these proceedings so designates.

Any person to whom Confidential Information is disclosed pursuant to subparts (a) through (g) hereinabove shall be advised that the Confidential Information is being disclosed pursuant to an order of the Court, that the information may not be disclosed by such person to any person not permitted to have access to the Confidential Information pursuant to this Protective Order, and that any violation of this Protective Order may result in the imposition of such sanctions as the Court deems proper. Any person to whom Confidential Information is disclosed pursuant to subpart (c), (d), (g) or (h) of this section shall also be required to execute a copy of the form Exhibit A. The persons shall agree in writing to be bound by the terms of this Protective Order by executing a copy of Exhibit A (which shall be maintained by the counsel of record for the party seeking to reveal the Confidential Information) in advance of being shown the Confidential Information. No party (or its counsel) shall discourage any persons from signing a copy of Exhibit A. If a person refuses to execute a copy of Exhibit A, the party seeking to reveal the Confidential Information shall seek an order from the Court directing that the person be bound by this Protective Order. In the event of the filing of such a motion, Confidential Information may not be disclosed to such person until the Court resolves the issue. Proof of each written agreement provided for under this Section shall be maintained by each of the parties while this action is pending and disclosed to the other parties upon good cause shown and upon order of the Court.

12. **Persons Authorized to Receive Highly Confidential Information.** "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" documents and information may be used only in connection with this case and may be disclosed only to the Court and the persons listed in subsections **(b) to (e) and (g) to (h)** of Section 10 above, but shall not be disclosed to a party, or an employee of a party, unless otherwise agreed or ordered. **With respect to sub-section (f), the**

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parties will consider disclosure of Highly Confidential Information to an author or recipient on a case by case basis. Any person to whom Highly Confidential Information is disclosed pursuant to sub-sections (c), (d), (g) or (h) of Section 10 above shall also be required to execute a copy of the form Exhibit A.

13. **Filing of Confidential Information or Highly Confidential Information With Court.** Any party seeking to file or disclose materials designated as Confidential Information or Highly Confidential Information with the Court in this Action must seek to file such Confidential or Highly Confidential Information under seal pursuant to Rule 3 of the Nevada Rules for Sealing and Redacting Court Records. The Designating Party will have the burden to provide the Court with any information necessary to support the designation as Confidential Information.

14. **Notice to Nonparties.** Any party issuing a subpoena to a nonparty shall enclose a copy of this Protective Order and advise the nonparty that it may designate any Discovery Material it produces pursuant to the terms of this Protective Order, should the nonparty producing party wish to do so. This Order shall be binding in favor of nonparty designating parties to the maximum extent permitted by law. Any nonparty invoking the Protective Order shall comply with, and be subject to, all applicable sections of the Protective Order.

15. **Knowledge of Unauthorized Use or Possession.** If a party receiving Confidential Information or Highly Confidential Information learns of any possession, knowledge, use or disclosure of any Confidential Information or Highly Confidential Information in violation of the terms of this Protective Order, the Receiving Party shall immediately notify in writing the party that produced the Confidential Information or Highly Confidential Information. The Receiving Party shall promptly furnish the Producing Party the full details of such possession, knowledge, use or disclosure. With respect to such unauthorized possession, knowledge, use or disclosure the Receiving Party shall assist the Producing Party in remedying the disclosure (*e.g.*, by retrieving the Confidential Information from an unauthorized recipient) and/or preventing its recurrence.

16. **Copies, Summaries or Abstracts.** Any copies, summaries, abstracts or exact duplications of Confidential Information or Highly Confidential Information shall be marked "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL-ATTORNEYS' EYES ONLY" and shall be

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considered Confidential Information or Highly Confidential Information subject to the terms and conditions of this Protective Order. Attorney-client communications and attorney work product regarding Confidential Information or Highly Confidential Information shall not be subject to this section, regardless of whether they summarize, abstract, paraphrase, or otherwise reflect Confidential Information or Highly Confidential Information.

17. **Information Not Confidential.** The restrictions set forth in this Protective Order shall not be construed to apply to any information or materials that:

(a) Were lawfully in the Receiving Party's possession prior to such information being designated as Confidential or Highly Confidential Information in this action, and that the Receiving Party is not otherwise obligated to treat as confidential;

(b) Were obtained without any benefit or use of Confidential or Highly Confidential Information from a third party having the right to disclose such information to the Receiving Party without restriction or obligation of confidentiality;

(c) Were independently developed after the time of disclosure by persons who did not have access to the Producing Party's Confidential or Highly Confidential Information;

(d) Have been or become part of the public domain by publication or otherwise and not due to any unauthorized act or omission on the part of a Receiving Party; or

(e) Under law, have been declared to be in the public domain.

18. **Challenges to Designations.** Any party may object to the designation of Confidential Information or Highly Confidential Information on the ground that such information does not constitute Confidential Information or Highly Confidential Information by serving written notice upon counsel for the Producing Party **within sixty (60) calendar days of the date the item(s) was designated,** specifying the item(s) in question and the grounds for the objection. If a party objects to the designation of any materials as Confidential Information or Highly Confidential Information, the party challenging the designation shall arrange for an EDCR 2.34 conference to be held within ten (10) calendar days of service of a written objection to the designation to attempt to informally resolve the dispute. If the parties cannot resolve the matter, the party challenging the designation may file a motion with the Court to resolve the dispute.

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Such motions must be filed within ten (10) calendar days of the EDCR 2.34 conference. This Protective Order will not affect the burden of proof on any such motion, or impose any burdens upon any party that would not exist had the Protective Order not been entered; as a general matter, the burden shall be on the person making the designation to establish the propriety of the designation. Any contested information shall continue to be treated as confidential and subject to this Protective Order until such time as such motion has been ruled upon.

19. **Use in Court.** If any Confidential Information or Highly Confidential Information is used in any pretrial Court proceeding in this action, it shall not necessarily lose its confidential status through such use, and the party using such information shall take all reasonable steps consistent with the Nevada Supreme Court Rules Governing Sealing and Redacting Court Records to maintain its confidentiality during such use.

20. **No Waiver.** This Protective Order is entered solely for the purpose of facilitating the exchange of documents and information among the parties to this action without involving the Court unnecessarily in the process. Nothing in this Protective Order, nor the production of any information or document under the terms of this Protective Order, nor any proceedings pursuant to this Protective Order shall be deemed to be a waiver of any rights or objections to challenge the authenticity or admissibility of any document, testimony or other evidence at trial. Additionally, this Protective Order will not prejudice the right of any party or nonparty to oppose production of any information on the ground of attorney-client privilege; work product doctrine or any other privilege or protection provided under the law.

21. **Reservation of Rights.** The parties each reserve the right to seek or oppose additional or different protection for particular information, documents, materials, items or things. This Stipulation shall neither enlarge nor affect the proper scope of discovery in this Action. In addition, this Stipulation shall not limit or circumscribe in any manner any rights the Parties (or their respective counsel) may have under common law or pursuant to any state, federal, or foreign statute or regulation, and/or ethical rule.

22. **Inadvertent Failure to Designate.** The inadvertent failure to designate information produced in discovery as Confidential or Highly Confidential shall not be deemed, by

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itself, to be a waiver of the right to so designate such discovery materials as Confidential Information or Highly Confidential Information. Within a reasonable time of learning of any such inadvertent failure, the Producing Party shall notify all Receiving Parties of such inadvertent failure and take such other steps as necessary to correct such failure after becoming aware of it. Disclosure of such discovery materials to any other person prior to later designation of the discovery materials in accordance with this section shall not violate the terms of this Protective Order. However, immediately upon being notified of an inadvertent failure to designate, all parties shall treat such information as though properly designated, and shall take any actions necessary to prevent any future unauthorized disclosure, use, or possession.

23. **No Waiver of Privilege**: Disclosure (including production) of information after the parties' entry of this Protective Order that a party or nonparty later claims was inadvertent and should not have been disclosed because of a privilege, including, but not limited to, the attorney-client privilege or work product doctrine ("Privileged Information""), shall not constitute a waiver of, or estoppel as to, any claim of attorney-client privilege, attorney work product, or other ground for withholding production as to which the Disclosing or Producing Party would be entitled in this action.

24. **Effect of disclosure of Privileged Information**: The Receiving Party hereby agrees to promptly return, sequester, or destroy any Privileged Information disclosed or produced by Disclosing or Producing Party upon request by Disclosing or Producing Party regardless of whether the Receiving Party disputes the designation of Privileged Information. The Receiving Party may sequester (rather than return or destroy) such Privileged Information only if it contends that the information itself is not privileged or otherwise protected and it challenges the privilege designation, in which case it may only sequester the information until the claim of privilege or other protection is resolved. If any party disputes the privilege claim ("Objecting Party"), that Objecting Party shall object in writing by notifying the Producing Party of the dispute and the basis therefore. The parties thereafter shall meet and confer in good faith regarding the disputed claim within seven (7) court days after service of the written objection. In the event that the parties do not resolve their dispute, the Objecting Party may bring a motion for a determination of

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whether a privilege applies within ten (10) court days of the meet and confer session, but may only contest the asserted privileges on ground other than the inadvertent production of such document(s). In making such a motion, the Objecting Party shall not disclose the content of the document(s) at issue, but may refer to the information contained on the privilege log. Nothing herein shall relieve counsel from abiding by applicable ethical rules regarding inadvertent disclosure and discovery of inadvertently disclosed privileged or otherwise protected material. The failure of any party to provide notice or instructions under this Paragraph shall not constitute a waiver of, or estoppel as to, any claim of attorney-client privilege, attorney work product, or other ground for withholding production as to which the Disclosing or Producing Party would be entitled in this action.

25. **Inadvertent Production of Non-Discoverable Documents.** If a Producing Party inadvertently produces a document that contains no discoverable information, the Producing Party may request in writing that the Receiving Party return the document, and the Receiving Party will return the document. A Producing Party may not request the return of a document pursuant to this section if the document contains any discoverable information. If a Producing Party inadvertently fails to redact personal information (*e.g.*, a social security number), the Producing Party may provide the Receiving Party a substitute version of the document that redacts the personal information, and the Receiving Party shall return the original, unredacted document to the Producing Party.

26. **Return of Information.** Within thirty (30) calendar days after the final disposition of this action, all Confidential Material and/or Highly Confidential Material produced by an opposing party or nonparty (including, without limitation, any copies, extracts or summaries thereof) as part of discovery in this action shall be destroyed by the parties to whom the Confidential Material and/or Highly Confidential Material was produced, and each counsel shall, by declaration delivered to all counsel for the Producing Party, affirm that all such Confidential Material and/or Highly Confidential Material (including, without limitation, any copies, extracts or summaries thereof) has been destroyed; provided, however, that each counsel shall be entitled to retain pleadings, motions and memoranda in support thereof, declarations or

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affidavits, deposition transcripts and videotapes, or documents reflecting attorney work product or consultant or expert work product, even if such material contains or refers to Confidential Material and/or Highly Confidential Material, but only to the extent necessary to preserve a litigation file with respect to this action.

27. **Attorney's Fees.** Nothing in this Protective Order is intended to either expand or limit a prevailing party's right under the Nevada Rules of Civil Procedure or other applicable state or federal law to pursue costs and attorney's fees incurred related to confidentiality designations or the abuse of the process described herein.

28. **Injunctive Relief and Sanctions Available for Unauthorized Disclosure or Use of Confidential Information or Highly Confidential Information.** The Parties and/or nonparties shall not utilize any Confidential Information and/or Highly Confidential Information for their own personal and/or business advantage or gain, aside from purpose(s) solely related to the instant litigation. The Parties and nonparties acknowledge and agree that unauthorized use and/or disclosure of Confidential Information and/or Highly Confidential Information beyond this litigation shall subject the offending party or nonparty to sanctions contemplated in NRCP 37(b)(2)(A)-(D), up to and including entry of judgment against the offending party in circumstances involving willful disobedience with this order. Further, the Parties and/or nonparties receiving or being given access to Confidential Information and/or Highly Confidential Information acknowledge that monetary remedies would be inadequate to protect each party in the case of unauthorized disclosure or use of Confidential Information or Highly Confidential Information that the Receiving Party only received through discovery in this action and that injunctive relief would be necessary and appropriate to protect each party's rights in the event there is any such unauthorized disclosure or use of Confidential Information or Highly Confidential Information. The availability of injunctive relief to protect against the unauthorized disclosure or use of Confidential Information or Highly Confidential Information shall not be exclusive.

29. **Other Actions and Proceedings.** If a Receiving Party (a) is subpoenaed in another action, investigation, or proceeding, (b) is served with a demand in another action,

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investigation, or proceeding, or (c) is served with any legal process by one not a party to this Protective Order, seeking materials which were produced or designated as Confidential of Highly Confidential pursuant to this Protective Order, the Receiving Party shall give prompt actual written notice by electronic transmission to counsel of record for such Producing Party within five (5) business days of receipt of such subpoena, demand or legal process, or such shorter notice as may be required to provide other parties with the opportunity to object to the immediate production of the requested discovery materials to the extent permitted by law. The burden of opposing enforcement of the subpoena shall fall upon the party or nonparty who produced or designated the Discovery Material as Confidential or Highly Confidential Information. Unless the party or nonparty who produced or designated the Confidential or Highly Confidential Information obtains an order directing that the subpoena not be complied with, and serves such order upon the Receiving Party prior to production pursuant to the subpoena, the Receiving Party shall be permitted to produce documents responsive to the subpoena on the subpoena response date. Compliance by the Receiving Party with any order directing production pursuant to a subpoena of any Confidential or Highly Confidential Information shall not constitute a violation of this Protective Order. Nothing in this Protective Order shall be construed as authorizing a party to disobey a lawful subpoena issued in another action.

30. **Execution in Counterparts.** This Protective Order may be signed in counterparts, and a fax or "PDF" signature shall have the same force and effect as an original ink signature.

31. **Order Survives Termination.** This Protective Order shall survive the termination of this action, and the Court shall retain jurisdiction to resolve any dispute concerning the use of information disclosed hereunder.

DATED this 7th day of February 2013.

PISANELLI BICE PLLC

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

DATED this 7th day of February, 2013.

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By: /s/ J. Colby Williams
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and

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DATED this 7th of day of February, 2013.

JOLLY URGA WIRTH WOODBURY & STANDISH

By: /s/ William R. Urga
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Attorneys for Elaine P. Wynn

ORDER

IT IS SO ORDERED.

DATED: February 13, 2013

THE HONORABLE ELIZABETH GONZALEZ
DISTRICT COURT JUDGE

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EXHIBIT A

CONFIDENTIALITY AGREEMENT

I, _____ do hereby acknowledge and agree, under penalty of perjury, as follows:

1. I have read the Stipulated Confidentiality Agreement and Protective Order ("the Protective Order") entered in *Wynn Resorts, Limited v. Kazuo Okada, et al.*, Eighth Judicial District Court Case No. A-12-656710-B on _____, _____, and I fully understand its contents.

2. I hereby agree and consent to be bound by the terms of the Protective Order and to comply with it in all respects, and to that end, I hereby knowingly and voluntarily submit and subject myself to the personal jurisdiction of the Eighth Judicial District Court of Nevada so that the said court shall have the power and authority to enforce the Protective Order and to impose appropriate sanctions upon me for knowingly violating the Protective Order, including punishment for contempt of court for a knowing violation of the Protective Order.

3. I understand that by signing this instrument, I will be eligible to receive "Confidential Information" and/or "Highly Confidential Information" under the terms and conditions of the Protective Order. I further understand and agree that I must treat any "Confidential Information" and/or "Highly Confidential Information" in accordance with the terms and conditions of the Protective Order, and that, if I should knowingly make a disclosure of any such information in a manner unauthorized by the Protective Order, I will have violated a court order, will be in contempt of court, and will be subject to punishment by the court for such conduct.

DATED: _____

_____
(Signature)

_____
(Printed Name)

_____

_____
(Address)

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Attorneys for Defendant Kazuo Okada and Defendants/Counterclaimants Aruze USA, Inc., and Universal Entertainment Corp.

DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada corporation, Plaintiff, v. KAZUO OKADA, an individual, ARUZE USA, INC., a Nevada corporation, and UNIVERSAL ENTERTAINMENT CORP., a Japanese corporation, Defendants.	CASE NO.: A-12-656710-B DEPT NO.: XI **ARUZE USA, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT** Electronic Filing Case Hearing Date: n/a Hearing Time: n/a
AND ALL RELATED CLAIMS.	

Defendant/Counterclaimant Aruze USA, Inc., by and through its counsel of record, hereby moves the Court for partial summary judgment as to its First Counterclaim for Declaratory Relief and its Fifth Counterclaim for Breach of the Articles of Incorporation.

This Motion is based upon the following Memorandum of Points and Authorities, the papers and pleadings on file in this action, and any oral argument this Court may allow.

DATED this 16th day of September, 2014.

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Robert J. Cassity, Esq. (9779)
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Attorneys for Defendant Kazuo Okada and Defendants/Counterclaimants Aruze USA, Inc. and Universal Entertainment Corp.

NOTICE OF MOTION

PLEASE TAKE NOTICE that the foregoing **ARUZE USA, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT** will be brought before Department XI of the above-entitled court, on the 21 day of Oct. 2014, at 8:30 a.m./~~p.m.~~

DATED this 16th day of September, 2014.

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MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF ARUZE USA, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT

I. INTRODUCTION

On Saturday, February 18, 2012, eleven of the twelve members of the Board of Directors of Wynn Resorts, Ltd. ("WRL") gathered in Las Vegas to oust the one member of the Board not present, Kazuo Okada. This was the culmination of a long campaign spearheaded by Stephen Wynn, WRL's founder and CEO, to squeeze out Mr. Okada, who recently had become the company's largest shareholder when Stephen Wynn lost half of his stock to his ex-wife, Elaine Wynn, in a divorce.[1]

To eliminate Mr. Okada, the Board purported to "redeem" his shares under WRL's Articles of Incorporation based on a finding that Mr. Okada was "unsuitable" to own shares in the company. The redemption itself, in which the shares were cancelled, was improper and illegal, but that is an issue for another day.[2]

This targeted motion, which is ripe and ready for decision, focuses only on the question whether WRL fulfilled its obligation under the Articles of Incorporation to pay "fair value" for the redeemed shares. WRL did not pay "fair value" because it unilaterally imposed a 30% "discount" to the stock's trading price. As a result, while Aruze's 24.5 million shares were worth more than $2.75 billion on the market, WRL provided Aruze a promissory note with a stated value of approximately $1.9 billion – a "discount" of more than $830 million. This has caused, and continues to cause, substantial harm to Aruze by depriving it of the true fair value of its stock,

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[1] Mr. Okada's shares were held by Aruze USA, Inc. ("Aruze"), a Nevada corporation wholly owned by Universal Entertainment Corporation, a Japanese entity in which Mr. Okada and his family hold the majority of the shares outstanding. *See* Ex. G (April 1, 2010 WRL Proxy Statement) at 6, 16-17.

[2] To be clear, Aruze contends, and by this motion is not waiving the right to contend in this litigation, that the redemption itself was unlawful and entirely pretextual, and that Mr. Okada was not in any way "unsuitable." Aruze also contends that WRL failed to provide fair value even as to the 70% of the trading price that it purported to pay because the payment was made in the form of a promissory note with a below-market interest rate and several inappropriate provisions and restrictions. Aruze further contends that the trading price of WRL's stock did not represent its full "fair value" because, among other things, at the time of the redemption WRL had not disclosed to the market important information relating to its business prospects in Macau. Finally, Aruze contends that the redemption provisions, and the Articles themselves, were improper, unenforceable and fraudulently adopted. These matters, however, are the subject of ongoing discovery and will be addressed at a later stage of this litigation. This narrow motion considers only the validity of the 30% discount, and therefore assumes *arguendo* that the other issues are resolved in WRL's favor. In addition, to the extent the validity of the discount is upheld, Aruze reserves its right to challenge the amount of the discount.

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which among other things has made it more difficult for Aruze to finance other business ventures that it would otherwise be able to pursue.

WRL did not claim that the 30% discount was based on the Articles of Incorporation, but rather on supposed restrictions on Aruze's ability to sell its shares without the consent of Stephen Wynn and Elaine Wynn under a separate Stockholders Agreement. However, the consent requirement that supposedly justified the discount did not apply to a redemption – the Stockholders Agreement restricted only sales *to outsiders*, not to the company itself, and it specifically contemplated transfers among the existing shareholders at market trading prices. Moreover, even if the Stockholders Agreement did apply, *it was satisfied* – Stephen Wynn and Elaine Wynn had already consented to Aruze transferring a portion of its shares in 2010, and they effectively consented to the transfer of the remainder by voting for the redemption. Finally, as to the term "fair value," the overwhelming majority of courts, and the Nevada legislature, *have rejected marketability discounts when determining the fair value* of stock to be purchased by the corporation itself.

While the Board's reasons for the 30% discount were a sham, the Directors knew that buying out the largest shareholder for 70 cents on the dollar undoubtedly would make the remaining shares much more valuable. After the company announced what it had done on Sunday, February 19, the market agreed. When trading resumed on Tuesday, February 21 (Monday was a holiday), WRL's stock price immediately jumped from the previous closing price of $112.69 up to $118.65 – a 5.3% increase over the course of a weekend.

Each of the Directors was a significant shareholder of the company, and therefore personally benefited to a substantial degree from the increase in the stock price. Stephen Wynn and Elaine Wynn were the biggest beneficiaries, each seeing the value of their holdings rise by more than $58 million from Friday night to Tuesday morning. The other Directors held far less stock than the Stephen Wynn or Elaine Wynn, but still enjoyed a very profitable weekend. Linda Chen saw the value of her WRL shares increase by more than $1.5 million; Marc Schorr by more than $1.4 million and John Moran by more than $1.1 million. Each of the eleven WRL Directors

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who voted to impose the 30% discount on Aruze's stock saw the value of their holdings increase by more than $100,000 over the course of the weekend.[3]

The facts relevant to this motion are based on the pleadings, affidavits and SEC filings of WRL and its Directors cited herein. They are not disputed, nor could they be. Accordingly, this Court can determine as a matter of law that the self-interested decision by the Board to impose a 30% discount breached WRL's contractual obligation to pay Aruze "fair value" for the shares it redeemed. As a result of WRL's breach, Aruze was damaged in an amount equal to the value of the discount.

II. STATEMENT OF UNDISPUTED MATERIAL FACTS

A. Kazuo Okada Partners with Stephen Wynn to Form Wynn Resorts, Ltd.

Stephen Wynn is widely regarded as one of the key figures in the revitalization of Las Vegas in the 1990s through his development of casinos like the Mirage and the Bellagio. In 2000, however, he was forced out of his company following a takeover by MGM Grand, Inc. *See* Ex. B (Andrew Gumbel, *The King is Dead*, The Independent (London), March 9, 2000) ("But something very odd has just happened to Steve Wynn's reign as the undisputed king of the Las Vegas casino world. It has just ended – abruptly, spectacularly, and utterly without warning.").[4]

Following that humiliation, Mr. Wynn partnered with Mr. Okada to form WRL's predecessor entity, which became WRL in 2002. *See* Ex. G (April 1, 2010 WRL Proxy Statement) at 6. WRL built and operates extremely successful casinos in Las Vegas and Macau, China. *See* Ex. F (March 1, 2010 WRL Form 10-K) at 3.[5] The Second Amended and Restated Articles of Incorporation of Wynn Resorts, Limited ("Articles") contain various provisions

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[3] Had WRL actually paid fair value, then the value of the remaining shares would not have changed because the increased ownership represented by each share would have been offset by a corresponding decrease in the company's assets.

[4] References to "Ex. _" are to the exhibits attached to the Appendix to the Motion (filed concurrently herewith), which are authenticated in the Declaration of Robert J. Cassity, attached as Ex. A to the Appendix.

[5] WRL is a Nevada corporation and, at all relevant times, its common stock was traded on the NASDAQ stock exchange. *See* Ex. F (March 1, 2010 WRL Form 10-K) at 34. The NASDAQ exchange is "a nationally recognized, liquid market" registered with the Securities and Exchange Commission as a "national securities exchange" pursuant to federal law. *See Dimensional Visions Grp. v. NASDAQ Stock Mkt.*, 799 F. Supp. 29, 32 (E.D. Pa. 1992); http://www.sec.gov/divisions/marketreg/mrexchanges.shtml.

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purporting to authorize the Company to "redeem" the shares of any shareholder deemed "unsuitable." In such cases, the Articles provide that "the Corporation . . . shall purchase . . . the number of shares of the Securities specified in the Redemption Notice for the Redemption Price." Ex. C (Articles) § VII.2(a). The "Redemption Price" is "that amount determined by the board of directors to be the *fair value* of the Securities to be redeemed." *Id.* § VII.1(j) (emphasis added).

Stephen Wynn was and is WRL's Chief Executive Officer and the Chairman of the Board of Directors, while Mr. Okada was the Vice-Chairman of the Board of Directors until the events described herein. *See id.* at 3, 6. Mr. Okada, who lived in Tokyo and does not speak English, regularly attended Board meetings but was not involved in the day-to-day management of the company.[6] Mr. Okada (through Aruze) and Stephen Wynn were the two largest shareholders and held roughly the same amount of shares. *See* Ex. D (March 24, 2008 WRL Proxy Statement) at 14-15.

B. The Stockholders Agreement

In 2009, Stephen Wynn and Elaine Wynn divorced. As part of the divorce settlement, Stephen Wynn's WRL stock was divided between the two of them, which made Aruze by far the largest shareholder and upset the parity between Stephen Wynn and Mr. Okada. *See* Amended Counterclaim and Crossclaim of Elaine P. Wynn (Dec. 16, 2013) ¶¶ 36-37; Ex. G (April 1, 2010 WRL Proxy Statement) at 16, 38. Following that division of stock, Mr. Okada (through Aruze) owned more than 24.5 million shares, while Stephen and Elaine Wynn each owned just over 11 million shares. *See* Ex. G (April 1, 2010 WRL Proxy Statement) at 16.

Soon after Stephen Wynn's stock was divided, Aruze, Stephen Wynn and Elaine Wynn entered into an Amended and Restated Stockholders Agreement (the "Stockholders Agreement"). *See* Ex. E (Jan. 6, 2010 WRL Form 8-K attaching the Stockholders Agreement).[7] The

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[6] In its April 1, 2010 Proxy Statement to shareholders, WRL described Mr. Okada as follows: "Mr. Okada, a founding stockholder along with Mr. Wynn, as well as the Company's Vice Chairman, brings an international perspective that is essential to the Company's strategic vision. In addition, his primary business as a manufacturer and developer of gaming equipment adds significant value to our operations." Ex. G at 6.

[7] In April 2002, Stephen Wynn, Aruze, and a third significant shareholder, Baron Asset Fund, entered into an original Stockholders Agreement that contained various covenants among those three parties. *See* Ex. D (March 24, 2008 WRL Proxy Statement) at 33-34. Baron was no longer a significant investor by 2010.

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Stockholders Agreement provided that, except in certain circumstances, the parties to the agreement could not transfer their WRL shares without the consent of the other parties. *See id.* ¶ 2(b).

One of the exceptions to the consent requirement was a provision in the Stockholders Agreement that allowed both Stephen Wynn and Aruze to sell up to two million WRL shares without further consent. *See id.* In addition, after the Stockholders Agreement was executed, the three parties agreed to release an additional specified number of each other's shares from the consent requirement. On November 26, 2010, the parties entered into a "Waiver and Consent" agreement pursuant to which, among other things, Stephen Wynn and Elaine Wynn each consented to Aruze selling up to 1,445,805 additional shares. *See* Ex. H (Nov. 26, 2010 WRL Form 8-K attaching Waiver and Consent). Then, on December 15, 2010, the parties executed another "Waiver and Consent" agreement pursuant to which Stephen Wynn and Elaine Wynn consented to Aruze selling an additional 1,000,000 shares. *See* Ex. I (Dec. 15, 2010 WRL Form 8-K attaching Waiver and Consent) ¶¶ C, F, G, 4. Aruze never sold any shares pursuant to these consents and, therefore, at the time of the redemption in February 2012, it was free to sell 4,445,805 of its WRL shares without obtaining consent from the other parties to the Stockholders Agreement. In addition to the released shares, the December 2010 Waiver and Consent also clarified that Section 2(b) of the Stockholders Agreement did not require consent for stock transfers between the parties to that agreement – Stephen Wynn, Elaine Wynn and Aruze. *See id.* ¶ 3; *see also infra* at 14.

C. After Stephen Wynn Loses Half His WRL Stock, Making Aruze the Largest Shareholder, He Schemes to Force Mr. Okada Out

Soon after Stephen Wynn's divorce made Aruze the company's largest shareholder, WRL began investigating purported misconduct by Mr. Okada. *See* WRL Second Amended Complaint (April 22, 2013) ¶¶ 21, 23 (WRL began investigating Mr. Okada in 2010, with a report presented to the Board in July 2010). In October 2011, WRL made the first of several requests that Mr. Okada resign from the Board and relinquish his shares. *See id.* ¶¶ 42-44. When Mr. Okada

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refused, WRL engaged former FBI Director Louis Freeh to investigate Mr. Okada. *See* Ex. L (Sept. 20, 2012 Affidavit of Robert J. Miller) ¶ 14 (stating that the Compliance Committee of WRL's Board decided to retain Mr. Freeh on October 29, 2011).

On Saturday, February 18, 2012, WRL's Board (except Mr. Okada) met in Las Vegas to receive Mr. Freeh's report about Mr. Okada. *See* Ex. J (Feb. 21, 2012 WRL Form 8-K).[8] According to WRL's complaint in this case, "following Mr. Freeh's presentation" at the February 18, 2012 meeting "the Board voted to redeem and cancel all of Aruze USA's shares of Wynn Resorts stock. In exchange, as expressly permitted by the Articles, the Board unanimously (except for Mr. Okada) determined to issue to Aruze USA a promissory note with a face value of approximately $1.936 billion and paying interest at 2% per year as provided for in the Articles." *See* WRL Second Amended Complaint (April 22, 2013) ¶ 54.

D. WRL's Directors Discount the Value of Aruze's Stock by 30%, Reaping a Windfall for Themselves and other WRL Shareholders at Aruze's Expense

The Articles are clear, and the parties are in agreement, that the price WRL had to pay to Aruze was the "fair value" of its redeemed shares. The parties are also in agreement that fair value starts with the trading price of the stock. But WRL then went a step further and discounted the trading price by 30% to account for other factors that it contended reduced the fair value of Aruze's shares. In an Affidavit filed in this litigation, Robert J. Miller, the head of the Compliance Committee of the Board, explained the Board's simple (yet improper) methodology for determining the "Redemption Price" to be paid to Aruze "in exchange" for the redeemed shares:

> In determining the 'fair value' of the securities to be redeemed, the board first considered what would be the fair value of unrestricted shares of Wynn Resorts and determined that it would be the then current NASDAQ market price. The board then considered the transfer restrictions applicable to Aruze's shares under

[8] At the time, each member of WRL's Board of Directors (except Mr. Okada) held the number of shares indicated in the Company's Schedule 14A, filed with the Securities and Exchange Commission on March 7, 2012. *See* Ex. K (March 7, 2012 WRL Proxy Statement) at 8. The redemption did not change the number of shares held by any shareholder other than Aruze. According to an affidavit filed in this case by Stephen Wynn, "[a]s a result of the redemption, the shares held by those shareholders who were not redeemed increased their relative ownership percentage by approximately 25%." Ex. M (Sept. 20, 2012 Affidavit of Stephen A. Wynn) at 3 n.1.

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> the stockholders agreement among Aruze, Mr. Wynn, and Ms. Wynn, as well as the size of Aruze's block, and determined that it would be appropriate to apply a discount to the then current NASDAQ market price to account for these restrictions. In determining what discount to apply, the board was guided by the view of Moelis & Company that the transfer restrictions on Aruze's shares (restrictions that would travel with the shares to any potential buyer) were as restrictive as any other restrictions it had identified in respect of the shares of a U.S. public company. In addition, the board was guided by the advice of Moelis & Company that the size of Aruze's block would make it more difficult to sell. Based on this information, and following further discussion, the board determined to apply a 30% discount to the then current NASDAQ market price of Wynn Resorts shares in calculating the fair value of Aruze's shares.

Ex. L (Sept. 20, 2012 Affidavit of Robert J. Miller) ¶ 26.

The "then current NASDAQ market price" referred to by Mr. Miller was $112.69 per share as of the close of the market on the day before the redemption. *See* Ex. N (Yahoo Finance Stock Price Data). With 24.5 million shares, Aruze's holdings were worth more than $2.75 billion. But because of the Board's improper action, and in clear violation of the Articles, WRL provided Aruze with a promissory note with a stated face value of only $1.9 billion – a "discount" of more than $830 million.[9] The following day, Sunday February 19, WRL issued a press release announcing what it had done, including the terms of the promissory note. *See* Ex. J (Feb. 21, 2012 WRL Form 8-K attaching press release issued on Feb. 19, 2012).

When trading on the NASDAQ exchange resumed on Tuesday, February 21 (Monday was a holiday), WRL's common stock opened at $118.65 per share – an immediate increase of 5.3% over the $112.69 closing price from the prior trading day. *See* Ex. N (Yahoo Finance Stock Price Data). As a result, each of the eleven Board members who voted to impose the discount on Aruze's shares saw the value of their holdings increase by at least $100,000, with three making more than $1 million apiece and Stephen and Elaine Wynn each making more than $58 million. *See supra* at 5-6.

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[9] The promissory note also included other provisions, not authorized by the Articles, purporting to restrict its transferability, create set-off rights and other matters. It was made payable ten years later and completely subordinated "to the prior payment in full of all existing and future obligations" of WRL. *See* Ex. J (Feb. 21, 2012 WRL Form 8-K attaching promissory note). Aruze disputes the validity of those provisions, which further reduced the value of the compensation provided to Aruze, but they are not at issue in this motion. *See supra* n.2.

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III. LEGAL STANDARD

Nevada Rule of Civil Procedure 56 requires the Court to grant summary judgment on all or part of a claim "when the pleadings and other evidence on file demonstrate that no 'genuine issue as to any material fact [remains] and that the moving party is entitled to a judgment as a matter of law.'" *Wood v. Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005) (quoting Nev. R. Civ. P. 56(c)). When, as here, the moving party bears the burden of persuasion on a claim, it must "show the absence of a genuine issue of material fact" by "present[ing] evidence that would entitle it to a judgment as a matter of law in the absence of contrary evidence." *Cuzze v. Univ. and Comm. Coll. Sys. of Nevada*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986)). Once such a showing is made, the burden shifts to the non-moving party to show the existence of a genuine issue of material fact. *Id.*

The determination of whether there is a factual dispute that is both material and genuine depends on the substantive law. "A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party." *Wood*, 121 Nev. at 731, 121 P.3d at 1031. The nonmoving party must "do more than simply show that there is some metaphysical doubt as to the operative facts." *Id.* Instead, it must "set forth specific facts demonstrating the existence of a genuine issue for trial." *Id.* at 732, 121 P.3d at 1031. While the evidence must be "construed in a light most favorable to the nonmoving party," that party "is not entitled to build a case on the gossamer threads of whimsy, speculation, and conjecture." *Id.*

IV. ARGUMENT

A. The Parties Agree That WRL was Required to Pay the Trading Price for Aruze's Shares Under the "Fair Value" Requirement of the Articles

"Certificates of incorporation are regarded as contracts between the shareholders and the corporation, and are judicially interpreted as such." *Alta Berkeley VI C.V. v. Omneon, Inc.*, 41 A.3d 381, 385 (Del. 2012).[10] The Articles provided that, upon redeeming a shareholder's shares,

[10] Nevada courts look to Delaware law in matters of corporate law. *Cohen v. Mirage Resorts, Inc.*, 119 Nev. 1, 10 n.10, 62 P.3d 720, 726 n.10 (2003) ("Because the Legislature relied upon the Model Act and the Model Act relies heavily on New York and Delaware case law, we look to the Model Act and the law of those states in interpreting the

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it was required to pay the shareholder "fair value." The sole question presented by this motion is whether or not, as a matter of law, WRL provided Aruze "fair value" when it redeemed Aruze's shares.

The "fair value" of Aruze's stock at the time of the redemption was easy to determine – WRL's shares traded on the NASDAQ stock exchange, a large and liquid market. Thus, all that WRL needed to do was to apply the most recent NASDAQ trading price to Aruze's shares. Indeed, that is exactly how WRL started the process of valuing Aruze's shares. As explained by the Chair of the Compliance Committee of WRL's Board, Robert J. Miller, in his Affidavit:

> In determining the 'fair value' of the securities to be redeemed, the board first considered what would be the fair value of unrestricted shares of [WRL] and *determined that it would be the then current NASDAQ market price*.
>
> Ex. L (Sept. 20, 2012 Affidavit of Robert J. Miller) ¶ 26 (emphasis added).

Had the Board stopped there, and paid Aruze the "current NASDAQ market price," it would have provided fair value as required by the Articles.[11] But the Board did not stop there. Instead, as explained in Mr. Miller's affidavit, the Board unilaterally "determined to apply a 30% discount to the then current NASDAQ market price of [WRL] shares in calculating the fair value of Aruze's shares." *Id.* The 30% discount was applied to the entire block of Aruze's shares, resulting in an *$830 million reduction* in the redemption price.[12]

The justification for WRL's "discount" was very limited. According to Mr. Miller:

> The board then considered the transfer restrictions applicable to Aruze's shares under the stockholders agreement among Aruze, Mr. Wynn, and Ms. Wynn, as well as the size of Aruze's block, and determined that it would be appropriate to apply a discount to the then current NASDAQ market price to account for these restrictions.

Id.

Nevada statutes."). A "certificate of incorporation" in Delaware is the same as the "Articles of Incorporation" in Nevada. *Compare* Del. Code § 8-101(a) (certificate of incorporation) *with* NRS 78.030 (articles of incorporation).

[11] As noted above, the true "fair value" of WRL as a going concern likely exceeded the trading price of its stock because of undisclosed information, such as developments relating WRL's business prospects in Macau. *See supra* n.2. For purposes of this motion only, however, Aruze accepts the trading price as equivalent to fair value.

[12] The value of Aruze's shares based on the trading price was more than $2.75 billion. The "Redemption Price" that WRL provided Aruze (in the form of a value-reducing promissory note) was approximately $1.9 billion, or almost exactly 30% less than the trading price value.

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Whether or not WRL provided fair value for Aruze's shares depends entirely on the validity of the "discount" described by Mr. Miller in his Affidavit. It is undisputed that the Board based the discount on either of the two grounds referred to by Mr. Miller: (i) the "transfer restrictions applicable to Aruze's shares under the Stockholders Agreement among Aruze, Mr. Wynn, and Ms. Wynn" and (ii) the "size of Aruze's block." As explained below, however, neither of these grounds has any basis in law or logic. Therefore, WRL breached its contractual obligation under the Articles to provide Aruze with "fair value" for the shares it redeemed.

B. The Transfer Restrictions in the Stockholders Agreement Did Not Justify a Discount

The first basis for the discount proffered by Mr. Miller was the "transfer restrictions" contained in the Stockholders Agreement between Aruze, Stephen Wynn and Elaine Wynn. More specifically, the Stockholders Agreement required that any of those parties obtain consent from the other two parties before transferring WRL shares in certain situations (the "consent requirement"). However, this consent requirement did not apply in all situations. As explained below, the consent requirement did not have any impact on the value of Aruze's shares in the factual situation presented here – a forced sale of Aruze's shares back to WRL itself. Therefore, it was inappropriate for the Board to rely on the consent requirement in the Stockholders Agreement to justify a discount to the "fair value" of Aruze's shares under the Articles.

The consent requirement in the Stockholders Agreement is inapplicable to determining the "fair value" of Aruze's shares for several reasons. *First*, the consent requirement only applied to sales to outsiders. *Second*, Aruze had already obtained consent from Stephen Wynn and Elaine Wynn to transfer a substantial amount of its shares – a fact completely ignored by WRL when imposing the discount. *Third*, the consent requirement was satisfied when Stephen Wynn and Elaine Wynn voted to redeem Aruze's stock. *Fourth*, even if the Stockholders Agreement did apply to this type of sale, it still would not affect the "fair value" of Aruze's shares under the Articles. An overwhelming majority of courts and the Nevada legislature have rejected discounts in the context of statutes requiring companies to pay "fair value" to minority shareholders because they fail to compensate shareholders for what has been taken from them – their proportionate

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interest in the value of the entity as a going concern. There is no reason to believe that drafters of the Articles intended to depart from the settled meaning of the term "fair value" when utilizing that term.

1. *The Consent Requirement Only Applied to Sales to Outsiders*

The fundamental purpose of the Stockholders Agreement was to maintain control of WRL among its three largest shareholders. Thus, the agreement exempted transfers between those three parties from its consent requirement and provided for such transfers at market price without a discount.

The consent requirement is contained in Section 2(b) of the Stockholders Agreement, which was amended by the December 15, 2010 Waiver and Consent to read as follows:

> Other than as expressly set forth in Section 11 and the last sentence of this Section 2(b), none of [Elaine Wynn, Stephen Wynn] or Aruze . . . shall Transfer, or permit any of their respective Affiliates to Transfer, any Shares Beneficially Owned by such Person *other than to a Permitted Transferee* without the prior written consent of each of the others.

Ex. I (Dec. 15, 2010 WRL Form 8-K attaching Waiver and Consent) ¶ 3 (emphasis added). The emphasized phrase makes clear that transfers between the parties (each of whom was a "Permitted Transferee") were not subject to any consent requirement.[13]

In other words, the company's three leading shareholders, who together controlled approximately 35% of the shares, agreed not to sell out *to an outsider* without the consent of the others. This made sense as a way to maintain the existing control structure of the company. As Elaine Wynn has stated in this litigation, the purpose of the consent requirement was to "maintain the controlling position of Stephen A. Wynn and Mr. Okada." Amended Counterclaim and Crossclaim of Elaine P. Wynn (Dec. 16, 2013) ¶ 2. No one wanted an outside rival to be able to buy up large blocks of shares, as had happened to Mr. Wynn at his prior company a decade before.

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[13] The term "Permitted Transferees" was defined in the Stockholders Agreement to include Mr. Okada and the "Stockholders," which in turn was defined to include Stephen Wynn, Elaine Wynn and Aruze. *See* Ex. E (Jan. 6, 2010 WRL Form 8-K attaching the Stockholders Agreement) §§ 1(o), 1(t). Thus, as of December 2010, any of the parties to the Stockholders Agreement was free to transfer shares to any other party without restriction.

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The redemption, by contrast, necessarily involved a sale *to the company* itself, and thus did not implicate the loss-of-control concerns that drove the Stockholders Agreement. There was no risk of Stephen Wynn and Elaine Wynn losing control of the company through the redemption transaction and there would have been no reason for either Stephen Wynn or Elaine Wynn to contest a sale of Aruze's shares to WRL itself. The consent requirement is entirely inconsistent with the redemption transaction and was a mere pretext for the WRL Board to reduce the amount paid to Mr. Okada.

Moreover, the Stockholders Agreement (Ex. E) contained several provisions regarding transfers of shares between the parties to that agreement. *All of them called for the sales price to be equal to the trading price without any discount based on the consent requirement* (or anything else). Section 7, for example, provided that if one of the three parties entered bankruptcy proceedings, the other two parties had the option to purchase the bankrupt party's shares at "fair market value," which was defined in Section 1(f) as the trading price. Section 8 provided that if one of the three parties to the agreement sought to sell ownership in the party itself, the other parties had the option to purchase the selling party's shares, also at "fair market value." Section 11 provided that Elaine Wynn could sell a certain number of shares each year, but only after giving Stephen Wynn the first option to purchase those shares at the trading price. Again, there was no reference to the possibility of a discount based on the consent requirement. [14]

In sum, the very agreement that WRL relied on to impose the discount on Aruze's shares actually provided for transfers between the parties without any discount. The redemption transaction, in which Aruze was forced to sell its shares to the company itself, should not be treated any differently than a sale from Aruze to Stephen Wynn or Elaine Wynn would have been treated.

2. *Aruze Had Already Obtained Consent to Transfer Certain of its Shares*

[14] The significance of the cited "fair market value" provisions of the Stockholders Agreement is that they confirm that the parties to that agreement intended for stock transfers among insiders to be valued at the trading price and not reduced based on the consent requirement. Thus, they show that WRL's reliance on the consent requirement as a justification for the discount it imposed was improper. However, "fair market value" under the Stockholders Agreement has no bearing on the Redemption Price itself, which is based only on "fair value" under the Articles.

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WRL imposed the discount as to the entire block of Aruze's shares. In so doing, it ignored the indisputable fact that Aruze had already obtained consent from Stephen Wynn and Elaine Wynn to transfer nearly 4.5 million of its shares, representing more than 18% of Aruze's holdings. *See* Ex. I (Dec. 15, 2010 WRL Form 8-K attaching Waiver and Consent) ¶¶ C, 4; *supra* at 8. *There is no possible argument that these freely tradable shares should have been subjected to a discount based on the consent requirement.*

WRL's imposition of the discount against these 4.5 million shares that were no longer subject to the consent requirement reduced the amount that it provided to Aruze by more than $150 million. This cannot be squared with its obligation to pay "fair value" for what it took from Aruze.

3. *The Consent Requirement was Satisfied Because Stephen Wynn and Elaine Wynn Voted for the Redemption*

Even if the consent requirement applied to a sale to the company itself, the two people whose consent was required – Stephen Wynn and Elaine Wynn –actually did consent to a transfer of all of Aruze's shares to WRL by voting in favor of the redemption. Thus, the consent requirement, if applicable, was satisfied. The Wynns cannot have their cake and eat it too by first forcing Aruze to sell its shares, and then reducing the price on the ground that they could have blocked the sale.

4. *Courts Overwhelmingly Reject Marketability Discounts when Determining Fair Value*

Finally, an overwhelming majority of courts have concluded that the "fair value" of stock should not be discounted because of limitations on the holder's ability to sell. The Court should interpret the term as used in the Articles in a manner consistent with this clear national consensus. *Hearst Commc'ns, Inc. v. Seattle Times Co.*, 115 P.3d 262, 267 (Wash. 2005) ("We generally give words in a contract their ordinary, usual, and popular meaning unless the entirety of the agreement clearly demonstrates a contrary intent."); *Henderson v. State Farm Fire & Cas. Co.*, 596 N.W.2d 190, 195 n.9 ("[I]f a legal phrase of art such as 'equitable remedies' is found in a

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contract, the phrase would be interpreted in accord with common law understandings and case law explanations that those familiar with such terms of art are held to understand.").[15]

These issues usually arise in the context of "dissenters' rights" cases, in which a minority shareholder who dissents from a fundamental corporate change (such as a merger) can require the corporation to buy back her shares. *See Pueblo Bancorporation v. Lindoe, Inc.*, 63 P.3d 353, 358 (Colo. 2003). Most states, including Nevada, follow the Revised Model Business Corporation Act, which provides that the dissenter is entitled to be paid "fair value" for her shares. *See* NRS 92A.380 (providing that, with certain exceptions, "any stockholder is entitled to dissent from, and obtain payment of the fair value of the stockholder's shares in the event of any of the following corporate actions").

The purpose of the fair value requirement is to "ensure[] minority shareholders are compensated for what they have lost, that is, their proportionate ownership interest in a going concern." *Pueblo Bancorporation*, 63 P.3d at 364; *Cavalier Oil Corp. v. Harnett*, 564 A.2d 1137, 1144 (Del. 1989) (determining a "fair price" for dissenter required the court to "value what has been taken from the shareholder: viz. his proportionate interest in a going concern") (quotation omitted).

Non-publicly traded corporations defending against dissenters have often argued that the price paid to the dissenter should be reduced to account for the fact that the shares "lack a ready and available market." *First Western Bank v. Olsen*, 621 N.W.2d 611, 619 (S.D. 2001). Such reductions are referred to as "marketability discounts." But, courts consistently reject marketability discounts when assessing fair value. That is "the clear majority view. It has been adopted by most courts that have considered the issue, the authors of the Model Business Corporation Act, and the American Law Institute." *Pueblo Bancorporation*, 63 P.3d at 364.[16]

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[15] When the Articles were adopted in 2002, applicable Nevada gaming regulations provided that if the regulatory authorities determined that an individual stockholder was unsuitable (which did not happen here), the company should attempt to repurchase the stockholder's shares "for cash at *fair market value*." Nev. Gaming Comm'n Reg. 16.440(2)(d) (emphasis added). That the drafters of the Articles chose to use the term "fair value" instead is further confirmation that marketability issues were to play no role in determining the redemption price. *See Am. Ethanol, Inc. v. Cordillera Fund, L.P.*, 127 Nev. Adv. Op. 13, 252 P.3d 663, 665 n.3 (2011) ("'Fair market value' and 'fair value' are two separate concepts.").

[16] *See also Pueblo Bancorporation*, 63 P.3d at 366-67 (citing 15 states that expressly followed *Cavalier* in holding

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The Nevada legislature has joined in the rejection of marketability discounts, providing in its dissenters' rights statute that "[f]air value, with respect to a dissenter's shares, means the value of the shares determined . . . *[w]ithout discounting for lack of marketability* or minority status." NRS 92A.320 (emphasis added).

Marketability discounts have been so widely rejected because they are "inherently unfair to the minority shareholder who did not pick the timing of the transaction and is not in the position of a willing seller. Moreover, some courts have reasoned that valuing the shares at less than their proportionate share of the corporation's fair value produces a transfer of wealth from the minority shareholder to the shareholders in control." *Hogle v. Zinetics Med., Inc.*, 63 P.3d 80, 90 (Utah 2002) (citing *Hansen v. 75 Ranch Co.*, 957 P.2d 32, 41 (Mont. 1998)).

A marketability discount is "inappropriate when the shareholder is selling her shares to a majority shareholder or to the corporation. The sale differs from a sale to a third party and, thus, different interests must be recognized." *Arnaud v. Stockgrowers State Bank*, 992 P.2d 216, 220 (Kan. 1999) (quoting *Hansen*, 957 P.2d at 41); *see also Pueblo Bancorporation*, 63 P.3d at 364 ("[T]he dissenting shareholder is not in the same position as a willing seller on the open market – he is an unwilling seller with little or no bargaining power."). A marketability discount is "especially inapplicable in a dissenters' rights context, as a ready market does exist for the dissenters' shares, namely the majority shareholder or the corporation itself. To apply a non-marketability discount to the dissenters' shares would unfairly enrich the majority shareholders who may attempt to reap a windfall from the appraisal process." *First Western Bank*, 621

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that "a marketability discount should not be applied in determining fair value," five states that had by that time adopted the Model Business Corporation Act revisions expressly rejecting marketability discounts, and four others that had "expressed the view that the proper interpretation of 'fair value' is the shareholder's proportionate interest of the corporation as a going concern, not the specific stock valued as a commodity, compared with only six states that allowed marketability discounts"); *see also Hogle v. Zinetics Med., Inc.*, 63 P.3d 80, 90 (Utah 2002); *First Western Bank v. Olsen*, 621 N.W.2d 611, 619 (S.D. 2001); *Arnaud v. Stockgrowers State Bank*, 992 P.2d 216, 220 (Kan. 1999); *Hansen v. 75 Ranch Co.*, 957 P.2d 32, 41 (Mont. 1998); *In re Valuation of Common Stock of McLoon Oil Co.*, 565 A.2d 997, 1005 (Me. 1989); *Cavalier Oil Corp. v. Harnett*, 564 A.2d 1137, 1144 (Del. 1989); 18A Am. Jur. 2d Corporations § 706 ("The basic concept of fair value under a dissenters' rights statute is that the stockholder is entitled to be paid for his or her proportionate interest in a going concern; the focus of the valuation is not the stock as a commodity, but rather the stock only as it represents a proportionate part of the enterprise as a whole.").

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N.W.2d at 619 (citing *Cavalier Oil*, 564 A.2d at 1145). That, of course, is exactly what happened in this case.

In sum, the national consensus, shared by Nevada, is that:

> The proper interpretation of fair value is the shareholder's proportionate ownership interest in the value of the corporation, without discounting for lack of marketability. This view is consistent with the underlying purpose of the dissenters' rights statute and the strong national trend against applying discounts. . . . *An interpretation of 'fair value' that gives minority shareholders less than their proportionate share of the whole firm's fair value would produce a transfer of wealth from the minority shareholders to the shareholders in control. Such a rule would inevitably encourage corporate squeeze-outs.*

Pueblo Bancorporation, 63 P.3d at 364 (citing *In re Valuation of Common Stock of McLoon Oil Co.*, 565 A.2d 997, 1005 (Me. 1989)) (emphasis added).

All of the foregoing concerns expressed by courts considering marketability discounts in the dissenters' rights context apply here as well. Aruze was not a willing seller hoping to find a buyer in the market; it was an unwilling seller with a guaranteed buyer in the form of the company itself. WRL's imposition of the discount deprived Aruze of its proportionate share of the company's value and shifted that value to the remaining shareholders, including each member of the Board. It was, in other words, a stock grab, pure and simple, that materially increased the personal wealth of each of the Directors who made it happen at the expense of a stockholder to whom those Directors owed duties of care and loyalty. This improper and unethical conduct cannot be countenanced.

C. The "Size of Aruze's Block" Did Not Justify a Discount

The second proffered basis for WRL's 30% discount was the "size of Aruze's block." Ex. L (Sept. 20, 2012 Affidavit of Robert J. Miller) ¶ 26. Mr. Miller elaborated that "the board was guided by the advice of [an advisor] that the size of Aruze's block would make it more difficult to sell." *Id.* This presumably meant that the Board believed that Aruze owned so many shares that it would be impractical and/or dilutive to sell them all at once.

The "size of the block" rationale appears to have been an afterthought – and an unconvincing one at that. WRL's public statements have focused on the consent requirement as

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the basis for the discount without reference to the "size of the block" argument. *See* Ex. J (Feb. 21, 2012 WRL Form 8-K) (press release regarding the redemption stated that WRL "concluded that a discount to the current trading price was appropriate because of restrictions on most of the shares which are subject to the terms of an existing stockholder agreement").

In any event, the imposition of the "size of the block" discount makes no sense in the redemption context because there was no issue of finding a buyer or buyers willing to acquire Aruze's large block of shares – the corporation itself provided a guaranteed willing buyer. *Wenzel v. Hopper & Galliher, P.C.*, 779 N.E.2d 30, 39 (Ind. Ct. App. 2002) ("[D]iscounting the value of Wenzel's shares for lack of a market ignores the fact that [a statute requiring the corporation to buy back shares at fair value] creates a ready-made market."). As with the marketability discount, WRL relied on the supposition that Aruze might have had difficulty selling its shares on the open market, but that was not the nature of this transaction. This is simply another variation of the marketability discount discussed above, and should be rejected for the same reasons.[17]

But even in the imaginary world in which these shares would be sold to a third party, WRL's "size of the block" discount theory was still unwarranted. Any prudent seller would have taken steps to protect the value of its asset in a sale process, such as selling the shares over time, placing them into a trust, or engaging in some other creative mechanism to dispose of the shares without jeopardizing their value. WRL's imposition of an $830 million discount simply does not reflect reality, even in the hypothetical context where Aruze wanted to sell all of its shares.

The "size of the block" was not relevant to valuing Aruze's shares. By imposing a discount to account for something that should not have been accounted for, WRL breached its obligation to pay Aruze "fair value" for the redeemed shares.

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[17] Corporations in dissenters' rights cases have at times sought to impose "minority discounts," which reduce the selling price to "account for the lack of control that a minority shareholder holds in the corporation." *First Western Bank*, 621 N.W.2d at 619. Courts have rejected minority discounts just as they have marketability discounts. *See, e.g.*, *Arnaud*, 992 P.2d at 220 ("We hold that minority and marketability discounts are not appropriate when the purchaser of the stock is either the majority shareholder or the corporation itself."). In any event, a minority discount would make no sense in the context of a publicly traded corporation because non-controlling blocks are traded every day, and thus their value is reflected in the trading price.

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D. Aruze is Entitled to Declaratory Relief and to Compensatory Damages

Under the Uniform Declaratory Judgments Act, "[a]ny person interested under . . . writings constituting a contract . . . may have determined any question of construction or validity arising under the . . . contract . . . and obtain a declaration of rights, status or other legal relations thereunder." NRS 30.040(1). This is the case "whether or not further relief is or could be claimed," and both "before or after there has been a breach" of the contract. NRS 30.030; NRS 30.050. The Legislature has directed that the declaratory judgment statute is "to be liberally construed and administered" in order to "settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations." NRS 30.140.

The Nevada Supreme Court has instructed courts considering requests for declaratory relief to "consider whether speedy resolution of the issue might promote economy in the litigation process or might lead to meaningful pretrial settlement." *County of Clark, ex rel. Univ. Med. Ctr. v. Upchurch*, 114 Nev. 749, 752, 961 P.2d 754, 756 (1998). This is just such a situation. Resolving the validity of the discount now will promote judicial economy because it will avoid needless disputes about an issue where the material facts are not in dispute. It will also provide the parties with a more realistic view of the range of likely outcomes in this case, possibly paving the way for meaningful settlement negotiations.

The Court should also enter an award requiring WRL to pay Aruze damages in an amount equal to the 30% discount it wrongfully imposed. "The object of compensatory damages in an action for breach of contract is merely to place the injured party in the position that he would have been in had the contract not been breached." *Dalton Properties, Inc. v. Jones*, 100 Nev. 422, 424, 683 P.2d 30, 31 (1984). For purposes of this motion, which focuses only on the breach of contract caused by WRL's improper imposition of the discount, the Court can restore Aruze to the position it would have been in but for the breach by ordering WRL to pay in damages the amount of the discount.

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V. CONCLUSION

For the foregoing reasons, WRL's imposition of a 30% discount was without justification and resulted in it breaching its contractual obligation to pay Aruze "fair value" for the redeemed shares. Aruze respectfully requests that the Court grant its motion for partial summary judgment and grant it the relief requested herein, as well as any further relief appropriate in the circumstances.

DATED this 16th day of September, 2014.

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Attorneys for Defendant Kazuo Okada and Defendants/Counterclaimants Aruze USA, Inc. and Universal Entertainment Corp.

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of September, 2014, a true and correct copy of the foregoing **ARUZE USA, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT** was served by the following method(s):

☑ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Please see the attached E-Service Master List

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DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada corporation, Plaintiff, v. KAZUO OKADA, an individual, ARUZE USA, INC., a Nevada corporation, and UNIVERSAL ENTERTAINMENT CORP., a Japanese corporation, Defendants.	CASE NO.: A-12-656710-B DEPT NO.: XI **APPENDIX OF EXHIBITS REFERENCED IN ARUZE USA, INC'S MOTION FOR PARTIAL SUMMARY JUDGMENT** Electronic Filing Case Hearing Date: n/a Hearing Time: n/a
AND ALL RELATED CLAIMS.	

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DATED this 16th day of September, 2014.

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I hereby certify that on the 10th day of September, 2014, a true and correct copy of the foregoing **APPENDIX OF EXHIBITS REFERENCED IN ARUZE USA, INC'S MOTION FOR PARTIAL SUMMARY JUDGMENT** was served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

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EXHIBIT A

EXHIBIT A

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DISTRICT COURT

CLARK COUNTY, NEVADA

WYNN RESORTS, LIMITED, a Nevada corporation, Plaintiff, v. 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 **DECLARATION OF ROBERT J. CASSITY IN SUPPORT OF ARUZE USA, INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT** Electronic Filing Case Hearing Date: n/a Hearing Time: n/a

I, Robert J. Cassity, Esq., pursuant to NRS 53.045, declare as follows:

1. I have personal knowledge of the matters set forth in this declaration and would be competent to testify to the same in court if called upon to do so.

2. I am an attorney at the law firm of Holland & Hart LLP ("H&H"), counsel for Defendant Kazuo Okada and Defendant/Counterclaimant Aruze USA, Inc. and Universal Entertainment Corp. in the above-referenced matter.

3. I make this Declaration in support of Aruze USA, Inc.'s Motion for Partial Summary Judgment (the "Motion") against Wynn Resorts, Limited ("WRL").

4. A true and complete copy of a Lexis Nexis printout of an article featured in The Independent (London), entitled "The King is Dead," published March 9, 2000, is attached as Exhibit "B" to the Appendix to the Motion (filed concurrently with the Motion).

5. A true and correct copy of Exhibit 3.1 to WRL's Amendment No. 4 to Form S-1 Registration Statement Under the Securities Act of 1933, filed with the United States Securities and Exchange Commission ("SEC") on or about October 7, 2002, which consists of the Second Amended and Restated Articles of Incorporation of Wynn Resorts, Limited, is attached as Exhibit "C" to the Appendix to the Motion.

6. True and correct copies of excerpted pages from WRL's Schedule 14A Information Proxy Statement filed with the SEC on or about March 24, 2008, are attached as Exhibit "D" to the Appendix to the Motion.

7. A true and complete copy of WRL's Form 8-K filed with the SEC on or about January 6, 2010, which attaches as Exhibit 10.1 the Amended and Restated Stockholders Agreement dated January 6, 2010, is attached as Exhibit "E" to the Appendix to the Motion.

8. True and correct copies of excerpted pages from WRL's Form 10-K filed with the SEC on or about March 1, 2010, are attached as Exhibit "F" to the Appendix to the Motion.

9. True and correct copies of excerpted pages from WRL's Schedule 14A Proxy Statement filed with the SEC on or about April 1, 2010, are attached as Exhibit "G" to the Appendix to the Motion.

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10. A true and complete copy of WRL's Form 8-K filed with the SEC on or about January 6, 2010, which attaches as Exhibit 10.1 the Waiver and Consent, dated November 24, 2010, by and among Aruze USA, Inc., Stephen A. Wynn and Elaine P. Wynn, is attached as Exhibit "H" to the Appendix to the Motion.

11. A true and complete copy of WRL's Form 8-K filed with the SEC on or about December 15, 2010, which attaches as Exhibit 10.1 the Waiver and Consent, dated December 15, 2010, by and among Aruze USA, Inc., Stephen A. Wynn and Elaine P. Wynn, is attached as Exhibit "I" to the Appendix to the Motion.

12. A true and complete copy of WRL's Form 8-K filed with the SEC on or about February 18, 2012, which attaches as Exhibit 10.1 the Redemption Price Promissory Note, dated February 18, 2012, is attached as Exhibit "J" to the Appendix to the Motion.

13. A true and complete copy of WRL's Schedule 14A Proxy Statement filed with the SEC on or about March 7, 2012, is attached as Exhibit "K" to the Appendix to the Motion.

14. A true and correct copy of the Affidavit of Robert Miller in Support of Wynn Parties' Opposition to Motion for Preliminary Injunction, without exhibits, which was filed with the Court on September 20, 2012, is attached as Exhibit "L" to the Appendix to the Motion.

15. A true and correct copy of the Affidavit of Stephen A. Wynn in Support of Opposition to Motion for Preliminary Injunction, without exhibits, which was filed with the Court on September 20, 2012, is attached as Exhibit "M" to the Appendix to the Motion.

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16. A true and correct copy of a Yahoo! Finance webpage reflecting the historical stock prices regarding WRL's stock bearing ticker "WYNN" is attached as Exhibit "N" to the Motion (also available at http://finance.yahoo.com/q/hp?s=WYNN&a=01&b=13&c=2002&d=01&e=24&f=2012&g=d, last visited September 15, 2014), is attached as Exhibit "N" to the Appendix to the Motion.

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

EXECUTED this 16th day of September, 2014.

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EXHIBIT B

EXHIBIT B

25 of 67 DOCUMENTS

The Independent (London)

March 9, 2000, Thursday

SECTION: FEATURES; Pg. 1

LENGTH: 1653 words

HEADLINE: THE KING IS DEAD

BYLINE: Andew Gumbel

BODY:

Steve Wynn ruled Las Vegas. Politicians, superstars and Mobsters all paid court to his high-rolling genius. Hell, he was Vegas, with the biggest, brashest, most opulent hotels and casinos in town. But now, with one huge throw of the dice, he's gone. And nobody would have bet on that...

Even by the hyperbolic standards of Las Vegas, Steve Wynn is quite something. A visionary, they call him. A genius. A god. This is a man who, virtually single-handed, rebuilt America's gambling mecca from the ruins of its Mobster -tainted past and made it look respectable for the new millennium. A man who proved that Vegas - a town once notorious for loose morals, fast living and financial transactions murky enough to blot out the desert sun - was safe for children, for families, and even for respectable business corporations.

Most of all, Wynn is a man of imagination, unafraid to recreate the pirate ships of the high seas, or the splendours of the Italian Renaissance, and hang the cost. He sank a staggering $ 1.6bn into his luxury dreamboat of a hotel, the Bellagio (pictured above), and, to prove he wasn't going to be content with computer-coordinated dancing fountain displays, hand- blown glass ceiling ornaments and gourmet Italian cuisine, stuffed it full of Impressionist masterpieces from his private art collection.

A man like that can go far in so impressionable a town as Vegas, and indeed Wynn became known as the most powerful man in all of Nevada. Politicians jumped at his command, candidates prostrated themselves to seek his endorsement and his campaign contributions, city planners re-routed roads and sewers at his behest, water authorities allowed him to siphon off millions of precious gallons to feed his private golf course, and a whole coterie of public officials, showbiz superstars, prominent businessmen, university luminaries and assorted minions rushed to pay homage at every opportunity.

But something very odd has just happened to Steve Wynn's reign as the undisputed king of the Las Vegas casino world. It has just ended - abruptly, spectacularly, and utterly without warning. This week, after more than a decade of undisputed dominance, his Mirage Resorts empire was eaten up in one enormous corporate gulp by its rival MGM Grand Inc for a dizzying $ 6.4bn, the largest buy-out in the history of the gambling industry.

For sure there have been problems, notably some tough competition from the Bellagio's brand-new competitors on the Strip, the Paris and the Venetian, and a slow start to business at his Beau Rivage resort in Biloxi, Mississippi. Mirage Resorts' share price has fallen from a high of almost $ 27 last May to less than $ 11 at the end of February. But there was nothing to suggest Wynn would give up so easily after a 30-year career of one-man empire-building, and a driving ambition to match that of his perennial rival, the New York construction magnate Donald Trump.

"This capitulation by a man considered egomaniacal is of record proportion," said Robert Chapman, who runs a Los Angeles-based hedge fund specialising in mergers. "Nobody in the arbitrage community expected him to roll over this fast."

Like a mirage in the desert, then, he is gone. Not that Wynn will go away empty-handed: his personal compensation for the deal runs to $ 483m, enough to start up a whole new gambling empire if he really wanted one, and certainly more than ample for him to pursue his passions for golf and art and indulge his little fantasy of one day owning a basketball team.

But Wynn, a youthful 58, has seemingly given up being a player. With the merger, his political power has vanished in a puff of smoke and his ability to keep innovating with bigger and glitzier resort hotels has been cut from under him. What could possibly motivate such an abdication? "I think the guy's basically had enough," Chapman suggested. Enough of what?

That's not a question Wynn himself seems ready to answer. After a lifetime of bragging about his achievements and inviting questions on any topic, no matter how uncomfortable, the casino king has gone strangely quiet. "The man who never shut up has shut up," commented John L Smith, author of a tough biography about Wynn and a columnist for the Las Vegas Review- Journal, the town's leading daily.

It's worth remembering that in a town as slippery as Vegas, nothing is ever quite as it seems and everything is forever subject to sudden change. For all the adulation he has attracted, Wynn has always been a deeply ambivalent figure in keeping with the shifting sands of his chosen environment. On the one hand, here was a man with an Ivy League education, effortlessly elegant taste in clothes and a publically displayed taste for art, in stark contrast to the loud-suited Mob types and the neon vulgarities of the Strip; on the other hand, Wynn was also the hustling son of a small- time bingo operator who had grown up in the old Vegas and brushed up, throughout his career, against accusations of ties to the Mafia and of personal responsibility for everything from money-laundering to drug-dealing.

Wynn likes to say the Mob has been a "non-event" in his own life-story, but this is also the town of Bugsy Siegel, Meyer Lansky and a clutch of other famous pioneer gangsters and it would be disingenuous to think he had managed to shrug off their legacy quite as easily as he has made out, time and again, to federal investigators and licensing boards considering the allegations against him. "Wherever he has been, the Mob has been close by," Smith writes in his biography, Running Scared.

His first investment, made through his late father's gambling contacts in 1967, was in the Frontier hotel, an operation so dodgy it resulted in the conviction of three Cosa Nostra figures from Detroit on federal racketeering charges. His next, involving a highly advantageous land-swap deal with Howard Hughes, was the Golden Nugget casino, in which other investors were known associates of Jimmy Hoffa's Mafia -ridden Teamsters Union, which had previously invested heavily in Vegas.

Among Wynn's social contacts at the time were Niggy Devine, a courier for Meyer Lansky, and Maurice Friedman, a business associate of the Detroit Mob leaders. It was in their company that he joined a 1967 private yacht cruise notable for the accidental death of a young woman passenger who somehow fell over the back of the boat, stark naked, and was chewed to a pulp by the propeller blades.

As his business ventures prospered, Wynn sought new financing from Michael Milken, the junk-bond king later convicted for his role in the grand orgy of corruption on Wall Street in the late 1980s, and branched out to Atlantic City.

There, however, he nearly lost his gaming licence after a Mafioso called Tony Castelbuono was caught recycling the profits of heroin trafficking at the gambling tables. It did not help that Wynn later sought Castelbuono's investment advice and went skiing with him.

In 1983, Wynn was prevented from expanding his operations to London after a Scotland Yard report alleged that he had links to the Genovese Cosa Nostra family. "The man has made an untold fortune in an industry which historically has been proved to be replete with organised crime," the British lead investigator, Frank Pulley, commented. "It was invented by the Mob, it was modernised by the Mob, the Mob have put money into it, and they've taken vast amounts of money out of it."

These are not the stories Las Vegas usually hears about Steve Wynn. In a town that has legitimised much that is illegal elsewhere, and has striven to sell itself as something more wholesome than it is, a man like Wynn is, if anything, admired for his ability to keep his investments just beyond the spotlight of federal investigators - there has never been any major official judgment against him. More often, he is remembered for the opulent luxury of his resorts - the Mirage, Treasure Island and the Bellagio - and the flamboyance of his personality.

Not all of the latter is entirely positive either, what with his reputation for vanity (he has had at least one face-lift and takes great pride in his tanned, highly coiffed appearance), his notorious penchant for his own female blackjack dealers, and a celebrated temper that has seen him hurling large ashtrays at employees who provoke his displeasure. But in Vegas they are seen as signs of a certain macho charm. In what other city would a business entrepreneur accidentally shoot off his left index finger, as Wynn did in 1991, with a handgun given to him by a former Chicago Mob hitman?

The emblematic Wynn moment that will go down in Vegas history came in 1993, when he symbolically blew up the Dunes Hotel, once the Mafia's favourite hang -out, to make way for the corporate-financed, impeccably upscale Bellagio. That was supposed to be the moment the old Las Vegas finally crumbled and the new, cleaner Vegas took over.

In reality, the transition was never going to happen quite that fast. With his volcanic personality and his colourful history, Wynn has always been too stealthy and too sly to be fully convincing as the face of the future. He certainly introduced Vegas to the world of mainstream corporate financing, and now the MGM buy-out is likely to solidify the ties with Wall Street.

Wynn himself, though, seems destined to keep running. Maybe he will buy the crumbling Desert Inn on the north end of the Strip, as some are speculating, or maybe he will bolt out of town and find a new beginning elsewhere. The high -life might be over for him, but with half a billion dollars in the bank, his options are wide open. As John Smith remarked: "If we could all have an end like that..." If nothing else, Wynn played the odds and pulled out while he was ahead; in a gambling town like Vegas, that is reason enough to shower him with admiration.

LOAD-DATE: March 9, 2000

EXHIBIT C

EXHIBIT C

Exhibit 3.1

SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION

OF

WYNN RESORTS, LIMITED

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

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

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

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

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

ARTICLE I
NAME

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

ARTICLE II
CAPITAL STOCK

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

Section 2. *Common Stock.*

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

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

(c) *Liquidation Rights.* In the event of liquidation, dissolution, or winding up of the affairs of the Corporation, whether voluntary or involuntary, subject to the prior rights of holders of Preferred Stock to share ratably in the Corporation's assets, the Common Stock and any shares of

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

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

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

Section 3. *Preferred Stock.*

(a) *Designation.* The board of directors is hereby vested with the authority from time to time to provide by resolution for the issuance of shares of Preferred Stock in one or more series not exceeding the aggregate number of shares of Preferred Stock authorized by these Articles, and to prescribe with respect to each such series the voting powers, if any, designations, preferences, and relative, participating, optional, or other special rights, and the qualifications, limitations, or restrictions relating thereto, including, without limiting the generality of the foregoing: the voting rights relating to the shares of Preferred Stock of any series (which voting rights, if any, may be full or limited, may vary over time, and may be applicable generally or only upon any stated fact or event); the rate of dividends (which may be cumulative or noncumulative), the condition or time for payment of dividends and the preference or relation of such dividends to dividends payable on any other class or series of capital stock; the rights of holders of Preferred Stock of any series in the event of liquidation, dissolution, or winding up of the affairs of the Corporation; the rights, if any, of holders of Preferred Stock of any series to convert or exchange such shares of Preferred Stock of such series for shares of any other class or series of capital stock or for any other securities, property, or assets of the Corporation or any subsidiary (including the determination of the price or prices or the rate or rates applicable to such rights to convert or exchange and the adjustment thereof, the time or times during which the right to convert or exchange shall be applicable, and the time or times during which a particular price or rate shall be applicable); whether the shares of any series of Preferred Stock shall be subject to redemption by the Corporation (in addition to any right of redemption pursuant to Article VII of these Articles) and if subject to redemption, the times, prices, rates, adjustments and other terms and conditions of such redemption. The powers, designations, preferences, limitations, restrictions and relative rights may be made dependent upon any fact or event which may be ascertained outside the Articles or the resolution if the manner in which the fact or event may operate on such series is stated in the Articles or resolution. As used in this section "fact or event" includes, without limitation, the existence of a fact or occurrence of an event, including, without limitation, a determination or action by a person, government, governmental agency or political subdivision of a government. The board of directors is further authorized to increase or decrease (but not below the number of such shares of such series then outstanding) the number of shares of any series subsequent to the issuance of shares of that series. Unless the board of directors provides to the contrary in the resolution which fixes the characteristics of a series of Preferred Stock, neither the consent by series, or otherwise, of the holders of any outstanding Preferred Stock nor the consent of the holders of any outstanding Common Stock shall be required for the issuance of any new series of Preferred Stock regardless of whether the rights and preferences of the new series of Preferred Stock are senior or superior, in any way, to the outstanding series of Preferred Stock or the Common Stock.

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

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

ARTICLE III
ACTION OF STOCKHOLDERS

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

ARTICLE IV
DIRECTORS AND OFFICERS

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

Section 2. *Classified Board.* Upon the effectiveness of the Corporation's registration statement on Form S-1 with respect to its initial public offering of common stock, the directors shall be classified, with respect to the time for which they shall hold their respective offices, by dividing them into three classes, to be known as "Class I," "Class II" and "Class III." Directors of Class I shall hold office until the next annual meeting of stockholders after such effectiveness and until their successors are elected and qualified, directors of Class II shall hold office until the second annual meeting of stockholders after such effectiveness and until their successors are elected and qualified and directors of Class III shall hold office until the third annual meeting of stockholders after such effectiveness and until their successors are elected and qualified. At each annual meeting of stockholders following such effectiveness, successors to the directors of the class whose term of office expires at such annual meeting shall be elected to hold office until the third succeeding annual meeting of stockholders, so that the term of office of only one class of directors shall expire at each annual meeting. The number of directors in each class, which shall be

such that as near as possible to one-third and at least one-fourth (or such other fraction as required by the NRS) in number are elected at each annual meeting, shall be established from time to time by resolution of the board of directors and shall be increased or decreased by resolution of the board of directors, as may be appropriate whenever the total number of directors is increased or decreased.

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

Section 4. *Payment of Expenses.* In addition to any other rights of indemnification permitted by the laws of the State of Nevada or as may be provided for by the Corporation in its bylaws or by agreement, the expenses of officers and directors incurred in defending any threatened, pending, or completed action, suit or proceeding (including without limitation, an action, suit or proceeding by or in the right of the Corporation), whether civil, criminal, administrative or investigative, involving alleged acts or omissions of such officer or director in his or her capacity as an officer or director of the Corporation or member, manager, or managing member of a predecessor limited liability company or affiliate of such limited liability company or while serving in any capacity at the request of the Corporation as a director, officer, employee, agent, member, manager, managing member, partner, or fiduciary of, or in any other capacity for, another corporation or any partnership, joint venture, trust, or other enterprise, shall be paid by the Corporation or through insurance purchased and maintained by the Corporation or through other financial arrangements made by the Corporation, as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the officer or director to repay the amount if it is ultimately determined by a court of competent jurisdiction that he or she is not entitled to be indemnified by the Corporation. To the extent that an officer or director is successful on the merits in defense of any such action, suit or proceeding, or in the defense of any claim, issue or matter therein, the Corporation shall indemnify him or her against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense. Notwithstanding anything to the contrary contained herein or in the bylaws, no director or officer may be indemnified for expenses incurred in defending any threatened, pending, or completed action, suit or proceeding (including without limitation, an action, suit or proceeding by or in the right of the Corporation), whether civil, criminal, administrative or investigative, that such director or officer incurred in his or her capacity as a stockholder, including, but not limited to, in connection with such person being deemed an Unsuitable Person (as defined in Article VII hereof).

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

ARTICLE V
VOTING ON CERTAIN TRANSACTIONS

Section 1. *Amendment of Articles.* The Corporation reserves the right to amend, alter, change or repeal any provision contained in the Articles, in the manner now or hereafter prescribed by the NRS, and all rights conferred on stockholders herein are granted subject to this reservation; *provided, however*, that no amendment, alteration, change or repeal may be made to: (a) Article III, (b) Sections 1, 2, 3 and 4 of Article IV, or (c) this Article V without the affirmative vote of the holders of at least sixty-six and two-thirds percent (66 $^{2}/_{3}$%) of the issued and outstanding shares of stock of the Corporation entitled to vote in the election of directors excluding stock entitled to vote only upon the happening of a fact or event unless such fact or event shall have occurred, considered for the purposes of this section as one class.

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

ARTICLE VI
COMBINATIONS WITH INTERESTED STOCKHOLDERS

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

ARTICLE VII
COMPLIANCE WITH GAMING LAWS

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

(a) "Affiliate" shall mean a Person who, directly or indirectly, through one or more intermediaries, controls, is controlled by or is

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

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

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

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

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

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

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

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

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

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

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

(l) "Unsuitable Person" shall mean a Person who (i) is determined by a Gaming Authority to be unsuitable to Own or Control any Securities or unsuitable to be connected or affiliated with a Person engaged in Gaming Activities in a Gaming Jurisdiction, or (ii) causes the Corporation or any Affiliated Company to lose or to be threatened with the loss of any Gaming License, or (iii) in the sole discretion of the board of directors of the Corporation, is deemed likely to jeopardize the Corporation's or any Affiliated Company's application for, receipt of approval for, right to the use of, or entitlement to, any Gaming License.

Section 2. *Finding of Unsuitability.*

(a) The Securities Owned or Controlled by an Unsuitable Person or an Affiliate of an Unsuitable Person shall be subject to redemption by the Corporation, out of funds legally available therefor, by action of the board of directors, to the extent required by the Gaming Authority making the determination of unsuitability or to the extent deemed necessary or advisable by the board of directors. If a Gaming Authority requires the Corporation, or the board of directors deems it necessary or advisable, to redeem any such Securities, the Corporation shall give a Redemption Notice to the Unsuitable Person or its Affiliate and shall purchase on the Redemption Date the number of shares of the Securities specified in the Redemption Notice for the Redemption Price set forth in the Redemption Notice. From and after the Redemption Date, such Securities shall no longer be deemed to be outstanding, such Unsuitable Person or any Affiliate of

such Unsuitable Person shall cease to be a stockholder with respect to such shares and all rights of such Unsuitable Person or any Affiliate of such Unsuitable Person therein, other than the right to receive the Redemption Price, shall cease. Such Unsuitable Person or its Affiliate shall surrender the certificates representing any shares to be redeemed in accordance with the requirements of the Redemption Notice.

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

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

Section 4. *Indemnification.* Any Unsuitable Person and any Affiliate of an Unsuitable Person shall indemnify and hold harmless the Corporation and its Affiliated Companies for any and all losses, costs, and expenses, including attorneys' fees, incurred by the Corporation and its Affiliated Companies as a result of, or arising out of, such Unsuitable Person's or Affiliate's continuing Ownership or Control of Securities, the neglect, refusal or other failure to comply with the provisions of this Article VII, or failure to promptly divest itself of any Securities when required by the Gaming Laws or this Article VII.

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

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

Section 7. *Further Actions.* Nothing contained in this Article VII shall limit the authority of the board of directors to take such other action to the extent permitted by law as it deems necessary or advisable to protect the Corporation or its Affiliated Companies from the denial or threatened denial or loss or threatened loss of any Gaming License of the Corporation or any of its Affiliated Companies. Without limiting the generality of the foregoing, the board of directors may conform any provisions of this Article VII to the extent necessary to make such provisions consistent with Gaming Laws. In addition, the board of directors may, to the extent permitted by law, from time to time establish, modify, amend or rescind bylaws, regulations, and procedures of the Corporation not inconsistent with the express provisions of this Article VII for the purpose of determining whether any Person is an Unsuitable Person and for the orderly application, administration and implementation of the provisions of this Article VII. Such procedures and regulations shall be kept on file with the

Secretary of the Corporation, the secretary of its Affiliated Companies and with the transfer agent, if any, of the Corporation and any Affiliated Companies, and shall be made available for inspection by the public and, upon request, mailed to any holder of Securities. The board of directors shall have exclusive authority and power to administer this Article VII and to exercise all rights and powers specifically granted to the board of directors or the Corporation, or as may be necessary or advisable in the administration of this Article VII. All such actions which are done or made by the board of directors in good faith shall be final, conclusive and binding on the Corporation and all other Persons; *provided, however*, that the board of directors may delegate all or any portion of its duties and powers under this Article VII to a committee of the board of directors as it deems necessary or advisable.

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

Section 9. *Termination and Waivers.* Except as may be required by any applicable Gaming Law or Gaming Authority, the board of directors may waive any of the rights of the Corporation or any restrictions contained in this Article VII in any instance in which the board of directors determines that a waiver would be in the best interests of the Corporation. The board of directors may terminate any rights of the Corporation or restrictions set forth in this Article VII to the extent that the board of directors determines that any such termination is in the best interests of the Corporation. Except as may be required by a Gaming Authority, nothing in this Article VII shall be deemed or construed to require the Corporation to repurchase any Securities Owned or Controlled by an Unsuitable Person or an Affiliate of an Unsuitable Person.

IN WITNESS WHEREOF, Wynn Resorts, Limited has caused these second amended and restated articles of incorporation to be executed in its name by its Chief Executive Officer this 16 day of September, 2002.

/s/ STEPHEN A. WYNN

Stephen A. Wynn

QuickLinks

SECOND AMENDED AND RESTATED ARTICLES OF INCORPORATION OF WYNN RESORTS, LIMITED

EXHIBIT D

EXHIBIT D

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

SCHEDULE 14A INFORMATION

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

Filed by the Registrant ☒

Filed by a Party other than the Registrant ☐

Check the appropriate box:

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

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

WYNN RESORTS, LIMITED

(Name of Registrant as Specified In Its Charter)

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

Payment of Filing Fee (Check the appropriate box):

☒ No fee required.

☐ Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.

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

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

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

(4) Proposed maximum aggregate value of transaction:

(5) Total fee paid:

☐ Fee paid previously with preliminary materials.

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

(1) Amount Previously Paid:

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

(3) Filing Party:

(4) Date Filed:

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth, as of February 29, 2008, certain information regarding the shares of the Company's common stock beneficially owned by: (i) each director and nominee for director; (ii) each stockholder who is known by the Company to beneficially own in excess of 5% of the outstanding shares of the Company's common stock based on information reported on Form 13D or 13G filed with the SEC; (iii) each of the executive officers named in the Summary Compensation Table; and (iv) all executive officers, directors and director nominees as a group.

	Beneficial Ownership Of Shares(1)	
Name and Address of Beneficial Owner(2)	Number	Percentage
Stephen A. Wynn(3)(4)	23,970,930	21.14%
Kazuo Okada(3)(5)	24,549,222	21.65%
Aruze USA, Inc.(3)(5) 745 Grier Drive Las Vegas, NV 89119	24,549,222	21.65%
Marsico Capital Management, LLC(6) 1200 17th Street, Suite 1600 Denver, Colorado 80202	16,543,565	14.59%
Morgan Stanley(7) 1585 Broadway New York, NY 10036	7,564,839	6.67%
Linda Chen(8)	185,000	*
Ray R. Irani(9)	12,500	*
Ronald J. Kramer(10)	338,370	*
Robert J. Miller(11)	27,500	*
John A. Moran(11)(12)	148,000	*
Alvin V. Shoemaker(11)	36,500	*
D. Boone Wayson(11)	77,500	*
Elaine P. Wynn(3)(4)(13)	23,970,930	21.14%
Allan Zeman(11)	27,500	*
Marc D. Schorr(14)	532,923	*
John Strzemp(15)	205,500	*
All Directors and Executive Officers as a Group (19 persons)	50,390,833	44.45%

* Less than one percent

(1) This table is based upon information supplied by officers, directors, nominees for director, principal stockholders and the Company's transfer agent, and contained in Schedules 13D and 13G filed with the SEC. Unless otherwise indicated in the footnotes to this table and subject to community property laws, where applicable, the Company believes each of the stockholders named in this table has sole voting and investment power with respect to the shares indicated as beneficially owned.

(2) Unless otherwise indicated, the address of each of the named parties in this table is: c/o Wynn Resorts, Limited, 3131 Las Vegas Boulevard South, Las Vegas, Nevada 89109.

(3) Does not include shares that may be deemed to be beneficially owned by virtue of the Stockholders Agreement, dated as of April 11, 2002 (the "Stockholders Agreement"), by and among Mr. Wynn, Baron Asset Fund, a Massachusetts business trust ("Baron") and Aruze USA, Inc., and as amended by an Amendment to Stockholders Agreement, dated as of November 8, 2006 (the "Amendment"), by and between Mr. Wynn and Aruze USA, Inc.

(4) Excludes 578,292 shares, in the aggregate, of the Company's common stock held in four grantor retained annuity trusts created by Stephen A. Wynn and Elaine P. Wynn. In 2007, Mr. Wynn ceased to be the trustee of each of these trusts.

(5) Aruze USA, Inc. is a wholly owned subsidiary of Aruze Corp., of which Mr. Kazuo Okada owns a controlling interest and is the Chairman. The subject securities were acquired and are owned by Aruze USA, Inc. but Aruze Corp. and Mr. Okada may also be considered beneficial owners of the shares because Aruze USA, Aruze Corp. and Mr. Okada may be deemed to have shared voting and dispositive power over the shares.

(6) Marsico Capital Management LLC ("Marsico") has beneficial ownership of these shares. The information provided is based upon a Schedule 13G/A, dated February 14, 2008, filed by Marsico.

(7) Reflects the securities beneficially owned by certain operating units (collectively, the "MS Reporting Units") of Morgan Stanley and its subsidiaries and affiliates (collectively, "MS") and does not reflect securities, if any, beneficially owned by any operating units of MS whose ownership of securities is disaggregated from that of the MS Reporting Units. The information provided is based upon a Schedule 13G, dated February 14, 2008, filed by Morgan Stanley.

(8) Includes: (i) 100,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest on July 31, 2012; (ii) 26,250 shares owned by Linda Chen, as trustee; and (iii) 48,750 shares pledged by Ms. Chen to secure a loan made to her.

(9) Includes: (i) 10,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 2,500 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.

(10) Includes: (i) 60,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides that such grant will vest 30,000 shares each on December 15, 2008, and 2009 or upon the earlier death or disability of Mr. Kramer; (ii) 50,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (iii) 7,615 shares of the Company's common stock held by Mr. Kramer's children, for which Mr. Kramer's spouse is the custodian and Mr. Kramer disclaims beneficial ownership.

(11) Includes: (i) 22,500 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts' 2002 Stock Incentive Plan; and (ii) 5,000 unvested shares of restricted stock of the Company's common stock granted pursuant to the Company's 2002 Stock Plan.

(12) Includes: (i) 120,000 shares of the Company's common stock held by Texas Gulf Partners in which Mr. Moran is a partner; and (ii) 500 shares of the Company's common stock held by the Carol Moran Trust for the benefit of Mr. Moran's wife, for which Mr. Moran disclaims beneficial ownership.

(13) Includes 23,970,930 shares of the Company's common stock registered in the name of Mrs. Wynn's husband, Stephen A. Wynn.

(14) Includes: (i) 332,923 shares of the Company's common stock held in trust for the benefit of Mr. Schorr and his wife (including 50,000 shares of restricted stock granted pursuant to the Company's 2002 Stock Plan and subject to a Restricted Stock Agreement which provides such grant will vest 25,000 shares on each of December 15, 2008 and 2009); (ii) 50,000 shares subject to an immediately exercisable option to purchase Wynn Resorts' common stock granted pursuant to Wynn Resorts 2002 Stock Incentive Plan; and (iii) 150,000 shares pledged by Mr. Schorr to secure a loan made to him.

(15) Includes 500 shares of the Company's common stock held by Mr. Strzemp's mother, for which Mr. Strzemp disclaims beneficial ownership.

Securities Authorized for Issuance Under Equity Compensation Plans

The following table summarizes, as of December 31, 2007, compensation plans under which our equity securities are authorized for issuance, aggregated as to: (i) all compensation plans previously approved by stockholders; and (ii) all compensation plans not previously approved by stockholders.

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights(1)	Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (excluding securities reflected in column(a))
Equity compensation plans approved by security holders	2,024,425	$ 48.04	4,430,712
Equity compensation plans not approved by security holders	—	—	—
Total	2,024,425	$ 48.04	4,430,712

(1) This amount excludes restricted stock awards issued. In addition to the above, there are 489,500 shares of unvested restricted stock awards outstanding under an approved plan.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Historically, the Audit Committee of the Board of Directors has pre-approved or ratified all transactions between the Company and any related person, regardless of amount. In February, 2007, the Audit Committee adopted a written policy codifying its prior practice. The policy applies to transactions with any related person, which SEC rules define to include directors, director nominees, executive officers, beneficial owners of in excess of 5% of the outstanding shares of the Company's common stock, and their respective immediate family members. The policy classified as pre-approved (a) employment of executive officers and director compensation if the compensation is required to be reported under Item 402 of the Securities and Exchange Commission's compensation disclosure requirements; (b) transactions with another company or charitable contributions if the related person's only relationship is as an employee (other than executive officer), director or beneficial owner of less than 10% of that company's or donee's shares if the aggregate amount does not exceed the greater of $100,000 or 2% of that company's or donee's total annual revenues; (c) transactions where the related person's interest arises solely from the ownership of the Company's stock and all stockholders benefit on a pro rata basis; (d) transactions involving competitive bids; (e) regulated transactions involving services as a common carrier or public utility at rates fixed in conformity with law or governmental authority; and (f) transactions with related parties involving a bank as depositary of funds, transfer agent, registrar, trustee under a trust indenture or similar services. The Committee receives notice of the occurrence of all pre-approved transactions. All other transactions with related persons are subject to approval or ratification by the Committee.

The following are the material transactions or agreements between the Company and related persons. The Audit Committee has approved or ratified all of these transactions that occurred after the date of the adoption of the policy.

Stockholders Agreement. Mr. Wynn, Aruze USA and Baron Asset Fund are parties to a stockholders agreement that establishes various rights among Mr. Wynn, Aruze USA and Baron Asset Fund with respect to the ownership and management of the Company. These rights include, but are not limited to, preemptive rights, rights of first refusal, tag-along rights and certain other restrictions on the transfer of the shares of the Company's common stock owned by the parties to the stockholders agreement. Aruze USA is a wholly owned subsidiary of Aruze Corp., a corporation in which one of our directors, Mr. Okada, owns a controlling interest and where he serves as Chairman. Mr. Okada currently serves as Chairman of Aruze USA.

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

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

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

In addition, under the stockholders agreement, Mr. Wynn and Aruze USA have agreed to vote their shares of the Company's common stock for a slate of directors, a majority of which will be designated by Mr. Wynn, of which at least two will be independent directors, and the remainder of which will be designated by Aruze USA. In addition, in November 2006, this agreement was amended to require the written consent of both Mr. Wynn and Aruze prior to either party selling any shares they own.

On November 13, 2006, the Board of Directors approved an amendment to the Company's Bylaws that exempts future acquisitions of the Company's shares by either Mr. Wynn or Aruze USA, Inc. from Nevada's control share acquisition statutes. The Nevada acquisition of controlling interest statutes require stockholder approval in order to exercise voting rights in connection with any acquisition of a controlling interest in certain Nevada corporations unless the articles of incorporation or bylaws of the corporation in effect on the 10 th day following the acquisition of a controlling interest by certain acquiring persons provide that these statutes do not apply to the corporation or the acquisition specifically by types of existing or future stockholders. The statutes define a "controlling interest" as (i) one-fifth or more but less than one-third, (ii) one-third or more but less than a majority, or (iii) a majority or more, of the voting power in the election of directors. As a result of the Bylaw amendment, either Mr. Wynn or Aruze USA, Inc. or their respective affiliates may acquire ownership of outstanding voting shares of the Company permitting them to exercise more than one-third but less than a majority, or a majority or more, of all the voting power of the Company in the election of directors, without requiring a resolution of the stockholders of the Company granting voting rights in the control shares acquired.

Art Gallery. At the opening of the Wynn Las Vegas, the resort included an art gallery that displayed rare paintings from The Wynn Collection, a private collection of fine art owned by Mr. and Mrs. Wynn. Prior to June 30, 2005, the Company leased The Wynn Collection from Mr. and Mrs. Wynn for an annual fee of one dollar ($1), and the Company was entitled to retain all revenues from the public display of The Wynn Collection and the related merchandising revenues. The Company was responsible for all expenses incurred in exhibiting

EXHIBIT E

EXHIBIT E

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

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of
The Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): January 6, 2010

Wynn Resorts, Limited
(Exact name of registrant as specified in its charter)

Nevada	**000-50028**	**46-0484987**
(State or other jurisdiction of incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)

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

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

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

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

☐ Written communication pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencements communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 1.01 Entry into a Material Definitive Agreement

On January 6, 2010, Stephen A. Wynn ("Mr. Wynn"), the Chairman of the Board of Directors of Wynn Resorts, Limited (the "Registrant"), Elaine P. Wynn ("Ms. Wynn") and Aruze USA, Inc. ("Aruze"), a Nevada corporation, entered into an Amended and Restated Stockholders Agreement (the "Amended and Restated Stockholders Agreement") whereby that certain Stockholders Agreement, entered into as of April 11, 2002, between Mr. Wynn and Aruze, as amended by that certain Amendment to Stockholders Agreement, entered into as of November 8, 2006, between Mr. Wynn and Aruze, the Waiver and Consent, dated July 31, 2009, and the Waiver and Consent, dated as of August 13, 2009, was amended and restated in its entirety. Pursuant to the Amended and Restated Stockholders Agreement, Ms. Wynn (a) became a party to the Amended and Restated Stockholders Agreement in connection with her ownership of 11,076,709 shares of the Registrant's common stock, par value $0.01 per share, that were transferred to Ms. Wynn by Mr. Wynn and (b) became subject to the covenants and provisions thereof, including with respect to voting agreements, preemptive rights, rights of first refusal, tag-along rights and certain other restrictions on transfer of such shares subject to release of $10 million of such shares on January 6, 2010 and on each of the following nine anniversaries thereof. In addition, the Amended and Restated Stockholders Agreement amended the voting agreement provision to provide that each of Mr. Wynn, Ms. Wynn and Aruze agree to vote all shares of the Registrant held by them and subject to the terms of the Amended and Restated Stockholders Agreement in a manner so as to elect to the Registrant's Board of Directors each of the nominees contained on each and every slate of directors endorsed by Mr. Wynn, which slate shall include, subject to certain conditions, Ms. Wynn and, so long as such slate results in a majority of directors at all times being candidates endorsed by Mr. Wynn, nominees approved by Aruze.

The foregoing description of the Amended and Restated Stockholders Agreement does not purport to be complete and is qualified in its entirety by reference to the Amended and Restated Stockholders Agreement which is filed herewith as Exhibit 10.1 and is incorporated herein by this reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits:

Exhibit Number	Description
10.1	Amended and Restated Stockholders Agreement, dated January 6, 2010, by and among Stephen A. Wynn, Elaine P. Wynn and Aruze USA, Inc.

SIGNATURES

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

Date: January 6, 2010

WYNN RESORTS, LIMITED

By: /s/ Matt Maddox
Matt Maddox
Chief Financial Officer and
Treasurer

Exhibit 10.1

AMENDED AND RESTATED STOCKHOLDERS AGREEMENT

This Amended and Restated Stockholders Agreement (the **"Agreement"**), is made as of the 6th day of January, 2010, by and among Stephen A. Wynn (**"SAW"**), an individual, Elaine P. Wynn (**"EW"**), an individual, and Aruze USA, Inc., a Nevada corporation (**"Aruze"**).

W I T N E S S E T H:

WHEREAS, SAW, Baron Asset Fund ("Baron") and Aruze entered into that certain Stockholders Agreement as of April 2002, which Stockholders Agreement was amended by that certain Amendment to Stockholders Agreement dated as of November 8, 2006, Waiver and Consent dated as of July 31, 2009, and Waiver and Consent dated as of August 13, 2009 (the "Existing Agreement");

WHEREAS, SAW has agreed to transfer to EW, 11,076,709 (the "EW Shares") shares of common stock of Wynn Resorts, Limited ("Wynn") as permitted by the Existing Agreement;

WHEREAS, pursuant to the terms of the Existing Agreement, EW is to become a party to the Existing Agreement in connection with her ownership of the EW Shares; and

WHEREAS, the parties have agreed to further amend the terms of the Existing Agreement and have agreed to amend and restate the terms and provisions of the Existing Agreement as provided herein.

NOW, THEREFORE, in consideration of the foregoing and the agreements set forth below, the parties hereto agree as follows:

1. Definitions. For purposes of this Agreement:

(a) "Affiliate" of any Person means another Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such first Person.

(b) "Aruze Parent" means Universal Entertainment Corporation (formerly known as Aruze Corp.), a Japanese public corporation, of which Kazuo Okada is Chairman of the Board and, together with his family members, a 67.5% shareholder.

(c) "Bankruptcy" means, and a Stockholder shall be referred to as a "Bankrupt Stockholder" upon, (a) the entry of a decree or order for relief against such Stockholder, by a court of competent jurisdiction in any voluntary or involuntary case brought against the Stockholder under any bankruptcy, insolvency or similar law (collectively, **"Debtor Relief Laws"**) generally affecting the right of creditors and relief of debtors now or hereafter in effect; (b) the appointment of a receiver, liquidator, assignee, custodian,

trustee, sequestrator or other similar agent under applicable Debtor Relief Laws for such Stockholder or for any substantial part of such Stockholder's assets or property; (c) the ordering of the winding up or liquidation of such Stockholder's affairs; (d) the filing of a voluntary petition in bankruptcy by such Stockholder or the filing of an involuntary petition against such Stockholder, which petition is not dismissed within a period of 180 days; (e) the consent by such Stockholder to the entry of an order for relief in a voluntary or involuntary case under any Debtor Relief Laws or to the appointment of, or the taking of any possession by, a receiver, liquidator, assignee, trustee, custodian, sequestrator or other similar agent under any applicable Debtor Relief Laws for such Stockholder or for any substantial part of such Stockholder's assets or property; or (f) the making by such Stockholder of any general assignment for the benefit of such Stockholder's creditors.

(d) "Beneficially Own" or "Beneficial Ownership" with respect to any securities shall mean having "beneficial ownership" of such securities (as determined pursuant to Rule 13d-3 under the Securities Exchange Act of 1934, as amended (the **"Exchange Act"**)) including pursuant to any agreement, arrangement or understanding, whether or not in writing. Without duplicative counting of the same securities by the same holder, securities Beneficially Owned by a Person shall include securities Beneficially Owned by all other Persons who together with such Person would constitute a "group" within the meaning of Section 13(d)(3) of the Exchange Act.

(e) "Designated Stockholders" means SAW, EW, Aruze, any additional Persons made a party to this Agreement and Permitted Transferees of any such Person and their Permitted Transferees.

(f) "Fair Market Value" means, with respect to each Share of any class or series for any day, (i) the closing price on the principal national securities exchange on which such Shares are listed or admitted for trading, in either case as reported by Bloomberg Financial Markets (**"Bloomberg"**) or The Wall Street Journal if Bloomberg is no longer reporting such information, or a similar service if Bloomberg and The Wall Street Journal are no longer reporting such information or (ii) if such Shares are not listed or admitted for trading on any national securities exchange, the last reported sale price or, in case no such sale takes place on such day, the average of the highest reported bid and the lowest reported asked quotation for such class or series of Shares, in either case as reported by Bloomberg or The Wall Street Journal if Bloomberg is no longer reporting such information, or a similar service if Bloomberg and The Wall Street Journal are no longer reporting such information.

(g) "Gaming Authority" means those federal, state and local governmental, regulatory and administrative authorities, agencies, boards and officials responsible for or involved in the regulation of gaming or gaming activities in any jurisdiction and, within the State of Nevada, specifically, the Nevada

Gaming Commission, the Nevada State Gaming Control Board, and the Clark County Liquor and Gaming Licensing Board.

(h) "Gaming Laws" means those laws pursuant to which any Gaming Authority possesses regulatory, licensing or permit authority over gaming within any jurisdiction and, within the State of Nevada, specifically, the Nevada Gaming Control Act, as codified in NRS Chapter 463, as amended from time to time, and the regulations of the Nevada Gaming Commission promulgated thereunder, as amended from time to time, and the Clark County Code, as amended from time to time.

(i) "Gaming Licenses" means all licenses, permits, approvals, authorizations, registrations, findings of suitability, franchises and entitlements issued by any Gaming Authority necessary for or relating to the conduct of activities under the Gaming Laws.

(j) "Gaming Problem" means any circumstances that are deemed likely, in the sole and absolute discretion of SAW, based on verifiable information or information received from any Gaming Authority or otherwise, to preclude or materially delay, impede or impair the ability of Wynn or any subsidiary of Wynn to obtain or retain any Gaming Licenses, or to result in any disciplinary action, including without limitation the imposition of materially burdensome terms and conditions on any such Gaming License.

(k) "Independent Qualified Appraiser" means an independent outside qualified appraiser appointed by Wynn to determine the fair market value of certain Shares or Wynn itself, in all cases considering Wynn as a going concern. Any determination by an Independent Qualified Appraiser as to fair market value shall be binding upon all parties.

(l) "Non-Compete Termination Date" means the date upon which SAW and EW have sold substantially all of their respective Shares.

(m) "NRS" means the Nevada Revised Statutes, as amended from time to time.

(n) "Percentage Interest" means, with respect to a specified Stockholder, the percentage computed by dividing the number of Shares held by such Stockholder by the Total Shares.

(o) "Permitted Transferee" means (a) Kazuo Okada; (b) an immediate family member of Kazuo Okada, EW or SAW; (c) a revocable, inter vivos trust of which Kazuo Okada, EW or SAW, or a family member of Kazuo Okada, EW or SAW is a beneficiary; (d) another Stockholder or an entity wholly owned by such Stockholder; or (e) if the Transfer is being made by Aruze, then in addition to the Permitted Transfers described in (a) through (d), any wholly-owned subsidiary of Aruze Parent where the Transfer has the effect of substituting a foreign corporation for Aruze with respect to all of Aruze's Shares.

(p) "Person" means an individual, corporation, limited liability company, partnership, joint venture, association, trust, unincorporated organization or other entity.

(q) "Prohibited Transferee" means (a) any owner, operator, or manager of, or Person primarily engaged in the business of owning or operating, a hotel, casino, or an internet or interactive gaming site, (b) any "non-profit" or "not-for-profit" corporation, association, trust, fund, foundation or other similar entity organized and operated exclusively for charitable purposes that qualifies as a tax-exempt entity under federal and state tax law or corresponding foreign law, (c) any federal, state, local or foreign governmental agency, instrumentality or similar entity, (d) any Person that has been convicted of a felony, (e) any Person regularly engaged in or affiliated with the production or distribution of alcoholic beverages, or (f) any Unsuitable Person.

(r) "Shares" means the shares of common stock of Wynn.

(s) "Specified Affiliate" means with respect to a specified Person, any other Person who or which is (a) directly or indirectly controlling, controlled by or under common control with the specified Person, or (b) any member, stockholder, director, officer, manager, or comparable principal of, or relative or spouse of, the specified Person. For purposes of this definition, "control", "controlling", "controlled" mean the right to exercise, directly or indirectly, more than fifty percent of the voting power of the stockholders, members or owners and, with respect to any individual, partnership, trust or other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled entity.

(t) "Stockholder" means any one of SAW, EW, Aruze, or any Permitted Transferee of any Shares and any additional Persons made a party to this Agreement. "Stockholders" means all of the foregoing, collectively.

(u) "Stockholder's Shares" means all Shares held of record or Beneficially Owned by such Stockholder, whenever acquired.

(v) "Termination Date" means the earlier of the date of SAW's death or the date upon which SAW sells substantially all of his Shares in Wynn.

(w) "Total Shares" means the total number of Shares held by the Stockholders, whenever acquired.

(x) "Transfer" means any transfer, sale, conveyance, distribution, hypothecation, pledge, encumbrance, assignment, exchange or other disposition, either voluntary or involuntary, or by reason of death, or change in ownership by reason of merger or other transformation in the identity or form of business organization of the owner, regardless of whether such change or

transformation is characterized by state law as not changing the identity of the owner.

(y) "Unsuitable Person" means any Person (i) who is denied a Gaming License by any Gaming Authority, (ii) who is disqualified from eligibility for a Gaming License, (iii) who is determined to be unsuitable to own or control Shares or to be connected or affiliated with a Person engaged in gaming activities in any jurisdiction by a Gaming Authority, (iv) who has withdrawn an application to be found suitable by any Gaming Authority, or (v) whose continued involvement in the business of Wynn as a stockholder, manager, officer, employee or otherwise has caused or may cause a Gaming Problem.

(z) "Voting Stock" means capital stock of Wynn of any class or classes, the holders of which are entitled to vote on any matter required or permitted to be voted upon (either in writing or by resolution) by the stockholders of Wynn.

2. Covenants of Designated Stockholders. Each Designated Stockholder hereby covenants to each other Designated Stockholder as follows.

(a) Voting Agreement. On any and all matters relating to the election of directors of Wynn (including the filling of any vacancies), the Designated Stockholders each agree to vote all Shares held by them and subject to the terms of this Agreement (or the holders thereof shall consent pursuant to an action by written consent of the holders of capital stock of Wynn) in a manner so as to elect to Wynn's Board of Directors each of the nominees contained on each and every slate of directors endorsed by SAW.

SAW agrees to include EW as one of his endorsed nominees so long as she is not "unable to serve" or "unfit to serve." As used herein, "unable to serve" shall mean medically incapacitated so as to be unable to serve as a director, and "unfit to serve" shall mean a violation of rules and laws so as to prohibit one from serving as a director of a public company engaged in the gaming business. In the event of a disagreement between SAW and EW regarding these matters, determination of either of the preceding conditions shall be made and confirmed by an independent third party to be jointly selected by SAW and EW.

SAW also agrees to endorse a slate of directors that includes nominees approved by Aruze and to vote SAW's and EW's Shares in favor of such directors so long as such slate results in a majority of all directors at all times being director candidates endorsed by SAW.

(b) Restrictions on Sale or Transfer. Other than as expressly set forth in Section 11 and the last sentence of this Section 2(b), none of EW, SAW or Aruze (nor any of their respective Permitted Transferees) shall Transfer, or permit any of their respective Affiliates to Transfer, any Shares Beneficially Owned by such Person without the prior written consent of each of the others.

Notwithstanding anything to the contrary set forth in this Agreement, SAW and Aruze confirm that on August 13, 2009, each agreed that the other could sell up to two million Shares (the "Released Shares"). As of the date hereof, SAW has sold two million shares under this waiver. Accordingly, Aruze shall have the right to sell up to two million Shares free and clear of the requirements of this Agreement.

(c) Restriction on Proxies and Non-Interference. From and after the date of this Agreement and ending as of the Termination Date, the Designated Stockholders shall not, and shall cause each of their Affiliates who Beneficially Own any of the Designated Stockholder's Shares not to, directly or indirectly without the consent of the other Designated Stockholder: (A) grant any proxies or powers of attorney, deposit such Designated Stockholder's Shares into a voting trust or enter into a voting agreement with respect to any of such Designated Stockholder's Shares, (B) enter into any agreement or arrangement providing for any of the actions described in clause (A) above, or (C) take any action that could reasonably be expected to have the effect of preventing or disabling such Designated Stockholder from performing such Designated Stockholder's obligations under this Agreement.

3. Representations and Warranties of the Stockholders. Each Stockholder hereby represents and warrants and covenants to each other Stockholder as follows:

(a) Ownership. The Stockholder shall be the record and Beneficial Owner of all of the Shares. The Stockholder shall have the sole power of disposition, sole power of conversion, sole power to demand appraisal rights and sole power to agree to all of the matters set forth in this Agreement, in each case with respect to all of the Shares, with no material limitations, qualifications or restrictions on such rights, subject to applicable securities laws and the terms of this Agreement.

(b) No Encumbrances. All of the Stockholder's Shares will be held by such Stockholder, or by a nominee or custodian for the benefit of such Stockholder, free and clear of all liens, claims, security interests, proxies, voting trusts or agreements, understandings or arrangements or any other encumbrances whatsoever, except for any liens, claims, understandings or arrangements that do not limit or impair the Stockholder's ability to perform its obligations under this Agreement.

(c) Execution, Delivery and Performance by the Stockholder. The execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by the Board of Directors of Aruze, as applicable, and Aruze has taken all other actions required by law, its Articles of Incorporation and its Bylaws or other organizational documents, as applicable, to consummate the transactions contemplated by this Agreement. This Agreement constitutes the valid and binding obligations of the Stockholder and is enforceable in accordance with its terms, except as enforceability may be subject to bankruptcy, insolvency,

reorganization, moratorium or other similar laws relating to or affecting creditors' rights generally.

(d) No Conflicts. No filing with, and no permit, authorization, consent or approval of, any state or federal public body or authority is necessary for the execution of this Agreement by the Stockholder and the consummation by the Stockholder of the transactions contemplated hereby, except where the failure to obtain such consent, permit, authorization, approval or filing would not interfere with the Stockholder's ability to perform its obligations hereunder, and none of the execution and delivery of this Agreement by the Stockholder, the consummation by the Stockholder of the transactions contemplated hereby or compliance by the Stockholder with any of the provisions hereof shall violate any order, writ, injunction, decree, judgment, statute, rule or regulation applicable to the Stockholder or any of its properties or assets, in each such case except to the extent that any conflict, breach, default or violation would not interfere with the ability of the Stockholder to perform the obligations hereunder.

(e) Preemptive Rights. If a Stockholder purchases Shares from Wynn (the **"Purchasing Stockholder"**) in a private placement (the **"Purchase"**) and another Stockholder who is not a Permitted Transferee of the Purchasing Stockholder is not extended the same offer by Wynn on the same terms and conditions, the Purchasing Stockholder shall allow such other Stockholder to purchase the number of Shares in the Purchasing Stockholder's allotment of Shares from Wynn that is necessary to maintain their Shares in the same proportion to each other as that which existed prior to the Purchase.

4. Transferee Bound by Agreement. Notwithstanding anything to the contrary in this Agreement, Shares may not be transferred or sold by the Designated Stockholder unless the transferee (including a Permitted Transferee) both executes and agrees to be bound by both this Agreement and the Proxy, including, without limitation, in a sale or transfer made pursuant to Rule 144 under the Securities Act ("Rule 144"); provided, however, that this Section 4 shall not apply to any sale or transfer and all other sales and transfers made by such Stockholder pursuant to Rule 144 during the term of this Agreement which do not exceed, in the aggregate, ten percent of the Shares held by such Stockholder, but the provisions of Section 2(b) shall continue to apply.

5. Stop Transfer. From and after the date of this Agreement and ending as of the Termination Date, each Stockholder acknowledges that SAW may instruct Wynn to not register the transfer (book-entry or otherwise) of any certificate or uncertificated interest representing any of such Stockholder's Shares that are transferred in violation of this Agreement.

6. Aruze Non-Compete. Aruze covenants to EW and SAW that until the Non-Compete Termination Date and so long as Aruze is a stockholder of Wynn (or of a successor entity to Wynn), Aruze, Aruze Parent, and Kazuo Okada agree that (other than through Wynn) Aruze, Aruze Parent, and Kazuo Okada shall not without SAW's