

8/22/2010	13,650,568	2,153	11,902,345	1,877	1,043,937	165	0.0758	131,763	912,174	144	0.0668	9,223	801	7
8/29/2010	16,107,677	2,866	15,166,971	2,401	1,363,267	214	0.0747	222,108	1,131,151	179	0.0625	(22,696)	896	7
9/5/2010	16,123,512	2,556	14,036,707	2,226	1,194,941	169	0.0741	156,543	1,038,398	165	0.0644	(29,165)	896	7
9/12/2010	17,243,130	2,710	15,186,719	2,388	1,340,162	211	0.0777	154,588	1,165,364	166	0.0688	32,532	898	7
9/19/2010	13,087,248	2,089	11,208,347	1,775	990,219	157	0.0756	140,885	849,354	134	0.0650	(3,600)	897	7
9/26/2010	14,164,838	2,230	12,005,334	1,890	1,151,520	181	0.0813	162,963	988,537	156	0.0698	76,736	907	7
10/3/2010	15,295,890	2,414	12,781,967	2,017	1,205,450	190	0.0788	189,336	1,016,114	160	0.0684	43,517	902	7
10/10/2010	14,945,654	2,390	12,653,938	1,908	1,156,099	183	0.0774	172,815	983,284	155	0.0658	21,293	900	7
10/17/2010	15,236,741	2,410	13,292,281	2,103	1,157,128	183	0.0759	146,494	1,010,534	160	0.0663	4,647	900	7
10/24/2010	16,284,088	2,576	13,590,812	2,149	1,261,161	200	0.0774	203,604	1,057,437	167	0.0648	26,437	900	7
10/31/2010	13,474,780	2,123	11,476,805	1,908	1,047,337	165	0.0777	151,352	885,965	141	0.0665	22,606	904	7
11/7/2010	13,065,586	2,051	11,068,663	1,738	1,003,068	158	0.0772	150,401	857,668	135	0.0656	15,023	900	7
11/14/2010	13,444,773	2,118	11,660,863	1,837	1,077,159	170	0.0801	134,200	842,959	149	0.0701	56,640	900	7
11/21/2010	12,290,158	1,931	10,622,838	1,673	939,725	148	0.0766	123,805	816,120	129	0.0666	7,578	900	7
11/28/2010	12,593,907	1,978	10,582,031	1,664	961,916	151	0.0764	151,361	810,555	127	0.0644	3,078	906	7
12/5/2010	10,972,127	1,731	9,134,599	1,441	867,720	137	0.0791	139,283	728,427	115	0.0665	34,333	904	7
12/12/2010	12,147,597	1,927	10,226,249	1,622	955,920	152	0.0787	145,337	810,583	129	0.0667	31,037	898	7
12/19/2010	10,046,971	1,589	8,578,719	1,306	788,019	126	0.0785	110,303	678,716	108	0.0676	25,201	888	7
12/26/2010	11,601,238	1,848	9,911,004	1,578	931,163	148	0.0803	127,818	803,545	128	0.0693	46,325	884	7
12/2011	17,267,098	2,753	15,890,539	2,529	1,239,146	197	0.0717	106,333	1,132,815	180	0.0665	(79,347)	894	7

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# PEPPERMILL RENO

## Peppermill Reno 1C Video and Reel Analysis

Favorable/Unf av	Handle	Handle Unit/Day	Cash Handle	Cash Unit/Day	Gross Win	Gross Win Unit/Day	Hold %	Gross Theo	Free Play	Net Win	Net Win Unit/Day	Net Hold %	Over/Under Hold	Games	Days
2011	7190,330,330	2,809	681,728,432	2,148	52,952,905	164	0.0884	0.0848	7,204,120	44,088,488	141	0.0884	813,880	384	
1/6/2011	12,488,886	1,985	10,361,116	1,650	980,065	156	0.0786	0.0763	160,856	819,207	130	0.0857	29,262	884	7
1/16/2011	14,043,701	2,237	11,736,548	1,889	1,187,833	186	0.0831	0.0762	174,687	992,946	158	0.0707	97,852	884	7
1/23/2011	11,728,981	1,888	9,960,089	1,586	895,438	143	0.0763	0.0762	133,142	762,286	121	0.0850	2,112	884	7
1/30/2011	10,143,317	1,612	8,872,737	1,410	812,136	129	0.0801	0.0762	96,108	718,028	114	0.0705	38,827	884	7
2/6/2011	14,532,783	2,285	12,704,702	1,998	1,183,264	186	0.0814	0.0762	137,988	1,046,236	164	0.0718	76,477	907	7
2/13/2011	14,068,454	2,209	11,963,182	1,879	1,026,021	161	0.0728	0.0736	154,278	871,745	137	0.0820	(8,760)	903	7
2/20/2011	13,858,434	2,177	11,982,700	1,883	999,071	157	0.0721	0.0724	134,490	864,581	136	0.0824	(4,508)	905	7
2/27/2011	15,682,333	2,273	13,158,974	1,907	1,084,921	154	0.0879	0.0879	186,215	898,706	130	0.0573	404	906	7
3/6/2011	15,245,812	2,239	13,122,388	1,927	1,014,412	149	0.0865	0.0863	137,102	877,310	129	0.0575	4,185	906	7
3/13/2011	16,233,410	2,300	13,709,898	1,942	1,014,884	144	0.0825	0.0825	154,638	860,268	122	0.0630	704	904	7
3/20/2011	16,106,659	2,531	13,619,710	2,140	1,035,142	183	0.0843	0.0802	146,033	889,109	140	0.0552	64,670	901	7
3/27/2011	15,150,943	2,353	12,697,315	2,005	914,470	144	0.0804	0.0592	142,543	771,927	122	0.0508	16,918	901	7
4/3/2011	16,162,481	2,655	13,449,184	2,209	998,301	162	0.0810	0.0592	183,011	833,290	137	0.0516	45,472	844	7
4/10/2011	14,010,751	2,353	11,839,597	2,013	778,521	131	0.0554	0.0876	116,956	599,585	111	0.0471	(31,081)	823	7
4/17/2011	15,604,985	2,600	12,747,210	2,124	973,588	162	0.0824	0.0877	161,830	811,758	135	0.0520	73,420	835	7
4/24/2011	17,881,298	2,945	14,975,881	2,467	1,012,488	167	0.0586	0.0578	163,702	848,788	140	0.0475	(20,549)	841	7
5/1/2011	16,548,632	2,734	13,634,565	2,302	958,276	158	0.0578	0.0574	148,118	810,160	134	0.0490	8,902	838	7
5/8/2011	16,559,822	2,725	14,096,955	2,320	967,092	158	0.0584	0.0573	138,440	827,862	138	0.0600	18,068	847	7
5/15/2011	15,231,365	2,553	13,357,038	2,248	848,864	143	0.0555	0.0574	105,354	743,310	125	0.0488	(25,005)	848	7
5/22/2011	17,458,827	2,813	14,874,730	2,498	987,391	166	0.0571	0.0574	139,291	858,100	143	0.0491	(4,825)	851	7
5/29/2011	16,657,327	2,743	14,674,730	2,498	987,391	166	0.0546	0.0576	119,480	784,608	130	0.0474	(47,952)	861	7
6/5/2011	18,883,814	3,123	16,208,855	2,879	1,112,248	184	0.0586	0.0575	181,495	990,753	159	0.0508	25,387	861	7
6/12/2011	16,116,334	2,629	13,766,408	2,244	960,949	157	0.0586	0.0582	134,221	828,728	135	0.0513	22,791	860	7
6/19/2011	16,710,275	2,439	13,494,627	2,095	978,934	151	0.0821	0.0609	130,681	845,353	131	0.0638	18,600	868	7
6/26/2011	16,633,300	2,480	13,387,983	2,121	1,028,868	163	0.0659	0.0628	138,105	891,763	141	0.0570	47,447	869	7
7/3/2011	19,980,030	2,413	13,046,643	2,112	976,267	151	0.0826	0.0639	120,482	885,815	132	0.0549	(19,282)	869	7
7/10/2011	16,703,801	2,875	14,571,083	2,334	997,048	180	0.0597	0.0641	131,394	865,654	130	0.0518	(73,388)	868	7
7/17/2011	16,171,349	2,816	13,791,358	2,290	1,042,044	168	0.0844	0.0648	146,489	893,545	144	0.0553	(5,217)	864	7
7/24/2011	17,014,175	2,758	14,706,301	2,384	1,114,515	181	0.0855	0.0658	147,380	967,185	157	0.0568	(4,893)	868	7
7/31/2011	16,027,483	2,634	13,675,053	2,247	747,784	123	0.0467	0.0666	150,184	587,600	98	0.0373	(318,957)	860	7
8/7/2011	15,749,901	2,804	13,656,988	2,268	1,500,881	248	0.0853	0.0864	134,508	1,396,473	228	0.0688	455,017	859	7
8/14/2011	17,905,284	2,861	15,249,946	2,521	1,162,244	197	0.0886	0.0886	170,740	1,021,495	169	0.0570	(3,367)	859	7

8/2/2011	14,858,919	2,454	12,743,662	2,104	963,071	156	0.0633	0.0660	135,270	827,801	137	0.0557	(17,922)	861	7
8/29/2011	17,885,219	2,967	15,433,394	2,552	1,239,706	205	0.0693	0.0660	154,459	1,085,247	179	0.0607	58,862	858	7
9/4/2011	18,023,281	2,980	15,407,872	2,548	1,264,463	209	0.0702	0.0663	166,901	1,087,582	181	0.0609	69,853	859	7
9/11/2011	15,234,771	2,544	13,172,001	2,189	1,023,765	171	0.0672	0.0665	131,024	892,741	149	0.0586	11,230	859	7
9/18/2011	13,497,630	2,302	11,672,207	1,991	856,523	146	0.0635	0.0664	116,085	740,458	126	0.0549	(39,792)	847	7
9/25/2011	15,583,057	2,634	13,556,837	2,291	1,038,044	175	0.0696	0.0663	129,552	908,482	154	0.0583	5,004	839	7
10/2/2011	17,489,994	2,981	15,151,682	2,598	1,147,479	194	0.0657	0.0660	147,359	1,000,120	170	0.0572	(5,632)	839	7
10/9/2011	14,620,573	2,481	12,606,275	2,139	909,581	154	0.0622	0.0660	127,649	781,932	133	0.0535	(54,685)	837	7
10/16/2011	15,912,819	2,704	13,612,218	2,313	1,063,912	184	0.0681	0.0663	148,052	935,880	159	0.0588	29,175	837	7
10/23/2011	14,452,203	2,452	12,877,508	2,164	937,010	159	0.0649	0.0662	99,479	837,531	142	0.0590	(20,123)	833	7
10/30/2011	14,620,897	2,503	12,505,273	2,141	954,402	163	0.0653	0.0661	134,505	819,897	140	0.0561	(11,720)	833	7
11/6/2011	13,782,672	2,375	12,057,308	2,078	887,710	153	0.0644	0.0665	108,703	779,007	134	0.0555	(26,370)	820	7
11/13/2011	15,166,471	2,625	12,820,364	2,219	919,736	169	0.0606	0.0667	150,543	789,193	133	0.0507	(92,296)	819	7
11/20/2011	12,680,771	2,191	10,561,145	1,828	891,155	154	0.0704	0.0665	133,850	757,305	131	0.0598	49,353	823	7
11/27/2011	14,794,837	2,564	12,809,869	2,220	1,017,215	178	0.0698	0.0664	127,359	889,856	154	0.0601	34,941	820	7
12/4/2011	12,603,638	2,185	10,153,775	1,760	833,853	145	0.0682	0.0666	157,760	676,063	117	0.0538	(5,331)	819	7
12/11/2011	12,102,832	2,091	10,161,501	1,756	838,322	145	0.0694	0.0663	125,801	713,521	123	0.0590	37,250	827	7
12/18/2011	12,812,165	2,201	11,067,642	1,902	838,160	144	0.0694	0.0666	111,137	727,023	125	0.0567	(14,603)	837	7
12/25/2011	12,383,650	2,141	10,353,199	1,793	910,096	158	0.0736	0.0665	128,300	781,796	135	0.0532	96,117	817	7
1/1/2012	21,096,444	3,656	19,085,332	3,309	1,354,639	235	0.0642	0.0659	128,524	1,228,115	213	0.0582	(56,088)	819	7

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## Peppermill Reno 1C Video and Reel Analysis

Transaction	Handle	Handle Unit/Day	Cash Handle Unit/Day	Cash Unit/Day	Gross Win	Gross Win Unit/Day	Hold %	Gross Theo	Free Play	Net Win Unit/Day	Net Win Hold %	Over/Under Hold	Games	Days
2012	980,000,000	2,304	700,000,000	2,000	64,774,300	147	0.0000	0.0000	1,000,770	40,000,012	0.0402	600,000	304	
1/8/2012	15,514,500	2,494	12,101,614	1,946	983,624	158	0.0034	0.0035	209,251	774,373	0.0469	(1,031)	817	7
1/15/2012	16,792,207	2,596	13,039,577	2,149	986,808	159	0.0014	0.0098	159,818	808,981	0.0512	26,577	814	7
1/22/2012	13,565,660	2,335	10,701,933	1,842	787,934	132	0.0096	0.0087	164,115	603,819	0.0445	(26,383)	815	7
1/29/2012	13,842,903	2,409	11,024,600	1,918	846,264	147	0.0011	0.0088	162,652	683,632	0.0464	32,789	812	7
2/5/2012	15,674,388	2,703	13,224,467	2,280	915,150	158	0.0084	0.0081	139,036	776,114	0.0495	4,118	838	7
2/12/2012	17,306,532	2,866	15,172,308	2,618	948,378	164	0.0048	0.0077	121,094	827,282	0.0478	(50,185)	817	7
2/19/2012	17,794,791	3,047	15,545,008	2,864	1,053,481	181	0.0022	0.0070	128,515	928,966	0.0521	39,355	828	7
2/26/2012	17,085,140	2,814	14,925,132	2,468	927,731	153	0.0043	0.0057	119,288	808,463	0.0473	(23,111)	861	7
3/4/2012	15,949,801	2,671	13,768,059	2,308	847,700	142	0.0031	0.0043	118,483	731,207	0.0458	(17,582)	826	7
3/11/2012	17,089,164	2,897	15,223,307	2,575	988,105	167	0.0078	0.0038	98,939	887,166	0.0520	65,551	828	7
3/18/2012	15,885,818	2,678	13,740,270	2,317	886,045	149	0.0058	0.0035	114,489	771,556	0.0486	36,282	837	7
3/25/2012	17,240,561	2,922	14,775,385	2,504	902,339	153	0.0023	0.0034	131,167	775,995	0.0447	(18,930)	828	7
4/1/2012	16,367,846	2,782	14,628,489	2,408	867,713	148	0.0030	0.0036	91,758	775,995	0.0447	(18,930)	828	7
4/8/2012	18,158,155	3,084	15,176,081	2,588	980,052	164	0.0028	0.0033	158,417	801,635	0.0441	(7,403)	828	7
4/15/2012	18,651,825	3,203	16,326,350	2,803	1,118,277	192	0.0098	0.0034	123,316	992,961	0.0532	120,228	823	7
4/22/2012	16,516,508	2,656	14,457,325	2,325	733,624	118	0.0444	0.0017	105,594	628,030	0.0390	(120,613)	826	7
4/29/2012	14,740,362	2,484	12,848,761	2,174	841,622	142	0.0071	0.0013	95,583	746,039	0.0506	86,154	821	7
5/6/2012	17,687,422	3,023	16,035,376	2,739	920,600	157	0.0016	0.0010	83,685	836,915	0.0473	16,073	820	7
5/13/2012	16,164,513	2,746	15,208,414	2,584	852,775	141	0.0016	0.0007	47,037	785,738	0.0486	14,130	820	7
5/20/2012	17,888,734	2,972	16,924,707	2,811	991,363	148	0.0488	0.0486	46,571	844,792	0.0472	4,624	825	7
5/27/2012	18,105,063	3,120	16,186,804	2,790	880,423	152	0.0488	0.0482	92,874	787,549	0.0435	(10,832)	817	7
6/3/2012	17,372,855	2,892	15,994,365	2,853	854,503	142	0.0482	0.0483	65,866	788,637	0.0454	15,987	822	7
6/10/2012	14,054,843	2,420	13,528,307	2,330	673,156	118	0.0480	0.0482	23,098	650,058	0.0463	(2,100)	819	7
6/17/2012	15,432,116	2,847	15,008,576	2,574	818,249	140	0.0029	0.0475	19,974	798,275	0.0516	76,249	820	7
6/24/2012	15,671,361	2,725	15,069,113	2,567	787,205	135	0.0486	0.0475	38,021	749,184	0.0472	33,494	819	7
7/1/2012	16,855,356	2,913	15,780,789	2,723	874,802	151	0.0019	0.0475	52,250	822,252	0.0488	74,830	815	7
7/8/2012	20,046,008	3,452	18,804,381	3,228	965,998	168	0.0482	0.0477	57,980	908,018	0.0453	9,721	821	7
7/15/2012	16,936,168	2,919	16,389,895	2,821	765,080	132	0.0462	0.0476	28,075	739,005	0.0438	(41,550)	817	7
7/22/2012	16,159,554	2,791	15,335,985	2,649	773,552	134	0.0479	0.0477	38,864	734,688	0.0455	3,463	816	7
7/29/2012	17,653,002	3,056	16,950,831	2,835	798,329	138	0.0451	0.0478	33,174	763,155	0.0432	(47,365)	813	7
8/5/2012	16,847,541	2,918	15,907,991	2,754	833,541	144	0.0465	0.0475	43,885	789,556	0.0468	33,897	814	7
8/12/2012	21,832,592	3,733	20,658,121	3,532	1,030,577	176	0.0472	0.0478	54,665	978,012	0.0447	(9,338)	814	7



8/19/2011	18,597,911	3,215	17,569,519	3,038	865,503	150	0.0	0.0474	48,350	817,153	141	0.0439	(15,513)	815	7
8/26/2012	17,257,583	2,864	16,384,253	2,833	780,822	132	0.0441	0.0475	40,811	720,011	125	0.0417	(58,655)	820	7
9/2/2012	19,082,241	3,289	18,072,861	3,113	1,075,262	185	0.0563	0.0474	48,082	1,027,180	177	0.0538	171,050	823	7
9/9/2012	20,842,415	3,568	19,395,874	3,339	944,851	163	0.0463	0.0475	68,121	876,730	151	0.0421	(44,693)	821	7
9/16/2012	15,989,912	2,759	15,088,332	2,595	781,772	135	0.0488	0.0474	44,137	737,635	127	0.0461	23,248	820	7
9/23/2012	16,945,108	2,831	15,987,532	2,785	864,315	149	0.0510	0.0476	44,285	820,030	142	0.0484	57,731	819	7
9/30/2012	15,328,528	2,626	14,130,388	2,421	774,238	133	0.0505	0.0470	55,195	719,041	123	0.0469	53,275	837	7
10/7/2012	18,882,389	3,221	17,230,704	2,951	840,321	144	0.0446	0.0472	76,556	763,765	131	0.0405	(50,781)	821	7
10/14/2012	19,913,383	3,415	18,431,182	3,161	990,172	185	0.0482	0.0472	68,803	891,369	153	0.0448	20,259	829	7
10/21/2012	18,082,492	3,101	16,971,907	2,892	834,519	143	0.0461	0.0471	58,761	777,758	133	0.0430	(17,525)	844	7
10/28/2012	18,070,395	3,106	16,449,976	2,827	858,017	147	0.0475	0.0469	75,335	782,882	135	0.0433	9,763	827	7
11/4/2012	16,141,575	2,777	15,177,705	2,611	740,722	127	0.0459	0.0468	45,031	696,891	120	0.0431	(15,017)	823	7
11/11/2012	16,598,224	2,852	15,113,232	2,597	755,967	130	0.0466	0.0470	68,597	688,370	118	0.0416	(22,417)	823	7
11/18/2012	16,328,815	2,834	14,831,561	2,574	810,843	141	0.0487	0.0469	68,685	741,158	129	0.0454	44,339	815	7
11/25/2012	18,625,745	3,233	17,331,844	3,008	908,839	158	0.0488	0.0468	60,133	848,706	147	0.0456	34,480	815	7
12/2/2012	14,290,232	2,488	13,383,482	2,331	641,314	112	0.0448	0.0467	41,688	599,628	104	0.0420	(25,517)	810	7
12/9/2012	15,897,082	2,783	14,585,423	2,593	800,487	140	0.0504	0.0467	60,548	739,838	130	0.0465	57,303	805	7
12/16/2012	14,988,360	2,624	13,672,508	2,394	752,458	132	0.0502	0.0469	60,917	691,541	121	0.0461	30,066	810	7
12/23/2012	12,952,723	2,254	11,934,033	2,075	592,953	103	0.0457	0.0468	47,647	545,308	95	0.0421	(10,629)	815	7
12/30/2012	19,199,188	3,361	17,842,964	3,124	980,288	168	0.0500	0.0471	62,869	887,429	157	0.0467	58,271	809	7

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# PEPPERMILL RENO

## Peppermill Reno 1C Video and Reel Analysis

Favorite/Unit	Handle	Handle Unit/Day	Cash Handle	Cash Unit/Day	Gross Win	Gross Win Unit/Day	Hold %	Gross Theo	Free Play	Net Win	Net Win Unit/Day	Net Hold %	Over/Under Hold	Games	Days
2013	965,382,291	3,124	965,382,291	3,124	49,205,248	169	0.0460	0.0468	4,848,373	43,854,483	144	0.0444	100,857	384	
1/6/2013	20,433,398	3,581	19,263,684	3,376	973,992	171	0.0477	0.0468	53,640	920,352	161	0.0450	15,742	811	7
1/13/2013	16,201,280	2,850	14,556,841	2,561	795,204	140	0.0481	0.0468	75,568	719,638	127	0.0444	38,424	907	7
1/20/2013	17,417,249	3,063	15,591,239	2,812	816,088	144	0.0469	0.0467	65,243	750,845	132	0.0431	2,907	805	7
1/27/2013	14,109,819	2,465	13,041,062	2,297	686,700	121	0.0487	0.0468	49,652	638,048	112	0.0452	28,722	804	7
2/3/2013	16,943,189	2,969	16,028,409	2,809	842,704	148	0.0487	0.0487	42,574	800,130	140	0.0472	17,711	810	7
2/10/2013	17,343,429	3,042	16,097,338	2,824	676,031	119	0.0380	0.0479	57,728	618,303	108	0.0367	(154,677)	804	7
2/17/2013	19,245,841	3,363	18,081,724	3,180	1,031,866	181	0.0538	0.0469	52,822	979,040	172	0.0509	128,204	804	7
2/24/2013	21,195,888	3,709	19,457,839	3,405	985,949	173	0.0465	0.0487	79,476	906,473	159	0.0428	(4,878)	806	7
3/3/2013	19,338,195	3,361	17,819,887	3,125	889,378	156	0.0460	0.0466	69,917	819,481	144	0.0424	(10,900)	805	7
3/10/2013	18,246,367	3,181	16,842,762	2,940	803,819	140	0.0441	0.0465	63,557	740,282	129	0.0408	(44,638)	806	7
3/17/2013	18,948,703	3,330	17,732,581	3,118	842,904	148	0.0445	0.0465	55,789	787,105	138	0.0415	(38,645)	806	7
3/24/2013	20,687,052	3,588	18,870,886	3,282	1,120,965	195	0.0542	0.0465	83,615	1,037,350	180	0.0501	156,871	818	7
3/31/2013	18,813,836	3,265	17,082,181	2,961	878,470	162	0.0467	0.0464	80,414	798,066	139	0.0424	4,952	827	7
4/7/2013	20,555,483	3,529	18,448,590	3,167	1,028,643	177	0.0500	0.0459	95,682	932,961	160	0.0454	84,554	828	7
4/14/2013	19,465,273	3,358	17,371,129	2,997	883,038	152	0.0454	0.0461	95,129	787,909	136	0.0403	(13,953)	826	7
4/21/2013	18,180,521	3,129	16,831,871	2,863	825,820	142	0.0454	0.0460	70,411	755,209	130	0.0415	(10,848)	824	7
4/28/2013	18,103,023	3,099	16,531,369	2,830	757,630	130	0.0419	0.0460	71,811	685,819	117	0.0379	(75,089)	825	7
5/5/2013	18,534,136	3,193	16,751,330	2,866	900,472	155	0.0469	0.0464	81,003	819,469	141	0.0442	41,319	824	7
5/12/2013	18,125,754	3,120	16,570,356	2,852	804,881	138	0.0444	0.0463	71,846	733,035	126	0.0404	(34,960)	824	7
5/19/2013	19,599,275	3,368	18,025,828	3,096	846,550	145	0.0432	0.0463	71,880	774,670	133	0.0385	(59,978)	834	7
5/26/2013	17,413,510	3,004	15,988,750	2,758	843,858	146	0.0464	0.0462	84,452	779,146	134	0.0447	38,589	825	7
6/2/2013	19,309,650	3,326	17,680,940	3,045	936,826	161	0.0485	0.0463	74,924	861,902	149	0.0446	42,834	827	7
6/9/2013	19,627,375	3,390	17,930,050	3,097	843,470	163	0.0481	0.0463	77,489	865,961	150	0.0441	33,891	826	7
6/16/2013	18,416,821	3,177	16,831,245	2,869	834,852	161	0.0508	0.0463	81,672	853,180	147	0.0463	81,388	826	7
6/23/2013	20,139,601	3,463	18,316,814	3,149	945,129	163	0.0469	0.0462	83,275	861,854	148	0.0428	14,334	827	7
6/30/2013	19,480,089	3,036	17,848,482	2,800	959,053	150	0.0463	0.0459	74,000	885,053	138	0.0465	(11,978)	838	7
7/7/2013	22,203,103	3,722	19,908,439	3,324	1,187,406	198	0.0533	0.0509	119,692	1,087,714	178	0.0479	53,409	838	7
7/14/2013	18,044,217	3,051	16,331,321	2,771	882,978	150	0.0488	0.0506	85,463	797,463	135	0.0442	(30,843)	837	7
7/21/2013	20,401,393	3,456	18,240,931	3,080	1,051,015	180	0.0526	0.0509	107,800	953,155	161	0.0467	22,967	837	7
7/28/2013	19,571,385	3,305	17,768,688	3,000	981,467	168	0.0501	0.0508	88,968	991,409	151	0.0456	(12,054)	845	7
8/4/2013	18,865,379	3,204	16,848,170	2,862	951,648	162	0.0504	0.0510	102,137	849,511	144	0.0450	(10,986)	837	7
8/11/2013	21,514,709	3,660	19,520,871	3,320	1,123,268	191	0.0522	0.0512	100,877	1,022,691	174	0.0475	21,808	835	7

8/18/2013	22,241,801	3,775	19,850,881	3,389	1,129,172	192	0.0000	0.0511	120,035	1,008,077	171	0.0454	(6,931)	841	7
8/25/2013	18,698,321	3,155	18,602,489	2,825	888,329	151	0.0478	0.0511	100,048	788,281	134	0.0424	(52,595)	835	7
9/1/2013	21,302,858	3,608	19,482,632	3,299	1,048,071	177	0.0482	0.0508	91,907	956,164	182	0.0448	(34,902)	836	7
9/8/2013	23,447,239	3,992	20,838,185	3,555	1,188,077	202	0.0505	0.0510	125,928	1,060,148	181	0.0482	(10,064)	834	7
9/15/2013	17,514,235	2,981	16,717,911	2,658	820,908	156	0.0528	0.0509	90,290	830,700	140	0.0474	30,215	838	7
9/22/2013	20,735,257	3,531	18,594,810	3,186	1,047,736	178	0.0505	0.0513	107,841	939,895	160	0.0483	(15,711)	834	7
9/29/2013	19,374,828	3,282	17,175,205	2,918	1,050,883	179	0.0542	0.0513	111,537	939,348	180	0.0485	57,002	834	7
10/6/2013	19,385,366	3,279	17,266,219	2,923	1,017,801	172	0.0525	0.0511	108,288	911,335	154	0.0471	26,884	837	7
10/13/2013	18,882,010	3,196	16,836,003	2,850	995,348	168	0.0527	0.0513	102,527	892,818	151	0.0473	26,568	837	7
10/20/2013	20,942,381	3,541	18,652,748	3,153	1,061,038	179	0.0507	0.0513	116,050	944,988	160	0.0461	(13,534)	837	7
10/27/2013	18,192,742	3,087	16,091,504	2,730	888,505	151	0.0488	0.0512	106,033	782,472	133	0.0430	(42,071)	837	7
11/3/2013	19,170,488	3,253	16,898,312	2,884	870,123	148	0.0454	0.0512	110,030	780,093	129	0.0386	(112,084)	837	7
11/10/2013	19,283,540	3,253	16,917,579	2,854	999,820	169	0.0518	0.0513	119,002	880,818	149	0.0467	10,861	838	7
11/17/2013	18,730,815	3,170	16,801,852	2,810	892,339	151	0.0476	0.0513	105,459	785,840	133	0.0420	(88,007)	838	7
11/24/2013	16,583,823	2,780	14,741,700	2,481	947,068	159	0.0571	0.0512	92,192	854,876	144	0.0515	97,544	838	7
12/1/2013	19,812,767	3,320	17,778,270	2,979	974,756	163	0.0492	0.0513	102,081	872,695	146	0.0440	(40,848)	841	7
12/8/2013	14,222,827	2,400	11,996,793	2,024	759,981	128	0.0534	0.0510	111,944	648,037	109	0.0455	34,836	841	7
12/15/2013	16,187,880	2,721	14,238,471	2,396	761,673	128	0.0471	0.0509	90,392	685,281	112	0.0411	(62,057)	846	7
12/22/2013	14,222,871	2,380	12,382,257	2,072	730,865	122	0.0514	0.0509	91,847	639,218	107	0.0448	7,405	852	7
12/29/2013	18,014,420	3,031	16,237,755	2,732	888,008	150	0.0483	0.0510	89,788	799,221	134	0.0444	(29,025)	847	7

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Machine ID	Machine Information					
	Manufacturer	Slot Game ID	Cabinet Type	Earliest Gaming Day	Removed from Floor	Max Bet
440	IGT	DUCKS IN A ROW	SLANT TOP	1/1/2012	Active	\$ 300
486	ARISTOCRAT	WINGS OF OLYMPUS	SLANT TOP	1/1/2012	Active	\$ 200
855	ARISTOCRAT	BUFFALO	SLANT TOP	8/17/2012	Active	\$ 200
951	ARUZE	BAMBOO PANDA	UPRIGHT	1/1/2012	8/15/2012	\$ 300
1646	IGT	MISS RED	SLANT TOP	4/5/2013	Active	\$ 405
2009	ARISTOCRAT	BUFFALO	SLANT TOP	12/19/2013	Active	\$ 200
20042	IGT	HEX BREAKER	SLANT TOP	1/1/2012	10/16/2014	\$ 130

Machine ID	Actual Statistical Play									
	Average Bet	Coin In	Freeplay	Handle Pulls	Theoretical Win	Theoretical Hold	Actual Win	Actual Hold		
440	\$ 0.66	\$ 2,012,526	\$ 36,588	3,030,776	\$ 120,953	6.0%	\$ 117,101	5.8%		
486	\$ 0.66	\$ 1,605,403	\$ 29,040	2,449,565	\$ 128,593	8.0%	\$ 132,566	8.3%		
855	\$ 0.93	\$ 3,805,950	\$ 97,191	4,100,874	\$ 200,954	5.3%	\$ 223,149	5.9%		
951	\$ 0.85	\$ 378,280	\$ 4,225	445,275	\$ 37,790	10.0%	\$ 44,236	11.7%		
1646	\$ 1.06	\$ 582,459	\$ 5,751	550,712	\$ 38,494	6.6%	\$ 37,345	6.4%		
2009	\$ 0.86	\$ 1,471,194	\$ 40,530	1,716,337	\$ 77,679	5.3%	\$ 69,461	4.7%		
20042	\$ 0.54	\$ 699,276	\$ 7,668	1,295,468	\$ 41,872	6.0%	\$ 42,906	6.1%		

Machine ID	Player Tracking	
	Rated Theo	% Rated Play
440	\$ 111,119	91.9%
486	\$ 112,122	87.2%
855	\$ 160,276	79.8%
951	\$ 1	0.0%
1646	\$ 24,239	63.0%
2009	\$ 60,705	78.1%
20042	\$ 38,751	92.5%

1005  
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IN THE SECOND JUDICIAL DISTRICT FOR THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

MEI-GSR HOLDINGS, LLC, a Nevada Limited  
Liability Company, d/b/a/ GRAND SIERRA  
RESORT,

Case No.: CV13-01704

Dept. No.: B7

Plaintiffs,

vs.

BUSINESS COURT DOCKET

PEPPERMILL CASINO, INC., a Nevada  
Corporation, d/b/a/ PEPPERMILL CASINO;  
RYAN TORS, an individual; JOHN DOES I-X  
AND CORPORATIONS I-X,

Defendant(s).

**OPPOSITION TO DEFENDANT'S NRCP 50(A)**  
**MOTION FOR JUDGMENT AS A MATTER OF LAW**

1 Plaintiff, MEI-GSR HOLDINGS, LLC, d/b/a GRAND SIERRA RESORT ("GSR"), by  
2 and through its counsel of record, Cohen-Johnson, LLC, opposes Peppermill Casino, Inc.'s  
3 ("Peppermill") NRCP 50(A) Motion for Judgment as a Matter of Law.

4 This opposition is made and based upon pleadings and other papers on file and  
5 incorporated herein, the attached Memorandum of Points and Authorities, Exhibits, attached  
6 hereto, as well as the arguments and evidence presented at any hearing convened to consider  
7 these motions.

8 Dated this 24<sup>th</sup> day of January, 2016.

9 **COHEN|JOHNSON|PARKER|EDWARDS**

10  
11 By: /s/ Chris Davis

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17 d/b/a GRAND SIERRA RESORT

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. INTRODUCTION**

20 Peppermill's NRCP 50(a) motion seeks three rulings from the Court. Based on the  
21 evidence presented during the trial and the presumptions that are required under NRCP 50(a), the  
22 Court cannot grant the Defendant's motion.

23  
24 First, the Peppermill argues that GSR failed to establish that the information taken is not  
25 readily ascertainable by proper means by other persons by reverse engineering. The Peppermill  
26 misconstrues the law and the burden of proof. Readily ascertainable by proper means by other  
27 persons by reverse engineering is a defense that must be asserted by defendant in an attempt to  
28

1 establish that the information is not a trade secret, or as proof that the information was obtained  
2 in a proper manner. Plaintiff's burden of proof for its *prima facie* case only requires that it  
3 present evidence to the jury that the information is not readily ascertainable. Plaintiff has done  
4 so by proving that the information was contained under lock and key and additionally required  
5 Peppermill's agent to access the machines' diagnostic screens. Lack of readily ascertainable  
6 information is further shown by the evidence that pars were obtained by improper means,  
7 specifically that the Gaming Control Board considered Tors' methods to be an unsuitable method  
8 of operation. The relevant case law further concludes that once a trade secret is shown to have  
9 been wrongfully or improperly obtained, the defense of "readily ascertainable" is no longer  
10 available.  
11

12 Second, the evidence presented at trial demonstrates use and disclosure by the Peppermill  
13 of the information acquired from Plaintiff's machines. As set forth in the case law below, the  
14 GSR is entitled to a presumption of use when the information is wrongfully obtained at great  
15 effort or risk, as it has been in this case. In addition, there is circumstantial evidence of use  
16 arising from email between Tors and Aaron Robyns, discussing how pars are used in their  
17 analysis. Tors disclosed the information to executives at the Peppermill, who then disclosed it to  
18 personnel at Western village.  
19

20 Third, Peppermill's interpretation of the damages provision of the Uniform Trade Secret  
21 Act ("UTSA") is wrong. Nevada's version of the UTSA allows a claim for actual damages and  
22 a recovery of reasonable royalty to be submitted for determination by the jury.  
23

## 24 II. LAW AND ARGUMENT

### 25 A. Evidence of Peppermill's Theft and Disclosure of Trade Secrets Bars Granting 26 its Motion for Directed Verdict.

27 Nev. R. Civ. P. 50(a) states that a motion for a directed verdict shall be denied "[i]f the  
28 evidence is sufficient to sustain a verdict for the opponent." In *Banks ex rel. Banks v. Sunrise*

1 *Hosp.*, 120 Nev. 822, 839, 102 P.3d 52, 64 (2004), the Nevada Supreme Court explained that the  
2 “district court may not judge the credibility of the witnesses or the weight of the evidence.” The  
3 Court continued, that when “ruling on a directed verdict motion, the district court must view the  
4 evidence and all inferences therefrom in a light most favorable to the non-moving party” and “if  
5 there is conflicting evidence on a material issue, or if reasonable persons could draw different  
6 inferences from the facts, the question is one of fact for the jury and not one of law for the  
7 court.” *Id.*

8  
9 In *Bliss v. DePrang*, 81 Nev. 599, 602, 407 P.2d 726, 727 (1965), the Nevada Supreme  
10 Court held that even “where the trial court would feel obliged to set aside a verdict as against the  
11 weight of the evidence, it is powerless to direct a verdict if there is substantial evidence for the  
12 party against whom the motion is made. The Court concluded that a “directed verdict is proper  
13 only in those instances where the evidences is so overwhelming for one party that any other  
14 verdict would be contrary to the law. *Id.* at 727-28

15  
16 **B. GSR's Par Settings Are Not Readily Ascertainable By Proper Means.**

17 Peppermill claims that GSR's slot machine settings are readily ascertainable and  
18 therefore are not trade secrets. One of the broadly stated policies behind trade secret law is "the  
19 maintenance of standards of commercial ethics." *Kewanee Oil Co. v. Bicron Corp.*, 416 U.S. 470  
20 (1974). The Restatement of Torts, Section 757, Comment (f), notes:

21 "A complete catalogue of improper means is not possible," but Section 1(1)  
22 includes a partial listing." NRS 600A.030(1.)

23  
24 The evidence presented by Plaintiff in its case in chief presents a question for the jury  
25 with regard to whether the information was taken by Peppermill by proper means.

26 In determining whether information is readily ascertainable under the statute, the Court  
27 must look statutory interpretation of the term. The means employed by the Peppermill to, after  
28



1 the fact, try to establish that the information is readily ascertainable does not overcome the  
2 evidence presented by Plaintiff to establish its *prima facie* case.

3 C. **The Information Must Be Obtainable At A Glance Or Self Revealing.**

4 In analyzing case law from other jurisdictions interpreting the UTSA, those cases  
5 demonstrate that “readily ascertainable” has a simple, direct, and common sense meaning.

6  
7 For example, to be readily ascertainable, GSR’s pars must be ascertained “quickly” or so  
8 “self-revealing” to be ascertainable “at a glance.” *See e.g., Motorola, Inc. v. Lemko Corp.*, No.  
9 08 C 5427, 2012 WL 74319, at \*19 (N.D. Ill. Jan. 10, 2012) (holding that information was  
10 protected as a trade secret where it “did not involve *self-revealing* information that any user or  
11 passer-by sees *at a glance*”); *CheckPoint Fluidic Sys. Int’l, Ltd. v. Guccione*, 888 F. Supp. 2d  
12 780, 797 (E.D. La. 2012) (holding even though “pumps can be reverse engineered does not bar a  
13 trade secret claim, as long as the pumps cannot be reverse engineered so *quickly* as to be ‘readily  
14 ascertainable’”); *Rycoline Products, Inc. v. Walsh*, 756 A.2d 1047, 1055 (N. J. App. Div. 2000)  
15 (to be readily ascertainable, defendant must demonstrate that the “information can be ascertained  
16 *quickly*”); *Stewart & Stevenson Servs., Inc. v. Serv-Tech, Inc.*, 879 S.W.2d 89, 111 (Tex. App.  
17 1994) (to be a protected trade secret, “the trade secret must not be generally known to or used by  
18 the industry or a matter completely disclosed or ascertainable *at a glance*”); *Amoco Prod. Co. v.*  
19 *Laird*, 622 N.E.2d 912, 919 (Ind. 1993) (holding that trade secrets need not “be unascertainable  
20 at all by proper means, but only that they not be readily or *quickly* ascertainable by such  
21 means”); *Nat’l Instrument Labs., Inc. v. Hycel, Inc.*, 478 F. Supp. 1179, 1182 (D. Del. 1979) (to  
22 lose protection, the trade secret must be “*ascertainable at a glance*”); *Smith v. Dravo Corp.*, 203  
23 F.2d 369, 375 (7th Cir. 1953)(holding that cargo container, available on the open market and  
24 accessible to defendant for inspection, was a protectable trade secret because there was no  
25 evidence that the “construction of which was ascertainable *at a glance*.”)  
26  
27  
28

1 In *K & G Oil Tool & Serv. Co. v. G & G Fishing Tool Serv.*, 314 S.W.2d 782, 785-88  
2 (Tex. 1958), the Texas Supreme Court held that a magnetic fishing tool was entitled to protection  
3 as a trade secret, even though the jury found that the tool could be duplicated “by an examination  
4 of the tool without disassembling it.” The court reasoned that the construction of the tool was not  
5 “ascertainable at a glance.” 314 S.W.2d 786-90. Similarly, all of the methods suggested by  
6 Peppermill’s expert show that GSR’s pars are not self-revealing, because they cannot be  
7 “quickly” determined “at a glance.” Instead, Peppermill’s proposed methods involve elaborate  
8 models and require use of confidential information from slot machine manufacturers, or repeated  
9 playing, or photographing GSR’s slot machines with subsequent use of the data retrieved in  
10 complex analytics to derive the par settings. Such intricate procedures refute any claim that  
11 GSR’s pars are readily or quickly ascertainable.

12 In the motion before the Court, Peppermill asserts that, because its expert, Stacy  
13 Friedman, testified that determination of pars are “reverse engineerable,” this Court must  
14 determine as a matter of law that the information at issue are not trade secrets<sup>1</sup>. Peppermill  
15 ignores substantial body of legal authority holding that, where defendant is shown to have taken  
16 the information by improper means, it cannot defend itself by arguing that the same trade secrets  
17 it stole are readily ascertainable. For example, in *DPT Labs., Ltd. v. Bath & Body Works, Inc.*,  
18 Case No. CIV.SA-98-CA-664-JWP, 1999 WL 33289709, at \*5 (W.D. Tex. Dec. 20, 1999), the  
19 court found that a lotion “formula deserves protection as a trade secret, despite the “theoretical  
20 ability of others to ascertain [plaintiff’s] lotion formula,” because defendant used “improper  
21 means of obtaining [plaintiff’s] formula...” The court quoted and relied upon the Restatement  
22 (Third) of Unfair Competition § 39 cmt. f which states: “When a defendant has engaged in  
23 egregious misconduct in order to acquire the information, the inference that the information is  
24 sufficiently inaccessible to qualify for protection as a trade secret is particularly strong.” *DPT*  
25 *Labs.*, 1999 WL 33289709, at \*5. The court again quoted Comment f which further provides:  
26 “Circumstantial evidence is admissible to establish that information is not readily ascertainable

27 <sup>1</sup> Peppermill, in its motion, ignores the fact that Friedman’s arguments are, by way of affirmative defense,  
28 and are thus not appropriate in its 50(a) motion.

1 through proper means and hence is eligible for protection as a trade secret.” *DPT Labs.*, 1999  
2 WL 33289709, at \*5. The Court reasoned that “trade secret law does not offer protection  
3 against discovery by fair and honest means such as independent invention, accidental disclosure,  
4 or reverse engineering; however, protection will be awarded to trade secret holder against . . .  
5 one who has gained knowledge by improper means.” *Id. citing Kewanee Oil Co. v. Bicron*  
6 *Corp.*, 416 U.S. 470, 475 (1974).

7 Similarly, in *K & G Oil*, the Texas Supreme Court held that a magnetic fishing tool was  
8 entitled to protection as a trade secret. The court reasoned that the “fact that a trade secret is of  
9 such a nature that it can be discovered by experimentation or other fair and lawful means does  
10 not deprive its owner of the right to protection from those who would secure possession of it by  
11 unfair means.” *Id.* at 603.

12 Additionally, in *Avid Air Helicopter Supply, Inc. v. Rolls-Royce Corp.*, 663 F.3d 966,  
13 970-75 (8th Cir. 2011) (emphasis added), the Eighth Circuit held that revised helicopter overhaul  
14 specifications were trade secrets and “not readily ascertainable by proper means” under the  
15 Uniform Trade Secret Act, because defendant’s “repeated attempts to secure the revised  
16 [overhaul information] without [plaintiff’s] approval *belies* its claim that the information in the  
17 documents was *readily ascertainable* or not *independently valuable*.” The court reasoned  
18 “[e]ven if information potentially could have been duplicated by other proper means, it is no  
19 defense to claim that one’s product could have been developed independently of plaintiff’s, if in  
20 fact it was developed by using plaintiff’s proprietary designs.” *Id.* at 973.

21 Likewise, in *Reingold v. Swiftships, Inc.*, 126 F.3d 645, 650-52 (5th Cir. 1997), the Fifth  
22 Circuit held that a boat hull mold was entitled to protection as a trade secret under the Uniform  
23 Trade Secret Act and was “not readily ascertainable by proper means,” even though defendant  
24 “could have reverse engineered a mold from an existing hull,” because defendant did not create  
25 the infringing mold from an existing hull, but instead “misappropriated the trade secret” by  
26 improper means. The court reasoned that “protection will be accorded to a trade secret holder  
27 against disclosure or unauthorized use gained by improper means, even if others might have  
28 discovered the trade secret by legitimate means.” *Id.* at 652.

1           **D. The Defense of Readily Ascertainable Is Not Available to Those Who**  
2           **Misappropriate A Trade Secret.**

3           Peppermill admitted that in acquiring the information at issue from the GSR, it violated  
4           applicable Nevada Gaming Regulations and statutes, and paid a \$1,000,000.00 fine for having  
5           done so. By admission of that improper conduct, Peppermill loses the ability to assert a defense  
6           that the information it took was “readily ascertainable.” At both common law and under the  
7           UTSA, courts have uniformly held that one who misappropriates a trade secret cannot claim that  
8           information is readily ascertainable by proper means. *See, e.g., Smith v. Dravo Corp.*, 203 F.2d  
9           369, 375 (7th Cir. 1953) (“The fact that a trade secret is of such a nature that it can be discovered  
10          by experimentation or other fair and lawful means does not deprive its owner of the right to  
11          protection from those who would secure possession of it by unfair means”); *Pyro Spectaculars*  
12          *N., Inc. v. Souza*, 861 F. Supp. 2d 1079, 1090 (E.D. Cal. 2012) (rejecting claim that the  
13          information on [plaintiff’s] Booking Forms is readily available” because “[i]f the information is  
14          truly that readily available to the public, it raises the question of why it was necessary for  
15          defendant to surreptitiously download, retain, and funnel the Booking Forms and other [plaintiff]  
16          information to his new employer in the first place”); *Home Pride Foods, Inc. v. Johnson*, 634  
17          N.W.2d 774, 782 (Neb. 2001) (holding that customer list was a trade secret that could not be  
18          ascertained through proper because “if the information was readily available, why did the  
19          [defendants] pay \$800 for a stolen list?”); *DPT Labs., Ltd. v. Bath & Body Works, Inc.*, Case No.  
20          CIV.SA-98-CA-664-JWP, 1999 WL 33289709, at 5 (W.D. Tex. Dec. 20, 1999) (holding that as  
21          “a result of [defendant’s] improper means of obtaining [plaintiff’s] formula, the evidence  
22          supports a finding that [the] lotion formula was not readily ascertainable” and therefore  
23          “deserves protection as a trade secret”).

24          Peppermill’s entire argument rests on its interpretation of *Pepper v. Int’l Gaming Sys.,*  
25          *LLC*, 312 F. Supp. 2d 853, 862 (N.D. Miss. 2004). Peppermill relies on that case for the  
26          proposition that the “plaintiff’s failure to present an expert would preclude him from the ability to  
27          establish that his software in the circumstances was not being readily ascertainable by proper  
28          means by other persons by reverse engineering.” A review of the opinion shows that Peppermill

1 has omitted important and dispositive facts. First, the court observed that plaintiff had failed to  
2 present any direct evidence on the issue of whether the trade secret was not reasonably  
3 ascertainable, “other than allegations and conclusion” and therefore expert testimony would have  
4 been required. *Id.* It also struck plaintiff’s proposed expert report for failure to comply with the  
5 federal rules of evidence, so that Peppermill’s reference to and citation of this case to the Court is  
6 both misleading and incomplete. Simply put, Peppermill’s attempt to rely on the case is  
7 disingenuous and the facts of *Pepper* are inapposite to the case before the Court. Here, Plaintiff  
8 has presented evidence to the jury, from which the jury could conclude that the trade secrets  
9 were not readily ascertainable. Moreover, in *Pepper*, there was no evidence of theft, as in the  
10 present case. Courts and the Restatement have found that theft is strong evidence that a trade  
11 secret is not readily ascertainable. Finally, Peppermill cannot present the Court with any holding  
12 that expert testimony is required to prove evidence of a trade secret; in fact, courts have found  
13 the opposite. *See, e.g., Stryker Corp. v. Ridgeway*, Case No. 1:13-CV-1066, 2015 WL 8759220,  
14 at \*14 (W.D. Mich. Dec. 14, 2015) (holding expert testimony was not required to show  
15 misappropriation of trade secret); *W.L. Gore & Associates, Inc. v. GI Dynamics, Inc.*, 872 F.  
16 Supp. 2d 883, 898 (D. Ariz. 2012) (holding a jury could find the misappropriation of trade  
17 secrets without expert testimony).

18 **E. GSR Has Shown Use and Disclosure That Would Entitle it to Reasonable**  
19 **Royalty Damages.**

20 Peppermill’s own documents, in evidence before the jury, demonstrate the use and  
21 disclosure of the information at issue.<sup>2</sup> The court in *Storagecraft Tech. Corp. v. Kirby*, 744 F.3d

22  
23  
24 <sup>2</sup> Peppermill admits without argument that Ryan Tors entered GSR with the express purpose to  
25 steal par information on several occasions and that he provided this information to William  
26 Paganetti, Billy Paganetti, John Hanson, Rob Erwin, Dan Smercina, Aaron Robyns, Jim Moritz,  
27 David McHugh, etc. Trial Exhibits 7-9, 12(a), 112(a), 114, 138(a), 187, 221(b), 239(a)(but  
28 discusses “Eldo and SL”); 241(a)(discussing in part “special key services”). The testimony of  
Mr. Paganetti, Billy Paganetti and Mr. Tors all affirm that they were also receiving information  
from Mr. Tors about GSR’s pars. It is clear that Mr. Tors was making a “disclosure” as  
described under the Nevada Trade Secret Act.

1 1183, 1186-90 (10th Cir. 2014), explained why disclosure<sup>3</sup> was added to the common law  
2 requirement of commercial use to obtain reasonable royalty damages. The Court explained that  
3 “Utah's statute [like Nevada's] tracks the Uniform Trade Secrets Act, which itself provides that  
4 reasonable royalty damages are a ‘general option’ for cases involving disclosure as well as use.”  
5 *Id.* at 1186<sup>4</sup>. The Court noted that cases requiring “commercial use” to obtain damages  
6 calculated under a reasonable royalty theory were based on “the common law's requirements . . .  
7 well before the adoption of the Uniform Trade Secrets Act” which Act provides for reasonable  
8 royalty damages for cases involving disclosure as well as use. *Id.* at 1187.

10 NRS 600A.050 states that a reasonable royalty remedy is available upon evidence of  
11 disclosure or use. As set forth above, Plaintiff has presented abundant evidence to raise a  
12 question of fact for the jury with regard to use of the information by Defendant. Further, as set  
13 forth in detail above, use is presumed where the information is obtained by improper means; that  
14

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15 Furthermore, other evidence shows that Mr. Tors provided the information to David McHugh,  
16 who then disclosed it to Dan Smercina of Western Village. Trial Exhibit 9; *see also* Aguero  
17 Expert Report, Trial Exhibit 169A (referring to Tors offering his “special keying service” to  
David McHugh, which was mentioned in David Halabuk's deposition).

18 <sup>3</sup> “Disclosure” as identified in NRS 600A is given is ordinary and common sense meaning unless  
19 the Nevada legislature intended otherwise:

20 Generally, when the words in a statute are clear on their face, they should be  
21 given their plain meaning unless such a reading violates the spirit of the act. *Hotel*  
22 *Employees v. State, Gaming Control Bd.*, 103 Nev. 588, 591, 747 P.2d 878, 879  
23 (1987). Thus, we have previously held that “when a statute's language is clear and  
unambiguous ‘there is no room for construction.’ ” *Rodgers v. Rodgers*, 110 Nev.  
1370, 1373, 887 P.2d 269, 271 (1994) (quoting *State v. Jepsen*, 46 Nev. 193, 196,  
209 P. 501, 502 (1922)).

24 In other words, the plain meaning of a statute's words are presumed to reflect the  
25 legislature's intent in enacting the statute. Nevertheless, statutory language should  
26 not be read to produce absurd or unreasonable results. *Alsenz v. Clark Co. School*  
*Dist.*, 109 Nev. 1062, 1065, 864 P.2d 285, 286 (1993).

27 *Anthony Lee R. v. State*, 113 Nev. 1406, 1414, 952 P.2d 1, 6 (1997).

28 <sup>4</sup> Nevada's statute also adopts the language of the Uniform Trade Secrets Act.

1 evidence, in and of itself is sufficient to allow the jury to use reasonable royalty for its damage  
2 calculation.

3 In addition, the information Ryan Tors obtained from the GSR and provided to  
4 management at the Peppermill was subsequently disclosed by Peppermill management to other  
5 casinos. See Trial Exhibit 9. Accordingly, GSR has presented prima facie evidence of both use  
6 and disclosure, which allows it to claim reasonable royalty damages.  
7

8 **F. GSR's Proof of Actual Damages Does Not Preclude a Damage Award**  
9 **Based on a Reasonable Royalty.**

10 Peppermill's interpretation of the language of the UTSA concerning the availability of  
11 reasonable royalty damages is simply wrong. NRS 600A.050 provides that: "In lieu of damages  
12 measured by any other methods, damages caused by misappropriation may be measured by  
13 imposition of liability for a reasonable royalty for a misappropriator's unauthorized disclosure or  
14 use of a trade secret." In *Mid-Michigan Computer Sys., Inc. v. Marc Glassman, Inc.*, 416 F.3d  
15 505, 510 (6th Cir. 2005), the Sixth Circuit held that this language ("in lieu of damages measured  
16 by any other methods") means that if losses caused by actual damages or unjust enrichment "are  
17 inadequate to fully compensate [plaintiff] for the misappropriation of its trade secrets, [the jury]  
18 should calculate compensatory damages based upon a reasonable royalty." In fact, the quoted  
19 language comes from a jury instruction that the court gave to allow the jury to first determine if  
20 actual damages would be sufficient to compensate the plaintiff, and if they found they were not,  
21 the jury should then calculate compensatory damages based on a reasonable royalty. Stated  
22 simply, the jury was instructed that it should choose the most appropriate method to adequately  
23 compensate the plaintiff. This principle is further explained in the case cited by Peppermill,  
24 *Pioneer Hi-Bred Int'l v. Holden Found. Seeds, Inc.*, 35 F.3d 1226, 1244 (8th Cir. 1994). In that  
25 case, the Eighth Circuit stated that "Courts and commentators alike have suggested that in  
26  
27  
28

1 choosing among competing theories, courts typically select the measure ‘which affords the  
2 plaintiff the greatest recovery.’”

3 Peppermill can point to no language requiring that GSR make the election, nor can it  
4 point to any case that holds that evidence of one form of damage precludes recovery under any  
5 other theory available under the UTSA. It should go without saying that there can be no  
6 duplicative recovery, and GSR makes no such claim.  
7

8 Accordingly, Peppermill’s claim that reasonable royalty damages are unavailable is error,  
9 and the motion for a directed verdict should be denied.

### 10 **III. CONCLUSION.**

11 Wherefore, based on the foregoing points and authorities, this Court should deny  
12 Defendant’s NRCp 50(A) Motion for Judgment as a Matter of Law.  
13

#### 14 **AFFIRMATION PURSUANT TO NRS 239B.030**

15 The undersigned does hereby affirm that the preceding document does not contain the  
16 social security number of any person.  
17

18 DATED this 24<sup>th</sup> day of January, 2016.  
19

20 **COHEN|JOHNSON|PARKER|EDWARDS**  
21

22 By: /s/ Chris Davis  
23

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28



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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of COHEN|JOHNSON|PARKER  
EDWARDS, and that on this date I caused to be served a true and correct copy of the  
OPPOSITION TO DEFENDANT'S NRCP 50(A) MOTION FOR JUDGMENT AS A  
MATTER OF LAW on all the parties to this action by the method(s) indicated below:

\_\_\_\_\_ by placing an original or true copy thereof in a sealed envelope, with sufficient  
postage affixed thereto, in the United States Mail, Las Vegas, Nevada and  
addressed to:

  X   by using the Court's CM/ECF Electronic Notification System addressed to:

ROBISON, BELAUSTEGUI, SHARP & LOW  
c/o Kent R. Robison, Esq.  
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*Attorney for the Defendant Peppermill*

  X   by electronic email addressed to the above:  
\_\_\_\_\_ by personal or hand/delivery addressed to:  
\_\_\_\_\_ by facsimile(fax) addresses to:  
\_\_\_\_\_ by Federal Express/UPS or other overnight delivery addressed to:

DATED the 24<sup>th</sup> day of January, 2016.

/s/ Sarah Gondek  
An employee of Cohen-Johnson, LLC

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16 **IN THE SECOND JUDICIAL DISTRICT FOR THE STATE OF NEVADA**

17 **IN AND FOR THE COUNTY OF WASHOE**

18 MEI-GSR HOLDINGS, LLC, a Nevada  
19 Corporation, d/b/a/ GRAND SIERRA RESORT,

**CASE NO.: CV13-01704**

20 Plaintiff,

**DEPT. NO.: B7**

21 vs.

**BUSINESS COURT DOCKET**

22 PEPPERMILL CASINOS, INC., a Nevada  
23 Corporation, d/b/a/ PEPPERMILL CASINO,

24 Defendant.  
25 \_\_\_\_\_/

26 **DEFENDANT'S REPLY BRIEF IN SUPPORT OF NRCP 50(A) MOTION FOR**  
27 **JUDGMENT AS A MATTER OF LAW**

28 Defendant Peppermill Casinos Inc. ("Peppermill"), by and through its counsel, Robison, Belaustegui, Sharp & Low, hereby submits this reply brief in support of its motion for an order granting judgment as a matter of law against Plaintiff MEI-GSR Holdings, LLC ("GSR") pursuant to and in accordance with Rule 50(a) of the Nevada Rules of Civil Procedure.

29 **I. NEVADA'S UNIFORM TRADE SECRETS ACT—NOT THE RESTATEMENT—**  
30 **GOVERN THIS CASE.**

31 As a preliminary matter, Peppermill must address the fact that GSR's Opposition is based—to a substantial extent—upon the misappropriation of trade secret tort set forth in the Restatement (First) of Torts and cases applying the Restatement. There is no question that Nevada's Uniform Trade Secret Act is the governing law in this case. Therefore, only cases from

1 other jurisdictions interpreting the Uniform Trade Secret Act, as well as the American Law  
2 Institute's commentary on the Uniform Trade Secret Act, are persuasive.

3 Most notably, GSR relies upon the cases interpreting Texas law, which specifically relies  
4 upon the Restatement of Torts. See Opposition, p. 5-6; see also *Smith v. Dravo Corp.*, 203 F.2d  
5 369, 374-75 (7th Cir. 1953) (applying the Restatement (First) of Torts); *K & G Oil Tool & Serv.*  
6 *Co. v. G & G Fishing Tool Serv.*, 158 Tex. 594, 605-06, 314 S.W.2d 782, 789-90 (1958) (applying  
7 the Restatement (First) of Torts and *Smith v. Dravo*); *Nat'l Instrument Labs., Inc. v. Hycel, Inc.*,  
8 478 F. Supp. 1179, 1181-82 (D. Del. 1979) (applying Texas law, generally, and *K & G Oil Tool &*  
9 *Serv. Co.*, specifically); *Stewart & Stevenson Servs., Inc. v. Serv-Tech, Inc.*, 879 S.W.2d 89, 95-97  
10 (Tex. App. 1994) (applying the Restatement (First) of Torts and *K & G Oil Tool & Serv. Co.*);  
11 *DPT Labs., Ltd. v. Bath & Body Works, Inc.*, No. CIV.SA-98-CA-664-JWP, 1999 WL 33289709,  
12 at \*4-5 (W.D. Tex. Dec. 20, 1999) (applying *K & G Oil Tool & Serv. Co.*). Texas's reliance upon  
13 the Restatement is directly related to the fact that Texas did not enact the Uniform Trade Secrets  
14 Act until 2013. Accordingly, GSR simply relies upon the wrong body of law in its Opposition.

15 The Court may ask, why does it matter if GSR relies cases interpreting the Restatement  
16 instead of the Uniform Trade Secrets Act? The answer lies in how the Restatement and the  
17 Uniform Trade Secret Act deal with the issue of ascertaining a trade secret by proper means.  
18 Section 757 of the Restatement (First) of Torts (1939) describes the tort of "Disclosure or Use of  
19 Another's Trade Secret," but fails to define what a trade secret is. Instead, a very broad definition  
20 of trade secret is offered in comment b to Section 757, which states that

21 A trade secret may consist of any formula, pattern, device or  
22 compilation of information which is used in one's business, and  
23 which gives him an opportunity to obtain an advantage over  
24 competitors who do not know or use it. It may be a formula for a  
25 chemical compound, a process of manufacturing, treating or  
26 preserving materials, a pattern for a machine or other device, or a  
27 list of customers. It differs from other secret information in a  
28 business (see § 759) in that it is not simply information as to single  
or ephemeral events in the conduct of the business, as, for  
example, the amount or other terms of a secret bid for a contract or  
the salary of certain employees, or the security investments made  
or contemplated, or the date fixed for the announcement of a new  
policy or for bringing out a new model or the like. A trade secret is  
a process or device for continuous use in the operation of the  
business. Generally it relates to the production of goods, as, for  
example, a machine or formula for the production of an article. It

1 may, however, relate to the sale of goods or to other operations in  
2 the business, such as a code for determining discounts, rebates or  
3 other concessions in a price list or catalogue, or a list of specialized  
customers, or a method of bookkeeping or other office  
management.

4 Restatement (First) of Torts § 757 (1939), cmt. b. Further, Section 758 offers a defense to claim  
5 for disclosure or use of another's trade secret, that of innocent discovery (i.e., acquisition by proper  
6 means. This differs with Section 759 of the Restatement, which creates liability for information  
7 procured by "improper means." Under the framework of the Restatement, it is no surprise that a  
8 defendant who procures a trade secret by improper means cannot assert a defense of acquisition by  
9 proper means under Section 758.

10 In contrast, the Uniform Trade Secrets Act provides a specific legal test to define a trade  
11 secret:

12 "Trade secret" means information, including, without limitation, a  
13 formula, pattern, compilation, program, device, method, technique,  
14 product, system, process, design, prototype, procedure, computer  
programming instruction or code that:

15 (a) Derives independent economic value, actual or potential, from not  
16 being generally known to, and not being readily ascertainable by  
proper means by the public or any other persons who can obtain  
commercial or economic value from its disclosure or use; and

17 (b) Is the subject of efforts that are reasonable under the  
18 circumstances to maintain its secrecy.

19 NRS 600A.030. The Uniform Trade Secret Act, unlike the Restatement, does not contemplate a  
20 "proper" or "innocent" means defense. Instead, "proper means" is a part of the definition of a  
21 trade secret: specifically, a valid, protectable trade secret must "not being readily ascertainable by  
22 proper means by the public or any other persons who can obtain commercial or economic value  
23 from its disclosure or use." Accordingly, whether the public or some other party may readily  
24 ascertain a trade secret by "proper means" is not a defense to be raised by the defendant; it is an  
25 element of "trade secret" to be proven by the plaintiff by a preponderance of the evidence.  
26 Moreover, whether the defendant acquired a purported trade secret by improper means must be  
27 proven by the plaintiff in order to establish misappropriation.

28 The issue of whether some third party may readily ascertain an alleged trade secret by  
proper means must be viewed through the lens of the Uniform Trade Secrets Act. As discussed

1 below, GSR fails to do that. By relying upon the Restatement, GSR's arguments must be  
2 summarily disregarded.

3 **II. WHETHER INFORMATION IS "REASONABLY ASCERTAINABLE BY**  
4 **PROPER MEANS" IS USUALLY A QUESTION OF FACT THAT**  
5 **CONTEMPLATES THE EASE AND EXPENSE OF ASCERTAINING THE**  
6 **INFORMATION, AS WELL AS THE COMPLEXITY OF THE INFORMATION**  
7 **ITSELF.**

8 Despite what GSR states in its Opposition, the cases interpreting the Uniform Trade  
9 Secrets Act to determine whether a trade secret that can be reverse engineered is "readily  
10 ascertainable by proper means" by third parties engage in fact intensive inquiry. An inquiry of  
11 ascertainably considers (1) the amount of reverse engineering time involved, and (2) the  
12 complexity and detail of the information involved. *See Electro-Craft Corp. v. Controlled Motion,*  
13 *Inc.*, 332 N.W.2d 890, 899 (Minn. 1983). In *Electro-Craft Corp. v. Controlled Motion, Inc.*, the  
14 Court found that a trade secret existed over a defendant's assertion that the motor design in  
15 question could be reverse engineering. *Id.* In uphold the trial court's decision, the Minnesota  
16 Supreme Court acknowledged that "readily ascertainably was a fact intensive analysis:

17 [T]he trial court found on conflicting evidence that CMI could not  
18 **readily (i.e. quickly)** reverse engineer a motor with exactly the  
19 same dimensions, tolerances, and materials as the ECC 1125-03-  
20 003. **This finding was not clearly erroneous. Reverse**  
21 **engineering time is certainly a factor in determining whether**  
22 **information is readily ascertainable. [citations] The complexity**  
23 **and detail of dimensional data also bears on its**  
24 **ascertainability. [citations.]**

25 *Id.* (emphasis added).

26 The rule in *Electro-Craft* is consistent in many other opinions that interpret the Uniform  
27 Trade Secrets Act. *See, e.g., U.S. Marine, Inc. v. United States*, No. CIVA 08-2571 J3, 2010 WL  
28 1403958, at \*5 (E.D. La. Apr. 1, 2010) ("The Court finds that though reverse engineering would  
not have been impossible, it was sufficiently difficult, cumbersome and expensive that the design  
was not 'readily ascertainable' through reverse engineering."); *Miles Inc. v. Cookson America,*  
*Inc.*, 20 Del. J. Corp. L. 778 (Del. Ct. Ch. 1994) ("Reverse engineering time is a factor in  
determining whether a process is readily ascertainable, as is the complexity and detail of the data  
involved.").

Indeed, several of the cases cited by GSR in its Opposition support the rule in *Electro-*

1 *Craft*. See, e.g., *CheckPoint Fluidic Sys. Int'l, Ltd. v. Guccione*, 888 F. Supp. 2d 780 (E.D. La.  
2 2012) ("Therefore, that CheckPoint pumps can be reverse engineered does not bar a trade secret  
3 claim, as long as the pumps cannot be reverse engineered so quickly as to be 'readily  
4 ascertainable.'"). Citing *Electro-Craft Corp. v. Controlled Motion, Inc.*, *supra*, 332 N.W.2d at  
5 899 (Minn. 1983), the Court in *Rycoline Products, Inc. v. Walsh*, 334 N.J. Super. 62, 756 A.2d  
6 1047 (App. Div. 2000) held that "[i]n determining whether ACFS 276 could be reverse  
7 engineered, defendant must demonstrate that it is 'quickly reverse engineerable.'" The Court then  
8 concluded that "[t]he more difficult, time consuming and costly it would be to develop the  
9 product, the less likely it can be considered to be 'reverse engineerable.'" *Id.* Further, in *Amoco*  
10 *Prod. Co. v. Laird*, 622 N.E.2d 912 (Ind. 1993), the Court surveyed trade secret law and state that  
11 "[w]e thus find that, consistent with the interpretation of the UTSA in other jurisdictions, **where**  
12 **the duplication or acquisition of alleged trade secret information requires a substantial**  
13 **investment of time, expense, or effort, such information may be found 'not being readily**  
14 **ascertainable'** so as to qualify for protection under the Indiana Uniform Trade Secrets Act."

15 The foregoing cases firmly establish that the question of whether an alleged trade secret is  
16 readily ascertainable by proper means in context of reverse engineering is a question of fact for the  
17 jury. This is further supported by distinguishing the cases which support the "at a glance"  
18 definition of "readily ascertainable."

19 First, GSR relies upon several cases applying Texas law, which relies upon the  
20 Restatement (First) of Tors. See discussion Part I, *supra*. As noted above, Texas law does not  
21 consider whether information is readily ascertainable by proper means in its definition of a trade  
22 secret.

23 Second, GSR relies upon *Motorola, Inc. v. Lemko Corp.*, No. 08 C 5427, 2012 WL 74319, at  
24 \*19 (N.D. Ill. Jan. 10, 2012). This case does not contemplate reverse engineering. More importantly,  
25 the case interprets the Illinois Trade Secrets Act. *Id.* at \* 13. This is important, because the Illinois  
26 statute does not include "readily ascertainable by proper means" in its definition of "trade secret."<sup>1</sup>

27  
28 <sup>1</sup> "Trade secret" means information, including but not limited to, technical or non-technical data, a  
formula, pattern, compilation, program, device, method, technique, drawing, process, financial  
data, or list of actual or potential customers or suppliers, that:

1 This distinction with the Illinois Trade Secrets Act also impacts GSR's reliance upon *Avid Air*  
2 *Helicopter Supply, Inc. v. Rolls-Royce Corp.*, 663 F.3d 966, 970-75 (8th Cir. 2011). GSR cites to  
3 *AvidAir* for the proposition that "[e]ven if information potentially could have been duplicated by other  
4 proper means, it is no defense to claim that one's product could have been developed independently of  
5 plaintiff's, if in fact it was developed by using plaintiff's proprietary designs." See Opposition, p. 7.  
6 However, this quotation is taken from a parenthetical citation to *Amoco Prod. Co. v. Laird, supra*,  
7 622 N.E.2d at 918. Put in context, the *AvidAir* Court's actual discussion is as follows:

8 The fact that information can be ultimately discerned by others—  
9 whether through independent investigation, accidental discovery,  
10 or reverse engineering—does not make it unprotectable. See *Laird*,  
11 622 N.E.2d at 918 ("Even if information potentially could have  
12 been duplicated by other proper means, it is no defense to claim  
13 that one's product could have been developed independently of  
14 plaintiff's, if in fact it was developed by using plaintiff's proprietary  
15 designs.") (internal quotation marks omitted). Instead, the court  
16 must look at whether the duplication of the information would  
17 require a substantial investment of time, effort, and energy. *Id.* at  
18 919–20.

14 *AvidAir Helicopter Supply, Inc. v. Rolls-Royce Corp.*, *supra*, 663 F.3d at 973. Aside from  
15 misrepresenting the Court's holding in *AvidAir*, the quotation from *Amoco v. Laird* is also  
16 misplaced. The quote from the *Amoco* Court was actually taken from its survey of the competing  
17 legal rules across various jurisdictions. The statement that duplication by proper means is not a  
18 defense is actually a quotation from *Television Telecomm. Sys., Inc. v. Saindon*, 169 Ill. App. 3d 8,  
19 17, 522 N.E.2d 1359, 1365 (1988), which is an Illinois case interpreting the Illinois Uniform Trade  
20 Secrets Act. As noted above, the Illinois statute does not contemplate "readily ascertainable" in its  
21 definition of "trade secret." Once again, the law cited by GSR has no bearing on Nevada's  
22 Uniform Trade Secrets Act.

23 Third, GSR relies upon *Reingold v. Swiftships, Inc.*, 126 F.3d 645, 650-52 (5th Cir. 1997) to  
24 support its "at a glance" theory. However, *Reingold* is factually distinguishable from the facts in this  
25 case. The ALI's comments to the Uniform Trade Secrets Act require that for reverse engineering

26 (1) is sufficiently secret to derive economic value, actual or potential, from not being  
27 generally known to other persons who can obtain economic value from its disclosure or use;  
28 and

(2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy or  
confidentiality. See 765 Ill. Compiled Stat. 1065, § 2(d).

1 to constitute “proper means,” the known product must be acquired “by a fair and honest means.”  
2 *See id.* at 652. In *Reingold*, the defendant reverse engineered the design of a hull, but in doing so  
3 breached its licensing agreement with the plaintiff. Therefore, the hull could be reverse engineered  
4 by fair and honest means; it was not readily ascertainable. Here, there is plenty of testimony that  
5 GSR’s pars could be reverse engineered quickly, simply, and without violating any law, regulation,  
6 or general sense of ethics. *See generally* Testimony of Stacy Friedman (Jan. 20, 2016).  
7 Accordingly, *Reingold* is inapplicable in this case.

8 GSR has thrown much authority at the wall. However, none of it sticks. All the cases that  
9 GSR cites to in support of the proposition that “readily ascertainable” means “at a glance” are  
10 inapplicable. Peppermill concedes that information that made be discerned at a glance is readily  
11 ascertainable. However, that is merely because such information would satisfy the fact intensive  
12 analysis required that contemplates the time and expense of reverse engineering, as well as the  
13 complexity of the alleged trade secret.

14 **III. IN OPPOSITION TO THE HOLDING IN *PEPPER V. INTERNATIONAL GAMING***  
15 ***SYSTEMS, LLC*, GSR ONLY OFFERS A MISTATEMENT OF THE LAW.**

16 Peppermill’s motion relies in large part on the holding in *Pepper v. Int’l Gaming Sys., LLC*, 312  
17 F. Supp. 2d 853, 862 (N.D. Miss. 2004). In that case, the Court held that “the plaintiff’s failure to  
18 present an expert would preclude him from the ability to establish that his software in the  
19 circumstances was “not being readily ascertainable by proper means by other persons” by reverse  
20 engineering.” *Id.* The only argument offered by GSR to counter the rule in *Pepper* are citations to  
21 two cases—*Stryker Corp. v. Ridgeway* and *W.L. Gore & Associates, Inc. v. GI Dynamics, Inc.*—  
22 that GSR represents so hold that expert testimony is not required to show misappropriation of a  
23 trade secret. This is a blatant misrepresentation of authority.

24 In *Stryker Corp. v. Ridgeway*, No. 1:13-CV-1066, 2015 WL 8759220, at \*14 (W.D. Mich.  
25 Dec. 14, 2015), the Court countered the plaintiff’s contention that it need to produce an expert on  
26 the issue of economic value by noting that an expert witness is usually necessary when presenting  
27 evidence of a reasonable royalty. Similarly, the Court in *W.L. Gore & Associates, Inc. v. GI*  
28 *Dynamics, Inc.*, 872 F. Supp. 2d 883, 898-99 (D. Ariz. 2012) noted that an expert is not necessary  
for a plaintiff to prove economic value. However, the Court actually granted summary judgment



1 on two of the nine alleged trade secrets due to the plaintiff's failure to offer an expert witness.

2 In sum, neither of the cases cited by the GSR contradicts the rule in *Pepper*. Accordingly,  
3 GSR's failure to offer an expert on the ability to reverse engineer pars is fatal to its claim.  
4 Judgement should be granted as a matter of law, because GSR failed to offer necessary evidence to  
5 prove that is par information was not readily ascertainable by proper means.

6 **IV. GSR HAS FAILED TO OFFER EVIDENCE OF DISCLOSURE.**

7 GSR fails to rebut and concedes Peppermill's contention that a legal entity cannot  
8 "disclose" to itself. This is fatal to GSR's allegations of disclosure. First, Ryan Tors is not a party  
9 to this action. If he "disclosed" GSR's pars to the Peppermill's management, it is Tors who is  
10 liable, not the Peppermill. Second, however, Mr. Tors was within the scope of his employment  
11 when he emailed GSR's pars to Peppermill's management. Under respondeat superior, Mr. Tors  
12 and Peppermill were the same legal entity. Accordingly, there is no disclosure.

13 Now GSR contends that David McHugh's disclosure to Dan Smercina of Western Village  
14 constitutes third-party disclosure. See Opposition, p. 9, n.2. However, the unrefuted evidence in  
15 this case establishes that Western Village is corporate subsidiary and affiliate of the Peppermill.  
16 See Testimony of William Paganetti (Jan. 12, 2016), p. 56-57, 119, 121-122. Western Village and  
17 Mr. Smercina also are a part of the same legal entity as the Peppermill. Cf. *Laxalt v. McClatchy*,  
18 622 F. Supp. 737, 745 (D. Nev. 1985) (holding that subsidiaries has "no separate legal existence,"  
19 barring claim for conspiracy). Therefore, Trial Exhibit 9 does not evidence third-party disclosure.  
20 Moreover, GSR's experts concede there was no disclosure. See Testimony of Jeremy Aguero  
21 (Jan. 19, 2016), p. 201:8-18 ("Q. Do you have any evidence that Peppermill disclosed . . . it to any  
22 third party? A. I do not.").

23 GSR's reliance on Trial Exhibit 9 is misplaced. There is simply no evidence in the record  
24 that Peppermill disclosed GSR's pars to a third party.

25 **V. GSR PROVIDES NO LEGAL AUTHORITY IN SUPPORT OF A PRESUMPTION OF**  
26 **USE.**

27 In the introduction of its Opposition, GSR makes a very bold claim: "GSR is entitled to a  
28 presumption of use when the information is wrongfully obtained at great effort or risk, as it has  
been in this case." However, GSR cites no authority that supports that position. Instead, GSR

1 alludes to certain cases where acquisition by improper means suggests “use.” These cases are  
2 inapplicable and do not actually hold that there is any presumption to be made from evidence of  
3 acquisition by improper means.

4 First, GSR one against relies upon Texas cases in support of this “presumption.” As  
5 described at length, Texas cases rely upon the Restatement, which is inapplicable here. *See*  
6 *Opposition*, p. 8 (citing *DPT Labs v. Bath & Body Works*, 199 WL 33289709 (W.D. Tex. 199);  
7 *E.I. DuPont*, 431 F.2d 1012 (5th Cir. 1970) (citing Texas law); *see also Smith v. Dravo*, 203 F.2d  
8 369 (7th Cir. 1953) (applying the Restatement).

9 Second, GSR relies upon *Pyro Spectaculars N., Inc. v. Souza*, 861 F. Supp. 2d 1079, 1090  
10 (E.D. Cal. 2012). However, the Court in *Pyro* was analyzing a motion for preliminary injunction.  
11 Accordingly, the Court noted that “surreptitiously” taking an alleged trade secret demonstrated a  
12 likelihood of success on the issue of readily ascertainable. The *Pyro* Court did not establish any  
13 presumption. They merely found a fact on a very particular standard of review, which is not applicable  
14 here. The Court does not even mention the word “presumption.”

15 Third, GSR’s reliance upon *Home Pride Foods, Inc. v. Johnson*, 634 N.W.2d 774 (Neb.  
16 2001) is also misplaced. In this case, the Court was reviewing a bench trial of a claim for  
17 misappropriation of a trade secret. The Court merely upheld a finding of fact on the issue of  
18 whether an alleged trade secret was readily ascertainable. The Court did not hold that there is a  
19 presumption of use. Once again, the Court does not mention the word “presumption.”

20 GSR can cite to no authority under the Uniform Trade Secrets Act that supports a  
21 presumption of “use” or any presumption of a protectable trade secret. Accordingly, GSR’s  
22 *Opposition* should be disregarded, and the Court should grant judgment as a matter of law on use.

23 **VI. GSR IS NOT ENTITLED TO A REASONABLE ROYALTY, BECAUSE IT CLAIMS**  
24 **ACTUAL DAMAGES AS A MATTER OF LAW.**

25 GSR does not challenge the plain meaning of NRS 600A.050, which only allows a  
26 reasonable royalty “in lieu” of other measures of damages. While GSR cites to *Pioneer Hi-Bred*  
27 *Int’l v. Holden Found. Seeds, Inc.*, 35 F.3d 1226, 1244 (8th Cir. 1994) for the proposition that GSR  
28 should be able to choose a damage model that affords it “the greatest recovery.” *See Opposition*,  
p 11-12. However, the Court in *Pioneer* actually noted that a reasonable royalty is appropriate

1 when other damages models would "result in no recovery." See *Pioneer Hi-Bred Int'l v. Holden*  
2 *Found. Seeds, Inc., supra*, 35 F.3d at 1244.

3 Here, GSR has provided evidence of an actual loss \$20,714.11 related to changing the  
4 locks on its slot machines. This is not a recovery of zero dollars. Accordingly, GSR's claim for  
5 reasonable royalty is barred.

6 **IV. CONCLUSION**


7 For the forgoing reasons, GSR's Opposition must be disregarded, and Peppermill's motion  
8 for judgment as a matter of law should be granted.

9 **AFFIRMATION**  
10 **Pursuant to NRS 239B.030**

11 The undersigned does hereby affirm that this document does not contain the social security  
12 number of any person.

13 DATED this 25<sup>th</sup> day of January, 2016.

14 ROBISON, BELAUSTEGUI, SHARP & LOW  
15 A Professional Corporation  
16 71 Washington Street  
17 Reno, Nevada 89503

18   
19 KENT R. ROBISON  
20 SCOTT L. HERNANDEZ  
21 THERESE M. SHANKS  
22 Attorneys for Defendant  
23 Peppermill Casinos, Inc., d/b/a Peppermill Casino  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

Pursuant to NRCp 5(b), I certify that I am an employee of ROBISON, BELAUSTEGUI, SHARP & LOW, and that on this date I caused to be served a true copy of the **DEFENDANT'S REPLY BRIEF IN SUPPORT OF NRCp 50(A) MOTION FOR JUDGMENT AS A MATTER OF LAW** on all parties to this action by the method(s) indicated below:

by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

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by electronic email addressed to the above.

by personal delivery/hand delivery addressed to:

by facsimile (fax) addressed to:

by Federal Express/UPS or other overnight delivery addressed to:

DATED: This 25th day of January, 2016.

  
CLAUDIA ZAEHRINGER  
Employee of Robison, Belaustegui, Sharp & Low

---

From: Dave Halabuk  
Sent: Friday, [REDACTED] 7:52 AM  
Subject: RE: [REDACTED]

Lets talk, please call me - you are not in your office. Dave

-----Original Message-----

From: Ryan Tors  
Sent: Friday, [REDACTED] 7:46 AM  
To: Dave Halabuk  
Subject: RE: [REDACTED]

I hope they are IGT video theme. The others are hard to do, lots of button pushing and I might get caught..

Thanks-  
Ryan Tors  
Peppermill Casinos  
775 689 7499

-----Original Message-----

From: Dave Halabuk  
Sent: Friday, [REDACTED] 6:50 AM  
To: Ryan Tors  
Subject: Re: [REDACTED]

I need specific machine numbers with the par on that specific machine for our testing. Thanks  
Sent from Dave's BlackBerry

-----Original Message-----

From: Ryan Tors  
To: Dave Halabuk  
Sent: Fri [REDACTED]  
Subject: RE: [REDACTED]

Let me guess. You want me to get some pars. No problem. I was on video theme but I'll do some more..

Thanks-  
Ryan Tors  
Peppermill Casinos  
775 689 7499

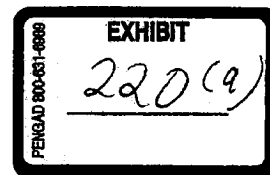
-----Original Message-----

From: Dave Halabuk  
Sent: Thursday, [REDACTED] 7:

\*\*\* This message has been archived. \*\*\*

[Retrieve Message](#)

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HIGHLY CONFIDENTIAL

From: Ryan Tors  
Sent: Friday, [REDACTED] 1:55 AM  
To: Dave Halabuk  
Subject: RE: [REDACTED]

Let me guess. You want me to get some pairs. No problem. I was on video theme but I'll do some more.

Thanks-

Ryan Tors  
Peppermill Casinos  
775 689 7499

-----Original Message-----

From: Dave Halabuk  
Sent: Thursday, [REDACTED] 7:17 PM  
To: Ryan Tors  
Subject: [REDACTED]

Need to talk to you about your special key service.  
Sent from Dave's BlackBerry

\*\*\* This message has been archived. \*\*\*

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DM 13271

RA 05350

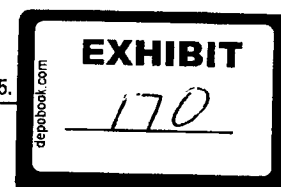
Applied Analysis ("AA") was retained by Cohen-Johnson, LLC ("Cohen Johnson") on behalf of MEI-GSR Holdings, LLC, doing business as Grand Sierra Resort ("GSR"), to review the expert witness reports of Stacy Friedman (the "Friedman report") and Anthony Lucas, Ph.D. (the "Lucas report") related to case number CV13-01704 filed in the Second Judicial District Court of the State of Nevada, Washoe County.

Specifically, AA was asked to address whether Peppermill Casinos, Inc. ("Peppermill") used the par settings unlawfully obtained from GSR slot machines by employee Ryan Tors ("Tors") on December 29, 2011 and June 14, 2012. Based on a review of the expert witness reports, Mr. Friedman and Dr. Lucas state that Tors accessed a total of six to thirteen slot machines and six to fifteen slot machines, respectively.<sup>1</sup> Though the number of slot machines actually accessed by Tors is debated, at issue is whether any of the information obtained by Tors while inappropriately accessing GSR's slot machines using a 2341 key were utilized by Peppermill.

The Friedman and Lucas reports directly state or allude to the idea that Peppermill made no use of the GSR par settings obtained by Tors. Examples of these statements include, but are not limited to, the following:

- 1 "While it may satisfy some measure of curiosity for a casino operator to know the value of an individual game's hold percentage at a competing property, I do not believe any truthful casino operator would suggest that knowing the hold percentage of a single competitor's machine, or even six to thirteen machines, would be of 'independent economic value.'" (*Friedman report, page 19*)
- 2 "There is no evidence that the Peppermill used the information" (*Friedman report, page 57*)
- 3 "The Nevada Gaming Control Board conducted an exhaustive investigation and reported that its investigation 'did not produce any evidence that the par information obtained by Mr. Tors was used to adjust Peppermill casino pars' and further that 'the par information obtained by Mr. Tors was never used by the Peppermill to gain a competitive advantage over the other casinos.' I have found no evidence to suggest otherwise." (*Friedman report, Page 65*)
- 4 "Having a few pars from a competitor's slot floor provides no actionable business intelligence to the Peppermill...By itself, knowledge of par is not helpful in the performance optimization process." (*Lucas report, page 19*)
- 5 "The theories related to the effect of par are many and often contradictory. Its impact on the success of a game remains unknown. Therefore, I do not know how the Peppermill could make any meaningful use of GSR reel slot par data." (*Lucas report, page 19*)
- 6 "Due to differences in clientele and game location characteristics, the optimal par for a particular game title could vary by casino. Therefore, knowing a competitor's reel slot pars is not helpful in the optimization of a different casino's slot floor. It would make infinitely more sense to perform par experiments on your own floor." (*Lucas report, page 20*)
- 7 "Obtaining 6 to 15 pars from a competitor will not be helpful in identifying the optimal pars for the Peppermill." (*Lucas report, page 21*)
- 8 "Given the extensive limitations of reel slot par information, the difficulty of measuring the impact of any individual effect on slot performance, and the extremely limited, inaccurate, possibly contrived, and unrepresentative sample of pars, I cannot see how the Peppermill would gain a meaningful benefit from such information." (*Lucas report, pages 25-26*)

<sup>1</sup> See Expert Report of Stacy Friedman, pages 14-16. See also, Expert Report of Dr. Anthony Lucas, pages 4, 24-25.



A key premise in the examples above is the idea that the par settings of competing casinos are alone, of no value, and therefore would not be utilized as part of a casino management strategy.

Nevertheless, evidence exists that suggests the Peppermill utilized competitors' par settings at various timeframes. In the deposition transcript of David Halabuk, who was Peppermill's director of promotions for over ten years, it appeared that Peppermill management considered the par settings of competitor's machines in their casino management calculus. Below is an excerpt from the deposition:<sup>2</sup>

Q (Mr. Johnson): Okay. All right. Okay. So getting back to the Rail City incident, John Hanson came to you and said, would you ask Ryan Tors to – for his special key service for the Rail City, is that basically what he said?

A (Mr. Halabuk): Yes.

Q (Mr. Johnson): And what did you understand by the term "special key service"?

A (Mr. Halabuk): That Ryan would use a reset key to get a – a game's theoretical hold percentage and he would play the slot machine to see how many points or comps he earned.

Q (Mr. Johnson): And was this for more than one machine or do you recall how many machines he did at that time?

A (Mr. Halabuk): I believe he did several machines, two or three.

Q (Mr. Johnson): So after he had done that – well, let me back up. Did John Hanson indicate to you why he wanted the information?

A (Mr. Halabuk): We were evaluating what comp reimbursement percent Western Village should have.

Q (Mr. Johnson): And he thought that information would help in determining that?

A (Mr. Halabuk): Yes.

The use of hold percentages, or par settings, to evaluate comp reinvestment values is corroborated by an email from Aaron Robyns, Corporate Executive Director of Marketing, on March 18, 2013, asking Tors, "What would you estimate that GSR's hold percentage would be on Penny Video Reel machines (Sex in the City theme)? I am trying to calculate their comp reinvestment, thanks."<sup>3</sup> This demonstrates that par-related data obtained from competitors was a consideration in Peppermill's casino management.

The value of slot programming information is further supported by Charles Lombardo, a gaming consultant with over 40 years of experience in the gaming industry. Lombardo was asked the question, "What use can you make of...going into somebody's casino and getting 6 to 8 pars...What can you do with that?" Lombardo replied, "It's the trend...Look you've got 95 here but you've got 85 over here...because I've just read two machines side by side, now it gives me a bigger snapshot of what you're doing."<sup>4</sup>

Finally, the deposition of John Stone, owner of CDC Consulting who has performed numerous same-day rewards and direct mail analyses for GSR and other casinos, confirmed that not only is comp reinvestment an essential part of casino management, but it is also something that would be difficult to do without knowing slot machine par settings. In the first excerpt below, Stone reiterates the claims in the testimony above – that comp reinvestment is an important part of casino management.<sup>5</sup>

<sup>2</sup> See transcript of the Deposition of David James Halabuk, pages 19-20.

<sup>3</sup> See PM 0087 (email exchange between Tors and Robyns, dated March 18, 2013).

<sup>4</sup> Audio recording provided by Counsel.

<sup>5</sup> See transcript of the Deposition of John Stone, page 22.



Q (Mr. Robison): That \$5 hold then is subjected to this whole reinvestment strategy that is important to the casino's ability to cater to its clientele?

A (Mr. Stone): Absolutely.

Q (Mr. Robison): Very important?

A (Mr. Stone): Absolutely.

Stone later asserts that in order to correctly identify a competitor's comp reinvestment, one would need to know the par and theo.<sup>6</sup>

Q (Mr. Robison): And you can't figure out what that reinvestment is without social engineering, either the par or the theo?

A (Mr. Stone): Correct. That is the only way I can get to that – to that correct, correct number is I have to have those criteria at my knowledge.

In responding to the question of whether Peppermill utilized the par settings inappropriately obtained by Tors from GSR, the testimony cited above suggests the Peppermill utilized this information in some way. The fact that Tors, at the behest of Peppermill, repeatedly accessed the slot machines of competing casinos since at least 2011 alone is evidence that Peppermill used this information in managing its casino.

---

<sup>6</sup> Ibid. Page 76.

**From:** Ryan Tors  
**Sent:** Thursday, March 18, 2010 10:24 AM  
**To:** Henry Bierman; Billy Paganetti; Scott Bean; Dave Halabuk; John C Hanson (Reno GM); Andrew Ko; Yolanda Basterrechea; Rob Erwin; Bill Hughes  
**Subject:** Slot bonusing competition survey

<< File: Slot bonusing Competitor survey.pdf >>

Thanks-  
Ryan Tors  
Peppermill Casinos  
775 689 7499

1  
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PM 13272

RA 05354

# Slo. Bonusing Competitor Survey

		Coin In	Theo	Points increment	Comps as % of theo	Coin In	Theo	Points increment	Comps as % of theo
<b>Grand Sierra</b>									
Cleopatra	14.94%	\$ 50.00	\$ 7.470	0.91	12.2%				
Texas Tea	15.00%	\$ 50.00	\$ 7.500	0.94	12.5%				
<b>Total</b>		<b>\$ 100.00</b>	<b>\$ 14.97</b>	<b>1.85</b>	<b>12.4%</b>				

- 1 "Points" are used only for slots, everything else (Tables, etc) is in a "Comp" bucket, the balance of which can be accessed at the slot machine.
- 2 Points accrue in dollar amounts (i.e. \$12.43) and translates into how much you have in "Points", which are your "Slot Comps".
- 3 Points can also be converted to Free Play right at the game, dollar for dollar.
- 4 Kabala from Bally says his games are in Grand Sierra at "around 10%", however I also tested "Munsters", there is no doubt they run 15%

HIGHLY CONFIDENTIAL

PM 13273

RA 05355

---

From: Ryan Tors  
Sent: Friday, September 10, 2010 1:55 AM  
To: Dave Halabuk  
Subject: RE: Rail City

Let me guess. You want me to get some parts. No problem. I was on video theme but I'll do some more..

Thanks-  
Ryan Tors  
Peppermill Casinos  
776 689 7499

-----Original Message-----  
From: Dave Halabuk  
Sent: Thursday, September 09, 2010 7:17 PM  
To: Ryan Tors  
Subject: Rail City

Need to talk to you about your special key service.  
Sent from Dave's BlackBerry

\*\*\* This message has been archived. \*\*\*

HIGHLY CONFIDENTIAL

HIGHLY CONFIDENTIAL

PM 13274

RA 05356

---

**From:** Ryan Tors [rtors@yahoo.com]  
**Sent:** Friday, September 10, 2010 4:38 PM  
**To:** Dave Halabuk  
**Cc:** David McHugh  
**Subject:** Rail City

Here you go

1) Cleopatra (new section west wall)  
location 01 12 07 game 100226

2) Cats (Old section, NE corner)  
location 05 14 03 game 101755

HIGHLY CONFIDENTIAL

HIGHLY CONFIDENTIAL

PM 13275

RA 05357

---

From: Dave Halabuk  
Sent: Friday, September 10, 2010 7:52 AM  
Subject: RE: Rail City

Lets talk, please call me - you are not in your office. Dave

-----Original Message-----

From: Ryan Tors  
Sent: Friday, September 10, 2010 7:46 AM  
To: Dave Halabuk  
Subject: RE: Rail City

I hope they are IGT video theme. The others are hard to do, lots of button pushing and I might get caught...

Thanks-  
Ryan Tors  
Peppermill Casinos  
775 689 7499

-----Original Message-----

From: Dave Halabuk  
Sent: Friday, September 10, 2010 6:50 AM  
To: Ryan Tors  
Subject: Re: Rail City

I need specific machine numbers with the par on that specific machine for our testing. Thanks  
Sent from Dave's BlackBerry

-----Original Message-----

From: Ryan Tors  
To: Dave Halabuk  
Sent: Fri Sep 10 01:54:44 2010  
Subject: RE: Rail City

Let me guess. You want me to get some pars. No problem. I was on video theme but I'll do some more..

Thanks-  
Ryan Tors  
Peppermill Casinos  
775 689 7499

-----Original Message-----

From: Dave Halabuk  
Sent: Thursday, September 09, 2010 7:

\*\*\* This message has been archived. \*\*\*

[Retrieve Message](#)

HIGHLY CONFIDENTIAL

HIGHLY CONFIDENTIAL

PM 13276

RA 05358

---

From: Scott Bean  
Sent: Monday, September 20, 2010 5:24 PM  
Subject: Re: Rail City is comp reinvestment

I figured you did. Lots of games around here Ryan. Wanted to make sure you got it. Thanks scott

---

From: Ryan Tors  
To: Scott Bean  
Sent: Mon Sep 20 17:23:05 2010  
Subject: RE: Rail City is comp reinvestment

Yes.. Interesting that Dave doesn't include me in on this.

Thanks-  
Ryan Tors  
Peppermill Casinos  
775 689 7499

From: Scott Bean  
Sent: Monday, September 20, 2010 2:41 PM  
To: Ryan Tors  
Subject: FW: Rail City is comp reinvestment

Ryan

Are these Par's from your info?

Thanks

Scott

From: Dave Halabuk  
Sent: Monday, September 20, 2010 2:13 PM  
To: John C Hanson (Reno GM); Billy Paganetti; Scott Bean; Henry Bierman; David McHugh; Anita Lilly; Dan Smercina  
Subject: Rail City is comp reinvestment

Shopper

Slot Machine

Par%

1

HIGHLY CONFIDENTIAL

HIGHLY CONFIDENTIAL

PM 13277

RA 05359

---

**From:** Ryan Tors  
**Sent:** Monday, November 29, 2010 12:28 PM  
**To:** NBPartners; John C Hanson (Reno GM); Peter Batchleor; Rob Erwin  
**Subject:** Atlantis



Atlantis pars.xisx

Thanks-  
Ryan Tors  
Peppermill Casinos  
775 689 7499

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HIGHLY CONFIDENTIAL

PM 13278

RA 05360





## NOTICE OF CONFIDENTIALITY OF PAR SHEETS

The enclosed par sheet/s are confidential, private and proprietary and a valuable trade secret of Aristocrat. Aristocrat is providing the par sheet at your request for your stated purpose or for regulatory or internal requirements. The par sheet is not to be copied or distributed outside of your organization or used for any other purpose without Aristocrat's prior written consent. Your request and/or receipt constitutes acceptance of the foregoing restrictions.

A handwritten signature in cursive script that reads "Kathleen Worley".

**KATHLEEN WORLEY**  
Director, Regulatory Compliance

**Aristocrat Technologies, Inc.**

7230 Amigo Street

Las Vegas, Nevada 89119

tel 702 270 1000 fax 702 270 1001 web [www.aristocratgaming.com](http://www.aristocratgaming.com)

CONFIDENTIAL

PM 2755

RA 05361

0

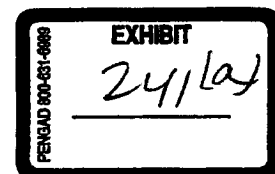
---

**From:** Ryan Tors  
**Sent:** Thursday, March 18, 2010 10:24 AM  
**To:** Henry Bierman; Billy Paganetti; Scott Bean; Dave Halabuk; John C Hanson (Reno GM); Andrew Ko; Yolanda Basterrechea; Rob Erwin; Bill Hughes  
**Subject:** Slot bonusing competition survey

<< File: Slot bonusing Competitor survey.pdf >>

Thanks-  
Ryan Tors  
Peppermill Casinos  
775 688 7499

1  
HIGHLY CONFIDENTIAL



HIGHLY CONFIDENTIAL

PM 13272

RA 05362

# Job Bonusing Competitor Survey

Grand Sierra		Coin In	Theo	Points		Comps as
				Increment	% of theo	
	Cleopatra	14.94% \$ 50.00	\$ 7.470	0.91	12.2%	
	Texas Tea	15.00% \$ 50.00	\$ 7.500	0.94	12.5%	
	Total	\$ 100.00	\$ 14.97	1.85	12.4%	

- 1 "Points" are used only for slots, everything else (Tables, etc) is in a "Comp" bucket, the balance of which can be accessed at the slot machine.
- 2 Points accrue in dollar amounts (i.e. \$12.43) and translates into how much you have in "Points", which are your "Slot Comps".
- 3 Points can also be converted to Free Play right at the game, dollar for dollar.
- 4 Kabala from Bally says his games are in Grand Sierra at "around 10%", however I also tested "Munsters", there is no doubt they run 15%

HIGHLY CONFIDENTIAL

---

From: Ryan Tors  
Sent: Friday, September 10, 2010 1:55 AM  
To: Dave Halabuk  
Subject: RE: [REDACTED]

Let me guess. You want me to get some parts. No problem. I was on video theme but I'll do some more.

Thanks-  
Ryan Tors  
Peppermill Casinos  
776 689 7499

-----Original Message-----  
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Sent: Thursday, September 09, 2010 7:17 PM  
To: Ryan Tors  
Subject: [REDACTED]

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Sent from Dave's BlackBerry

\*\*\* This message has been archived. \*\*\*

HIGHLY CONFIDENTIAL

HIGHLY CONFIDENTIAL

PM 13274

RA 05364

---

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**Sent:** Friday, September 10, 2010 4:38 PM  
**To:** Dave Halabuk  
**Cc:** David McHugh  
**Subject:** Rail City

Here you go

- 1) Cleopatra (new section west wall)  
location 01 12 07 game 100226 -
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HIGHLY CONFIDENTIAL

HIGHLY CONFIDENTIAL

PM 13274

RA 05365

---

From: Dave Halabuk  
Sent: Friday, September 10, 2010 7:52 AM  
Subject: RE: Rail City

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Peppermill Casinos  
775 689 7499

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Peppermill Casinos  
775 689 7499

-----Original Message-----

From: Dave Halabuk  
Sent: Thursday, September 09, 2010 7:

\*\*\* This message has been archived. \*\*\*

[Retrieve Message](#)

HIGHLY CONFIDENTIAL

HIGHLY CONFIDENTIAL

---

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**Sent:** Monday, September 20, 2010 5:24 PM  
**Subject:** Re: Rail City is comp reinvestment

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**Sent:** Mon Sep 20 17:23:05 2010  
**Subject:** RE: Rail City is comp reinvestment

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Peppermill Casinos  
775 889 7499

**From:** Scott Bean  
**Sent:** Monday, September 20, 2010 2:41 PM  
**To:** Ryan Tors  
**Subject:** FW: Rail City is comp reinvestment

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Thanks

Scott

**From:** Dave Halabuk  
**Sent:** Monday, September 20, 2010 2:13 PM  
**To:** John C Hanson (Reno GM); Billy Paganetti; Scott Bean; Henry Blerman; David McHugh; Anita Lilly; Dan Smercina  
**Subject:** Rail City is comp reinvestment

Shopper

Slot Machine

Par%

1.

HIGHLY CONFIDENTIAL

HIGHLY CONFIDENTIAL

PM 1327

RA 05367

---

**From:** Ryan Tors  
**Sent:** Monday, November 29, 2010 12:28 PM  
**To:** NBPartners; John C Hanson (Reno GM); Peter Batchelor; Rob Erwin  
**Subject:** Atlantis



Atlantis pars.xlsx

Thanks-  
Ryan Tors  
Peppermill Casinos  
775 689 7499

HIGHLY CONFIDENTIAL

HIGHLY CONFIDENTIAL

PM 13275

RA 05368



Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada )  
Corporation, d/b/a GRAND SIERRA RESORT, )  
 )  
Plaintiff, )

-vs- )

PEPPERMILL CASINOS, INC., a Nevada )  
Corporation, d/b/a PEPPERMILL CASINO; )  
RYAN TORS, an individual; JOHN DOES I-X, )  
and JANE DOES I-X and CORPORATIONS I-X, )  
 )  
Defendant(s). )

DEPOSITION OF CRAIG ROBINSON

**(HIGHLY CONFIDENTIAL PAGES 16 - 101)**

called for examination by counsel for Defendant Peppermill  
Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at  
the offices of Robison, Belaustegui, Sharp & Low, 71  
Washington Street, Reno, Nevada, at 9:00 a.m., Tuesday,  
November 4, 2014, before Becky Van Auken, a Certified Court  
Reporter.

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1 RENO, NEVADA, TUESDAY, NOVEMBER 4, 2014, 9:00 A.M.

2 -000-

3  
4 CRAIG ROBINSON,  
5 having been sworn, testified as follows:

6  
7 EXAMINATION

8  
9 BY MR. ROBISON:

10 Q Could you please tell us your full name.

11 A Craig Robinson.

12 Q And what is your business or occupation?

13 A I'm a chief financial officer for the Grand  
14 Sierra Resort.

15 MR. COHEN: Counsel, can we note the  
16 appearances of your client, and then also we'll put on  
17 the record about Anthony Moran.

18 MR. ROBISON: Denise Vessie is here as the  
19 client representative for the Peppermill.

20 MR. FUNK: Ryan Tors is here representing  
21 himself, and I'm here as counsel for Mr. Tors.

22 MR. ROBISON: Our next deposition this  
23 afternoon is of --

24 Your name, please?

25 MR. MORAN: Anthony Moran.

1           A     Not outside my normal daily duties, no.

2           Q     All right. So as I understand, sir, you've  
3     been at the GSR for seven weeks.

4                     Did you look at books and records that  
5     would have reflected any change in financial  
6     performance for, say, December 2011?

7           A     During my normal daily duties I've reviewed  
8     that information, yes.

9           Q     So you go back?

10          A     Yes.

11          Q     Have you been tasked by anybody at GSR to  
12     specifically look for evidence that GSR sustained any  
13     damages as a result of the activities of Ryan Tors?

14          A     No, sir.

15          Q     When is the first time that you were  
16     exposed to the fact that you would be deposed about  
17     damages in this case?

18          A     Last week.

19          Q     Do you know how long this lawsuit has been  
20     pending?

21          A     I'm unclear. I don't know how long the  
22     lawsuit has been pending, but I was aware of the  
23     information regarding the case because it was industry  
24     knowledge.

25          Q     Sure.

1           A     Correct.

2           Q     And now you're being produced as the person  
3 most knowledgeable about damages?

4           A     Yes.

5           Q     And what your knowledge is about damages  
6 you've acquired during the last week?

7           A     That is correct.

8           Q     And that knowledge has been something  
9 imparted to you from counsel?

10          A     Through discussions with counsel, correct.

11          Q     And other than that, you have no knowledge  
12 other than what the attorney in this room told you,  
13 correct?

14          A     Other than my general knowledge of the  
15 industry, no.

16          Q     We received a computation of damages --

17          A     Uh-huh.

18          Q     -- from an expert whose name is David  
19 Schwartz. Did you have any involvement with that?

20          A     No.

21          Q     Do you know who he is?

22          A     I do not.

23          Q     Have you been involved in any other  
24 situations like this with your former employers to  
25 determine losses or damages in lawsuits?

1           A     I don't know the specifics, sir.

2           Q     I'm sorry to be disagreeable this  
3 morning --

4           A     Uh-huh.

5           Q     -- but you are here as the person most  
6 knowledgeable, and you don't have any, do you?

7           A     I had general discussions. We did not get  
8 to those specifics. I'm sorry.

9           Q     You don't have any personal knowledge about  
10 any damages GSR sustained, do you?

11          A     Other than what I've testified to here.

12          Q     How much are the damages?

13          A     I can't quantify that right now.

14          Q     You don't know, do you?

15          A     I cannot quantify that based on what I have  
16 right now.

17          Q     That is to say you don't know what the  
18 damages are, correct?

19                 MR. WRAY: Objection. Asked and answered.

20                 MR. ROBISON: No, he hasn't answered it.

21 BY MR. ROBISON:

22          Q     Go ahead.

23                 MR. WRAY: You can answer again.

24                 You don't like the answer.

25                 But you can answer again --

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I, \_\_\_\_\_, do hereby swear or  
affirm under penalty of perjury that the assertions  
and/or answers of this affidavit/deposition are true.

\_\_\_\_\_  
CRAIG ROBINSON

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
NOTARY PUBLIC

STATE OF NEVADA            )  
                                  )    ss.  
COUNTY OF WASHOE        )

I, BECKY VAN AUKEN, a Certified Court Reporter in and for the County of Washoe, State of Nevada, do hereby certify:

That on Tuesday, November 4, 2014, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, I was present and took verbatim stenotype notes of the deposition of CRAIG ROBINSON, who personally appeared and was duly sworn by me and was deposed in the matter entitled herein; and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said deposition.

Dated at Reno, Nevada, this 5th day of November, 2014.

---

BECKY VAN AUKEN, CCR #418

Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada )  
Corporation, d/b/a GRAND SIERRA RESORT, )  
Plaintiff, )

-vs- )

PEPPERMILL CASINOS, INC., a Nevada )  
Corporation, d/b/a PEPPERMILL CASINO; )  
RYAN TORS, an individual; JOHN DOES I-X, )  
and JANE DOES I-X and CORPORATIONS I-X, )  
Defendant(s). )

DEPOSITION OF TERRY VAVRA

**(HIGHLY CONFIDENTIAL PAGES 186 - 225)**

called for examination by counsel for Defendant Peppermill  
Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at  
the offices of Robison, Belaustegui, Sharp & Low, 71  
Washington Street, Reno, Nevada, at 9:30 a.m., Wednesday,  
December 3, 2014, before Becky Van Auken, a Certified Court  
Reporter.

APPEARANCES: (See separate page)

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR



1 RENO, NEVADA, WEDNESDAY, DECEMBER 3, 2014, 9:30 A.M.

2 -000-

3  
4 TERRY VAVRA,

5 having been sworn, testified as follows:

6  
7 EXAMINATION

8  
9 BY MR. ROBISON:

10 Q Good morning. My name is Kent Robison. I  
11 represent the Peppermill.

12 Would you please give us your full name.

13 A Terry Steven Vavra.

14 Q And what is your business or occupation?

15 A I'm currently the VP of development at  
16 Grand Sierra Resort.

17 Q And where do you reside?

18 A In Sparks, Nevada.

19 Q Address, please, in case I have to subpoena  
20 you.

21 A 4769 Cobra Court.

22 Q How long have you lived in this community?

23 A About three and a half years.

24 Q Have you had your deposition taken before?

25 A Yes, I have.

1                   Are you aware of any evidence or any  
2 information that suggests to you that the Peppermill  
3 destroyed the value of any secret it may have gotten  
4 from GSR?

5           A       I wouldn't know.

6           Q       You wouldn't?

7           A       I wouldn't know.

8           Q       But are you aware of any information or  
9 evidence to that effect?

10          A       Me? No.

11          Q       All right. The next sentence of this block  
12 quote to your answers to interrogatories is: The most  
13 obvious way this is done is through publication, so  
14 that no secret remains.

15                   Do you see that, sir?

16          A       Yes, I do.

17          Q       First of all, are you aware of any  
18 publication or disclosure by the Peppermill of that  
19 par information it received as a result of keying  
20 incidents?

21          A       I'm not aware.

22          Q       Has anybody told you that there's been a  
23 publication or a disclosure by the Peppermill of that  
24 information?

25          A       No one's told me, no.

1 from our shopping activities.

2 Q Where's it come from?

3 A Market analysis.

4 Q You analyze the gaming abstracts?

5 A Not the abstracts; the market share  
6 reports, the market reports.

7 Q So from that you try to determine the pars  
8 of the Peppermill, floor average, correct?

9 A Correct.

10 Q And you came up with this 4 percent figure?

11 A Yes.

12 Q And you came -- you did the same analysis  
13 to determine the approximate 6 percent hold at the  
14 Atlantis?

15 A Yep.

16 Q And then you established a market strategy  
17 of having a 5 percent par?

18 A Roughly.

19 Q Okay.

20 A No, no -- 5 percent net par.

21 Q Correct. All right. And I appreciate you  
22 clarifying that.

23 So we know how you use your estimates of  
24 the Peppermill's pars. Now, you tell us, if you  
25 would, please, how the Peppermill has used the

1 information obtained by Mr. Tors.

2 A I don't know how they've used the  
3 information from Mr. Tors.

4 Q Are you aware that Mr. Tors has conceded  
5 that some of those numbers are made up?

6 A No.

7 Q Have you seen any advertisement, mailers,  
8 or any other publications or information emanating  
9 from the Peppermill that would suggest to you that the  
10 Peppermill has used that par information?

11 A Nothing -- nothing that I've seen publicly,  
12 no.

13 Q Now, do you look at the gaming abstracts?

14 A The abstracts --

15 Q The monthly gaming?

16 A The monthly market report, yes. Yes, I do.

17 Q So you know that there are six casinos,  
18 approximately, in this community that generate  
19 \$36 million or more from penny slots?

20 A Yeah. Yes.

21 Q And GSR is one of those properties?

22 A Yes.

23 Q And you know that the gaming authorities  
24 publish the average par for those six properties?

25 A Yes.

1 to what the other properties' pars are. Because you  
2 know Harrah's is going to be high.

3 A I can get the other properties' net pars.

4 Q Right.

5 A I can't get the pars.

6 Q And I hate to pound this in, but we both  
7 know a net par is more important than par for your  
8 marketing strategy.

9 A It depends on your strategy. For my -- for  
10 GSR net is important because we are big on free play,  
11 much more so than any other property. So --

12 Q Okay. Are you aware, sir -- getting back  
13 to answer to Interrogatory 14 -- of any profit  
14 advantage that was gained by Peppermill through the  
15 use of the pars obtained from GSR?

16 A I'm not aware.

17 Q The answer goes on to state: GSR is asking  
18 the Court to set a reasonable royalty based upon the  
19 use and the value obtained by the Peppermill.

20 What value?

21 A I don't know.

22 Q How are you going to determine value of a  
23 par obtained by the Peppermill?

24 A I don't know.

25 Q Have you any information to give us today,

1       sir, about the number of uses to which that par  
2       information was made at the Peppermill?

3           A       I personally don't know.

4           Q       Do you know what is meant by this phrase,  
5       "based upon the number of uses"?

6           A       I would assume the number of times data was  
7       collected from the GSR.

8           Q       Okay. Data was collected on July 12th,  
9       2013, correct?

10          A       We know that one, yes.

11          Q       It was a piece of paper. Are you aware of  
12       that?

13          A       Yes.

14          Q       On which pars were written?

15          A       Yes.

16          Q       Where did that information go?

17          A       Where did it go?

18          Q       Yeah.

19          A       The gaming agent, I believe, took it.

20          Q       The Peppermill didn't get it, did it?

21          A       On that case, correct.

22          Q       Are you aware that the GSR is only suing  
23       the Peppermill for what happened on July 13th  
24       according --

25                 MR. WRAY: Objection. Legal conclusion.

1 Q Theme?

2 A Yep.

3 Q And the date done is 5/14/2012, right?

4 A Yep.

5 Q Okay. So how much is that 6.01 par setting  
6 on Ducks in a Row worth at the GSR?

7 A I don't know.

8 Q Would your answer be the same with respect  
9 to the Buffalo at 8.18?

10 A An individual machine I don't think has the  
11 value. It's what is done with this information is  
12 really where the value comes.

13 Q I appreciate that, and I actually agree  
14 with you.

15 The value for these pars listed on this  
16 document is zero, correct, unless it's affected by how  
17 they're used?

18 A Exactly.

19 Q If they're not used, they have a value of  
20 zero dollars. Fair?

21 A I would agree.

22 Q So the only the time that the par  
23 information on Exhibit 15 would have any value to the  
24 Peppermill is if it was used somehow to generate a  
25 benefit?

1  
2  
3  
4  
5  
6 I, \_\_\_\_\_, do hereby swear or  
7 affirm under penalty of perjury that the assertions  
8 and/or answers of this affidavit/deposition are true.  
9

10  
11 \_\_\_\_\_  
12 TERRY VAVRA  
13

14 Subscribed and sworn to before me  
15 this \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
16

17 \_\_\_\_\_  
18 NOTARY PUBLIC  
19  
20  
21  
22  
23  
24  
25



Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada )  
Corporation, d/b/a GRAND SIERRA RESORT, )  
Plaintiff, )

-vs- )

PEPPERMILL CASINOS, INC., a Nevada )  
Corporation, d/b/a PEPPERMILL CASINO; )  
RYAN TORS, an individual; JOHN DOES I-X, )  
and JANE DOES I-X and CORPORATIONS I-X, )  
Defendant(s). )

DEPOSITION OF RALPH BURDICK

(CONFIDENTIAL PAGES 18 - 28)

(HIGHLY CONFIDENTIAL PAGES 29 - 149)

called for examination by counsel for Defendant Peppermill  
Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at  
the offices of Robison, Belaustegui, Sharp & Low, 71  
Washington Street, Reno, Nevada, at 9:57 a.m., Monday,  
November 3, 2014, before Becky Van Auken, a Certified Court  
Reporter.

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1 RENO, NEVADA, MONDAY, NOVEMBER 3, 2014, 9:57 A.M.

2 -000-

3  
4 RALPH BURDICK,

5 having been sworn, testified as follows:

6  
7 EXAMINATION

8  
9 BY MR. ROBISON:

10 Q Good morning, sir. Would you please state  
11 your full name.

12 A Ralph Edward Burdick.

13 Q Mr. Burdick, what is your business or  
14 occupation?

15 A I am the vice-president of casino  
16 operations at the Grand Sierra Resort in Reno, Nevada.

17 Q How long have you been employed in that  
18 capacity?

19 A Since March of 2013.

20 Q Prior to March of 2013, where were you  
21 working?

22 A Hard Rock Casino, Biloxi, Mississippi.

23 Q For how long?

24 A Three years.

25 Q That would take you back to about 2010?

1 (A discussion was held off the record.)

2 MR. ROBISON: Back on the record.

3 BY MR. ROBISON:

4 Q Mr. Burdick, excuse the interruption, but  
5 what I really wanted to do is make sure that we line  
6 up the matters that you've been identified in 32 to  
7 testify about that has an explanation in more detail  
8 on Exhibit 31 -- Exhibit 1 to Exhibit 31.

9 Follow me?

10 A I do follow you.

11 Q Great.

12 So with respect to item No. 7, let's read  
13 that into the record: The Person Most Knowledgeable  
14 about the use the Peppermill made of the information  
15 obtained by Ryan Tors on July 12, 2013.

16 Did you review any documents with respect  
17 to that topic?

18 A I did not review any documents in respect  
19 to this topic.

20 Q What knowledge do you have about the use  
21 the Peppermill made of the information obtained by  
22 Mr. Tors on July 12, 2013?

23 MR. WRAY: Objection. Vague.

24 BY MR. ROBISON:

25 Q What knowledge do you have? Do you

1 understand you're being produced as the person most  
2 knowledgeable about that?

3 A I do understand that I am the person most  
4 knowledgeable.

5 My knowledge of how Peppermill would make  
6 use of that information is we don't have enough  
7 information at this time to understand how they would  
8 have used that information.

9 Q Are you aware of anybody presently employed  
10 at GSR that has any information whatsoever about how  
11 the Peppermill used the information obtained by  
12 Mr. Tors?

13 A I am not aware of anybody at GSR that  
14 understands exactly how Peppermill used the  
15 information taken by Mr. Tors.

16 Q I'm going to quibble a bit.

17 When you say exactly how they used it, do  
18 you have any idea whatsoever how they used it?

19 A I do not have any idea how they used that  
20 information.

21 Q Have you seen any marketing by the  
22 Peppermill since this date that reflects that they are  
23 competitive with the GSR in the setting of their hold  
24 percentages?

25 A I don't pay that close of attention to

1       their marketing efforts to be able to answer that  
2       question.

3               Q       Well, have you seen any?

4               A       I have not seen any.

5               Q       Have you heard of any?

6               A       I have not heard of any.

7               Q       How about any promotions that in any way  
8       suggest that the Peppermill is competing with the GSR  
9       because of this information?

10              A       Specifically because of this information?  
11       Not specifically because of this information, no.

12              Q       Have you seen anything that the Peppermill  
13       has done that would suggest to you in any way that  
14       they have used the information?

15              A       No, I have not seen any anything that  
16       suggests that they have used that information.

17              Q       And your role with the Peppermill -- excuse  
18       me, the GSR is -- starts in March of 2013, sir?

19              A       That is correct.

20              Q       And at that time you were the gaming table  
21       gaming supervisor?

22              A       No, sir.

23              Q       I'm sorry. I didn't write that one down.  
24       What's your job duties --

25              A       I am the vice-president of casino

1           Q     When you go over to the Peppermill and you  
2 shop them, do you tell them that you're shopping them?

3           A     No, I do not.

4           Q     Have you made an effort in your shopping  
5 activities to determine what use was made by the  
6 Peppermill of the pars obtained by Ryan Tors?

7           A     No, I have not.

8           Q     Well, you know what your average floor par  
9 is at the GSR, do you not?

10          A     I do.

11          Q     And when you go and shop at the Peppermill,  
12 aren't you trying to ascertain or get a feel for their  
13 floor par?

14          A     I am.

15          Q     And so can you make a determination based  
16 on your shopping activities and your playing the  
17 Peppermill machines whether or not there was any use  
18 whatsoever of the par information obtained by Tors?

19          A     If I understand the question correctly, can  
20 I ascertain if Peppermill used the information? No, I  
21 cannot ascertain that; not based on anecdotal shops.

22          Q     When's the last time you shopped the  
23 Peppermill?

24          A     Probably eight months ago.

25          Q     All right. So help me out with that.

**C O N F I D E N T I A L**

1 determine that, sir?

2 MR. WRAY: Objection. Outside the scope of  
3 the 30(b)(6) what marketing information the GSR has  
4 pursued.

5 THE WITNESS: From my understanding that we  
6 are still in discovery and I don't have enough  
7 information to answer that question.

8 BY MR. ROBISON:

9 Q Much different question.

10 A Okay. Go ahead.

11 Q You're the guy in charge of setting pars.  
12 You're the guy in charge of slots over there at the  
13 GSR. Right?

14 A Correct.

15 Q All right. With respect to the information  
16 that Tors obtained, you're the one here to tell us, if  
17 you can, how that was used by the Peppermill.

18 Aside from discovery, what has the company  
19 done to investigate how the pars were utilized, if at  
20 all?

21 A Again, I can't make that determination  
22 because I don't have enough information how they might  
23 have used it.

24 Q Well, have you, for example, made a survey  
25 of their advertisements?

**H I G H L Y C O N F I D E N T I A L**

1           A       We do make a survey of their  
2       advertisements, but I don't review that.

3           Q       Who is most knowledgeable, then, about the  
4       survey GSR does on the Peppermill's advertising?

5           A       That would have to probably be our  
6       marketing department.

7           Q       Has marketing told you that they detected  
8       anything which suggests that the Peppermill used the  
9       information obtained by Tors?

10          A       They have not.

11          Q       Have you asked them?

12          A       I have not specifically asked that question  
13       of them, no.

14          Q       Why?

15          A       I didn't see the need to ask that question.

16          Q       Well, if you're being produced as a person  
17       most knowledgeable about the use the Peppermill made  
18       of the pars obtained from GSR by Tors, what  
19       investigation did you do to be more knowledgeable  
20       about this alleged use?

21          A       Again, we could not make a determination.  
22       We don't have enough information about how Peppermill  
23       would have used that information.

24          Q       My question was this: What did you do to  
25       get information about how the Peppermill used the par

**H I G H L Y   C O N F I D E N T I A L**



1 information obtained by pars -- Tors?

2 A I'm still not sure I clearly understand the  
3 question because we can't investigate how Peppermill  
4 used the information that was obtained by Ryan Tors.

5 Q Well, you investigate their marketing.

6 A We look at their marketing.

7 Q You shop them.

8 A We do shop them.

9 Q You get free mailing from them.

10 A We do get -- I don't get free mailings from  
11 them, but somebody gets free mailings from them.

12 Q And that's put all into your strategies of  
13 how to be competitive in the market?

14 A Yes.

15 Q And you're the person most knowledgeable.  
16 What have you done to go through these various  
17 exercises to determine if there's any suggestion  
18 whatsoever that that information was used at the  
19 Peppermill?

20 A Again, I can't determine how they used it.  
21 Do I understand how they market? Yes.

22 Q Different question. What did you do? What  
23 efforts did you make? What investigations were  
24 authorized by the property to determine whether or not  
25 that information was used?

**H I G H L Y C O N F I D E N T I A L**

1 MR. WRAY: I don't want you --

2 I object to the extent that there's any  
3 attorney-client communications in this answer.

4 Anything other than what you discussed with  
5 your lawyers. Okay?

6 BY MR. ROBISON:

7 Q Sir, I'm not asking for anything that came  
8 from your lawyers.

9 What did you do as the boss?

10 A What did I do as the boss? I didn't need  
11 to investigate what happened with the information from  
12 Ryan Tors.

13 Q Is your answer "nothing"?

14 A Nothing. Absolutely nothing, other than  
15 turn it over to the Nevada Gaming Commission.

16 Q And the Commission -- you read the  
17 transcript?

18 A I have.

19 Q -- said there's no evidence that the  
20 Peppermill used the information obtained by Tors.

21 MR. COHEN: Objection. Mischaracterizes --

22 THE WITNESS: Correct.

23 MR. COHEN: Time out.

24 Objection. Mischaracterizes the  
25 statements of the Nevada Gaming Commission.

**H I G H L Y C O N F I D E N T I A L**

1       there?

2               A       Yes.

3               Q       All right. I have to answer this question.

4                       You, being designated as the person most  
5 knowledgeable about use, you're also most  
6 knowledgeable about the money lost by GSR as a result  
7 of Tors' activity. Correct?

8               A       Okay. So --

9                       MR. WRAY: I'm not sure that's a category.

10               MR. ROBISON: All right. Well, I thought  
11 it was. And I'm going to get there.

12                       Well, let me go in order, then, and  
13 withdraw the question.

14 BY MR. ROBISON:

15               Q       Let's go to No. 11.

16                       Before I do that, we've concluded No. 7 is  
17 based upon everything you've done with your shopping,  
18 based on everything you know about being an expert  
19 with slot machines and percentage holds, based upon  
20 your knowledge of Peppermill's marketing strategies  
21 and comp reinvestment and total reinvestment, you  
22 don't have any information they used it at all, do  
23 you?

24               A       I have no specific information that they  
25 used the information.

**H I G H L Y   C O N F I D E N T I A L**

1 Q Any general information?

2 A No general information either.

3 Q So back to this question: You have no  
4 information whatsoever that the Peppermill's used that  
5 information, correct?

6 A I have no information that they used that  
7 information.

8 Q All right. Let's go to 11, then: GSR's  
9 Person Most Knowledgeable about its own use of Master  
10 Key 2341 in or at the GSR and any other casino  
11 property from January 1st, 2012, to the present.

12 Is there anybody at the GSR more  
13 knowledgeable about this topic than yourself?

14 A Yes.

15 Q Who?

16 A Mr. Toby Taylor, our director of slots.

17 MR. ROBISON: Well, Counsel, do you want me  
18 to go with Toby or do you want me to go with Ralph?

19 MR. WRAY: Toby.

20 MR. ROBISON: So we're going to withdraw  
21 Mr. Burdick as the person most knowledgeable for item  
22 No. 11?

23 MR. WRAY: Well, yes. I mean -- but we're  
24 not really withdrawing him. These two people were  
25 both identified on actually both these topics.

**H I G H L Y C O N F I D E N T I A L**

1  
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6 I, \_\_\_\_\_, do hereby swear or  
7 affirm under penalty of perjury that the assertions  
8 and/or answers of this affidavit/deposition are true.  
9

10  
11 \_\_\_\_\_  
12 RALPH BURDICK  
13

14 Subscribed and sworn to before me  
15 this \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
16

17 \_\_\_\_\_  
18 NOTARY PUBLIC  
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**H I G H L Y C O N F I D E N T I A L**

STATE OF NEVADA            )  
                                  )    ss.  
COUNTY OF WASHOE         )

I, BECKY VAN AUKEN, a Certified Court Reporter in and for the County of Washoe, State of Nevada, do hereby certify:

That on Monday, November 3, 2014, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, I was present and took verbatim stenotype notes of the deposition of RALPH BURDICK, who personally appeared and was duly sworn by me and was deposed in the matter entitled herein; and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said deposition.

Dated at Reno, Nevada, this 10th day of November, 2014.

---

BECKY VAN AUKEN, CCR #418

Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

-cOo-

MEI-GSR HOLDINGS, LLC, a Nevada  
Corporation, d/b/a GRAND SIERRA RESORT, )

Plaintiff, )

-vs- )

PEPPERMILL CASINOS, INC., a Nevada  
Corporation, d/b/a PEPPERMILL CASINO; )  
RYAN TORS, an individual; JOHN DOES I-X, )  
and JANE DOES I-X and CORPORATIONS I-X, )

Defendant(s). )

DEPOSITION OF TOBY TAYLOR

**(HIGHLY CONFIDENTIAL PAGES 18 - 73)**

called for examination by counsel for Defendant Peppermill  
Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at  
the offices of Robison, Belaustegui, Sharp & Low, 71  
Washington Street, Reno, Nevada, at 2:15 p.m., Monday,  
November 3, 2014, before Becky Van Auken, a Certified Court  
Reporter.

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1 Q Okay. What is your present position at  
2 GSR?

3 A The executive director of slot operations.

4 Q How long have you held that position?

5 A Two years and 10 months, I believe.

6 Q So going back to -- what was your starting  
7 date at this position?

8 A January 25th of 2012.

9 Q What position did you have before that?

10 A I was at the Atlantis as the front services  
11 manager.

12 Q What's a front service --

13 A I was in charge of the bell desk, valet,  
14 transportation.

15 Q Did you have anything to do with slots at  
16 the Atlantis?

17 A Not at the Atlantis, no.

18 Q Prior to the Atlantis where were you  
19 employed?

20 A I was the director of slots at Harrah's and  
21 Harvey's in Lake Tahoe.

22 Q For how long?

23 A From 2008 until 2011.

24 Q And so you were at the Atlantis --

25 A Just briefly.



1 left.

2 Q All right. Looking at some of the reasons  
3 why you might be here, let's take a look at topic  
4 No. 11, sir.

5 A Okay.

6 Q I'm going to ask a preparatory question to  
7 this.

8 Do you have any information, sir,  
9 whatsoever about whether or if the Peppermill used any  
10 of the information obtained by Ryan Tors?

11 A Do I have any? No, I don't have any.

12 Q Based on any of the marketing promotions,  
13 advertising that you've seen come out of the  
14 Peppermill, have you seen any evidence that any of  
15 this information might have been used in any way?

16 A I don't believe we've received any  
17 documents to --

18 Q I wasn't asking about documents. I was  
19 asking about what you have seen out in the industry.

20 A I would be making assumptions. So, I mean,  
21 I don't know.

22 Q You don't know?

23 A Huh-uh.

24 Q You keep abreast of what's going on in the  
25 community, do you not?

1 BY MR. ROBISON:

2 Q I forgot a follow-up question or two on  
3 topic No. 17, Mr. Taylor.

4 Going back to you being produced as the  
5 person most knowledgeable about the diagnostics  
6 received, accessed, or retrieved by Tors, do you know  
7 what he received?

8 A Other than what was on the paper, no.

9 Q Okay. Other than Exhibit 14 --

10 A 14.

11 Q -- which is that piece of paper, you have  
12 no information about what diagnostic or accounting  
13 information was received by Mr. Tors?

14 A Correct.

15 Q And then what you do know from Exhibit 14  
16 is what we've covered here today which is legible to  
17 you?

18 A Yes.

19 Q Other than that, you have no information to  
20 bring to the table?

21 A No.

22 Q With regard to these par settings and the  
23 overall gaming at the GSR, pars are known or can be  
24 ascertained quite easily with the keno games, right?

25 A Yeah. You can see the pay table, the pay

**H I G H L Y C O N F I D E N T I A L**

1 schedule, on keno.

2 Q And therefore determine the hold  
3 percentage?

4 A Correct.

5 Q Same with blackjack?

6 A Black- -- well, the rules determine. So,  
7 yeah, I guess you can get there.

8 Q Same with video poker?

9 A Yes.

10 Q Same with the video roulette?

11 A I'm not as familiar with that, so --

12 Q And same with Wheel of Fortune?

13 A No, you can't determine Wheel of Fortune  
14 just by playing the game or by --

15 Q Well, no, there's only one setting for  
16 Wheel of Fortune --

17 A Correct.

18 Q -- and the par sheet tells you what that  
19 is, so all your competitors know what your Wheel of  
20 Fortunes are at. Correct?

21 A Right.

22 Q And those -- keno, blackjack, video -- are  
23 a substantial part of the casino play?

24 A Yes. It's not the majority in our house,  
25 but it does -- there are a lot of folks that play

**H I G H L Y C O N F I D E N T I A L**

1       those games, yes.

2               Q       Okay. Thank you very much for your time  
3       and your patience.

4               MR. FUNK: No questions.

5               MR. WRAY: No questions.

6               (Deposition ended at 3:42 p.m.)

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**H I G H L Y   C O N F I D E N T I A L**

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6 I, \_\_\_\_\_, do hereby swear or  
7 affirm under penalty of perjury that the assertions  
8 and/or answers of this affidavit/deposition are true.  
9

10  
11 \_\_\_\_\_  
12 TOBY TAYLOR  
13

14 Subscribed and sworn to before me  
15 this \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
16

17 \_\_\_\_\_  
18 NOTARY PUBLIC  
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STATE OF NEVADA            )  
                                  )    ss.  
COUNTY OF WASHOE         )

I, BECKY VAN AUKEN, a Certified Court Reporter in and for the County of Washoe, State of Nevada, do hereby certify:

That on Monday, November 3, 2014, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, I was present and took verbatim stenotype notes of the deposition of TOBY TAYLOR, who personally appeared and was duly sworn by me and was deposed in the matter entitled herein; and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said deposition.

Dated at Reno, Nevada, this 10th date day of November, 2014.

---

BECKY VAN AUKEN, CCR #418

Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada	)
Corporation, d/b/a GRAND SIERRA RESORT,	)
	)
Plaintiff,	)
	)
-vs-	)
	)
PEPPERMILL CASINOS, INC., a Nevada	)
Corporation, d/b/a PEPPERMILL CASINO;	)
RYAN TORS, an individual; JOHN DOES I-X,	)
and JANE DOES I-X and CORPORATIONS I-X,	)
	)
Defendant(s).	)

DEPOSITION OF TOBY TAYLOR

**(HIGHLY CONFIDENTIAL PAGES 66 - 171)**

called for examination by counsel for Defendant Peppermill Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, at 9:05 a.m., Tuesday, December 16, 2014, before Becky Van Auken, a Certified Court Reporter.

APPEARANCES: (See separate page)

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1 A Yeah. I mean, I look at that, but --

2 Q But the head count did go up?

3 A I believe so, yes.

4 Q So head count at the GSR in 2012 went up;  
5 revenue at the GSR in 2012 went up?

6 A Yes.

7 Q Are you aware of any adverse effect at the  
8 GSR as a result of Peppermill having the information  
9 identified in Exhibit 7?

10 A I don't have any information.

11 Q Do you know of anybody that does?

12 A I do not.

13 Q Would your answer be the same with respect  
14 to the information depicted on Exhibit 8? That's June  
15 of 2012.

16 A Yeah, I wouldn't know.

17 Q But in June revenue is still going up?

18 A Yeah, I mean, on a year-over-year basis we  
19 did better in '12 than we did in '11. I can't say  
20 June was better year-over-year. I don't remember.

21 Q And would you agree with me that it was  
22 primarily caused by the operational instincts of the  
23 Santo group?

24 A Yes.

25 Q In other words, they took a bad property



1 belief. And I believe that's a couple others', yes.

2 Q Is there anybody that you're aware of that  
3 believes differently?

4 A No, I don't.

5 Q Okay. All right. Any information on  
6 No. 6, topic No. 6 to Exhibit 48?

7 A That basically -- I didn't give you their  
8 addresses, but that's basically that list of 51 that I  
9 gave you. It says since --

10 Q No, this says played slot machines at the  
11 Peppermill.

12 A Oh, yeah. So I wouldn't have any  
13 Peppermill information. Sorry.

14 Q Yeah, that's all right.

15 A A misunderstanding.

16 Q Are you aware of any of your customers that  
17 played the designated slot machines that then turned  
18 their attention to playing the slot machines at  
19 Peppermill as a result of the activities of Mr. Tors?

20 A I don't have that information -- I don't  
21 know.

22 Q Do you know of anybody that might have that  
23 information?

24 A No, I'm not aware.

25 Q All right. No. 7 is the person most

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1 knowledgeable about the use the Peppermill made of the  
2 information obtained, allegedly, by Mr. Tors depicted  
3 in Exhibit 7 and 8.

4 A I have no idea what he did with the  
5 information.

6 Q For that matter, you have no idea of what  
7 use, if any, the Peppermill made of that information?

8 A Yes. If they used it or if they didn't use  
9 it or if they just used it to validate what they were  
10 trying to validate, that's all I would -- I mean, I  
11 don't know.

12 Q You don't know of any use the Peppermill  
13 made of this information?

14 A Again, even if they didn't use it to change  
15 their par percentage, maybe they validated what --

16 Q I'm asking you as the person most  
17 knowledgeable --

18 A Okay.

19 Q -- what use the Peppermill made of the  
20 information that Tors obtained.

21 A I don't know.

22 Q Do you know of any?

23 A I do not know of any.

24 Q Do you know of anybody at the GSR that is  
25 aware of any use Peppermill made of this information?

**H I G H L Y C O N F I D E N T I A L**

1           A     I don't know anybody. I am not aware.

2           Q     To your knowledge, Mr. Taylor, has there  
3     been any investigation to determine whether or not  
4     there has been use made by the Peppermill of this  
5     information?

6           A     I don't understand what that --

7           Q     Has anybody examined the marketing, the  
8     billboards, the advertising, the promotions? Has  
9     anybody dug into that to see whether or not they could  
10    ascertain any use?

11          A     I'm not aware of any.

12          Q     Have there been any shopping activities  
13    over at the Peppermill by GSR representatives to  
14    determine whether they can discern any use the  
15    Peppermill made of this information?

16          A     Since this incident?

17          Q     Since July 13th, 2013.

18          A     I'm not aware of any shopping that's  
19    happened over there.

20          Q     Well, okay. The question is a little bit  
21    different.

22                Are you aware of any effort GSR has made --  
23    for example, by shopping the Peppermill -- to  
24    determine whether the GSR can ascertain any use  
25    whatsoever made by the Peppermill of this information?

**H I G H L Y   C O N F I D E N T I A L**

1  
2  
3  
4  
5  
6 I, \_\_\_\_\_, do hereby swear or  
7 affirm under penalty of perjury that the assertions  
8 and/or answers of this affidavit/deposition are true.  
9

10  
11 \_\_\_\_\_  
12 TOBY TAYLOR  
13

14 Subscribed and sworn to before me  
15 this \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
16

17 \_\_\_\_\_  
18 NOTARY PUBLIC  
19  
20  
21  
22  
23  
24  
25

H I G H L Y C O N F I D E N T I A L

STATE OF NEVADA            )  
                                  )    ss.  
COUNTY OF WASHOE         )

I, BECKY VAN AUKEN, a Certified Court Reporter in and for the County of Washoe, State of Nevada, do hereby certify:

That on Tuesday, December 16, 2014, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, I was present and took verbatim stenotype notes of the deposition of TOBY TAYLOR, who personally appeared and was duly sworn by me and was deposed in the matter entitled herein; and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said deposition.

Dated at Reno, Nevada, this 22nd day of December, 2014.

---

BECKY VAN AUKEN, CCR #418

Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada	)
Corporation, d/b/a GRAND SIERRA RESORT,	)
	)
Plaintiff,	)
	)
-vs-	)
	)
PEPPERMILL CASINOS, INC., a Nevada	)
Corporation, d/b/a PEPPERMILL CASINO;	)
RYAN TORS, an individual; JOHN DOES I-X,	)
and JANE DOES I-X and CORPORATIONS I-X,	)
	)
Defendant(s).	)
	)

DEPOSITION OF MICHAEL DRAEGER

(Pages 1-16)

**CONFIDENTIAL** - DEPOSITION OF MICHAEL DRAEGER

(Pages 17-39)

called for examination by counsel for Defendant Peppermill Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, at 10:00 a.m., Monday, October 20, 2014, before Becky Van Auken, a Certified Court Reporter.

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1 RENO, NEVADA, MONDAY, OCTOBER 20, 2014, 10:00 A.M.

2 -000-

3  
4 MICHAEL DRAEGER,

5 having been sworn, testified as follows:

6  
7 EXAMINATION

8  
9 BY MR. ROBISON:

10 Q Would you please tell us your full name.

11 A Michael James Draeger.

12 Q What is your business or occupation?

13 A I'm director of finance at the Grand Sierra  
14 Resort.

15 Q Could you please give us a description of  
16 your professional background, your business  
17 background.

18 A Business background, I have been in the  
19 hospitality industry accounting since 1983. I've been  
20 controller for --

21 Q 1983?

22 A Yes.

23 Q Thank you.

24 A I've been controller for various hotel and  
25 resort properties in Seattle, Washington, in

1 Agreed?

2 A Yes.

3 Q And then, again, one more time, wait until  
4 I've completed my question before you commence your  
5 answer. I'll try to show you the same respect and not  
6 interrupt in your answer when I ask another question.

7 Okay?

8 A Yes.

9 Q All right.

10 MR. COHEN: I have one brief statement.  
11 Based upon Mr. Robison's statement that we're going  
12 into the substantive portion of your deposition, I'm  
13 going to deem this confidential.

14 MR. ROBISON: Fair enough.

15 (Exhibit 19 was marked.)

16 (Pages 17 through 39 have been designated as  
17 "Confidential" and are contained in a separate  
18 transcript.)

19 /////

20 /////

21 /////

22 /////

23 /////

24 /////

25 /////



Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada )  
Corporation, d/b/a GRAND SIERRA RESORT, )  
Plaintiff, )

-vs- )

PEPPERMILL CASINOS, INC., a Nevada )  
Corporation, d/b/a PEPPERMILL CASINO; )  
RYAN TORS, an individual; JOHN DOES I-X, )  
and JANE DOES I-X and CORPORATIONS I-X, )  
Defendant(s). )

\*\*\* C O N F I D E N T I A L \*\*\*

DEPOSITION OF MICHAEL DRAEGER

(Pages 17-39)

called for examination by counsel for Defendant Peppermill  
Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at  
the offices of Robison, Belaustegui, Sharp & Low, 71  
Washington Street, Reno, Nevada, at 10:00 a.m., Monday,  
October 20, 2014, before Becky Van Auken, a Certified Court  
Reporter.

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1           A     I would say both Charles Bluth and Keith  
2     Spears.

3           Q     Did you see the par sheets?

4           A     Only when doing my MICS compliance.

5           Q     What's a MICS compliance?

6           A     MICS compliance would have you verify a  
7     slot machine's par sheet against its visible pay  
8     tables on the machine.

9           Q     So you would open up the machine yourself?

10          A     No.

11          Q     You would just compare the pay tables that  
12     were on the screen without opening the machine?

13          A     I would look at the pay table information  
14     with the slot tech.

15          Q     And then what would you do with the pay  
16     table information?

17          A     Record it on a separate sheet to be  
18     compared to the par.

19          Q     Okay. So the pay tables is a way to verify  
20     par?

21          A     Yes.

22          Q     Anybody can do that with some mathematic  
23     skills, correct?

24          A     Yes.

25          Q     So pars really aren't secret, are they?

1           A     I do not know.

2           Q     Well, listen, you know that Peppermill has  
3           somebody with the equivalent knowledge that you have,  
4           don't you?

5           A     Yes.

6           Q     And if you can look at the pay tables and  
7           determine par, you're quite certain that the  
8           Peppermill can look at the pay tables and determine  
9           par, correct?

10          A     Correct.

11          Q     So they're not secret, are they?

12          A     No.

13          Q     Thank you.

14                 That's all I have.

15                 MR. GUNDERSON: I have no questions.

16

17                         EXAMINATION

18

19                 BY MR. COHEN:

20                 Q     Just two questions. Regarding the pars not  
21                 being secret, if an employee of the Peppermill were to  
22                 come to you at the Grand Sierra and ask you for the  
23                 par information on any slots, would you provide it to  
24                 them?

25                 A     No.

1  
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4  
5  
6 I, \_\_\_\_\_, do hereby swear or  
7 affirm under penalty of perjury that the assertions  
8 and/or answers of this affidavit/deposition are true.  
9

10  
11 \_\_\_\_\_  
12 MICHAEL DRAEGER  
13

14 Subscribed and sworn to before me  
15 this \_\_\_\_\_ day of \_\_\_\_\_, 2014.  
16

17 \_\_\_\_\_  
18 NOTARY PUBLIC  
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25

STATE OF NEVADA           )  
                                  )   ss.  
COUNTY OF WASHOE        )

I, BECKY VAN AUKEN, a Certified Court Reporter in and for the County of Washoe, State of Nevada, do hereby certify:

That on Monday, October 20, 2014, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, I was present and took verbatim stenotype notes of the deposition of MICHAEL DRAEGER, who personally appeared and was duly sworn by me and was deposed in the matter entitled herein; and thereafter transcribed the same into typewriting as herein appears;

That the foregoing transcript is a full, true and correct transcription of my stenotype notes of said deposition.

Dated at Reno, Nevada, this 25th day of October, 2014.

---

BECKY VAN AUKEN, CCR #418

1 IN THE SECOND JUDICIAL DISTRICT FOR THE STATE OF NEVADA

2 IN AND FOR THE COUNTY OF WASHOE

3 \* \* \* \* \*

4 MEI-OSR HOLDINGS, LLC, a  
5 Nevada Corporation, d/b/a  
6 GRAND SIERRA RESORT,

7 Plaintiff,

8 vs.

CASE NO.: CV13-01704

DEPT. NO.: B7

9 PEPPERMILL CASINOS, INC.,  
10 a Nevada Corporation, d/b/a  
11 PEPPERMILL CASINO; RYAN TORS,  
12 an individual; JOHN DOES I-X,  
13 and JANE DOE I-X and  
14 CORPORATIONS I-X,

15 Defendants.

16  
17 CONFIDENTIAL DEPOSITION OF

18 DAVID G. SCHWARTZ, PH.D.

19 October 21, 2014

20 9:27 a.m.

21 2300 West Sahara Avenue  
22 Suite 770  
23 Las Vegas, Nevada

24 Christine M. Jacobs, CCR No. 455

Deposition of David G. Schwartz, Ph.D.

October 21, 2014

(Prior to the commencement of the deposition, all of the parties present agreed to waive statements by the court reporter, pursuant to Rule 30(b)(4) of NRCP.)

DAVID G. SCHWARTZ, PH.D., having been first duly sworn, testified as follows:

EXAMINATION

BY MR. ROBISON:

Q. Sir, would you please tell us your full name.

A. David G. Schwartz.

Q. Do you go by doctor? Mr.? What's your preference?

A. Whatever. Whatever you're comfortable with.

Q. Just don't want to offend you if I call you Mr. Schwartz.

A. No.

Q. I know you're a Ph.D., a doctor, so if you don't mind, I'll proceed on that understanding.

A. That's fine.

Q. Sir, have you given your deposition before?

A. Yes.

Q. So you know generally the rules that we try to invoke at these depositions?



1 to read and review the transcript and, if necessary, make  
2 corrections. I caution you that if you make substantive  
3 changes to your testimony, I'll likely bring that out in  
4 front of a jury. Understood?

5 A. Yes.

6 Q. I understand that you have been engaged as an  
7 expert by the Grand Sierra Resort?

8 A. Yes.

9 Q. I'm going to pop around a little bit on exhibit  
10 numbers, so bear with me. Exhibit 25 is a subpoena.

11 A. Yes.

12 Q. I understand that you got served yesterday with  
13 a subpoena?

14 A. Yes.

15 Q. Were you aware that I had noticed your  
16 deposition for today before you got subpoenaed?

17 A. I was aware that it was possible, but I wasn't  
18 aware that it was set in stone.

19 Q. How did you become aware of the fact it was  
20 possible?

21 A. I had a phone conversation with Mr. Johnson.

22 Q. What did he say?

23 A. He said that there was the possibility of taking  
24 a deposition that day, and I said, well, that's really a  
25 short time period. I haven't had time to really prepare,



1 A. I'm aware that they made, that their position is  
2 they made no changes, but I would -- well, I'll just say  
3 I'm aware that that is, that they took that position that  
4 they made no changes.

5 Q. And you have no proof to establish otherwise?

6 A. No, I do not have any proof that would establish  
7 otherwise.

8 Q. So right now your opinion on No. 1, value of  
9 use, is incomplete and you have no evidence if it was  
10 used and there is any value associated with getting the  
11 pars at the Peppermill?

12 A. Correct.

13 Q. All right. Let's move on to No. 2.

14 A. Okay.

15 Q. Cost avoidance I call this theory.

16 A. Okay.

17 Q. All right?

18 A. So this is 5?

19 Q. This is starting of 5, "the second and equally  
20 valid." You're saying this is a valid method even though  
21 you say it's impossible. The method that you suggest,  
22 2.28 years of continuous play, you say is impossible.  
23 How can you say it's impossible and valid in the same  
24 affidavit?

25 A. This is, I'm saying that practically it would be

1 impossible. But if you were to try to get this  
2 information legitimately, this is my best estimate of how  
3 much it would cost.

4 Q. Who in their right mind is going to play a slot  
5 machine for 2.24 years continuously?

6 A. I do not know.

7 Q. That's pretty ridiculous, isn't it?

8 A. That's -- based on my review of the literature,  
9 that's what it would take to get this information.

10 Q. I know. Who in the world would do that?

11 A. I do not know. I suppose somebody who really  
12 wanted to know that par setting.

13 Q. We're going to walk through that.

14 A. Okay.

15 Q. Who would pay \$40 million? Who would do that in  
16 this industry?

17 A. Somebody who really wanted to know that par  
18 setting.

19 Q. They're going to go out and pay somebody \$9 an  
20 hour to gamble \$40 million, Mr. Schwartz?

21 A. Again, somebody who -- if you wanted -- the  
22 question is how could you determine this information  
23 exactly?

24 Q. The question is who in the world would do that.

25 A. I don't know.

1 Q. Nobody would.

2 A. I don't know.

3 Q. All right. Let me ask you that, Mr. Schwartz.  
4 You say you have to play this machine for 20,000 hours  
5 straight?

6 A. Yes.

7 Q. 24-7?

8 A. Yes.

9 Q. 500 plays an hour?

10 A. Yes.

11 Q. For 2.24 years?

12 A. Yes.

13 Q. And then you found out what the par of that  
14 machine was --

15 A. Uh-huh.

16 Q. -- almost two and a half years later.

17 A. Yes.

18 Q. What value would that have?

19 A. The point is that you would have to invest a lot  
20 of time and money to get this information.

21 Q. The point is the hypothetical is nobody in the  
22 world would do that, would they?

23 A. I don't believe it would be -- in a practical  
24 world, coming again from the academic background, coming  
25 from the theoretical, theoretically this is what it would

1 do. I don't believe that in a practical world you could  
2 actually do this.

3 Q. Nobody in their right mind would spend \$40  
4 million to find out a par of one machine, would they?

5 A. I don't believe they could. I don't believe  
6 they would. And also, I don't believe that they  
7 physically could because you would -- the machine is  
8 getting played continuously for two and a half years,  
9 that would set off a lot of red flags.

10 Q. So your example is impossible by your own  
11 statement.

12 A. It --

13 MR. JOHNSON: Objection. It calls for a legal  
14 conclusion. It's vague and ambiguous.

15 MR. ROBISON: Let me follow up.

16 THE WITNESS: Sure.

17 Q. (By Mr. Robison) Mr. Schwartz, your hypothetical  
18 is impossible by your own statement?

19 A. My hypothetical is that according to my review  
20 of the literature to determine this information as  
21 exactly as it would, would it take all this, I think that  
22 would be impossible to find out without having access to  
23 that information through another way.

24 Q. So it's impossible. It's impossible.

25 A. Could you give me that question again?

1 Q. Sure. What you say is that because there's so  
2 many flags involved in playing one machine constantly for  
3 two and a half years, this is an impossible  
4 hypothetical. You say that.

5 A. I believe that it would be impossible to get  
6 this information that way.

7 Q. So this --

8 A. At the very least, if you were going to get this  
9 information that way, this is how much it would cost,  
10 but --

11 Q. We're going to get there. But this is  
12 impossible. You say that in your affidavit, don't you?

13 A. Correct.

14 Q. So the cost method is impossible?

15 A. I think you can commute it theoretically. In  
16 the practical world, I don't know that you could actually  
17 have somebody do this to --

18 Q. So here's the jury. Ladies and gentlemen of the  
19 jury, Mr. Schwartz says we can find out the par by  
20 sitting a nine-dollar-an-hour person or persons --

21 A. Yes.

22 Q. -- at one machine for 2.4 years, play \$40  
23 million, and 2.24 years later after a whole new  
24 generation of machines have come on the market, we're  
25 going to know the par of that machine.

1 A. Yes.

2 Q. But then you say that is an impossible scenario;  
3 correct?

4 A. Yes.

5 Q. So, ladies and gentlemen of the jury, we'll  
6 never know the cost because Mr. Schwartz's analogy is  
7 impossible; correct?

8 A. We can tell that the cost is going to be pretty  
9 big.

10 Q. But the cost is not based on reality, is it?  
11 Your cost model is not based on reality.

12 A. My cost model is based on my best understanding  
13 of how you can get this information without having access  
14 to that key.

15 Q. Which in fact you're saying is impossible to get  
16 this information without using a key. That's what you're  
17 saying.

18 A. Yes.

19 Q. Isn't it?

20 A. Yes.

21 Q. I want the record clear. You are essentially  
22 saying that in this affidavit it is impossible to get the  
23 hold percentage on a competitor's slot machine unless you  
24 use a key?

25 A. I'm saying that the best way that I would know

1 to get it would be to do this.

2 Q. But that's impossible.

3 A. And in the course of doing that, it would be  
4 impossible to get that information legally.

5 Q. Let's go back.

6 A. Sure.

7 Q. Your testimony to the jury in this case, it is  
8 impossible to get the hold percentage on a competitor's  
9 slot machine without using a 2341 reset key; correct?

10 A. To an extent. You could also ask them and they  
11 could tell you.

12 Q. Well, that happens all the time. We know that.

13 A. I would say that if you just have a machine,  
14 let's say we just have a machine in a room and you want  
15 to know the hold percentage, you either have the key or  
16 you would have to do an incredibly time and labor  
17 intensive series of play in that machine to get it, and I  
18 don't think that it would be possible to do the latter.

19 Q. My question was people relate the settings on  
20 the machine all the time, don't they?

21 A. They do.

22 Q. Vendors tell competitors what the other  
23 properties set their machines at. You know that.

24 A. I'm not aware of what they might or might not  
25 do.

1 Q. You know the key persons talk about that; right?

2 MR. JOHNSON: Calls for speculation.

3 THE WITNESS: Yeah, that's a lot of people. I  
4 don't know exactly what they do or don't do.

5 Q. (By Mr. Robison) Well, let's say you got the  
6 slot technicians at the GSR, you got slot technicians at  
7 the Peppermill, you got slot technicians at the El  
8 Dorado, at the Nugget, and at the Atlantis and they  
9 change employment from time to time. Do you think  
10 there's no discussion about what the par settings are?

11 A. I don't know what they discuss or what they  
12 don't discuss, but I would wonder if they are discussing  
13 this why they would need the key to get that information.

14 Q. Well, of course you wonder that because that's  
15 your job. But you're not a hands-on kind of operator  
16 person. You don't know who talks about par settings like  
17 slot director to slot director. Do you know if they  
18 exchange information?

19 A. I don't know.

20 Q. You don't have any idea, do you?

21 A. I don't know what they've discussed, no.

22 Q. All you know for sure is that on some of these  
23 machines GSR tells its competitors what the settings are  
24 through its advertising; right?

25 A. Correct.



1 people were going to be using that or trying to be using  
2 that key specifically to get in.

3 Q. What difference does make if you're advertising  
4 your par?

5 A. I couldn't tell you.

6 Q. Let's go on with this paragraph 7.

7 A. Sure.

8 Q. Let me understand your theory here. \$4 for  
9 500. 500 \$4 bets an hour. Right?

10 A. Yes.

11 Q. \$2,000 an hour; right?

12 A. Yes.

13 Q. For 20,000 hours?

14 A. Yes.

15 Q. That's where we get the \$40 million; right?

16 A. Yes.

17 Q. So if you say that the cost is 600,000, you  
18 would divide that 40 million by 600,000.

19 A. Yes.

20 Q. 1.5 is the hold? You blew it, didn't you?

21 A. Well, no. I would kind of like to calculate it  
22 right now.

23 Q. I kind of thought you might be asking for that.

24 A. Let's see. So when I do 20,000 times 500, I get  
25 10 million.

1 Q. No. You don't do that. You go 4 times 500.

2 That's \$4 a bet, 500 times an hour. Okay?

3 A. Okay.

4 Q. That's \$2,000 an hour.

5 A. Yes, then I would get 40 million.

6 Q. You would. So first of all, you think someone  
7 is going to spend \$40 million to find out what the par is  
8 on a Cleopatra?

9 A. No. I think that's what you would have to run  
10 it through to determine what the par --

11 Q. But nobody would do that.

12 A. I don't think they would, but there might be  
13 some strange people out there who might. I don't think  
14 they would.

15 Q. So you played \$40 million. You say the cost is  
16 \$600,000. So you divide 600,000 by 40 million to get the  
17 hold percentage.

18 A. Yeah.

19 Q. What did you get?

20 A. It's still doing it. Yeah, I get 1.5.

21 Q. But most machines don't even set .15, do they?

22 A. Not penny machines.

23 Q. Well, you blew it. That's the example. That  
24 math is wrong, isn't it?

25 A. I believe I've underestimated it.

1 A. 3 million.

2 Q. -- 100. Good grief. Come on. You don't do  
3 this very often, do you?

4 A. Use a calculator when I have an attorney firing  
5 questions at me? No.

6 Q. No. I'm talking about pars and calculations of  
7 pars and holds.

8 A. Well, I do back out the handles from the pay  
9 back percentages.

10 Q. When you use the par in the Reno, Sparks area --

11 A. Yeah.

12 Q. -- of 7.83, you're going to determine what the  
13 cost is to ascertain that par by factoring 40 million  
14 times 7.83 hold.

15 A. Well, aren't you multiplying that by .0783?

16 Q. Well, that's fine. Same way. We're going to  
17 get a better decimal point either way.

18 A. I'm sorry. I must have hit the wrong key. Now  
19 I do get the \$3.1 million figure.

20 Q. What's the real number? 1 million -- 3  
21 million --

22 A. 3,132,000 -- 132,000.

23 Q. So what casino owner in their right mind would  
24 pay \$3,132,000 to know the par, the hold for one day at  
25 the GSR for a Cleopatra?

1 A. Nobody that I can think of.

2 Q. How long would it take the Peppermill to recoup  
3 that \$3 million it spent to get that hold percentage?

4 A. I don't know exactly how much they make, but I  
5 imagine it would take some time.

6 Q. It's right in the reports.

7 A. Well, I don't know how much the Peppermill's  
8 revenues are broken out in the reports that I can see.

9 Q. Well, that's true, but let's --

10 A. You said they were 18 percent market share, so  
11 if we say 18 percent of that.

12 Q. Well, let's assume that the average in the  
13 report, which is \$1.63 per day per machine. That's what  
14 the report said. Okay?

15 A. That seems a little bit low.

16 Q. 163?

17 A. One dollar --

18 Q. 163.

19 A. Oh, 100. Okay. That seems a little better.

20 Q. Then you'd multiple that by 365; right?

21 A. Right.

22 Q. And you get 59,840.

23 A. Okay.

24 Q. Per year that that one machine would make. And  
25 if you divided that into the \$3,132,000, it's going to

1 take 52 years to recoup your investment. Do you  
2 understand that?

3 A. I do.

4 Q. That's preposterous, isn't it?

5 A. It is.

6 Q. Okay. In fact, you didn't use 7.83, the par  
7 reflected in the gaming reports, in this math, did you?

8 A. I didn't.

9 Q. Nor did you use a \$4 bet, did you?

10 A. I'd have to look at my calculations to see.

11 Q. Well, we can do it right here. You've got a  
12 calculator.

13 A. Sure.

14 Q. \$4 a bet, 500 bets an hour for 20,000 hours,  
15 that's \$40 million?

16 A. Yes.

17 Q. What do you do with that? You factor in the  
18 hold, don't you?

19 A. Yes.

20 Q. What hold? You don't know, do you?

21 A. Right now I don't. I'd want to see my  
22 calculations again.

23 Q. You use 6. It's easy to figure out. You divide  
24 600,000 --

25 A. Sure.

1 A. I believe that I did at the time.

2 Q. And as you've now walked through the math you  
3 admit that you did not; correct?

4 A. I would like to look at my calculations and see  
5 if I made a mistake and if I did, where I made that  
6 mistake.

7 Q. I'm here. You look at those numbers and you  
8 tell me how they work.

9 A. That's -- I would like, I would like a chance to  
10 look at my own calculations to see if I made a mistake  
11 and where I did, and then I could give you a better  
12 explanation.

13 Q. Why didn't you show up with your calculations?  
14 You knew I was going to depose you on your affidavit.

15 A. I couldn't tell you the answer to that.

16 Q. As you sit here right now, can you give me any  
17 explanation of why the math is so bad in paragraph 7 of  
18 your affidavit?

19 A. No.

20 Q. You weren't trying to mislead the Court?

21 A. Oh, no.

22 Q. That was signed under penalty of perjury.

23 A. True.

24 Q. And it's inaccurate?

25 A. It is.

1 Q. You're aware of Wizard of Odds?

2 A. Yes.

3 Q. He deconstructs and establishes par all the time  
4 right on his videos, doesn't he?

5 A. I've not watched his videos.

6 Q. You haven't watched Shackleford's videos?

7 A. I haven't.

8 Q. Why? He's a pretty savvy individual in the  
9 industry, isn't it?

10 A. Yeah, I think he is.

11 Q. A well respected authority.

12 A. I think he is.

13 Q. But in any event, all these numbers lack  
14 accuracy according to your admission in the last  
15 paragraph of your affidavit; correct?

16 A. Yes.

17 Q. So you did tell the judge that these numbers are  
18 inaccurate?

19 MR. JOHNSON: Objection. Assumes facts not in  
20 evidence.

21 Q. (By Mr. Robison) Number 10 is in evidence, and  
22 I'll read it into the record so that there's no  
23 accusation that I'm saying something that you didn't  
24 say.

25 "While GSR's methods of operation do not, in my

1 opinion, have a bearing on Peppermill's admitted  
2 collection of misappropriated par information, I believe  
3 that Peppermill's motives for collecting the information  
4 and any operational changes that the Peppermill made or  
5 did not make with the benefit of the par information are  
6 crucial to accuracy."

7 A. Correct.

8 Q. And you don't have either of those?

9 A. Correct.

10 Q. So your information is inherently inaccurate?

11 A. At this stage, yes.

12 Q. Okay. Why did you give it to the judge?

13 A. Why what?

14 Q. Why then would it -- why did they ask you for  
15 this information to give to the judge?

16 A. I couldn't answer that. You can ask Mr. Johnson  
17 for why. I don't know.

18 Q. Well, you can explain it to the judge. This  
19 really should be stricken from the record, shouldn't it,  
20 because it's so inaccurate?

21 MR. JOHNSON: Objection.

22 THE WITNESS: You're asking me for a legal  
23 conclusion there.

24 Q. (By Mr. Robison) Well, this is your tattoo. You  
25 have to wear it. Do you want this to be the position of



1 Dr. David Schwartz in court? Yes or no.

2 A. At the time, this accurately reflects what my  
3 knowledge of it based on the information I had then, as I  
4 said. As you brought to our attention in paragraph 10  
5 there, I do want more information to be able to  
6 definitively have an opinion and have a report, which  
7 I haven't done yet.

8 Q. That wasn't my question. My question is: Is  
9 this the testimony, sworn testimony under penalty of  
10 perjury, that you want to stand behind in this case?

11 A. Again, I'll say that at the time I believed this  
12 was accurate.

13 Q. Right now is this the testimony that you want to  
14 stand behind in this case? Yes or no.

15 A. No.

16 Q. Thank you. Please excuse me if I've already  
17 asked this, but do you know how the tier points relate to  
18 the theo at the GSR?

19 A. No, I don't.

20 Q. Did I ask that before?

21 A. I don't remember if you did or didn't. It's  
22 been a long morning for me. He knows.

23 MR. GUNDERSON: I do.

24 Q. (By Mr. Robison) So if you use that 7.83 par and  
25 the cost under that assumption is \$3,132,000, and if you

STATE OF NEVADA )  
 ) ss.  
COUNTY OF CLARK )

IN WITNESS WHEREOF, I have hereunto set my hand  
in my office in the County of Clark, State of Nevada  
this 31st day of October 2014.


**ESQUIRE**  
SOLUTIONS

DEPOSITION ERRATA SHEET

Assignment No. 215323

Case Caption: MEI-GSR HOLDINGS vs. PEPPERMILL

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.

Signed on the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
DAVID SCHWARTZ

Case No. CV13-01704

Dept. No. B7

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF WASHOE

-oOo-

MEI-GSR HOLDINGS, LLC, a Nevada )  
Corporation, d/b/a GRAND SIERRA RESORT, )  
Plaintiff, )

-vs- )

PEPPERMILL CASINOS, INC., a Nevada )  
Corporation, d/b/a PEPPERMILL CASINO, )  
Defendant(s). )

VIDEOTAPED DEPOSITION OF TRACY MIMNO

(Pages 1-27)

**HIGHLY CONFIDENTIAL** - VIDEOTAPED DEPOSITION OF TRACY MIMNO

(Pages 28-292)

called for examination by counsel for Defendant Peppermill Casinos, Inc., d/b/a Peppermill Casino pursuant to Notice, at the offices of Robison, Belaustegui, Sharp & Low, 71 Washington Street, Reno, Nevada, at 9:12 a.m., Wednesday, November 4, 2015, before Becky Van Auken, a Certified Court Reporter.

Reported by: BECKY VAN AUKEN, CCR No. 418, RMR, CRR

1 a value on the pars.

2 Q Okay. And you certainly haven't been asked  
3 to do so?

4 MR. COHEN: Asked and answered.

5 BY MR. ROBISON:

6 Q Suppose I wrote down six par settings of  
7 six IGT machines on the floor at the Peppermill right  
8 now. Do you want to buy them?

9 A No, thank you. I'm not -- I don't know  
10 what they would mean. Whose are they and what are  
11 they? I wouldn't be buying proprietary --

12 Q Six IGT machines. The par settings on  
13 these six IGT machines on the floor of the Peppermill  
14 are accurately stated on this hypothetical piece of  
15 paper.

16 A Okay.

17 Q Tell me what you'll buy them for.

18 A I've not -- that's my whole point. I don't  
19 have a value on them. I would not buy someone else's  
20 pars..

21 Q Even if I offered them to you --

22 A No.

23 Q -- for sale?

24 A No.

25 Q You wouldn't buy them?

**H I G H L Y C O N F I D E N T I A L**

1           A     No.

2           Q     It would be foolish to buy them, wouldn't  
3 it, spend money for that?

4           A     I'm going to say it's foolish. I'm saying  
5 I don't have a value to place on them.

6           Q     You said you wouldn't buy them.

7           A     And I wouldn't buy them. I don't have a  
8 value.

9           Q     Okay. Would you hire somebody to go  
10 appraise them or would you just not buy them?

11          A     I would probably just not buy them.  
12 There's not a value to me. I would not buy -- buy  
13 them.

14          Q     Right. So if I gave them to you and here's  
15 six pars on six IGT machines right now on the GSR --  
16 on the Peppermill floor, who's to say they wouldn't  
17 change tomorrow? Right?

18          A     Who's to say?

19          Q     Who's to say they weren't changed from  
20 yesterday? In other words, it's a transient notion  
21 that changes frequently which would even impede it  
22 from having value because of constant changes in these  
23 par settings. Correct?

24          A     I would say that pars can change when the  
25 operator changes them.

**H I G H L Y   C O N F I D E N T I A L**

1           Q       All right. I think we'll call it a day --

2           MR. JOHNSON: I'm going to lodge an  
3 objection to Exhibit 186. These were all produced  
4 after the deadline, so I'm objecting to their  
5 production. I'm objecting to the questioning that was  
6 raised to these, and I'm moving to strike all of the  
7 testimony.

8           MR. ROBISON: And under Rule 26, Counsel,  
9 we are obligated by that rule to timely supplement all  
10 expert witness reports. We are doing so before any  
11 depositions of those experts have been taken. This is  
12 a timely supplement. You're going to have to deal  
13 with it.

14          MR. JOHNSON: I don't think it is a  
15 supplement. These are new opinions offered by new  
16 people.

17          MR. ROBISON: They're not opinions.  
18 They've been given to my experts for my experts to  
19 rely on. We'll make a record in court, and let's not  
20 waste the court reporter's time now. You've made your  
21 objection.

22          MR. JOHNSON: I've made my objection.

23          MR. ROBISON: Thank you. We're done for  
24 the day. I'll try to reschedule you at a more  
25 convenient time.

**H I G H L Y   C O N F I D E N T I A L**

1 MR. COHEN: No, this deposition -- if you  
2 want to keep going, we'll keep going tonight. Absent  
3 that, the deposition is deemed concluded.

4 MR. ROBISON: Well, I'm not going to do  
5 that to the reporter. She's been here all day.

6 MR. COHEN: You're entitled to 7 1/2 hours.  
7 We're certainly willing to go beyond the 7 1/2, but  
8 based upon schedules and based upon the fact that  
9 there's depositions almost every day through the end  
10 of the month, Counsel, proceed.

11 MR. ROBISON: There's not depositions set  
12 every day for the rest of the month.

13 MR. COHEN: I said almost.

14 MR. ROBISON: Yeah. There are open days.

15 MR. COHEN: Yeah. I'm saying complete  
16 your -- your testimony and --

17 MR. ROBISON: We'll take a recess now and  
18 I'll contemplate your objection.

19 THE VIDEOGRAPHER: Off the record. The  
20 monitor time is approximately 5:23 p.m.

21 (A recess was taken.)

22 (Exhibit 187 was marked.)

23 THE VIDEOGRAPHER: We're back on record.  
24 The monitor time is approximately 5:38 p.m.

25 MR. ROBISON: In light of the discussion we

**H I G H L Y C O N F I D E N T I A L**



1 had before the recess, I've marked the Second Amended  
2 Notice of Taking Videotaped Deposition of Tracy Mimno  
3 as Exhibit 187 to make it part of the record.

4 We noticed this deposition with the right  
5 to take Ms. Mimno's videotaped deposition today under  
6 Rule 26 and Rule 30. An oral examination was noticed  
7 to continue from day to day until completed.

8 I am not done, and I'm not going to forward  
9 tonight for various reasons, including personal  
10 agenda. And we'll either proceed tomorrow or go to  
11 the discovery commissioner to see if the deposition  
12 can proceed on a different day.

13 MR. JOHNSON: Well, we're ready, willing to  
14 proceed. You have 45 minutes left. You're limited to  
15 7 1/2 hours pursuant to the rules, and --

16 MR. ROBISON: That's my point. I have more  
17 than -- how much? 45 minutes?

18 MR. JOHNSON: 45 minutes.

19 MR. ROBISON: I've got to get permission to  
20 exceed seven hours, then.

21 MR. JOHNSON: Okay. Then we'll have to  
22 take it to the discovery commissioner.

23 MR. ROBISON: Are you guys in town  
24 tomorrow?

25 MR. JOHNSON: We weren't going to be.

**H I G H L Y C O N F I D E N T I A L**

1 MR. ROBISON: Well, you can do it by  
2 telephone. It's going to be a thumbs up or thumbs no.

3 MR. JOHNSON: Well -- oh, you mean the  
4 discovery --

5 MR. ROBISON: Just the request to exceed  
6 seven hours.

7 Okay. Let's see if we can agree on a time  
8 to have a telephone conference with the discovery  
9 commissioner in the morning. Until we get a decision,  
10 the deposition is either completed or post- -- or  
11 continued. We'll see. Thank you.

12 MR. COHEN: Yeah, it's either deemed  
13 completed -- it's our position that the deposition is  
14 now concluded. It will be subject to, of course, the  
15 motion that you're going to bring tomorrow.

16 MR. ROBISON: Fair enough.

17 Thank you for your patience and  
18 cooperation, Ms. Mimno.

19 MR. COHEN: Thank you very much.

20 THE VIDEOGRAPHER: This concludes today's  
21 video deposition of Tracy Mimno. One copy of the  
22 original video disc delivered to the law office of  
23 Robison, Belaustegui, Sharp & Low, 71 Washington  
24 Street, Reno, Nevada. Total number of video discs  
25 used was four. We're going off record. The monitor

**H I G H L Y C O N F I D E N T I A L**

Trial Exhibit 82 – 11/2014 CDC Report re: Direct Mail (Continued)	01/19/16	16	RA 03751 – 03757
Trial Exhibit 83 - 12/2014 CDC Report re: Direct Mail	01/22/16	17	RA 04007 – 04051
Trial Exhibit 84 - 01/2015 CDC Report re: Direct Mail	01/22/16	17	RA 04052 – 04096
Trial Exhibit 85 - 05/14/14 CDC Contract with GSR (signed by Mimno)	01/22/16	17	RA 04097 – 04099

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1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2  
3  
4   MEI-GSR HOLDINGS, LLC, a Nevada  
5   limited liability company, d/b/a GRAND  
6   SIERRA RESORT,

7                                   Appellant,

8   vs.

9   PEPPERMILL CASINOS, INC., a Nevada  
10   corporation, d/b/a/ PEPPERMILL  
11   CASINO;

12                                  Respondent.  
13                                  \_\_\_\_\_/

Electronically Filed  
May 15 2017 03:20 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Supreme Court No. 70319

District Ct. Case No. CV13-01704

14                                   **RESPONDENT PEPPERMILL CASINOS, INC.'S**  
15                                   **ANSWERING BRIEF**

16                                   **APPENDIX VOLUME 22**

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**RESPONDENT PEPPERMILL CASINOS, INC.'S ANSWERING BRIEF**

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Defendant Peppermill Casinos, Inc.'s Reply to Plaintiff's Opposition to Motion to Dismiss Complaint	06/30/14	1	RA 00074 – 00087
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Trial Exhibit 160 - Aguero Charts – No Correlation	01/22/16	18	RA 04410 – 04418
Trial Exhibit 162 – Atlantis Advertisements	01/15/16	15	RA 03701 – 03704

Trial Exhibit 164 – Advertisement from El Cortez	01/15/16	15	RA 03705 – 03710
Trial Exhibit 166 – Report Entitled, “Slot Market Assessment” by Applied Analysis	01/11/16	14	RA 03297 – 03258
Trial Exhibit 169A - Expert Rebuttal Report, Applied Analysis – REDACTED	01/22/16	18	RA 04419 - 04421
Trial Exhibit 16A – 01/02/13 11:24a.m. Tors email re: New Year’s Eve shop	01/14/16	15	RA 03623 – 03624
Trial Exhibit 170 - Expert Rebuttal Report, Applied Analysis (with numbered paragraphs)		22	RA 05351 – 05353
Trial Exhibit 172 - 03/01/15 Expert Witness Report of Professor Anthony Lucas	01/22/16	18	RA 04422 - 04457
Trial Exhibit 186 - 11/03/15 Defendant Peppermills Casino’s Supplement to Disclosure of Rebuttal Expert Witnesses	01/22/16	18	RA 04458 – 04487

Trial Exhibit 188 – 02/03/15 Photocopy of Plaintiff MEI-GSR Holdings, LLC a Nevada Corporation d/b/a Grand Sierra Resorts Disclosure of Expert Witnesses	01/11/16	14	RA 03259 – 03361
Trial Exhibit 189 – 04/01/15 Grand Sierra Resort’s Rebuttal Expert Disclosure	01/11/16	14	RA 03362 – 03365
Trial Exhibit 20 – 09/2014 Affidavit of David Schwartz	01/20/16	16	RA 03758 - 03760
Trial Exhibit 201 - 09/06/15 Atlantis Newspaper Ad	01/22/16	18	RA 04488
Trial Exhibit 202 - 08/30/15 Atlantis Newspaper Ad	01/22/16	18	RA 04489 – 04490
Trial Exhibit 206 - 10/15/15 Salazar Rebuttal Expert Report	01/22/16	18	RA 04491 – 04500
Trial Exhibit 206 - 10/15/15 Salazar Rebuttal Expert Report (Continued)	01/22/16	19	RA 04501 – 04545
Trial Exhibit 214 – Parchanges.pdf	01/11/16	14	RA 03366 – 03382
Trial Exhibit 215A - Peppermill Casinos, Inc. Amended Answer to Complaint dated 7/25/2014 – REDACTED	01/22/16	19	RA 04546 – 04556



Trial Exhibit 220 - (PM part three.pdf) Emails from Ryan Tors to other parties Re: PAR information dated 3/28/2010-11/2010		22	RA 05354 – 05360
Trial Exhibit 220A – (PM part three.pdf) Emails from Ryan Tors to Other Parties Re: PAR Information Dated 03/28/2010 – 11/2010 – REDACTED	01/25/16	22	RA 05349 – 05350
Trial Exhibit 221B – Emails (with notations) from Tors to various parties with PAR information dated 12/29/2011 – 06/13/2013	01/14/16	15	RA 03625 - 03636
Trial Exhibit 229 – GSR Wells Market Share Monthly Report, Percentage of Player for Peppermill v. GSR 2012 – 2013	01/11/16	14	RA 03383 – 03386
Trial Exhibit 232 - Aristocrat “NOTICE OF CONFIDENTIALITY OF PAR SHEETS”		22	RA 05361
Trial Exhibit 239 A – Email from Ryan Tors to NB Partners and William Paganetti Dated 06/07/12	01/22/16	19	RA 04557

Trial Exhibit 240 – Correspondence from Gaming Control dated 7/31/2013 Re: Investigation of Ryan 01/11/16Tors activities; Peppermill Property Receipts	01/11/16	14	RA 03387 – 03391
Trial Exhibit 241A - Emails dated 3/28/2010 – 11/2010 from Ryan Tors to other parties Re: PAR information (PM13272-13278) (PM13277, email between Tors and Scott Bean Re: Rail City comp reinvestment) - REDACTED		22	RA 05362 – 05368
Trial Exhibit 300 - 2/2015 CDC Report	01/22/16	19	RA 04558 – 04648
Trial Exhibit 301 - 3/2015 CDC Report	01/22/16	19	RA 04649 – 04695
Trial Exhibit 302 - 4/2015 CDC Report	01/22/16	19	RA 04696 – 04741
Trial Exhibit 303 - 5/2015 CDC Report	01/22/16	19	RA 04742 – 04750
Trial Exhibit 303 - 5/2015 CDC Report (Continued)	01/22/16	20	RA 04751 – 04788

Trial Exhibit 304 - 6/2015 CDC Report	01/22/16	20	RA 04789 – 04384
Trial Exhibit 305 - 12/31/10 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04385 – 04882
Trial Exhibit 306 - 12/31/11 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04883 – 04930
Trial Exhibit 307 – 12/31/12 State Gaming Control Board Gaming Revenue Report	01/13/16	14	RA 03419 - 03466
Trial Exhibit 308 - 12/31/13 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04931 – 04978
Trial Exhibit 309 - 12/31/14 State Gaming Control Board Gaming Revenue Report	01/22/16	20	RA 04979 - 05000
Trial Exhibit 309 - 12/31/14 State Gaming Control Board Gaming Revenue Report (Continued)	01/22/16	21	RA 05001 - 05026

Trial Exhibit 310 - 08/31/15 State Gaming Control Board Gaming Revenue Report	01/22/16	21	RA 05027 – 05074
Trial Exhibit 311 - 2010 Partial Las Vegas Sands Corp	01/22/16	21	RA 05075 – 05089
Trial Exhibit 312 - 2010 Partial Las Vegas Sands Corp 10K/A	01/22/16	21	RA 05090 – 05101
Trial Exhibit 313 - 2011 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05102 – 05115
Trial Exhibit 314 - 2012 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05116 – 05130
Trial Exhibit 315 - 2013 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05131 – 05146
Trial Exhibit 316 - 2014 Partial Las Vegas Sands Corp 10K	01/22/16	21	RA 05147 – 05162
Trial Exhibit 317 - 03/31/15 Partial Las Vegas Sands Corp 10Q	01/22/16	21	RA 05163 – 05172
Trial Exhibit 318 - 06/30/15 Partial Las Vegas Sands Corp 10Q	01/22/16	21	RA 05173 – 05189
Trial Exhibit 319 - 2010 Partial Wynn Resorts, Limited 10K	01/22/16	21	RA 05190 – 05203
Trial Exhibit 320 - 2011 Partial Wynn Resorts, Limited 10K	01/22/16	21	RA 05204 – 05216
Trial Exhibit 321 - 2011 Partial Wynn Resorts Limited 10K/A	01/22/16	21	RA 05217 – 05250

Trial Exhibit 321 - 2011 Partial Wynn Resorts Limited 10K/A (Continued)	01/22/16	22	RA 05251 – 05256
Trial Exhibit 322 - 2012 Partial Wynn Resorts, Limited 10K	01/22/16	22	RA 05257 – 05266
Trial Exhibit 323 - 2013 Partial Wynn Resorts, Limited 10K	01/22/16	22	RA 05267 – 05280
Trial Exhibit 324 - 2014 Partial Wynn Resorts, Limited 10K	01/22/16	22	RA 05281 – 05293
Trial Exhibit 325 - 03/31/15 Partial Wynn Resorts, Limited 10Q	01/22/16	22	RA 05294 – 05302
Trial Exhibit 326 - 06/30/15 Partial Wynn Resorts, Limited 10Q	01/22/16	22	RA 05303 – 05315
Trial Exhibit 327 - 2010 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05316 – 05317
Trial Exhibit 328 - 2011 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05318 – 05319
Trial Exhibit 329 - 2012 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05320 – 05321
Trial Exhibit 330 - 2013 Peppermill Reno 1C Video and Reel Analysis (Highly Confidential)	01/22/16	22	RA 05322 – 05323

Trial Exhibit 339 - Machine Performance Statistics	01/22/16	22	RA 05324
Trial Exhibit 340.1 – Buffalo	01/11/16	14	RA 03392 – 03405
Trial Exhibit 340.10 – Texas Tea	01/11/16	14	RA 03416
Trial Exhibit 340.11 – Wolf Run	01/11/16	14	RA 03417
Trial Exhibit 340.2 – Cats	01/11/16	14	RA 03406 – 03407
Trial Exhibit 340.2A – Cleopatra	01/11/16	14	RA 03408
Trial Exhibit 340.3 – Ducks in a Row	01/11/16	14	RA 03409
Trial Exhibit 340.4 – Double Diamond 2000	01/11/16	14	RA 03410
Trial Exhibit 340.5 – Enchanted Unicorn	01/11/16	14	RA 03411
Trial Exhibit 340.6 – Horoscope	01/11/16	14	RA 03412
Trial Exhibit 340.7 – Lil Lady	01/11/16	14	RA 03413
Trial Exhibit 340.8 – Money Storm	01/11/16	14	RA 03414
Trial Exhibit 340.9 – Munsters	01/11/16	14	RA 03415

Trial Exhibit 358 - Portions of the Deposition Transcript of Craig Robinson		22	RA 05369 – 05375
Trial Exhibit 359 - Portions of the Deposition Transcript of Terry Vavra		22	RA 05376 – 05384
Trial Exhibit 35A – 11/03/14 GSR Answers to 2 <sup>nd</sup> Set of Interrogatories – REDACTED Interrogatory No. 14 and Response Only	01/21/16	16	RA 03761 – 03762
Trial Exhibit 360 - Portions of the Deposition Transcript of Ralph Burdick		22	RA 05385 – 05398
Trial Exhibit 361 - Portions of the Deposition Transcript of Toby Taylor		22	RA 05399 – 05406
Trial Exhibit 362 - Portions of the Deposition Transcript of Toby Taylor		22	RA 05407 – 05413
Trial Exhibit 363 - Portions of the Deposition Transcript of Michael Draeger		22	RA 05414 – 05421
Trial Exhibit 364 - Portions of the Deposition Transcript of David Schwartz		22	RA 05422 – 05443

Trial Exhibit 38 – “Reno Loosest Slots in the USA” Billboard by PM	01/11/16	14	RA 03284
Trial Exhibit 4 - GSR Billboard Photographs	01/11/16	14	RA 03260 – 03266
Trial Exhibit 5 – GSR Advertisements – “Loosest Buffalo”	01/11/16	14	RA 03267
Trial Exhibit 50 - GSR Slot Add Worksheet re: machine location and setting (including par) for certain machines	01/22/16	16	RA 03832 – 03850
Trial Exhibit 53 – 11/19/14 GSR Website Slots and Video Poker (Loosest Buffalo)	01/11/16	14	RA 03285
Trial Exhibit 54 – 11/07/14 & 11/17/14 List of games with par settings	01/11/16	14	RA 03286
Trial Exhibit 56 – Chart of GSR Earning Structure	01/11/16	14	RA 03287
Trial Exhibit 6 – 2341 Key on EBay	01/11/16	14	RA 03268 – 03280
Trial Exhibit 73 - Custodian of Records Statement	01/22/16	16	RA 03851 – 03852
Trial Exhibit 74 – CDC Invoices to GSR	01/15/16	15	RA 03637 – 03645



Trial Exhibit 75 - 05/07/10 CDC Report re: Slot Comp	01/22/16	16	RA 03853 – 03858
Trial Exhibit 76 - 05/12/10 CDC Report re: Direct Mail	01/22/16	16	RA 03859 – 03864
Trial Exhibit 77 – 06/2014 CDC Report re: Free Play & Comp Rewards	01/15/16	15	RA 03646 – 03650
Trial Exhibit 78 – 07/2014 CDC Report re: Direct Mail	01/15/16	15	RA 03651 – 03700
Trial Exhibit 79 - 08/2014 CDC Report re: Direct Mail	01/22/16	16	RA 03865 – 03912
Trial Exhibit 8 – 8:51 a.m. Tors Email	01/11/16	14	RA 03281 – 03282
Trial Exhibit 80 - 09/2014 CDC Report re: Direct Mail	01/22/16	16	RA 03913 – 03957
Trial Exhibit 81 - 10/2014 CDC Report re: Direct Mail	01/22/16	16	RA 03958 - 04000
Trial Exhibit 81 - 10/2014 CDC Report re: Direct Mail	01/22/16	17	RA 04001 – 04006
Trial Exhibit 82 – 11/2014 CDC Report re: Direct Mail	01/19/16	15	RA 03711 – 03750

Trial Exhibit 82 – 11/2014 CDC Report re: Direct Mail (Continued)	01/19/16	16	RA 03751 – 03757
Trial Exhibit 83 - 12/2014 CDC Report re: Direct Mail	01/22/16	17	RA 04007 – 04051
Trial Exhibit 84 - 01/2015 CDC Report re: Direct Mail	01/22/16	17	RA 04052 – 04096
Trial Exhibit 85 - 05/14/14 CDC Contract with GSR (signed by Mimno)	01/22/16	17	RA 04097 – 04099

- 10.39 Concession Contract for the Operation of Games of Chance or Other Games in Casinos in the Macau Special Administrative Region, dated June 24, 2002, between the Macau Special Administrative Region and Wynn Resorts (Macau), S.A. (English translation of Portuguese version of Concession Agreement).(2)
- 10.40 Concession Contract for Operating Casino Gaming or Other Forms of Gaming in the Macao Special Administrative Region, dated June 24, 2002, between the Macau Special Administrative Region and Wynn Resorts (Macau) S.A. (English translation of Chinese version of Concession Agreement).(5)
- 10.41 Unofficial English translation of Land Concession Contract between the Macau Special Administrative Region and Wynn Resorts (Macau) S.A.(3)
- 10.42 Material terms of draft land concession contract.(43)
- 10.43 Agreement, dated as of June 13, 2002, by and between Stephen A. Wynn and Wynn Resorts, Limited.(2)
- 10.44 Surname Rights Agreement, dated as of August 6, 2004, by and between Stephen A. Wynn and Wynn Resorts Holdings, LLC.(4)
- 10.45 Rights of Publicity License, dated as of August 6, 2004, by and between Stephen A. Wynn and Wynn Resorts Holdings, LLC.(4)
- 10.46 Termination Agreement, dated as of August 6, 2004, by and between Stephen A. Wynn and Valvino Lamore, LLC.(4)
- 10.47 Trademark Assignment, dated as of August 6, 2004, by and between Stephen A. Wynn and Wynn Resorts Holdings, LLC.(4)
- 10.48 Acknowledgement and Agreement, dated as of September 1, 2004, among Wynn Las Vegas, LLC, Wells Fargo Bank, National Association and the lenders named therein.(6)
- 10.49 Common Terms Agreement, dated as of September 14, 2004, among Wynn Resorts (Macau), S.A., certain financial institutions as Hotel Facility Lenders, Project Facility Lenders and Revolving Credit Facility Lenders, Deutsche Bank AG, Hong Kong Branch and Societe Generale Asia Limited as Global Coordinating Lead Arrangers and Societe Generale Asia Limited as Hotel Facility Agent, Project Facility Agent, Intercréditor Agent and Security Agent.(4)

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<u>Exhibit No.</u>	<u>Description</u>
10.50	Common Terms Agreement Amendment Agreement, dated as of September 14, 2005, between Wynn Resorts (Macau), S.A. as the Company, Certain Financial Institutions as Hotel Facility Lenders, Project Facility Lenders, Revolving Credit Facility Lenders and Hedging Counterparties, Bank of America Securities Asia Limited, Deutsche Bank AG, Hong Kong Branch and Societe Generale Asia Limited as Global Coordinating Lead Arrangers, Societe Generale Asia Limited as Hotel Facility Agent and Project Facility Agent, Societe Generale Asia Limited as Intercréditor Agent, and Societe Generale, Hong Kong Branch as Security Agent.(8)
10.51	Second Amendment Agreement to the Common Terms Agreement dated June 27, 2007 among Wynn Resorts (Macau), S.A., certain financial institutions as Hotel Facility Lenders, Project Facility Lenders, and Revolving Credit Facility Lenders, Banc of America Securities Asia Limited, Deutsche Bank A.G. Hong Kong Branch, and Societe Generale Asia Limited as Global Lead Arrangers and Societe Generale Asia Limited as Hotel Facility Agent and Project Facility Agent and Societe Generale Hong Kong Branch as Intercréditor Agent.(12)
10.52	Common Terms Agreement Third Amendment Agreement dated September 8, 2009 between, among others, Wynn Resorts (Macau) S.A. as the company and Société Générale, Hong King Branch as security agent.(38)
10.53	Hotel Facility Agreement, dated as of September 14, 2004, among Wynn Resorts (Macau), S.A., Societe Generale Asia Limited as Hotel Facility Agent and the several Hotel Facility Lenders named therein.(4)
10.54	Hotel Facility Agreement Amendment Agreement, dated as of September 14, 2005, between Wynn Resorts (Macau), S.A. as Company, Societe Generale Asia Limited, as Hotel Facility Agent and Certain Financial Institutions as Hotel Facility Lenders.(8)
10.55	Second Amendment Agreement to the Hotel Facility Agreement dated June 27, 2007 among Wynn Resorts (Macau), S.A., Societe Generale Asia Limited as Hotel Facility Agent, and certain financial institutions as Hotel Facility Lenders.(12)
10.56	Project Facility Agreement, dated as of September 14, 2004, among Wynn Resorts (Macau), S.A., Societe Generale Asia Limited as Project Facility Agent and the several Project Facility Lenders named therein.(4)
10.57	Project Facility Agreement Amendment Agreement, dated as of September 14, 2005, between Wynn Resorts (Macau), S.A. as Company, Societe Generale Asia Limited, as Project Facility Agent and Certain Financial Institutions as Project Facility Lenders.(8)
10.58	Second Amendment Agreement to the Project Facility Agreement dated June 27, 2007 among Wynn Resorts (Macau), S.A., Societe

Generale Asia Limited as Project Facility Agent, and certain financial institutions as Project Facility Lenders.(12)

10.59 Revolving Credit Facility Agreement, dated as of September 14, 2004, among Wynn Resorts (Macau), S.A. and the several Revolving Credit Facility Lenders named therein.(4)

.60 Revolving Credit Facility Agreement Amendment Agreement, dated as of September 14, 2005, between Wynn Resorts (Macau), S.A. as Company and Certain Financial Institutions as Revolving Credit Facility Lenders.(8)

10.61 Revolving Credit Facility Second Amendment Agreement dated June 27, 2007 among Wynn Resorts (Macau), S.A. and Societe Generale, Hong Kong Branch as Revolving Credit Facility Agent and certain financial institutions as revolving credit facility lenders.(12)

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Exhibit No.	Description
10.62	Deed of Appointment and Priority, dated as of September 14, 2004, among Wynn Resorts (Macau), S.A., certain financial institutions as Original First Ranking Lenders, Banco Nacional Ultramarino, S.A. as Second Ranking Finance Party, Wynn Group Asia, Inc. as Third Ranking Finance Party, Societe Generale - Hong Kong Branch as Security Agent, Societe Generale Asia Limited as Intercreditor Agent and Hotel Facility Agent and Project Facility Agent and others.(4)
10.63	Floating Charge (unofficial English Translation), dated September 14, 2004 between Wynn Resorts (Macau), S.A. and Societe Generale, Hong Kong Branch as the Security Agent.(4)
10.64	Debenture, dated September 14, 2004 between Wynn Resorts (Macau), S.A. and Societe Generale, Hong Kong Branch as the Security Agent.(4)
10.65	Wynn Resorts Support Agreement, dated September 14, 2004 between Wynn Resorts, Limited, Wynn Resorts (Macau), S.A. and Societe Generale, Hong Kong Branch as the Security Agent.(4)
10.66	Wynn Pledgors' Guarantee, dated September 14, 2004 between Wynn Group Asia, Inc., Wynn Resorts International, Ltd., Wynn Resorts (Macau) Holdings, Ltd. and Wynn Resorts (Macau), Ltd. as Guarantors; and Societe Generale, Hong Kong Branch as the Security Agent.(4)
10.67	Sponsors' Subordination Deed, dated September 14, 2004 between Wynn Resorts (Macau), S.A., Wynn Group Asia, Inc., Wynn Resorts International, Ltd., Wynn Resorts (Macau) Holdings, Ltd. and Wynn Resorts (Macau), Ltd. as the Wynn Companies and Societe Generale, Hong Kong Branch as the Security Agent.(4)
10.68	Bank Guarantee Reimbursement Agreement, dated September 14, 2004, between Wynn Resorts (Macau), S.A. and Banco Nacional Ultramarino.(4)
10.69	Wynn Resorts Support Agreement Deed of Amendment, dated as of September 14, 2005, between Wynn Resorts (Macau), S.A. and Societe Generale, Hong Kong Branch as Security Agent.(8)
10.70	Deed of Appointment and Priority Deed of Amendment, dated as of September 14, 2005, between Wynn Resorts (Macau), S.A. as Company, Certain Financial Institutions as Original First Ranking Lenders, Certain Financial Institutions as Original Hedging Counterparties, Banco Nacional Ultramarino, S.A. as Second Ranking Finance Party, Wynn Group Asia, Inc. as Third Ranking Finance Party, Societe Generale Asia Limited as Security Agent, Societe Generale Asia Limited as Intercreditor Agent, Societe Generale Asia Limited as Hotel Facility Agent and Project Facility Agent, and Others.(8)
10.71	Amended and Restated Master Disbursement Agreement, dated as of October 25, 2007, by and among Wynn Las Vegas, LLC, Deutsche Bank Trust Company Americas, as the initial Bank Agent, and Deutsche Bank Trust Company America, as the initial Disbursement Agent.(15)
10.72	First Amendment to Amended and Restated Master Disbursement Agreement, dated as of October 31, 2007, by and among Wynn Las Vegas, LLC, Deutsche Bank Trust Company Americas, as the initial Bank Agent, and Deutsche Bank Trust Company America, as the initial Disbursement Agent.(13)
10.73	Second Amendment to Amended and Restated Master Disbursement Agreement, dated as of November 6, 2007, by and among Wynn Las Vegas, LLC, Deutsche Bank Trust Company Americas, as the Bank Agent, and Deutsche Bank Trust Company Americas, as the Disbursement Agent.(14)
10.74	Third Amendment to Amended and Restated Master Disbursement Agreement, dated October 19, 2009, by and among Wynn Las Vegas, LLC, Deutsche Bank Trust Company Americas, as the Bank Agent, and Deutsche Bank Trust Company Americas, as the

## Disbursement Agent.(29)

- 10.75 Fourth Amendment to Amended and Restated Master Disbursement Agreement, dated April 28, 2010, by and among Wynn Las Vegas, LLC, Deutsche Bank Trust Company Americas, as the Bank Agent, and Deutsche Bank Trust Company Americas, as the Disbursement Agent.(33)

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<u>Exhibit No.</u>	<u>Description</u>
10.76	Management Fees Subordination Agreement, dated as of December 14, 2004, by Wynn Resorts, Limited, Wynn Las Vegas, LLC, Wynn Las Vegas Capital Corp., and those subsidiaries of Wynn Las Vegas, LLC listed on <u>Exhibit A</u> hereto in favor of Deutsche Bank Trust Company Americas, as administrative agent, and U.S. Bank National Association, as trustee.(7)
10.77	Management Agreement, made as of December 14, 2004, by and among Wynn Las Vegas, LLC, Wynn Show Performers, LLC, Wynn Las Vegas Capital Corp., Wynn Golf, LLC, World Travel, LLC, Las Vegas Jet, LLC, Wynn Sunrise, LLC, and Wynn Resorts, Limited.(7)
10.78	Intellectual Property License Agreement dated as of December 14, 2004, by and among Wynn Resorts Holdings, Wynn Resorts, Limited and Wynn Las Vegas, LLC.(7)
10.79	Agreement of Lease, dated as of March 17, 2010, by and between Wynn Las Vegas, LLC and Elaine P. Wynn.(32)
10.80	Amended and Restated Agreement of Lease made as of March 18, 2010, by and between Wynn Las Vegas and Stephen A. Wynn.(32)
10.81	Fifth Amended and Restated Art Rental and Licensing Agreement, dated as of July 1, 2007, between Stephen A. Wynn, as lessor, Wynn Gallery, LLC, as lessee.(42)
10.82	Aircraft Time Sharing Agreement dated as of November 25, 2002, by and between Las Vegas Jet, LLC and Stephen A. Wynn.(38)
10.83	Amendment No. 1 to Aircraft Time Sharing Agreement, entered into as of January 1, 2004, by and between Las Vegas Jet, LLC and Stephen A. Wynn.(38)
10.84	Amendment No. 2 to Aircraft Time Sharing Agreement, entered into as of October 31, 2009, by and between Las Vegas Jet, LLC and Stephen A. Wynn.(38)
10.85	Aircraft Time Sharing Agreement dated as of November 26, 2002, by and between Las Vegas Jet, LLC and Marc Schorr.(38)
10.86	Amendment No. 1 to Aircraft Time Sharing Agreement, entered into as of January 1, 2004, by and between Las Vegas Jet, LLC and Marc Schorr.(38)
10.87	Amendment No. 2 to Aircraft Time Sharing Agreement, entered into as of October 31, 2009, by and between Las Vegas Jet, LLC and Marc Schorr.(38)
10.88	Amended and Restated Credit Agreement, dated as of August 15, 2006 among Wynn Las Vegas, LLC, as the Borrower, several lenders and agents, and Deutsche Bank Trust Company Americas, as Administrative Agent.(11)
10.89	First Amendment to Amended and Restated Credit Agreement dated April 9, 2007 among Wynn Las Vegas, LLC, Wynn Las Vegas Capital Corp., Wynn Show Performers, LLC, Wynn Golf, LLC, Wynn Sunrise, LLC, World Travel, LLC, Kevyn, LLC, Las Vegas Jet, LLC, and Deutsche Bank Trust Company Americas, as Administrative Agent on behalf of the several banks and other financial institutions or entities from time to time party to Wynn Las Vegas LLC's Amended and Restated Credit Agreement, dated as of August 15, 2006.(12)
10.90	Second Amendment to Amended and Restated Credit Agreement dated October 31, 2007 among Wynn Las Vegas, LLC, Wynn Las Vegas Capital Corp., Wynn Show Performers, LLC, Wynn Golf, LLC, Wynn Sunrise, LLC, World Travel, LLC, Kevyn, LLC, Las Vegas Jet, LLC, Wynn Resorts Holdings, LLC, Wynn Completion Guarantors, LLC and Deutsche Bank Trust Company Americas, as Administrative Agent on behalf of the several banks and other financial institutions or entities from time to time party to Wynn Las Vegas LLC's Amended and Restated Credit Agreement, dated as of August 15, 2006.(13)

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<u>Exhibit No.</u>	<u>Description</u>
10.91	Third Amendment to Amended and Restated Credit Agreement dated as of September 17, 2008 among Wynn Las Vegas, LLC, Wynn Las Vegas Capital Corp., Wynn Show Performers, LLC, Wynn Golf, LLC, Wynn Sunrise, LLC, World Travel, LLC, Kevyn, LLC, Las Vegas Jet, LLC, Wynn Resorts Holdings, LLC, Wynn Completion Guarantor, LLC and Deutsche Bank Trust Company Americas, as Administrative Agent on behalf of the several banks and other financial institutions or entities from time to time party to Wynn Las Vegas, LLC's Amended and Restated Credit Agreement, dated as of August 15, 2006.(19)
10.92	Fourth Amendment to Amended and Restated Credit Agreement, dated as of April 17, 2009, among Wynn Las Vegas, LLC and Wynn Las Vegas Capital Corp., Wynn Show Performers, LLC, Wynn Golf, LLC, Wynn Sunrise, LLC, World Travel, LLC, Kevyn, LLC, Las Vegas Jet, LLC, Wynn Resorts Holdings, LLC, Wynn Completion Guarantors, LLC and Deutsche Bank Trust Company Americas, as Administrative Agent on behalf of the several banks and other financial institutions or entities from time to time party to Wynn Las Vegas LLC's Amended and Restated Credit Agreement, dated as of August 15, 2006.(27)
10.93	Fifth Amendment to Amended and Restated Credit Agreement, dated as of September 10, 2009, among Wynn Las Vegas, LLC and Wynn Las Vegas Capital Corp., Wynn Show Performers, LLC, Wynn Golf, LLC, Wynn Sunrise, LLC, World Travel, LLC, Kevyn, LLC, Las Vegas Jet, LLC, Wynn Resorts Holdings, LLC, Wynn Completion Guarantors, LLC and Deutsche Bank Trust Company Americas, as Administrative Agent on behalf of the several banks and other financial institutions or entities from time to time party to Wynn Las Vegas LLC's Amended and Restated Credit Agreement, dated as of August 15, 2006.(28)
10.94	Sixth Amendment to Amended and Restated Credit Agreement dated as of April 28, 2010 among Wynn Las Vegas, LLC, Wynn Las Vegas Capital Corp., Wynn Show Performers, LLC, Wynn Golf, LLC, Wynn Sunrise, LLC, World Travel, LLC, Kevyn, LLC, Las Vegas Jet, LLC, Wynn Resorts Holdings, LLC, Wynn Completion Guarantor, LLC and Deutsche Bank Trust Company Americas, as Administrative Agent.(33)
10.95	Seventh Amendment to Amended and Restated Credit Agreement dated as of August 4, 2010 among Wynn Las Vegas, LLC, Wynn Las Vegas Capital Corp., Wynn Show Performers, LLC, Wynn Golf, LLC, Wynn Sunrise, LLC, World Travel, LLC, Kevyn, LLC, Las Vegas Jet, LLC, Wynn Resorts Holdings, LLC, Wynn Completion Guarantor, LLC and Deutsche Bank Trust Company Americas, as Administrative Agent on behalf of the several banks and other financial institutions or entities from time to time party to Wynn Las Vegas, LLC's Amended and Restated Credit Agreement, dated as of August 15, 2006.(35)
10.96	Credit Agreement dated June 21, 2007 among Wynn Resorts, Limited and Deutsche Bank Securities, Inc and Bank of America Securities LLC.(12)
97	First Amendment to Credit Agreement, dated as of August 1, 2008, among Wynn Resorts, Limited and Deutsche Bank Trust Company Americas, as Administrative Agent on behalf of the several banks and other financial institutions or entities from time to time party to the Credit Agreement.(17)
10.98	Second Amendment to Credit Agreement, dated as of November 13, 2008, among Wynn Resorts, Limited and Deutsche Bank Trust Company Americas, as Administrative Agent on behalf of the several banks and other financial institutions or entities from time to time party to the Credit Agreement.(23)
21.1	Subsidiaries of the Registrant.(44)
23.1	Consent of Ernst & Young LLP.(44)
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 with respect to the Original Form 10-K.(44)

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<u>Exhibit No.</u>	<u>Description</u>
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 with respect to the Original Form 10-K.(44)
31.3	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 with respect to this Amendment.(45)
31.4	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 with respect to this Amendment.(45)
1	Certification of CEO and CFO pursuant to 18 U.S.C. Section 1350.(44)

**\*\*101** The following financial information from the Company's Annual Report on Form 10-K for the year ended December 31, 2011, filed with the SEC on February 29, 2012 formatted in Extensible Business Reporting Language (XBRL): (i) the Consolidated Statements of Income for the years ended December 31, 2011, 2010 and 2009, (ii) the Consolidated Balance Sheets at December 31, 2011 and December 31, 2010, (iii) the Consolidated Statements of Cash Flows for the years ended December 31, 2011, 2010 and 2009, (iv) the Consolidated Statements of Stockholders' Equity at December 31, 2011, 2010 and 2000, and (v) Notes to Consolidated Financial Statements.\*\* (44)

\* Denotes management contract or compensatory plan or arrangement.

\*\* Pursuant to Rule 406T of Regulation S-T, the XBRL related information in Exhibit 101 to this Annual Report on Form 10-K shall be deemed to be not filed for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be deemed part of a registration statement, prospectus or other document filed under the Securities Act or the Exchange Act, except as shall be expressly set forth by specific reference in such filings.

- (1) Incorporated by reference from Amendment No. 4 to the Form S-1 filed by the Registrant on October 7, 2002 (File No. 333-90600).
- (2) Incorporated by reference from Amendment No. 1 to the Form S-1 filed by the Registrant on August 20, 2002 (File No. 333-90600).
- (3) Incorporated by reference from the Quarterly Report on Form 10-Q filed by the Registrant on August 3, 2004.
- (4) Incorporated by reference from the Quarterly Report on Form 10-Q filed by the Registrant on November 4, 2004.
- (5) Incorporated by reference from Amendment No. 3 to the Form S-1 filed by the Registrant on September 18, 2002 (File No. 333-90600).
- (6) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on September 8, 2004.
- (7) Incorporated by reference from the Annual Report on Form 10-K filed by the Registrant on March 15, 2005.
- (8) Incorporated by reference from the Quarterly Report on Form 10-Q filed by the Registrant on November 8, 2005.
- (9) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on September 1, 2005.
- (10) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on March 4, 2008.
- (11) Incorporated by reference from the Quarterly Report on Form 10-Q filed by the Registrant on November 9, 2006.
- (12) Incorporated by reference from the Quarterly Report on Form 10-Q filed by the Registrant on August 9, 2007.
- (13) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on November 1, 2007.
- (14) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on November 13, 2007.
- (15) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on October 31, 2007.

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- (16) Incorporated by reference from the Annual Report on Form 10-K filed by the Registrant on March 1, 2007.
- (17) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on August 5, 2008.
- (18) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on September 15, 2008.
- (19) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on September 19, 2008.
- (20) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on March 28, 2008.
- (21) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on May 7, 2008.
- (22) Incorporated by reference from the Annual Report on Form 10-K filed by the Registrant on March 2, 2009.
- (23) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on November 13, 2008.
- (24) Incorporated by reference from the Quarterly Report on Form 10-Q filed by the Registrant on May 11, 2009.
- (25) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on March 9, 2009.
- (26) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on March 23, 2009.
- (27) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on April 21, 2009.
- (28) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on September 14, 2009.
- (29) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on October 20, 2009.
- (30) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on January 6, 2010.
- (31) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on February 5, 2010.
- (32) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on March 19, 2010.
- (33) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on April 28, 2010.
- (34) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on May 18, 2010.
- (35) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on August 5, 2010.
- (36) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on November 26, 2010.
- (37) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on December 15, 2010.
- (38) Incorporated by reference from the Annual Report on Form 10-K filed by the Registrant on March 1, 2010.
- (39) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on February 28, 2011.
- (40) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on August 18, 2011.
- (41) Incorporated by reference from the Form S-8 Registration Statement filed by the Registrant on July 27, 2010.
- Incorporated by reference from the Annual Report on Form 10-K filed by the Registrant on March 1, 2011.

- (43) Incorporated by reference from the Current Report on Form 8-K filed by the Registrant on September 12, 2011.
- (44) Incorporated by reference from the Annual Report on Form 10-K filed by the Registrant on February 29, 2012.
- (45) Filed herein.

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**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Amendment No. 1 to Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

**WYNN RESORTS, LIMITED**

Dated: April 30, 2012

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



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

**FORM 10-K**

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

For the fiscal year ended December 31, 2012

OR

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

For the transition period \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 000-50028

**WYNN RESORTS, LIMITED**

(Exact name of registrant as specified in its charter)

NEVADA  
(State or other jurisdiction of  
incorporation or organization)

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

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

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

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

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

Name of Each Exchange on Which Registered  
Nasdaq Global Select Market

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

None

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

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

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

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

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

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

Large accelerated filer ☒

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

its ordinary shares of common stock on The Stock Exchange of Hong Kong Limited. Wynn Macau, Limited sold 1,437,500,000 shares (27.7%) of its common stock through an initial public offering. Net income attributable to noncontrolling interest represents the noncontrolling interests' share of our net income of Wynn Macau, Limited.

Includes long-term debt, the required contract premium payments under our land concession contract at Wynn Macau, future charitable contributions and deferred income taxes.

[3] In February 2012, in connection with the redemption and cancellation of Aruze USA, Inc.'s 24,549,222 shares of Wynn Resorts common stock, stockholders' equity was reduced by \$1.94 billion, the

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face amount of the Redemption Note. Aruze USA has challenged the redemption and cancellation of the 24,549,222 shares and legal proceedings are ongoing. Please see Item 3—"Legal Proceedings".

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with, and is qualified in its entirety by, the consolidated financial statements and the notes thereto included elsewhere in this Annual Report on Form 10-K.

### Overview

We are a developer, owner and operator of destination casino resorts. We currently own and operate two casino resort complexes. In Las Vegas, Nevada, we own and operate Wynn Las Vegas I Encore, which we refer to as our Las Vegas Operations. In the Macau Special Administrative Region of the People's Republic of China ("Macau"), we own and operate Wynn Macau, which opened on September 6, 2006. On April 21, 2010 we opened Encore at Wynn Macau, a further expansion of Wynn Macau. We refer to the fully integrated Wynn Macau and Encore at Wynn Macau resort as Wynn Macau I Encore or as our Macau Operations.

### Our Resorts

The following table sets forth information about our resorts as of February 2013:

	Hotel Rooms & Suites	Approximate Casino Square Footage	Approximate Number of Table Games	Approximate Number of Slots
Las Vegas Operations	4,750	186,000	240	2,195
Macau Operations	1,008	275,000	495	835

### Las Vegas Operations

Wynn Las Vegas I Encore is located at the intersection of the Las Vegas Strip and Sands Avenue, and occupies approximately 215 acres of land fronting the Las Vegas Strip. In addition, we own approximately 18 acres across Sands Avenue, a portion of which is utilized for employee parking and an office building, and approximately 5 acres adjacent to the golf course on which an office building is located.

Our Las Vegas resort complex features:

- Approximately 186,000 square feet of casino space, offering 24-hour gaming and a full range of games, including private gaming salons, a sky casino, a poker room, and a race and sports book;
- Two luxury hotel towers with a total of 4,750 spacious hotel rooms, suites and villas;
- 35 food and beverage outlets featuring signature chefs;
- A Ferrari and Maserati automobile dealership;
- Approximately 95,000 square feet of high-end, brand-name retail shopping, including stores and boutiques by Alexander McQueen, Brioni, Cartier, Chanel, Chloé, Chopard, Dior, Graff, Hermes, IWC Schaffhausen, Jaeger-Lecoultrre, Loro Piana, Louis Vuitton, Manolo Blahnik, Oscar de la Renta, Piaget, Vertu and others;
- Recreation and leisure facilities, including an 18-hole golf course, swimming pools, private cabanas and two full service spas and salons;
- Two showrooms; and
- Three nightclubs and a beach club.

In response to our evaluation of our Las Vegas Operations and the reactions of our guests, we have and expect to continue to make

enhancements and refinements to this resort complex. During 2012, we remodeled two of our restaurants, and rebranded several retail outlets.

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### *Macau Operations*

We operate Wynn Macau | Encore under a 20-year casino concession agreement granted by the Macau government in June 2002.

Our Macau resort complex features:

- Approximately 275,000 square feet of casino space, offering 24-hour gaming and a full range of games, including private gaming salons, sky casinos and a poker pit;
- Two luxury hotel towers with a total of 1,008 spacious rooms and suites;
- Casual and fine dining in eight restaurants;
- Approximately 55,000 square feet of high-end, brand-name retail shopping, including stores and boutiques by Bvlgari, Cartier, Chanel, Dior, Dunhill, Ferrari, Giorgio Armani, Graff, Gucci, Hermes, Hugo Boss, Jaeger-LeCoultre, Louis Vuitton, Miu Miu, Piaget, Prada, Roger Dubuis, Rolex, Tiffany, Tudor, Vacheron Constantin, Van Cleef & Arpels, Versace, Vertu, Ermenegildo Zegna and others;
- Recreation and leisure facilities, including two health clubs and spas, a salon, a pool; and
- Lounges and meeting facilities.

In response to our evaluation of our Macau Operations and the reactions of our guests, we have made and expect to continue to make enhancements and refinements to this resort complex. During 2012, we converted certain storage and office areas to two new retail outlets, enhanced our fountain show in the front of the hotel, and converted some of our employee training rooms to gaming space.

### *Future Development*

On May 2, 2012, the land concession contract for approximately 51 acres of land in the Cotai area of Macau was gazetted, evidencing the final step in the granting of the land concession. We are constructing a full scale integrated resort containing a casino, luxury hotel, convention, entertainment and food and beverage offerings on this land. We estimate the project budget to be in the range of \$3.5 billion to \$4.0 billion. We expect to enter into a guaranteed maximum price contract for the construction costs in the first half of 2013. We expect to open our resort in Cotai during the first half of 2016.

We continually seek out new opportunities for additional gaming or related businesses, in the United States, and worldwide. We recently filed gaming applications and plan to participate in the competitive bidding process for a gaming license in both Massachusetts and Pennsylvania as part of our strategy to expand in select markets. In addition, we are exploring various international jurisdictions for expansion opportunities.

### **Results of Operations**

The table below presents our net revenues (amounts in thousands). Our results for the years presented are not comparable as the years ended December 31, 2012 and 2011 includes full year of operations for Encore at Wynn Macau which opened on April 21, 2010.

Net Revenues:	For the Years Ended December 31,		
	2012	2011	2010
Las Vegas Operations	\$1,486,830	\$1,480,719	\$1,296,064
Macau Operations	3,667,454	3,789,073	2,888,634
	<u>\$5,154,284</u>	<u>\$5,269,792</u>	<u>\$4,184,698</u>

Reliance on only two resort complexes (in two geographic regions) for our operating cash flow exposes us to certain risks that competitors, whose operations are more geographically diversified, may be better able to

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ol. In addition to the concentration of operations in two resort complexes, many of our customers are premium gaming customers who wager

on credit, thus exposing us to increased credit risk. High-end gaming also increases the potential for variability in our results.

### *Operating Measures*

Certain key operating statistics specific to the gaming industry are included in our discussion of our operational performance for the periods for which a Consolidated Statement of Income is presented. There are two methods used to calculate win percentage in the casino industry. In Las Vegas and in the general casino in Macau, customers usually purchase cash chips at the gaming tables. The cash and net markers used to purchase the cash chips are deposited in the gaming table's drop box. This is the base of measurement that we use in the casino at our Las Vegas Operations and in the general casino at our Macau Operations for calculating win percentage.

In our VIP casino in Macau, customers primarily purchase non-negotiable chips, commonly referred to as rolling chips, from the casino cage and there is no deposit into a gaming table drop box from chips purchased from the cage. Non-negotiable chips can only be used to make wagers. Winning wagers are paid in cash chips. The loss of the non-negotiable chips in the VIP casino is recorded as turnover and provides a base for calculating VIP casino win percentage. Because of this difference in chip purchase activity, the measurement base used in the general casino is not the same that is used in the VIP casino. It is customary in Macau to measure VIP casino play using this rolling chip method. For 2012, our expected win as a percentage of turnover was 2.7% to 3.0%.

The measurement method in Las Vegas and in the general casino in Macau tracks the initial purchase of chips at the table while the measurement method in our VIP casino in Macau tracks the sum of all losing wagers. Accordingly, the base measurement in the VIP casino is much larger than Las Vegas and the general casino in Macau. As a result, the expected win percentage with the same amount of gaming win is smaller in the VIP casino in Macau when compared to Las Vegas and the general casino in Macau.

Even though both use the same measurement method, we experience different table games win percentages in Las Vegas and the general casino in Macau. This difference is primarily due to the difference in the mix of table games and customer playing habits between the two casinos. Each type of table game has its own theoretical win percentage. For 2012, our expected table games win percentage in Las Vegas was 21% to 24%. Our expected table games win percentage in the general casino at Wynn Macau, which we have periodically revised based on our experience since the opening of the Encore at Wynn Macau expansion, was 28% to 30%.

Below are definitions of the statistics discussed:

- Table games win is the amount of drop or turnover that is retained and recorded as casino revenue.
- Drop is the amount of cash and net markers issued that are deposited in a gaming table's drop box.
- Turnover is the sum of all losing rolling chip wagers within our Macau VIP program.
- Rolling chips are identifiable chips that are used to track VIP wagering volume (turnover) for purposes of calculating incentives.
- Slot win is the amount of handle (representing the total amount wagered) that is retained by us and is recorded as casino revenue.
- Average Daily Rate ("ADR") is calculated by dividing total room revenue including the retail value of promotional allowances (less service charges, if any) by total rooms occupied, including complimentary rooms.
- Revenue per Available Room ("REVPAR") is calculated by dividing total room revenue including the retail value of promotional allowances (less service charges, if any) by total rooms available.
- Occupancy is calculated by dividing total occupied rooms, including complimentary rooms, by the total rooms available.

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### ***Financial results for the year ended December 31, 2012 compared to the year ended December 31, 2011.***

#### ***Revenues***

Net revenues for the year ended December 31, 2012 are comprised of \$4,034.8 million in casino revenues (78.3% of total net revenues) and \$1,119.5 million of net non-casino revenues (21.7% of total net revenues). Net revenues for the year ended December 31, 2011 are comprised of \$4,190.5 million in casino revenues (79.5% of total net revenues) and \$1,079.3 million of net non-casino revenues (20.5% of total net revenues).

Casino revenues are primarily comprised of the net win from our table games and slot machine operations. Casino revenues for the year ended December 31, 2012 of \$4,034.8 million represents a \$155.7 million (3.7%) decrease from casino revenues of \$4,190.5 million for the year ended December 31, 2011. Our Las Vegas Operations experienced a \$32.9 million (5.3%) decrease in casino revenues to \$592.3 million, compared to the prior year casino revenues of \$625.2 million due to a decrease in our table games win percentage (before discounts). Our Macau Operations experienced a \$122.8 million (3.4%) decrease in casino revenues to \$3,442.5 million for the year ended December 31, 2012, compared to the prior year due to lower turnover and hold percentage in our VIP casino.

The table below sets forth key gaming statistics related to our Las Vegas and Macau operations.

	Years Ended December 31,			
	2012	2011	Increase/ (Decrease)	Percent Change
(amounts in thousands)				
<b>Las Vegas Operations:</b>				
Drop	\$ 2,591,833	\$ 2,366,711	\$ 225,122	9.5%
Table games win %	21.9%	24.9%	(3.0) pts	—
Slot machine handle	\$ 2,908,678	\$ 2,738,261	\$ 170,417	6.2%
Slot machine win	\$ 177,420	\$ 170,027	\$ 7,393	4.3%
<b>Macau Operations:</b>				
<b>VIP Casino</b>				
VIP turnover	\$119,251,854	\$123,099,838	\$(3,847,984)	(3.1)%
VIP win as a % of turnover	2.84%	2.93%	(0.09) pts	—
<b>General Casino</b>				
Drop	\$ 2,764,664	\$ 2,769,284	\$ (4,620)	(0.2)%
Table games win %	30.5%	28.4%	2.1 pts	—
Slot machine handle	\$ 4,697,463	\$ 5,400,697	\$ (703,234)	(13.0)%
Slot machine win	\$ 247,020	\$ 277,124	\$ (30,104)	(10.9)%

For the year ended December 31, 2012, room revenues were \$480 million, an increase of \$7.9 million (1.7%) compared to prior year room revenue of \$472.1 million. Room revenue at our Las Vegas Operations increased \$8.3 million (2.3%) to \$362.3 million compared to the prior year room revenue of \$354 million. In Las Vegas, we experienced an increase in room rates during the year ended December 31, 2012, however our occupancy rate decreased 3.2 percentage points, both compared to the prior year. We were able to achieve an increase in ADR as we adjusted rates to attract a higher quality customer who would take advantage of all aspects of our resort. Room revenue at our Macau Operations did not change significantly during the year ended December 31, 2012.

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The table below sets forth key operating measures related to room revenue.

	Years Ended December 31,	
	2012	2011
<b>Average Daily Rate</b>		
Las Vegas	\$ 252	\$ 242
Macau	315	315
<b>Occupancy</b>		
Las Vegas	82.9%	86.1%
Macau	93.0%	91.8%
<b>REVPAR</b>		
Las Vegas	\$ 209	\$ 208
Macau	293	289

Other non-casino revenues for the year ended December 31, 2012, included food and beverage revenues of \$588.4 million, retail revenues of \$261.6 million, entertainment revenues of \$81.8 million, and other revenues from outlets such as the spa and salon, of \$73.8 million. Other non-gaming revenues for the year ended December 31, 2011, included food and beverage revenues of \$547.7 million, retail revenues of \$260.8 million, entertainment revenues of \$82.2 million, and other revenues from outlets, including the spa and salon, of \$71.8 million. Food and beverage revenues at our Las Vegas Operations increased \$36.3 million (8%), while our Macau Operations increased \$4.4 million (4.8%), as compared to the prior year. The increase in Las Vegas is due primarily to strong business in our beach club and nightclubs. Retail revenues at our Macau Operations increased \$2.6 million (1.5%), while retail at our Las Vegas Operations decreased by \$1.8 million (2.1%). The increase at Wynn Macau is due primarily to strong same-store sales growth combined with new stores from the first half of 2012. Retail revenues at our Las Vegas Operations decreased as we reconfigured the Encore retail area and rebranded several retail outlets. Entertainment revenues decreased \$0.4 million (0.5%) from the prior year primarily due to a Las Vegas show that ended its run in November 2012 and another Las Vegas show that ended in April 2011.

## Departmental, Administrative and Other Expenses

For the year ended December 31, 2012, departmental expenses included casino expenses of \$2,626.8 million, room expenses of \$126.5 million, food and beverage expenses of \$308.4 million, and entertainment, retail and other expenses of \$189.8 million. Also included are general and administrative expenses of approximately \$441.7 million and \$18.1 million charged as a provision for doubtful accounts receivable. For the year ended December 31, 2011, departmental expenses included casino expenses of \$2,686.4 million, room expenses of \$125.3 million, food and beverage expenses of \$283.9 million, and entertainment, retail and other expenses of \$214.4 million. Also included are general and administrative expenses of approximately \$389.1 million and approximately \$33.8 million charged as a provision for doubtful accounts receivable. Casino expenses have decreased during the year ended December 31, 2012 due to lower volume which caused lower junket commission expense and lower gaming taxes at our Macau Operations (where we incur a gaming tax and other levies at a rate totaling 39% in accordance with the concession agreement). Although our room revenues increased \$7.9 million (1.7%), room expenses increased only \$1.2 million (1%) as the revenue increase was driven primarily by increased ADR. Food and beverage expenses increased over the prior year primarily due to additional nightclub promotional costs in Las Vegas. The decrease in entertainment, retail and other expenses was driven by the conversion of certain owned retail stores to leased outlets in Macau resulting in lower cost of sales. General and administrative expense increased primarily due to legal and other costs incurred related to the share redemption and litigation with a former stockholder, higher advertising costs, development and other activities. The provision for doubtful accounts decreased during the year ended December 31, 2012 as we recorded an adjustment of \$30.9 million that benefitted our reserve estimates for casino accounts receivable based on the results of historical collection patterns and current collection trends.

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### *Pre-opening costs*

We began to incur pre-opening costs during October 2012 related to the design and planning for our resort in the Cotai area of Macau. We expect our pre-opening costs to increase in the future as construction and development of our resort in Cotai continues toward the expected completion in the first half of 2016. There were no pre-opening expenses incurred during the year ended December 31, 2011.

### *Depreciation and amortization*

Depreciation and amortization for the year ended December 31, 2012, was \$373.2 million compared to \$398 million for the year ended December 31, 2011. Depreciation expense decreased due to assets with a 5-year life being fully depreciated as of September 2011 at our Macau Operations and assets with a three and six year life becoming fully depreciated throughout 2011 at our Las Vegas Operations.

During the construction of our resorts, costs incurred in the construction of the buildings, improvements to land and the purchases of assets for use in operations were capitalized. Once these resorts opened, their assets were placed into service and we began recognizing the associated depreciation expense. Depreciation expenses will continue throughout the estimated useful lives of these assets. In addition, we continually evaluate the useful life of our property and equipment, intangibles and other assets and adjust them when warranted.

The maximum useful life of assets at our Macau Operations is the remaining life of the gaming concession or land concession, which currently expire in June 2022 and August 2029, respectively. Consequently, depreciation related to our Macau Operations is charged on an accelerated basis when compared to our Las Vegas Operations.

### *Property charges and other*

Property charges and other for the year ended December 31, 2012, were \$40 million compared to \$130.6 million for the year ended December 31, 2011. Property charges and other for the year ended December 31, 2012 include a remodel of two Las Vegas restaurants, charges associated with the termination of a Las Vegas show that ended its run in November 2012, charges associated with the reconfiguration of Las Vegas retail areas and miscellaneous renovations and abandonments at our resorts.

Property charges and other for the year ended December 31, 2011 include a charge of \$109.6 million reflecting the present value of a charitable contribution made by Wynn Macau to the University of Macau Development Foundation. This contribution consists of a \$25 million payment made in May 2011, and a commitment for additional donations of \$10 million each year for the calendar years 2012 through 2022 inclusive, for a total of \$135 million. The amount reflected in the accompanying Consolidated Statements of Income has been discounted using our then estimated borrowing rate over the time period of the remaining committed payments. Also included are the write off of certain off-site golf memberships by Wynn Las Vegas, miscellaneous renovations and abandonments at our resorts, including modifications of the Encore at Wynn Las Vegas and Wynn Macau retail esplanades, closure of the Blush nightclub and the write off of certain costs related to a show that ended its run in Las Vegas in April 2011.

### *Other non-operating costs and expenses*

Interest income was \$12.5 million and \$7.7 million for the years ended December 31, 2012 and 2011, respectively. This increase is mainly due to higher cash balances during 2012. During 2012 and 2011, our short-term investment strategy has been to preserve capital while retaining sufficient liquidity. Beginning in April 2011, we have invested in certain corporate bond securities and commercial paper, in addition to holding

money-market accounts, U.S. Treasury Bills and bank time deposits with a maturity of three months or less, which has contributed to the increase in interest income.

Interest expense was \$288.8 million, net of capitalized interest of \$2 million for the year ended December 31, 2012, compared to \$229.9 million, net of capitalized interest of \$0, for the year ended

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December 31, 2011. Our interest expense increased compared to the prior year primarily due to the issuance of the \$1.94 billion Redemption Note by Wynn Resorts, the issuance of the Wynn Las Vegas \$900 million 5 3/8% first mortgage notes in March 2012, and the increase in the Wynn Macau term loan offset by the reduction of \$370.9 million in Wynn Las Vegas term loan borrowings, all as described in Notes to Consolidated Financial Statements, Note 8—"Long-Term Debt".

Changes in the fair value of our interest rate swaps are recorded as an increase (decrease) in swap fair value in each period. We recorded a gain of \$1 million for the year ended December 31, 2012, resulting from the changes in the fair value of our interest rate swaps during the year. For the year ended December 31, 2011, we recorded a gain of \$14.2 million resulting from the increase in the fair value of interest rate swaps between December 31, 2010 and December 31, 2011. For further information on our interest rate swaps, see Item 7A—"Quantitative and Qualitative Disclosures about Market Risk."

### *Income Taxes*

For the year ended December 31, 2012, we recorded a tax expense of \$4.3 million. Our income tax expense is primarily related to the timing of the payment of dividends from Macau, stock option exercises and capital expenditures. Since June 30, 2010, we have no longer considered our portion of the tax earnings and profits of Wynn Macau, Limited to be permanently reinvested. No additional U.S. tax provision has been made with respect to amounts not considered permanently reinvested as we anticipate that U.S. foreign tax credits should be sufficient to eliminate any U.S. tax provision relating to such repatriation. We have not provided deferred U.S. income taxes or foreign withholding taxes on temporary differences which are considered indefinitely reinvested. On November 30, 2010, Wynn Macau, S.A. received a second 5-year exemption from Macau's 12% Complementary Tax on casino gaming profits, thereby exempting the casino gaming profits of Wynn Macau, S.A. through December 31, 2015. Accordingly, we were exempted from the payment of approximately \$87.1 million and \$82.7 million in such taxes for the years ended December 31, 2012 and 2011, respectively. Our non-gaming profits remain subject to the Macau Complementary Tax and casino winnings remain subject to the Macau Special Gaming tax and other levies at a rate totaling 39% in accordance with our concession agreement.

In April 2012, the Company reached an agreement with the Appellate division of the Internal Revenue Service ("IRS") regarding issues raised during the examination of the 2006 through 2009 U.S. income tax returns. The settlement with the Appellate division did not impact the Company's unrecognized tax benefits. The settlement of the 2006 through 2009 examination issues resulted in a cash tax payment of \$1.3 million and the utilization of \$3.1 million and \$0.9 million in foreign tax credit and general business credit carryforwards, respectively.

During December 2012, the IRS completed an examination of the Company's 2010 U.S. income tax return and had no changes. For tax years 2011 and 2012, the Company is participating in the IRS Compliance Assurance Program ("CAP"). Under the CAP program, the IRS and the taxpayer work together in a pre-filing environment to examine transactions and issues and thus complete the tax examination before the tax return is filed. In February 2013, the Company received notification that it had been accepted into the IRS CAP for the 2013 tax year. The Company believes the IRS will complete their examination of the 2011 tax year in the next 12 months. The Company does not expect a change in its unrecognized tax benefits as a result of the completion of the examination.

In July 2012, the Macau Finance Bureau commenced an examination of the 2008 Macau income tax return of Wynn Macau, S.A. In November 2012, the Company received the results of the examination. While no additional tax was due, adjustments were made to the Company's foreign net operating loss carryforwards.

In January 2013, the Macau Finance Bureau examined the 2009 and 2010 Macau income tax returns of Palo Real Estate Company Limited, which is a co-holder of the land concession for the resort in Cotai. The exam resulted in no change to the tax returns.

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et income attributable to noncontrolling interests

In October 2009, Wynn Macau, Limited, an indirect wholly owned subsidiary, listed its ordinary shares of common stock on The Stock Exchange of Hong Kong Limited. Wynn Macau, Limited sold 1,437,500,000 shares (27.7%) of its common stock through an initial public offering. We recorded net income attributable to noncontrolling interests of \$226.7 million for the year ended December 31, 2012, compared to \$1.7 million for the year ended December 31, 2011. This represents the noncontrolling interests' share of net income from Wynn Macau, Limited for each year.

**Financial results for the year ended December 31, 2011 compared to the year ended December 31, 2010.**

**Revenues**

Net revenues for the year ended December 31, 2011 are comprised of \$4,190.5 million in casino revenues (79.5% of total net revenues) and \$1,079.3 million of net non-casino revenues (20.5% of total net revenues). Net revenues for the year ended December 31, 2010 are comprised of \$3,245.1 million in casino revenues (77.5% of total net revenues) and \$939.6 million of net non-casino revenues (22.5% of total net revenues).

Casino revenues are primarily comprised of the net win from our table games and slot machine operations. Casino revenues for the year ended December 31, 2011 of \$4,190.5 million represents a \$945.4 million (29.1%) increase from casino revenues of \$3,245.1 million for the year ended December 31, 2010. Our Las Vegas Operations experienced a \$90.9 million (17%) increase in casino revenues to \$625.2 million, compared to the prior year casino revenues of \$534.3 million due to a 9.9% increase in drop and an increase in our average table games win percentage. Our Macau Operations experienced a \$854.5 million (31.5%) increase in casino revenues to \$3,565.3 million for the year ended December 31, 2011, compared to the prior year casino revenue of \$2,710.8 million due a 34.9% increase in turnover in our VIP casino offset by a lower win percentage.

The table below sets forth key gaming statistics related to our Las Vegas and Macau operations.

	Years Ended December 31,			
	2011	2010	Increase/ (Decrease)	Percent Change
	(amounts in thousands)			
<b>Las Vegas Operations:</b>				
Drop	\$ 2,366,711	\$ 2,152,846	\$ 213,865	9.9%
Table games win %	24.9%	22.2%	2.7 pts	—
Slot machine handle	\$ 2,738,261	\$ 2,734,912	\$ 3,349	0.1%
Slot machine win	\$ 170,027	\$ 158,912	\$ 11,115	7.0%
<b>Macau Operations:</b>				
<b>VIP Casino</b>				
VIP turnover	\$123,099,838	\$91,283,674	\$31,816,164	34.9%
VIP win as a % of turnover	2.93%	3.0%	(0.07) pts	—
<b>General Casino</b>				
Drop	\$ 2,769,284	\$ 2,344,706	\$ 424,578	18.1%
Table games win %	28.4%	23.6%	4.8%	—
Slot machine handle	\$ 5,400,697	\$ 4,206,886	\$ 1,193,811	28.4%
Slot machine win	\$ 277,124	\$ 218,486	\$ 58,638	26.8%

For the year ended December 31, 2011, room revenues were \$472.1 million, an increase of \$71.8 million (17.9%) compared to prior year room revenue of \$400.3 million. Room revenue at our Las Vegas Operations increased \$45.6 million (14.8%) compared to the prior year. In Las Vegas, we experienced an increase in room rates during the year ended December 31, 2011, compared to the prior year, with a 1.9 percentage point decrease in occupancy rate. We were able to achieve an increase in ADR as we adjusted rates to attract a higher quality customer who would take advantage of all aspects of our resort. Room revenue at our Macau Operations

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increased \$26.2 million (28.5%) due to increases in both occupancy rate and room rates compared to the prior year, as well as the inclusion of a full year of the 414 additional suites added with the opening of Encore at Wynn Macau in April 2010.

The table below sets forth key operating measures related to room revenue.

	Years Ended December 31,	
	2011	2010
Average Daily Rate		
Las Vegas	\$ 242	\$ 210



Macau	315	291
Occupancy		
Las Vegas	86.1%	88.0%
Macau	91.8%	87.8%
REVPAR		
Las Vegas	\$ 208	\$ 185
Macau	289	256

Other non-casino revenues for the year ended December 31, 2011, included food and beverage revenues of \$547.7 million, retail revenues of \$260.8 million, entertainment revenues of \$82.2 million, and other revenues from outlets such as the spa and salon, of \$71.8 million. Other non-gaming revenues for the year ended December 31, 2010, included food and beverage revenues of \$488.1 million, retail revenues of \$214.6 million, entertainment revenues of \$72 million, and other revenues from outlets, including the spa and salon, of \$67.7 million. Food and beverage revenues at our Las Vegas Operations increased \$37.5 million (9.0%), while our Macau Operations increased \$22.1 million (31.3%), as compared to the prior year. The increase in Las Vegas is due primarily to business in our nightclubs including the full year of operations for the Encore Beach Club and Surrender Nightclub (which opened in May 2010) and increases in our catering and restaurant business. The increase in Macau is due to increased visitation to our resort and a full year of operations from Encore at Wynn Macau which opened in April 2010. Retail revenues at our Macau Operations increased \$42.6 million (32.3%), while retail at our Las Vegas Operations increased by \$3.6 million (4.3%). The increase at Wynn Macau is due primarily to strong same-store sales growth and the addition of three new boutiques at Encore at Wynn Macau. Entertainment revenues increased \$10.2 million (14.1%) over the prior year primarily due to increased revenue from Garth Brooks, who performs in the Encore Theater, and the Sinatra "Dance with Me" show, both in Las Vegas. The Sinatra "Dance with Me" show ended its run on April 23, 2011.

#### *Departmental, Administrative and Other Expenses*

For the year ended December 31, 2011, departmental expenses included casino expenses of \$2,686.4 million, room expenses of \$125.3 million, food and beverage expenses of \$283.9 million, and entertainment, retail and other expenses of \$214.4 million. Also included are general and administrative expenses of approximately \$389.1 million and \$33.8 million charged as a provision for doubtful accounts receivable. For the year ended December 31, 2010, departmental expenses included casino expenses of \$2,100.1 million, room expenses of \$122.3 million, food and beverage expenses of \$272.7 million, and entertainment, retail and other expenses of \$204.6 million. Also included are general and administrative expenses of approximately \$391.3 million and approximately \$28.3 million charged as a provision for doubtful accounts receivable. Casino expenses have increased during the year ended December 31, 2011 due to an increase in casino revenues at both of our Las Vegas Operations and at our Macau Operations (where we incur a gaming tax and other levies at a rate totaling 39% in accordance with the concession agreement). Although our room revenues increased 17.9%, room expenses increased only 2.5% as the revenue increase was driven primarily by increased occupancy. Food and beverage and entertainment, retail and other expenses increased commensurate with the increase in revenues. The increase in the provision for doubtful accounts relates primarily to Wynn Las Vegas and is a result of the higher casino revenue base experienced during the year ended December 31, 2011, compared to the prior year.

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##### *Pre-opening costs*

We incurred no pre-opening costs during the year ended December 31, 2011. For the year ended December 31, 2010, we incurred \$9.5 million of pre-opening costs primarily related to Encore at Wynn Macau which opened on April 21, 2010 and the Encore Beach Club and Surrender Nightclub which opened in Las Vegas on May 28, 2010.

##### *Depreciation and amortization*

Depreciation and amortization for the year ended December 31, 2011, was \$398 million compared to \$405.6 million for the year ended December 31, 2010. While there was little change between periods, depreciation expense decreased due to assets with a 5-year life being fully depreciated as of September 2011 at Wynn Macau and assets with a 5-year life being fully depreciated as of April 2010 at Wynn Las Vegas. These decreases were offset by additional depreciation for the assets of Encore at Wynn Macau which were placed into service in April 2010 and the assets of the Encore Beach Club and Surrender Nightclub in Las Vegas which were placed into service in May 2010.

During the construction of our resorts, costs incurred in the construction of the buildings, improvements to land and the purchases of assets for use in operations were capitalized. Once these resorts opened, their assets were placed into service and we began recognizing the associated depreciation expense. Depreciation expenses will continue throughout the estimated useful lives of these assets. In addition, we continually evaluate the useful life of our property and equipment, intangibles and other assets and adjust them when warranted.

The maximum useful life of assets at our Macau Operations is the remaining life of the gaming concession or land concession, which will expire in June 2022 and August 2029, respectively. Consequently, depreciation related to our Macau Operations is charged on an

accelerated basis when compared to our Las Vegas Operations.

#### *Property charges and other*

Property charges and other for the year ended December 31, 2011, were \$130.6 million compared to \$25.2 million for the year ended December 31, 2010. Property charges and other for the year ended December 31, 2011 include a charge of \$109.6 million reflecting the present value of a charitable contribution made by Wynn Macau to the University of Macau Development Foundation. This contribution consists of a \$25 million payment made in May 2011, and a commitment for additional donations of \$10 million each year for the calendar years 2012 through 2022 inclusive, for a total of \$135 million. The amount reflected in the accompanying Consolidated Statements of Income has been discounted using our then estimated borrowing rate over the time period of the remaining committed payments. Also included are the write off of certain off-site golf memberships by Wynn Las Vegas, miscellaneous renovations and abandonments at our resorts, including modifications of the Encore at Wynn Las Vegas and Wynn Macau retail esplanades, closure of the Blush nightclub and the write off of certain costs related to a show that ended its run in Las Vegas in April 2011.

Property charges and other for the year ended December 31, 2010, include a contract termination payment of \$14.9 million related to a management contract for certain of the nightclubs at Wynn Las Vegas and miscellaneous renovations, abandonments and gain/loss on sale of equipment at our resorts.

#### *Other non-operating costs and expenses*

Interest income was \$7.7 million and \$2.5 million for the years ended December 31, 2011 and 2010, respectively. During 2011 and 2010, our short-term investment strategy has been to preserve capital while retaining sufficient liquidity. While the majority of our short-term investments were primarily in money market accounts, U.S. Treasury Bills and time deposits with a maturity of three months or less, beginning in April 2011

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we have invested in certain corporate bond securities and commercial paper which contributed to the increase in interest income.

Interest expense was \$229.9 million, net of capitalized interest of \$0, for the year ended December 31, 2011, compared to \$222.9 million, net of capitalized interest of \$7.2 million, for the year ended December 31, 2010. Our interest expense increased compared to the prior year primarily due to a decrease in interest capitalized and an increase in interest rates on our first mortgage notes, offset by a decrease in amounts outstanding under our Wynn Las Vegas and Wynn Macau bank credit revolving facilities compared to the prior year.

Changes in the fair value of our interest rate swaps are recorded as an increase (decrease) in swap fair value in each period. We recorded a gain of \$14.2 million for the year ended December 31, 2011, resulting from the increase in the fair value of our interest rate swaps from December 31, 2010 to December 31, 2011. For the year ended December 31, 2010, we recorded an expense of \$0.9 million resulting from the decrease in the fair value of interest rate swaps between December 31, 2009 and December 31, 2010. For further information on our interest rate swaps, see Item 7A—"Quantitative and Qualitative Disclosures about Market Risk."

In April 2010, we completed an exchange offer for a portion of our outstanding 6 5/8% First Mortgage Notes (the "2014 Notes"). In connection with that exchange offer, the direct costs incurred with third parties of \$4.4 million were expensed. In August 2010, we completed a tender offer for the then outstanding 2014 Notes and subsequent call of all the remaining amounts once the tender was completed. In connection with this transaction, we recorded a loss on extinguishment of debt of \$63 million. This included the tender offer consideration, the call premium and the related write off of the unamortized debt issue costs and original issue discount.

#### *Income Taxes*

For the year ended December 31, 2011, we recorded a tax benefit of \$19.5 million. Our income tax benefit was primarily related to tax benefits resulting from an increase in our deferred tax assets, a decrease in our liability for uncertain tax positions as the result of the statute of limitations lapse reduced by foreign taxes assessable on the dividends of Wynn Macau, S.A. and foreign tax provisions related to our international marketing offices. Since June 30, 2010, we have no longer considered our portion of the tax earnings and profits of Wynn Macau, Limited to be permanently reinvested. No additional U.S. tax provision was made with respect to amounts not considered permanently reinvested as we anticipated that U.S. foreign tax credits would be sufficient to eliminate any U.S. tax provision relating to such repatriation. To the extent that book earnings exceed the tax earnings and profits of Wynn Macau, Limited, such excess was considered permanently reinvested.

Effective September 6, 2006, Wynn Macau, S.A. received a 5-year exemption from Macau's 12% Complementary Tax on casino gaming profits. On November 30, 2010, Wynn Macau, S.A. received an additional 5-year exemption through December 31, 2015. Accordingly, we were exempted from the payment of approximately \$82.7 million and \$64.4 million in such taxes for the years ended December 31, 2011 and 2010, respectively. Our non-gaming profits remain subject to the Macau Complementary Tax and casino winnings remain subject to the Macau Special Gaming tax and other levies at a rate totaling 39% in accordance with our concession agreement.

**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, 2013

OR

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

For the transition period \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 000-50028

**WYNN RESORTS, LIMITED**

(Exact name of registrant as specified in its charter)

NEVADA  
(State or other jurisdiction of  
incorporation or organization)

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

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

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

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

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

Name of Each Exchange on Which Registered  
Nasdaq Global Select Market

Securities registered pursuant to Section 12(g) of the Act:  
None

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

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

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

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

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

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

Large accelerated filer ☒

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

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information contained in this Annual Report on Form 10-K. Operating results for the periods presented are not indicative of the results that may be expected for future years. Significant events impacting our selected financial data include:

- On April 28, 2005, we opened our Wynn Las Vegas resort.
- On September 6, 2006, we opened our Wynn Macau resort.
- On December 24, 2007, we opened an expansion of our Wynn Macau resort.
- On December 22, 2008, we opened Encore at Wynn Las Vegas, an expansion of Wynn Las Vegas.
- On October 9, 2009, Wynn Macau, Limited listed its shares of common stock on The Stock Exchange of Hong Kong Limited. Wynn Macau, Limited sold 27.7% of its common stock through an initial public offering.
- On April 21, 2010, we opened Encore at Wynn Macau, a further expansion of Wynn Macau.
- On February 18, 2012, we redeemed and cancelled Aruze USA, Inc.'s 24,549,222 shares of Wynn Resorts common stock.

	Years Ended December 31,				
	2013	2012	2011	2010	2009
	(in thousands, except per share amounts)				
<b>Consolidated Statements of Income Data:</b>					
Net revenues	\$5,620,936	\$5,154,284	\$5,269,792	\$4,184,698	\$3,045,611
Pre-opening costs	3,169	466	—	9,496	1,817
Operating income	1,290,091	1,029,276	1,008,240	625,252	234,963
Net income	1,004,157	728,699	825,113	316,596	39,107
Less: Net income attributable to noncontrolling interest[1]	(275,505)	(226,663)	(211,742)	(156,469)	(18,453)
Net income attributable to Wynn Resorts, Limited	728,652	502,036	613,371	160,127	20,654
Basic income per share	\$ 7.25	\$ 4.87	\$ 4.94	\$ 1.30	\$ 0.17
Diluted income per share	\$ 7.17	\$ 4.82	\$ 4.88	\$ 1.29	\$ 0.17

	As of December 31,				
	2013	2012	2011	2010	2009
	(in thousands, except per share amounts)				
<b>Consolidated Balance Sheets Data:</b>					
Cash and cash equivalents	\$2,435,041	\$1,725,219	\$1,262,587	\$1,258,499	\$1,991,830
Construction in progress	558,624	110,490	28,477	22,901	457,594
Total assets	8,377,030	7,276,594	6,899,496	6,674,497	7,581,769
Total long-term obligations[2]	6,789,145	6,041,285	3,096,149	3,405,983	3,695,821
Stockholders' equity[3]	132,351	103,932	2,223,454	2,380,585	3,160,363
Cash distributions declared per common share	\$ 7.00	\$ 9.50	\$ 6.50	\$ 8.50	\$ 4.00

- [1] In October 2009, Wynn Macau, Limited, our indirect wholly owned subsidiary and the developer, owner and operator of Wynn Macau, listed its ordinary shares of common stock on The Stock Exchange of Hong Kong Limited. Wynn Macau, Limited sold 1,437,500,000 shares (27.7%) of its common stock through an initial public offering. Net income attributable to noncontrolling interest represents the noncontrolling interests' share of our net income of Wynn Macau, Limited.
- [2] Includes long-term debt, the required contract premium payments under our land concession contract at Wynn Macau, future charitable contributions and deferred income taxes.

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- [3] In February 2012, in connection with the redemption and cancellation of Aruze USA, Inc.'s 24,549,222 shares of Wynn Resorts common stock, stockholders' equity was reduced by \$1.94 billion, the face amount of the Redemption Note. Aruze USA has challenged the redemption and cancellation of the 24,549,222 shares and legal proceedings are ongoing. Please see Item 3—"Legal Proceedings".

## M 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with, and is qualified in its entirety by, the consolidated financial statements and the notes thereto included elsewhere in this Annual Report on Form 10-K.

## Overview

We are a developer, owner and operator of destination casino resorts. In the Macau Special Administrative Region of the People's Republic of China ("Macau"), we operate and own 72.3% of Wynn Macau, which opened on September 6, 2006. On April 21, 2010, we opened Encore at Wynn Macau, a further expansion of Wynn Macau. We refer to the fully integrated Wynn Macau and Encore at Wynn Macau resort as Wynn Macau | Encore or as our Macau Operations. In Las Vegas, Nevada, we own and operate Wynn Las Vegas | Encore, which we refer to as our Las Vegas Operations. We are developing Wynn Palace, a full-scale casino resort in the Cotai area of Macau.

## Our Resorts

The following table sets forth information about our resorts as of February 14, 2014:

	Hotel Rooms & Suites	Approximate Casino Square Footage	Approximate Number of Table Games	Approximate Number of Slots
Macau Operations	1,008	280,000	493	866
Las Vegas Operations	4,748	186,000	230	1,854

### Macau Operations

We operate Wynn Macau | Encore under a 20-year casino concession agreement granted by the Macau government in June 2002.

Our Macau resort complex features:

- Approximately 280,000 square feet of casino space, offering 24-hour gaming and a full range of games, including private gaming salons, sky casinos and a poker pit;
- Two luxury hotel towers with a total of 1,008 spacious guest rooms and suites;
- Casual and fine dining in eight restaurants;
- Approximately 57,000 square feet of high-end, brand-name retail shopping, including stores and boutiques by Bvlgari, Cartier, Chanel, Dior, Dunhill, Ferrari, Giorgio Armani, Graff, Gucci, Hermes, Hugo Boss, Jaeger-LeCoultre, Loro Piana, Louis Vuitton, Miu Miu, Piaget, Prada, Roger Dubuis, Rolex, Tiffany, Tudor, Vacheron Constantin, Van Cleef & Arpels, Versace, Vertu, Ermenegildo Zegna and others;
- Recreation and leisure facilities, including two health clubs and spas, a salon, a pool; and
- Lounges and meeting facilities.

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During 2013, we made renovations to our spa, VIP gaming area and various other areas on our property. In response to our evaluation of our Macau Operations and the reactions of our guests, we have made and expect to continue to make enhancements and refinements to this resort complex.

### Las Vegas Operations

Wynn Las Vegas | Encore is located at the intersection of the Las Vegas Strip and Sands Avenue, and occupies approximately 215 acres of land fronting the Las Vegas Strip. In addition, we own approximately 18 acres across Sands Avenue, a portion of which is utilized for employee parking and an office building, and approximately 5 acres adjacent to the golf course on which an office building is located.

Our Las Vegas resort complex features:

- Approximately 186,000 square feet of casino space, offering 24-hour gaming and a full range of games, including private gaming salons, a sky casino, a poker room, and a race and sports book;
- Two luxury hotel towers with a total of 4,748 spacious guest rooms, suites and villas;
- 34 food and beverage outlets featuring signature chefs;
- A Ferrari and Maserati automobile dealership;

- Approximately 96,000 square feet of high-end, brand-name retail shopping, including stores and boutiques by Alexander McQueen, Brioni, Cartier, Chanel, Chloé, Chopard, Dior, Graff, Hermes, IWC Schaffhausen, Jaeger-LeCoultre, Loro Piana, Louis Vuitton, Manolo Blahnik, Nicholas Kirkwood, Oscar de la Renta, Piaget, Rolex, Vertu and others;
- Recreation and leisure facilities, including an 18-hole golf course, swimming pools, private cabanas and two full service spas and salons;
- Two showrooms; and
- Three nightclubs and a beach club.

During 2013, we remodeled our villas and two of our restaurants. In response to our evaluation of our Las Vegas Operations and the reactions of our guests, we have and expect to continue to make enhancements and refinements to this resort complex.

#### *Future Development*

We are currently constructing Wynn Palace in the Cotai area of Macau, a full-scale integrated resort containing a 1,700-room hotel, performance lake, meeting space, casino, spa, retail offerings and food and beverage outlets. The total project budget, including construction costs, capitalized interest, pre-opening expenses, land costs and financing fees, is \$4 billion. As of December 31, 2013, we have invested \$703.7 million in the project. We continue to remain on schedule for an opening in the first half of 2016.

On July 29, 2013, Wynn Macau and Palo finalized and executed a GMP contract with Leighton Contractors (Asia) Limited, acting as the general contractor. Under the GMP contract, the general contractor is responsible for both the construction and design of the Wynn Palace project. The general contractor is obligated to substantially complete the project in the first half of 2016 for a guaranteed maximum price of HK\$20 billion (approximately \$2.57 billion). An early completion bonus for achievement of substantial completion on or before January 25, 2016 will be paid to the general contractor if certain conditions are satisfied under the GMP contract. Both the contract time and guaranteed maximum price are subject to further adjustment under certain specified conditions. The performance of the general contractor is backed by a full completion guarantee given by Leighton Holdings Limited, the parent company of the general contractor, as well as a performance bond for 5% of the guaranteed maximum price.

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We continually seek out new opportunities for additional gaming or related businesses, in the United States, and worldwide. On November 11, 2013, we announced that our Board had elected to withdraw the previously filed application for a gaming license in Pennsylvania. We have made an application for a gaming license in Massachusetts. The process is competitive and we expect to know the outcome by the end of the first half of 2014. Proceeding with this project will require significant expenditure of Company funds. In addition, we are exploring various international jurisdictions for expansion opportunities.

#### **Results of Operations**

The table below presents our net revenues (amounts in thousands).

Net Revenues:	Years Ended December 31,		
	2013	2012	2011
Macau Operations	\$4,040,526	\$3,667,454	\$3,789,073
Las Vegas Operations	1,580,410	1,486,830	1,480,719
	<u>\$5,620,936</u>	<u>\$5,154,284</u>	<u>\$5,269,792</u>

Reliance on only two resort complexes (in two geographic regions) for our operating cash flow exposes us to certain risks that competitors, whose operations are more geographically diversified, may be better able to control. In addition to the concentration of operations in two resort complexes, many of our customers are premium gaming customers who wager on credit, thus exposing us to increased credit risk. High-end gaming also increases the potential for variability in our results.

#### *Operating Measures*

Certain key operating statistics specific to the gaming industry are included in our discussion of our operational performance for the periods for which a Consolidated Statement of Income is presented. Below are definitions of these key operating statistics discussed:

- Table games win is the amount of drop or turnover that is retained and recorded as casino revenue.
- Drop is the amount of cash and net markers issued that are deposited in a gaming table's drop box.

- Turnover is the sum of all losing rolling chip wagers within our Wynn Macau Operations' VIP program.
- Rolling chips are identifiable chips that are used to track turnover for purposes of calculating incentives.
- Slot win is the amount of handle (representing the total amount wagered) that is retained by us and is recorded as casino revenue.
- Average Daily Rate ("ADR") is calculated by dividing total room revenue including the retail value of promotional allowances (less service charges, if any) by total rooms occupied including complimentary rooms.
- Revenue per Available Room ("REVPAR") is calculated by dividing total room revenue including the retail value of promotional allowances (less service charges, if any) by total rooms available.
- Occupancy is calculated by dividing total occupied rooms, including complimentary rooms, by the total rooms available.

Below is a discussion of the methodologies used to calculate win percentage at our resorts.

In our VIP casino in Macau, customers primarily purchase non-negotiable chips, commonly referred to as rolling chips, from the casino cage and there is no deposit into a gaming table drop box from chips purchased

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from the cage. Non-negotiable chips can only be used to make wagers. Winning wagers are paid in cash chips. The loss of the non-negotiable chips in the VIP casino is recorded as turnover and provides a base for calculating VIP casino win percentage. It is customary in Macau to measure VIP casino play using this rolling chip method. We expect our win as a percentage of turnover to be within the range of 2.7% to 3.0%.

The measurement base used in the general casino is not the same as what is used in the VIP casino. In our general casino in Macau, customers may purchase cash chips at either the gaming tables or at the casino cage. The cash used to purchase the cash chips at the gaming tables is deposited in the gaming table's drop box. This is the base of measurement that we use for calculating win percentage in our general casino. We do not report an expected range for the win percentage in our general casino as chips purchased at the casino cage are excluded from table games drop and distort our expected win percentage. With increased purchases at the casino cage, we believe the relevant indicator of volumes in the mass market segment should be table games win.

The measurements in our VIP casino and the general casino are not comparable as the general casino tracks the initial purchase of chips at the table while the measurement method in our VIP casino tracks the sum of all losing wagers. Accordingly, the base measurement in the VIP casino is much larger than the base measurement in the general casino. As a result, the expected win percentage with the same amount of gaming win is smaller in the VIP casino when compared to the general casino.

In Las Vegas, customers purchase chips at the gaming tables. The cash and net markers used to purchase chips are deposited in the gaming table's drop box. This is the base of measurement that we use for calculating win percentage in Las Vegas. Each type of table game has its own theoretical win percentage. Our expected table games win percentage in Las Vegas is 21% to 24%.

## ***Financial results for the year ended December 31, 2013 compared to the year ended December 31, 2012.***

### ***Revenues***

Net revenues for the year ended December 31, 2013 are comprised of \$4,490.6 million in casino revenues (79.9% of total net revenues) and \$1,130.3 million of net non-casino revenues (20.1% of total net revenues). Net revenues for the year ended December 31, 2012 are comprised of \$4,034.8 million in casino revenues (78.3% of total net revenues) and \$1,119.5 million of net non-casino revenues (21.7% of total net revenues).

Casino revenues are primarily comprised of the net win from our table games and slot machine operations. Casino revenues for the year ended December 31, 2013 of \$4,490.6 million represents a \$455.9 million (11.3%) increase from casino revenues of \$4,034.8 million for the year ended December 31, 2012. Our Macau Operations experienced a \$365.4 million (10.6%) increase in casino revenues to \$3,807.8 million for the year ended December 31, 2013, compared to the prior year casino revenues of \$3,442.5 million due primarily to stronger table game volumes in our general casino and VIP casino. Our Las Vegas Operations experienced a \$90.5 million (15.3%) increase in casino revenues to \$682.8 million, compared to the prior year casino revenues of \$592.3 million due to a significant increase in our table games win percentage (before discounts).

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The table below sets forth key gaming statistics related to our Macau and Las Vegas operations.

	Years Ended December 31,			Percent Change
	2013	2012	Increase/ (Decrease)	

(amounts in thousands, except for win per day amounts)

**Macau Operations:****VIP Casino**

VIP turnover	\$122,991,763	\$119,251,854	\$3,739,909	3.14%
VIP win as a % of turnover	3.01%	2.84%	0.17 pts	—

**General Casino**

Drop(1)	\$ 2,633,870	\$ 2,764,664	\$ (130,794)	(4.73)%
Table games win	\$ 992,872	\$ 843,001	\$ 149,871	17.8%
Table games win %(1)	37.7%	30.5%	7.2 pts	—
Table games win per unit per day	\$ 13,098	\$ 11,549	\$ 1,549	13.4%
Slot machine handle	\$ 4,846,938	\$ 4,697,463	\$ 149,475	3.2%
Slot machine win	\$ 245,578	\$ 247,020	\$ (1,442)	(0.6)%
Slot machine win per unit per day	\$ 777	\$ 718	\$ 59	8.2%

**Las Vegas Operations:**

Drop	\$ 2,617,634	\$ 2,591,833	\$ 25,801	1.0%
Table games win	\$ 657,927	\$ 567,014	\$ 90,913	16.0%
Table games win %	25.1%	21.9%	3.2 pts	—
Table games win per unit per day	\$ 7,729	\$ 7,031	\$ 698	9.9%
Slot machine handle	\$ 2,874,646	\$ 2,908,678	\$ (34,032)	(1.2)%
Slot machine win	\$ 177,452	\$ 177,420	\$ 32	0.0%
Slot machine win per unit per day	\$ 239	\$ 206	\$ 33	16.0%

- (1) Customers purchase general casino gaming chips at either the gaming tables or the casino cage. Chips purchased at the casino cage are excluded from table games drop and will increase the expected win percentage. With the increased purchases at the casino cage in our Macau general casino, we believe the relevant indicator of volumes in the general casino should be table games win.

For the year ended December 31, 2013, room revenues were \$492.2 million, an increase of \$12.2 million (2.6%) compared to prior year room revenue of \$480 million. Room revenue at our Macau Operations decreased \$3 million (2.6%) to \$114.6 million compared to the prior year of \$117.7 million. During 2013, we renovated approximately 600 guestrooms in the original Wynn Macau tower, contributing to an approximate 4.8% reduction in the number of available room-nights during the year. Room revenue at our Las Vegas Operations increased \$15.3 million (4.2%) to \$377.6 million compared to the prior year room revenue of \$362.3 million. In Las Vegas, during 2013, we experienced an increase in occupancy and an increase in room rates compared to 2012.

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The table below sets forth key operating measures related to room revenue.

	Years Ended December 31,	
	2013	2012
<b>Average Daily Rate</b>		
Macau	\$ 313	\$ 315
Las Vegas	258	252
<b>Occupancy</b>		
Macau	95.5%	93.0%
Las Vegas	84.6%	82.9%
<b>REVPAR</b>		
Macau	\$ 299	\$ 293
Las Vegas	218	209

Other non-casino revenues for the year ended December 31, 2013, included food and beverage revenues of \$586.7 million, retail revenues of \$278.9 million, entertainment revenues of \$65.4 million, and other revenues from outlets such as the spa and salon, of \$74.4 million. Other non-casino revenues for the year ended December 31, 2012, included food and beverage revenues of \$588.4 million, retail revenues of \$261.6 million, entertainment revenues of \$81.8 million, and other revenues from outlets, including the spa and salon, of \$73.8 million. Food and beverage revenues were relatively flat year-over-year at our Macau Operations and Las Vegas Operations. Retail revenues at our Macau Operations



increased \$10.5 million (5.9%) due to stronger business in our leased stores. Retail revenues at our Las Vegas Operations increased \$6.7 million (8.0%) as we completed the reconfiguration to certain stores in our retail area during the first half of 2013. Entertainment revenues decreased \$16.4 million (20%) due to a Las Vegas show that ended its run in November 2012.

#### *Departmental, Administrative and Other Expenses*

For the year ended December 31, 2013, departmental expenses included casino expenses of \$2.8 billion, room expenses of \$133.5 million, food and beverage expenses of \$323.6 million, and entertainment, retail and other expenses of \$175.3 million. Also included are general and administrative expenses of approximately \$448.8 million and \$11.9 million charged as a provision for doubtful accounts receivable. For the year ended December 31, 2012, departmental expenses included casino expenses of \$2.6 billion, room expenses of \$126.5 million, food and beverage expenses of \$308.4 million, and entertainment, retail and other expenses of \$189.8 million. Also included are general and administrative expenses of approximately \$441.7 million and approximately \$18.1 million charged as a provision for doubtful accounts receivable. Casino expenses have increased during the year ended December 31, 2013 due primarily to higher gaming taxes commensurate with the increase in casino revenue at our Las Vegas Operations and Macau Operations (where we incur a gaming tax and other levies at a rate totaling 39% in accordance with the concession agreement). Food and beverage expenses increased over the prior year period primarily due to additional nightclub promotional costs at our Las Vegas Operations. The decrease in entertainment, retail and other expenses was due primarily to a Las Vegas show that ended its run in November 2012. General and administrative expense increased primarily due to higher stock-based compensation expense related to the accelerated vesting of a restricted stock award that was previously granted to our former chief operating officer and increased development costs partially offset by higher expenses related to the share redemption and litigation with a former shareholder that were incurred during the prior year period. During the years ended 2013 and 2012, we recorded adjustments of \$14.9 million and \$30.9 million, respectively, to our reserve estimates for casino accounts receivable based on the results of historical collection patterns and current collection trends.

#### *Pre-opening costs*

During the year ended December 31, 2013, we incurred \$3.2 million of pre-opening costs as compared to \$0.5 million for the year ended December 31, 2012. We began to incur pre-opening costs during October 2012

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led to the design and planning for Wynn Palace. We expect our pre-opening costs to increase in the future as construction and development of Wynn Palace continues toward the expected completion in the first half of 2016.

#### *Depreciation and amortization*

Depreciation and amortization for the year ended December 31, 2013, was \$371.1 million compared to \$373.2 million for the year ended December 31, 2012.

During the construction of our resorts, costs incurred in the construction of the buildings, improvements to land and the purchases of assets for use in operations were capitalized. Once these resorts opened, their assets were placed into service and we began recognizing the associated depreciation expense. Depreciation expenses will continue throughout the estimated useful lives of these assets. In addition, we continually evaluate the useful life of our property and equipment, intangibles and other assets and adjust them when warranted.

The maximum useful life of assets at our Macau Operations is the remaining life of the gaming concession or land concession, which currently expire in June 2022 and August 2029, respectively. Consequently, depreciation related to our Macau Operations is charged on an accelerated basis when compared to our Las Vegas Operations.

#### *Property charges and other*

Property charges and other for the year ended December 31, 2013, was \$17.1 million compared to \$40 million for the year ended December 31, 2012. For the year ended December 31, 2013, property charges and other related primarily to miscellaneous renovations and abandonments at our resorts, a contract termination fee and entertainment development costs. For the year ended December 31, 2012, property charges and other related primarily to a remodel of a Las Vegas restaurant, charges related to the cancellation of a Las Vegas show which ended its run in November 2012, and miscellaneous renovations and abandonments.

In response to our evaluation of our resorts and the reactions of our guests, we continue to remodel and make enhancements at our resorts.

#### *Other non-operating costs and expenses*

Interest income was \$15.7 million and \$12.5 million for the years ended December 31, 2013 and 2012, respectively. This increase is mainly to higher cash balances during 2013. During 2013 and 2012, our short-term investment strategy was to preserve capital while retaining

sufficient liquidity. The majority of our short-term investments were primarily in money market accounts, time deposits and fixed deposits with a maturity of three months or less.

Interest expense was \$299 million, net of capitalized interest of \$10.5 million for the year ended December 31, 2013, compared to \$288.8 million, net of capitalized interest of \$2 million, for the year ended December 31, 2012. Our interest expense increased compared to the prior year period primarily due to the issuance of the Wynn Las Vegas \$500 million 4 1/4% Senior Notes in May 2013 and a full period of expense for the \$1.94 billion Redemption Note and the Wynn Las Vegas \$900 million 5 3/8% first mortgage notes, which were issued in 2012. Capitalized interest increased due to the construction costs of Wynn Palace. Capitalized interest will continue to increase with the ongoing borrowings and construction costs of Wynn Palace.

We recorded a gain of \$14.2 million and \$1 million for the years ended December 31, 2013 and December 31, 2012, respectively, resulting from the changes in the fair value of our interest rate swaps during those years. For further information on our interest rate swaps, see Item 7A—“Quantitative and Qualitative Disclosures about Market Risk.”

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During the year ended December 31, 2013, we recognized \$40.4 million in loss from extinguishment of debt. On May 22, 2013, Wynn Las Vegas completed the purchase of \$274.7 million of the 7 7/8% First Mortgage Notes due 2017 (the “2017 Notes”) pursuant to a tender offer for any and all of the 2017 Notes. In connection with this tender offer, Wynn Las Vegas paid \$19.6 million in consideration to holders who tendered their notes. Additionally, Wynn Las Vegas expensed \$6.7 million of unamortized financing costs and original issue discount related to the 2017 Notes and incurred other fees of approximately \$0.3 million related to the tender offer. On November 1, 2013, Wynn Las Vegas redeemed the untendered 2017 Notes plus accrued and unpaid interest. As a result of the redemption, we incurred redemption fees of \$8.9 million and expensed \$4.9 million of unamortized financing costs and original issue discount.

During the year ended December 31, 2012, we recognized \$25.2 million in loss from extinguishment of debt primarily attributable to the amendment of our credit agreements. In March 2012, Wynn Las Vegas entered into an eighth amendment to its Amended and Restated Credit Agreement (the “Wynn Las Vegas Credit Agreement”). In connection with this amendment, Wynn Las Vegas prepaid all term loans under the Wynn Las Vegas Credit Agreement, terminated all of its revolving credit commitments that were due to expire in 2013, and terminated all but \$100 million of its revolving credit commitments expiring in 2015. In connection with this transaction, we expensed deferred financing fees of \$4.8 million. Additionally, as described in Item 8—“Financial Statements and Supplementary Data”, Note 8 “Long-Term Debt” to our Consolidated Financial Statements, we amended our Wynn Macau credit facilities in July 2012. In connection with amending the Wynn Macau credit facilities, we expensed \$17.7 million of deferred financing costs and third party fees.

### Income Taxes

For the year ended December 31, 2013, we recorded a tax benefit of \$17.6 million. Our income tax benefit is primarily related to a decrease in our deferred tax liabilities reduced by foreign taxes assessable on the dividends of Wynn Macau. Since June 30, 2010, we have no longer considered our portion of the tax earnings and profits of Wynn Macau, Limited to be permanently reinvested. No additional U.S. tax provision has been made with respect to amounts not considered permanently reinvested as we anticipate that U.S. foreign tax credits should be sufficient to eliminate any U.S. tax provision relating to such repatriation. We have not provided deferred U.S. income taxes or foreign withholding taxes on temporary differences which are considered indefinitely reinvested. On November 30, 2010, Wynn Macau received a second 5-year exemption from Macau’s 12% Complementary Tax on casino gaming profits, thereby exempting the casino gaming profits of Wynn Macau through December 31, 2015. Accordingly, we were exempted from the payment of approximately \$107.3 million and \$87.1 million in such taxes for the years ended December 31, 2013 and 2012, respectively. Our non-gaming profits remain subject to the Macau Complementary Tax and casino winnings remain subject to the Macau Special Gaming tax and other levies at a rate totaling 39% in accordance with our concession agreement.

In April 2012, the Company reached an agreement with the Appellate division of the Internal Revenue Service (“IRS”) regarding issues raised during the examination of the 2006 through 2009 U.S. income tax returns. The settlement with the Appellate division did not impact the Company’s unrecognized tax benefits. The settlement of the 2006 through 2009 examination issues resulted in a cash tax payment of \$1.3 million and the utilization of \$3.1 million and \$0.9 million in foreign tax credit and general business credit carryforwards, respectively.

During December 2012, the IRS completed an examination of the Company’s 2010 U.S. income tax return and had no changes. In May 2013, the Company received notification that the IRS completed its examination of the Company’s 2011 U.S. income tax return and had no changes.

For tax year 2012, the Company is participating in the IRS Compliance Assurance Program (“CAP”), which accelerates IRS examination of key transactions with the goal of resolving any issues before the taxpayer files its return. The Company believes the IRS will complete their examination of the 2012 tax year in the next 12 months. In March 2013, the Company received notification that it had been selected for the compliance

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Maintenance phase of CAP for the 2013 tax year. In the Compliance Maintenance phase, the IRS, at its discretion, may reduce the level of review of the taxpayer's tax positions based on the complexity and number of issues, and the taxpayer's history of compliance, cooperation and transparency in the CAP. The Company does not expect a change in its unrecognized tax benefits as a result of the completion of these examinations.

In July 2012, the Macau Financial Services Bureau commenced an examination of the 2008 Macau income tax return of Wynn Macau. In November 2012, the Company received the results of the examination. While no additional tax was due, adjustments were made to the Company's foreign net operating loss carryforwards.

In January 2013, the Macau Financial Services Bureau examined the 2009 and 2010 Macau income tax returns of Palo, which is a co-holder of the land concession for Wynn Palace. The exam resulted in no change to the tax returns.

In March 2013, the Macau Financial Services Bureau commenced an examination of the 2009, 2010, and 2011 Macau income tax returns of Wynn Macau. Since the examination is in its initial stages, the Company is unable to determine if it will conclude within the next 12 months. The Company believes that its liability for uncertain tax positions is adequate with respect to these years.

### *Net income attributable to noncontrolling interests*

In October 2009, Wynn Macau, Limited, an indirect wholly owned subsidiary, listed its ordinary shares of common stock on The Stock Exchange of Hong Kong Limited. Wynn Macau, Limited sold 1,437,500,000 shares (27.7%) of its common stock through an initial public offering. We recorded net income attributable to noncontrolling interests of \$275.5 million for the year ended December 31, 2013, compared to \$226.7 million for the year ended December 31, 2012. This represents the noncontrolling interests' share of net income from Wynn Macau, Limited for each year.

### *Financial results for the year ended December 31, 2012 compared to the year ended December 31, 2011.*

#### *Revenues*

Net revenues for the year ended December 31, 2012 are comprised of \$4,034.8 million in casino revenues (78.3% of total net revenues) and \$1,119.5 million of net non-casino revenues (21.7% of total net revenues). Net revenues for the year ended December 31, 2011 are comprised of \$4,190.5 million in casino revenues (79.5% of total net revenues) and \$1,079.3 million of net non-casino revenues (20.5% of total net revenues).

Casino revenues are primarily comprised of the net win from our table games and slot machine operations. Casino revenues for the year ended December 31, 2012 of \$4,034.8 million represents a \$155.7 million (3.7%) decrease from casino revenues of \$4,190.5 million for the year ended December 31, 2011. Our Las Vegas Operations experienced a \$32.9 million (5.3%) decrease in casino revenues to \$592.3 million, compared to the prior year casino revenues of \$625.2 million due to a decrease in our table games win percentage (before discounts). Our Macau Operations experienced a \$122.8 million (3.4%) decrease in casino revenues to \$3,442.5 million for the year ended December 31, 2012, compared to the prior year due to lower turnover and hold percentage in our VIP casino.

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The table below sets forth key gaming statistics related to our Macau and Las Vegas operations.

	Years Ended December 31,			
	2012	2011	Increase/ (Decrease)	Percent Change
	(amounts in thousands, except for win per day amounts)			
<b>Macau Operations:</b>				
<b>VIP Casino</b>				
VIP turnover	\$119,251,854	\$123,099,838	\$(3,847,984)	(3.1)%
VIP win as a % of turnover	2.84%	2.93%	(0.09) pts	—
<b>General Casino</b>				
Drop(1)	\$ 2,764,664	\$ 2,769,284	\$ (4,620)	(0.2)%
Table games win	\$ 843,001	\$ 787,678	\$ 55,323	7.0%
Table games win %(1)	30.5%	28.4%	2.1 pts	—

Table games win per unit per day	\$ 11,549	\$ 10,045	\$ 1,504	15.0%
Slot machine handle	\$ 4,697,463	\$ 5,400,697	\$ (703,234)	(13.0)%
Slot machine win	\$ 247,020	\$ 277,124	\$ (30,104)	(10.9)%
Slot machine win per unit per day	\$ 718	\$ 760	\$ (42)	(5.5)%

**Las Vegas Operations:**

Drop	\$ 2,591,833	\$ 2,366,711	\$ 225,122	9.5%
Table games win	\$ 567,014	\$ 589,093	\$ (22,079)	(3.7)%
Table games win %	21.9%	24.9%	(3.0) pts	—
Table games win per unit per day	\$ 7,031	\$ 7,188	\$ (157)	(2.2)%
Slot machine handle	\$ 2,908,678	\$ 2,738,261	\$ 170,417	6.2%
Slot machine win	\$ 177,420	\$ 170,027	\$ 7,393	4.3%
Slot machine win per unit per day	\$ 206	\$ 184	\$ 22	12.0%

- (1) Customers purchase general casino gaming chips at either the gaming tables or the casino cage. Chips purchased at the casino cage are excluded from table games drop and will increase the expected win percentage. With the increased purchases at the casino cage in our Macau general casino, we believe the relevant indicator of volumes in the general casino should be table games win.

For the year ended December 31, 2012, room revenues were \$480 million, an increase of \$7.9 million (1.7%) compared to prior year room revenue of \$472.1 million. Room revenue at our Las Vegas Operations increased \$8.3 million (2.3%) to \$362.3 million compared to the prior year room revenue of \$354 million. In Las Vegas, we experienced an increase in room rates during the year ended December 31, 2012, however our occupancy rate decreased 3.2 percentage points, both compared to the prior year. We were able to achieve an increase in ADR as we adjusted rates to attract a higher quality customer who would take advantage of all aspects of our resort. Room revenue at our Macau Operations did not change significantly during the year ended December 31, 2012.

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The table below sets forth key operating measures related to room revenue.

	Years Ended December 31,	
	2012	2011
Average Daily Rate		
Macau	\$ 315	\$ 315
Las Vegas	252	242
Occupancy		
Macau	93.0%	91.8%
Las Vegas	82.9%	86.1%
REVPAR		
Macau	\$ 293	\$ 289
Las Vegas	209	208

Other non-casino revenues for the year ended December 31, 2012, included food and beverage revenues of \$588.4 million, retail revenues of \$261.6 million, entertainment revenues of \$81.8 million, and other revenues from outlets such as the spa and salon, of \$73.8 million. Other non-casino revenues for the year ended December 31, 2011, included food and beverage revenues of \$547.7 million, retail revenues of \$260.8 million, entertainment revenues of \$82.2 million, and other revenues from outlets, including the spa and salon, of \$71.8 million. Food and beverage revenues at our Las Vegas Operations increased \$36.3 million (8%), while our Macau Operations increased \$4.4 million (4.8%), as compared to the prior year. The increase in Las Vegas is due primarily to strong business in our beach club and nightclubs. Retail revenues at our Macau Operations increased \$2.6 million (1.5%), while retail at our Las Vegas Operations decreased by \$1.8 million (2.1%). The increase at Wynn Macau is due primarily to strong same-store sales growth combined with new stores from the first half of 2012. Retail revenues at our Las Vegas Operations decreased as we reconfigured the Encore retail area and rebranded several retail outlets. Entertainment revenues decreased \$0.4 million (0.5%) from the prior year primarily due to a Las Vegas show that ended its run in November 2012 and another Las Vegas show that ended in April 2011.

**Departmental, Administrative and Other Expenses**

For the year ended December 31, 2012, departmental expenses included casino expenses of \$2,626.8 million, room expenses of \$126.5 million, food and beverage expenses of \$308.4 million, and entertainment, retail and other expenses of \$189.8 million. Also included are general administrative expenses of approximately \$441.7 million and \$18.1 million charged as a provision for doubtful accounts receivable. For the

year ended December 31, 2011, departmental expenses included casino expenses of \$2,686.4 million, room expenses of \$125.3 million, food and beverage expenses of \$283.9 million, and entertainment, retail and other expenses of \$214.4 million. Also included are general and administrative expenses of approximately \$389.1 million and approximately \$33.8 million charged as a provision for doubtful accounts receivable. Casino expenses have decreased during the year ended December 31, 2012 due to lower volume which caused lower junket commission expense and lower gaming taxes at our Macau Operations (where we incur a gaming tax and other levies at a rate totaling 39% in accordance with the concession agreement). Although our room revenues increased \$7.9 million (1.7%), room expenses increased only \$1.2 million (1%) as the revenue increase was driven primarily by increased ADR. Food and beverage expenses increased over the prior year primarily due to additional nightclub promotional costs in Las Vegas. The decrease in entertainment, retail and other expenses was driven by the conversion of certain owned retail stores to leased outlets in Macau resulting in lower cost of sales. General and administrative expense increased primarily due to legal and other costs incurred related to the share redemption and litigation with a former stockholder, higher advertising costs, development and other activities. The provision for doubtful accounts decreased during the year ended December 31, 2012 as we recorded an adjustment of \$30.9 million that benefitted our reserve estimates for casino accounts receivable based on the results of historical collection patterns and current collection trends.

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### *Pre-opening costs*

We began to incur pre-opening costs during October 2012 related to the design and planning for our Wynn Palace Resort. We expect our pre-opening costs to increase in the future as construction and development of Wynn Palace continues toward the expected completion in the first half of 2016. There were no pre-opening expenses incurred during the year ended December 31, 2011.

### *Depreciation and amortization*

Depreciation and amortization for the year ended December 31, 2012, was \$373.2 million compared to \$398 million for the year ended December 31, 2011. Depreciation expense decreased due to assets with a 5-year life being fully depreciated as of September 2011 at our Macau Operations and assets with a three and six year life becoming fully depreciated throughout 2011 at our Las Vegas Operations.

During the construction of our resorts, costs incurred in the construction of the buildings, improvements to land and the purchases of assets for use in operations were capitalized. Once these resorts opened, their assets were placed into service and we began recognizing the associated depreciation expense. Depreciation expenses will continue throughout the estimated useful lives of these assets. In addition, we continually evaluate the useful life of our property and equipment, intangibles and other assets and adjust them when warranted.

The maximum useful life of assets at our Macau Operations is the remaining life of the gaming concession or land concession, which currently expire in June 2022 and August 2029, respectively. Consequently, depreciation related to our Macau Operations is charged on an accelerated basis when compared to our Las Vegas Operations.

### *Property charges and other*

Property charges and other for the year ended December 31, 2012, were \$40 million compared to \$130.6 million for the year ended December 31, 2011. Property charges and other for the year ended December 31, 2012 include the remodel of a Las Vegas restaurant, charges associated with the termination of a Las Vegas show that ended its run in November 2012, charges associated with the reconfiguration of Las Vegas retail areas and miscellaneous renovations and abandonments at our resorts.

Property charges and other for the year ended December 31, 2011 include a charge of \$109.6 million reflecting the present value of a charitable contribution made by Wynn Macau to the University of Macau Development Foundation. This contribution consists of a \$25 million payment made in May 2011, and a commitment for additional donations of \$10 million each year for the calendar years 2012 through 2022 inclusive, for a total of \$135 million. The amount reflected in the accompanying Consolidated Statements of Income has been discounted using our then estimated borrowing rate over the time period of the remaining committed payments. Also included are the write off of certain off-site golf memberships by Wynn Las Vegas, miscellaneous renovations and abandonments at our resorts, including modifications of the Encore at Wynn Las Vegas and Wynn Macau retail esplanades, closure of the Blush nightclub and the write off of certain costs related to a show that ended its run in Las Vegas in April 2011.

### *Other non-operating costs and expenses*

Interest income was \$12.5 million and \$7.7 million for the years ended December 31, 2012 and 2011, respectively. This increase is mainly due to higher cash balances during 2012. During 2012 and 2011, our short-term investment strategy was to preserve capital while retaining sufficient liquidity. Beginning in April 2011, we have invested in certain corporate bond securities and commercial paper, in addition to holding money-market accounts, U.S. Treasury Bills and bank time deposits with a maturity of three months or less, which has contributed to the increase in interest income.

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Interest expense was \$288.8 million, net of capitalized interest of \$2 million for the year ended December 31, 2012, compared to \$229.9 million, net of capitalized interest of \$0, for the year ended December 31, 2011. Our interest expense increased compared to the prior year primarily due to the issuance of the \$1.94 billion Redemption Note by Wynn Resorts, the issuance of the Wynn Las Vegas \$900 million 5 3/8% first mortgage notes in March 2012, and the increase in the Wynn Macau term loan offset by the reduction of \$370.9 million in Wynn Las Vegas term loan borrowings, all as described in Item 8—"Financial Statements and Supplementary Data", Note 8—"Long-Term Debt".

Changes in the fair value of our interest rate swaps are recorded as an increase (decrease) in swap fair value in each period. We recorded a gain of \$1 million for the year ended December 31, 2012, resulting from the changes in the fair value of our interest rate swaps during the year. For the year ended December 31, 2011, we recorded a gain of \$14.2 million resulting from the increase in the fair value of interest rate swaps between December 31, 2010 and December 31, 2011. For further information on our interest rate swaps, see Item 7A—"Quantitative and Qualitative Disclosures about Market Risk."

### Income Taxes

For the year ended December 31, 2012, we recorded a tax expense of \$4.3 million. Our income tax expense is primarily related to the timing of the payment of dividends from Macau, stock option exercises and capital expenditures. Since June 30, 2010, we have no longer considered our portion of the tax earnings and profits of Wynn Macau, Limited to be permanently reinvested. No additional U.S. tax provision has been made with respect to amounts not considered permanently reinvested as we anticipate that U.S. foreign tax credits should be sufficient to eliminate any U.S. tax provision relating to such repatriation. We have not provided deferred U.S. income taxes or foreign withholding taxes on temporary differences which are considered indefinitely reinvested. On November 30, 2010, Wynn Macau received a second 5-year exemption from Macau's 12% Complementary Tax on casino gaming profits, thereby exempting the casino gaming profits of Wynn Macau through December 31, 2015. Accordingly, we were exempted from the payment of approximately \$87.1 million and \$82.7 million in such taxes for the years ended December 31, 2012 and 2011, respectively. Our non-casino profits remain subject to the Macau Complementary Tax and casino winnings remain subject to the Macau Special Gaming tax and other levies at a rate totaling 39% in accordance with our concession agreement.

In April 2012, the Company reached an agreement with the Appellate division of the IRS regarding issues raised during the examination of 2006 through 2009 U.S. income tax returns. The settlement with the Appellate division did not impact the Company's unrecognized tax benefits. The settlement of the 2006 through 2009 examination issues resulted in a cash tax payment of \$1.3 million and the utilization of \$3.1 million and \$0.9 million in foreign tax credit and general business credit carryforwards, respectively.

### Net income attributable to noncontrolling interests

We recorded net income attributable to noncontrolling interests of \$226.7 million for the year ended December 31, 2012, compared to \$211.7 million for the year ended December 31, 2011. The increase is attributable to the noncontrolling interests' share of net income from Wynn Macau, Limited for each year.

### Adjusted Property EBITDA

We use adjusted property EBITDA to manage the operating results of our segments. Adjusted property EBITDA is earnings before interest, taxes, depreciation, amortization, pre-opening costs, property charges and other, corporate expenses, intercompany golf course and water rights leases, stock-based compensation, and other non-operating income and expenses, and includes equity in income from unconsolidated affiliates. Adjusted property EBITDA is presented exclusively as a supplemental disclosure because we believe that it is widely used to measure the performance, and as a basis for valuation, of gaming companies. We use adjusted property EBITDA as a measure of the operating performance of our segments and to compare the operating performance

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of our properties with those of our competitors. We also present adjusted property EBITDA because it is used by some investors as a way to measure a company's ability to incur and service debt, make capital expenditures and meet working capital requirements. Gaming companies have historically reported EBITDA as a supplement to financial measures in accordance with U.S. generally accepted accounting principles ("GAAP"). In order to view the operations of their casinos on a more stand-alone basis, gaming companies, including us, have historically excluded from their EBITDA calculations pre-opening expenses, property charges, corporate expenses and stock-based compensation that do not relate to the management of specific casino properties. However, adjusted property EBITDA should not be considered as an alternative to operating income as

an indicator of our performance, as an alternative to cash flows from operating activities as a measure of liquidity, or as an alternative to any other measure determined in accordance with GAAP. Unlike net income, adjusted property EBITDA does not include depreciation or interest expense and therefore does not reflect current or future capital expenditures or the cost of capital. We have significant uses of cash flows, including capital expenditures, interest payments, debt principal repayments, taxes and other non-recurring charges, which are not reflected in adjusted property EBITDA. Also, our calculation of adjusted property EBITDA may be different from the calculation methods used by other companies and, therefore, comparability may be limited.

The following table (amounts in thousands) summarizes adjusted property EBITDA for our Macau and Las Vegas Operations as reviewed by management and summarized in Item 8—"Financial Statements and Supplementary Data", Note 17 "Segment Information." That footnote also presents a reconciliation of adjusted property EBITDA to net income.

	Years Ended December 31,		
	2013	2012	2011
Macau Operations	\$1,324,119	\$1,167,340	\$1,196,232
Las Vegas Operations	486,682	408,472	439,036
Total Adjusted Property EBITDA	\$1,810,801	\$1,575,812	\$1,635,268

For the year ended December 31, 2013, the adjusted property EBITDA at both our Macau and Las Vegas Operations benefitted from stronger operating results primarily in the casino department due to an increase in table games volume and win percentage. Refer to the discussions above regarding the specific details of our results of operations.

## Liquidity and Capital Resources

### Operating Activities

Our operating cash flows primarily consist of our operating income generated by our Macau and Las Vegas operations (excluding depreciation and other non-cash charges), interest paid, and changes in working capital accounts such as receivables, inventories, prepaid expenses, and payables. Our table games play both in Macau and Las Vegas is a mix of cash play and credit play, while our slot machine play is conducted primarily on a cash basis. A significant portion of our table games revenue is attributable to the play of a limited number of premium international customers that gamble on credit. The ability to collect these gaming receivables may impact our operating cash flow for the period. Our rooms, food and beverage, and entertainment, retail, and other revenue is conducted primarily on a cash basis or as a trade receivable. Accordingly, operating cash flows will be impacted by changes in operating income and accounts receivables.

Net cash provided from operations for the year ended December 31, 2013 was \$1.7 billion compared to \$1.2 billion provided by operations the year ended December 31, 2012. Cash flow from operations improved due to significant changes in ordinary working capital accounts such as accounts payables and accrued expenses. Also benefitting operating cash flow was increased operating income that was driven primarily by stronger operating results in the casino department.

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During the year ended December 31, 2012, our operating activities provided \$1.2 billion compared to \$1.5 billion during the year ended December 31, 2011. This decrease is primarily due to lower casino department profitability and changes in ordinary working capital accounts.

### Investing Activities

Net cash used in investing activities for the year ended December 31, 2013 was \$677.6 million compared to \$344.9 million for the year ended December 31, 2012. Net cash used in investing activities was primarily driven by capital expenditures, net of construction payables and retention of \$506.8 million and \$241 million for the years ended December 31, 2013 and 2012, respectively. During the year ended December 31, 2013, capital expenditures included \$381.1 million in site preparation costs and piling work for Wynn Palace, along with capital expenditures for various other renovations at our resorts. Capital expenditures during the year ended December 31, 2012 primarily related to various renovations at our resorts, a one-time payment of \$50 million in consideration of an unrelated third party's relinquishment of certain rights in and to any future development on the Cotai land that we are using for constructing Wynn Palace, as well as site preparation costs for Wynn Palace.

During the year ended December 31, 2011, our net cash used in investing activities was \$459.1 million. Our primary use of cash was for the investment of \$215.5 million in corporate debt securities and commercial paper, net of maturities, and \$184.1 million in capital expenditures primarily for room and suite remodel at Wynn Las Vegas and various other renovations at our resorts.

### Financing Activities

Net cash flows used in financing activities were \$291.1 million for the year ended December 31, 2013, which was primarily attributable to

payment of dividends of \$1,035 million and the redemption of first mortgage notes of \$500 million, offset by proceeds from the issuance of senior notes of \$1,100 million and the increase in our senior term loan facility of \$200 million.

Net cash flows used in financing activities were \$382.5 million for the year ended December 31, 2012, which was primarily attributable to principal payments of \$1,022.8 million on term loan facilities and payment of dividends of \$955.5 million, partially offset by proceeds of \$1,648.6 million from the issuance of first mortgage notes of \$900 million and proceeds of \$748.6 million from the fully funded senior term loan facility.

During the year ended December 31, 2011, we used cash flows in financing activities of \$1,057.6 million primarily attributable to payment of dividends.

#### *Macau Operations*

On October 16, 2013, Wynn Macau, Limited ("WML"), an indirect subsidiary of Wynn Resorts, Limited, entered into an Indenture, dated as of October 16, 2013 (the "WML Indenture"), between WML and Deutsche Bank Trust Company Americas, as trustee, pursuant to which WML issued \$600 million aggregate principal amount of 5 1/4% Senior Notes due 2021 (the "2021 Notes"). WML received net proceeds of approximately \$591.5 million from the offering of the 2021 Notes after deducting commissions and estimated expenses of the offering and will use the net proceeds for working capital requirements and general corporate purposes.

The WML Indenture contains covenants limiting WML's (and certain of its subsidiaries') ability to, among other things: merge or consolidate with another company; transfer or sell all or substantially all of its properties or assets; and lease all or substantially all of its properties or assets. The terms of the WML Indenture contain customary events of default, including, but not limited to: default for 30 days in the payment when due of interest on the 2021 Notes; default in the payment when due of the principal of, or premium, if any, on the 2021 Notes; failure to comply with any payment obligations relating to the repurchase by WML of the 2021 Notes upon a change of control; failure to comply with certain covenants in the WML Indenture; certain defaults on certain

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other indebtedness; failure to pay judgments against WML or certain subsidiaries that, in the aggregate, exceed \$50 million; and certain events of bankruptcy or insolvency. In the case of an event of default arising from certain events of bankruptcy or insolvency, all 2021 Notes then outstanding will become due and payable immediately without further action or notice.

During the year ended December 31, 2012, Wynn Macau repaid \$150.4 million of borrowings under the Wynn Macau Senior Revolving Credit Facility. On June 27, 2012, the Wynn Macau Senior Revolving Credit Facility matured with an outstanding balance of \$0.

On July 31, 2012, Wynn Macau amended and restated its credit facilities, dated September 14, 2004 (as so amended and restated, the "Amended Wynn Macau Credit Facilities"), and appointed Bank of China Limited, Macau Branch as intercreditor agent, facilities agent and security agent. The Amended Wynn Macau Credit Facilities took effect on July 31, 2012 and expand availability under Wynn Macau's senior secured bank facility to \$2.3 billion equivalent, consisting of a \$750 million equivalent fully funded senior secured term loan facility and a \$1.55 billion equivalent senior secured revolving credit facility. Borrowings under the Amended Wynn Macau Credit Facilities, which consist of both Hong Kong Dollar and United States Dollar tranches, were used to refinance Wynn Macau's existing indebtedness, and will be used to fund the design, development, construction and pre-opening expenses of Wynn Palace, and for general corporate purposes.

On July 30, 2013, Wynn Macau exercised its option to increase the senior term loan facility by \$200 million equivalent pursuant to the terms and provisions of the Amended Wynn Macau Credit Facilities. The \$200 million equivalent was fully funded as of July 31, 2013 and is required to be used for the payment of certain Wynn Palace related construction and development costs.

The term loan facility matures in July 2018, and the revolving credit facility matures in July 2017. The principal amount of the term loan is required to be repaid in two equal installments in July 2017 and July 2018. The senior secured facilities will bear interest for the first six months after closing at LIBOR or HIBOR plus a margin of 2.50% and thereafter will be subject to LIBOR or HIBOR plus a margin of between 1.75% to 2.50% based on Wynn Macau's leverage ratio.

Borrowings under the Amended Wynn Macau Credit Facilities are guaranteed by Palo Real Estate Company Limited ("Palo"), a subsidiary of Wynn Macau, and by certain subsidiaries of the Company that own equity interests in Wynn Macau, and are secured by substantially all of the assets of Wynn Macau, the equity interests in Wynn Macau and substantially all of the assets of Palo.

In connection with amending the Wynn Macau credit facilities, we expensed \$17.7 million and capitalized \$33.2 million of financing costs in the year ended December 31, 2012.

The Amended Wynn Macau Credit Facilities contain a requirement that the Company must make mandatory repayments of indebtedness specified percentages of excess cash flow. If the Wynn Macau subsidiary has a Consolidated Leverage Ratio, as defined in the Amended



**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, 2014

OR

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

For the transition period \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 000-50028

**WYNN RESORTS, LIMITED**

(Exact name of registrant as specified in its charter)

NEVADA

(State or other jurisdiction of  
incorporation or organization)

46-0484987

(I.R.S. Employer  
Identification Number)

3131 Las Vegas Boulevard South—Las Vegas, Nevada 89109

(Address of principal executive offices) (Zip Code)

(702) 770-7555

(Registrant's telephone number, including area code)

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

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

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

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities

Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the

Act. Yes ☐ No ☒

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

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

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

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

Large accelerated filer ☒

Accelerated filer ☐

As of December 31,

	2014	2013	2012 (1)	2011	2010
(In thousands, except per share amounts)					
<b>Consolidated Balance Sheets Data:</b>					
Cash and cash equivalents	\$ 2,182,164	\$ 2,435,041	\$ 1,725,219	\$ 1,262,587	\$ 1,258,499
Construction in progress	1,666,326	558,624	110,490	28,477	22,901
Total assets	9,062,861	8,377,030	7,276,594	6,899,496	6,674,497
Total long-term obligations (3)	7,538,605	6,789,145	6,041,285	3,096,149	3,405,983
Stockholders' equity	211,091	132,351	103,932	2,223,454	2,380,585
Cash distributions declared per common share	\$ 6.25	\$ 7.00	\$ 9.50	\$ 6.50	\$ 8.50

- (1) On February 18, 2012, we redeemed and canceled Aruze's 24,549,222 shares of Wynn Resorts common stock. In connection with the redemption and cancellation, stockholders' equity was reduced by \$1.94 billion, the face amount of the Redemption Note. Aruze has challenged the redemption and cancellation of the 24,549,222 shares and legal proceedings are ongoing. Please see Item 3—"Legal Proceedings".
- (2) On April 21, 2010, we opened Encore at Wynn Macau, a further expansion of Wynn Macau.
- (3) Includes long-term debt, the required contract premium payments under our land concession contract at Wynn Macau, future charitable contributions and deferred income taxes.

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion should be read in conjunction with, and is qualified in its entirety by, the consolidated financial statements and the notes thereto included elsewhere in this Annual Report on Form 10-K.

### Overview

We are a developer, owner and operator of destination casino resorts (integrated resorts). In the Macau Special Administrative Region of the People's Republic of China ("Macau"), we own 72% of and operate Wynn Macau and Encore at Wynn Macau. We refer to the integrated Wynn Macau and Encore at Wynn Macau resort as Wynn Macau | Encore or as our Macau Operations. In Las Vegas, Nevada, we own 100% of and operate Wynn Las Vegas and Encore at Wynn Las Vegas, which we refer to as Wynn Las Vegas | Encore or our Las Vegas Operations. We are currently constructing Wynn Palace, an integrated casino resort in the Cotai area of Macau. In addition, we are developing an integrated casino resort in Everett, Massachusetts.

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#### Macau Operations

Our Macau integrated resort of Wynn Macau and Encore at Wynn Macau features approximately 284,000 square feet of casino space with 498 table games and 625 slot machines and two luxury hotel towers with a total of 1,008 spacious guest rooms and suites. Wynn Macau | Encore includes casual and fine dining in eight restaurants, approximately 57,000 square feet of retail space, approximately 31,000 square feet of lounge and meeting facilities and recreation and leisure facilities.

In response to our evaluation of our Macau Operations and the reactions of our guests, we have made and expect to continue to make enhancements and refinements to our resort. In February 2015, we completed a renovation of approximately 27,000 square feet of our casino space at Wynn Macau into new VIP gaming rooms.

#### Las Vegas Operations

Our integrated Las Vegas resort of Wynn Las Vegas and Encore at Wynn Las Vegas features approximately 186,000 square feet of casino space with 232 table games, 1,849 slot machines and two luxury hotel towers with a total of 4,748 spacious guest rooms, suites and villas. Wynn Las Vegas | Encore includes 34 food and beverage outlets, approximately 99,000 square feet of retail space, approximately 290,000 square feet of meeting and convention space, an on-site 18 hole golf course, a Ferrari and Maserati dealership, as well as two showrooms, three nightclubs and a beach club.

In response to our evaluation of our Las Vegas Operations and the reactions of our guests, we have and expect to continue to make

enhancements and refinements to our resort.

#### *Future Development*

We are currently constructing Wynn Palace, an integrated resort containing a 1,700-room hotel, performance lake, meeting space, casino, spa, retail offerings and food and beverage outlets in the Cotai area of Macau. In July 2013, we signed a \$2.6 billion GMP contract for the project's construction. The total project budget, including construction costs, capitalized interest, pre-opening expenses, land costs and financing fees, is approximately \$4.1 billion. As of December 31, 2014, we have invested approximately \$1.8 billion in the project. We expect to open Wynn Palace in the first half of 2016.

On September 17, 2014, the Massachusetts Gaming Commission designated Wynn MA, LLC, an indirect wholly owned subsidiary of the Company, the award winner of the Greater Boston (Region A) gaming license. On November 4, 2014, a vote upheld the expanded gaming law in Massachusetts. On November 7, 2014, the gaming license awarded to us became effective.

On January 2, 2015, we purchased 33 acres of land in Everett, Massachusetts, along the Mystic River. On this land, we intend to develop and operate an integrated resort containing a hotel, restaurants, casino, spa, premium retail offerings, meeting and convention space and a waterfront boardwalk.

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

#### **Key Operating Measures**

Certain key operating measures specific to the gaming industry are included in our discussion of our operational performance for the periods for which a Consolidated Statement of Income is presented. Below are definitions of these key operating measures discussed:

- Table games win is the amount of drop or turnover that is retained and recorded as casino revenue.
- Drop is the amount of cash and net markers issued that are deposited in a gaming table's drop box.
- Turnover is the sum of all losing rolling chip wagers within our Macau Operations' VIP program.
- Rolling chips are identifiable chips that are used to track turnover for purposes of calculating incentives.
- Slot win is the amount of handle (representing the total amount wagered) that is retained by us and is recorded as casino revenue.
- Average daily rate ("ADR") is calculated by dividing total rooms revenue including the retail value of promotional allowances (less service charges, if any) by total rooms occupied including complimentary rooms.
- Revenue per available room ("REVPAR") is calculated by dividing total rooms revenue including the retail value of promotional allowances (less service charges, if any) by total rooms available.
- Occupancy is calculated by dividing total occupied rooms, including complimentary rooms, by the total rooms available.

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Below is a discussion of the methodologies used to calculate win percentage at our resorts.

In our VIP casino in Macau, customers primarily purchase non-negotiable chips, commonly referred to as rolling chips, from the casino cage and there is no deposit into a gaming table drop box from chips purchased from the cage. Non-negotiable chips can only be used to make wagers. Winning wagers are paid in cash chips. The loss of the non-negotiable chips in the VIP casino is recorded as turnover and provides a base for calculating VIP casino win percentage. It is customary in Macau to measure VIP casino play using this rolling chip method. We expect our win as a percentage of turnover in this segment to be within the range of 2.7% to 3.0%.

The measurement base used in the mass market casino in Macau is not the same as that used in the VIP casino. In our mass market casino in Macau, customers may purchase cash chips at either the gaming tables or at the casino cage. The cash used to purchase the cash chips at the gaming tables is deposited into the gaming table's drop box. This is the base of measurement that we use for calculating win percentage in our mass market casino. We do not report an expected range for the win percentage in our mass market casino as chips purchased at the casino cage are excluded from table games drop and distort our expected win percentage. Because of the large number of chip purchases occurring at the casino cage, we believe the relevant indicator of volumes in the mass market segment should be table games win.

The measurements in our VIP casino and the mass market casino are not comparable as the mass market casino tracks the initial purchase of chips at the table while the measurement method in our VIP casino tracks the sum of all losing wagers. Accordingly, the base measurement in the VIP casino is much larger than the base measurement in the mass market casino. As a result, the expected win percentage with the same amount of gaming win is smaller in the VIP casino when compared to the mass market casino.

In Las Vegas, customers purchase chips at the gaming tables. The cash and net markers used to purchase chips are deposited in the gaming table's drop box. This is the base of measurement that we use for calculating win percentage in Las Vegas. Each type of table game has its own expected win percentage. Our expected table games win percentage in Las Vegas is 21% to 24%.

## Results of Operations

### Summary annual results

The following table summarizes our financial results for the periods presented (in thousands, except per share data).

	Years Ended December 31,		
	2014	2013	2012
Net revenues	\$ 5,433,661	\$ 5,620,936	\$ 5,154,284
Net income attributable to Wynn Resorts, Limited	\$ 731,554	\$ 728,652	\$ 502,036
Diluted net income per share	\$ 7.18	\$ 7.17	\$ 4.82
Adjusted Property EBITDA	\$ 1,773,278	\$ 1,810,801	\$ 1,575,812

During the year ended December 31, 2014, our net income attributable to Wynn Resorts, Limited was \$731.6 million, an increase of 0.4% over the same period of 2013, resulting in diluted earnings per share of \$7.18. Adjusted Property EBITDA decreased year-over-year by 2.1%, from \$1,810.8 million for the year ended December 31, 2013 to \$1,773.3 million for the same period of 2014. Our results for the year ended December 31, 2014 compared to the same period of 2013 were primarily attributable to a 5.8% decline in casino revenues from our Macau Operations offset by non-casino revenue growth from our Las Vegas Operations. Although we experienced stable overall visitation to our Macau Operations, a significant slowdown in activity from our premium customers drove the decline in casino revenues.

During the year ended December 31, 2013, our net income attributable to Wynn Resorts, Limited was \$728.7 million, an increase of 45.1% over the same period of 2012, resulting in diluted earnings per share of \$7.17. Adjusted Property EBITDA increased year-over-year by 14.9%, from \$1,575.8 million for the year ended December 31, 2012 to \$1,810.8 million for the same period of 2013. Our results for the year ended December 31, 2013 compared to the same period of 2012 were primarily driven by an increase of 10.6%, or \$365.4 million in casino revenue from our Macau Operations and an increase of 15.3%, or \$90.5 million in casino revenues from our Las Vegas Operations.

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### Financial results for the year ended December 31, 2014 compared to the year ended December 31, 2013.

#### Net revenues

The following table presents net revenues from our Macau and Las Vegas Operations (in thousands):

	Years Ended December 31,		Percent Change
	2014	2013	
Net revenues			
Macau Operations	\$ 3,796,750	\$ 4,040,526	(6.0)
Las Vegas Operations	1,636,911	1,580,410	3.6
	<u>\$ 5,433,661</u>	<u>\$ 5,620,936</u>	<u>(3.3)</u>

Net revenues decreased 3.3% to \$5,433.7 million for the year ended December 31, 2014, from \$5,620.9 million for the same period in 2013. The decline in net revenues was primarily driven by a decrease of 5.8%, or \$221.1 million in casino revenue from our Macau Operations, partially offset by an increase of 5.8%, or \$51.8 million, in non-casino revenues from our Las Vegas Operations.

Non-casino revenues consist of operating revenues from rooms, food and beverage, entertainment, retail and other, less promotional allowances. The following table presents net revenues from our casino revenues and non-casino revenues (in thousands).

	Years Ended December 31,		Percent Change
	2014	2013	
Net revenues			
Casino revenues	\$ 4,274,221	\$ 4,490,637	(4.8)
Non-casino revenues	1,159,440	1,130,299	2.6
	<u>\$ 5,433,661</u>	<u>\$ 5,620,936</u>	<u>(3.3)</u>

Casino revenues were 78.7% of total net revenues for the year ended December 31, 2014 compared to 79.9% of total net revenues for the same period of 2013, while non-casino revenues were 21.3% of total net revenues compared to 20.1% in the prior year.

#### Casino revenues

Casino revenues decreased 4.8% to \$4,274.2 million for the year ended December 31, 2014, from \$4,490.6 million in the same period of 2013. Our Macau Operations experienced a year-over-year decrease in casino revenues of 5.8% from \$3,807.9 million to \$3,586.8 million. The decrease is primarily due to a decrease from our VIP gaming operations, partially offset by an increase of 7.1% in table games win percentage from our mass market gaming operations. Our VIP gaming operations experienced a 12.1% reduction in turnover and a decline in win as a percentage of turnover from 3.01% to 2.82%. Las Vegas Operations were relatively flat year-over-year with casino revenues of \$687.4 million for the year ended December 31, 2014 compared to \$682.8 million in the same period of 2013.

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The table below sets forth our casino revenues and associated key operating measures for our Macau and Las Vegas Operations (in thousands, except for win per unit per day and average number of table games and slots).

	Years Ended December 31,			
	2014	2013	Increase/ (Decrease)	Percent Change
<b>Macau Operations:</b>				
Total casino revenues	\$ 3,586,781	\$ 3,807,850	\$ (221,069)	(5.8)
Average number of table games	461	491	(30)	(6.1)
<b>VIP</b>				
VIP turnover	\$ 108,077,342	\$ 122,991,763	\$ (14,914,421)	(12.1)
VIP win as a % of turnover	2.82%	3.01%	(0.19)	
<b>Mass market</b>				
Drop (1)	\$ 2,650,359	\$ 2,633,870	\$ 16,489	0.6
Table games win	\$ 1,187,997	\$ 992,872	\$ 195,125	19.7
Table games win % (1)	44.8%	37.7%	7.1	
Table games win per unit per day	\$ 16,154	\$ 13,098	\$ 3,056	23.3
Average number of slot machines	679	866	(187)	(21.6)
Slot machine handle	\$ 5,415,127	\$ 4,846,938	\$ 568,189	11.7
Slot machine win	\$ 264,763	\$ 245,578	\$ 19,185	7.8
Slot machine win per unit per day	\$ 1,068	\$ 777	\$ 291	37.5
<b>Las Vegas Operations:</b>				
Total casino revenues	\$ 687,440	\$ 682,787	\$ 4,653	0.7
Average number of table games	232	233	(1)	(0.4)
Drop	\$ 2,556,452	\$ 2,617,634	\$ (61,182)	(2.3)
Table games win	\$ 623,968	\$ 657,927	\$ (33,959)	(5.2)
Table games win %	24.4%	25.1%	(0.7)	
Table games win per unit per day	\$ 7,354	\$ 7,729	\$ (375)	(4.9)
Average number of slot machines	1,858	2,030	(172)	(8.5)
Slot machine handle	\$ 3,008,563	\$ 2,874,646	\$ 133,917	4.7
Slot machine win	\$ 186,458	\$ 177,452	\$ 9,006	5.1
Slot machine win per unit per day	\$ 275	\$ 239	\$ 36	15.1

- (1) Customers purchase mass market casino gaming chips at either the gaming tables or the casino cage. Chips purchased at the casino cage are excluded from table games drop and will increase the expected win percentage. Because of the large number of chip purchases occurring at the casino cage in our Macau mass market casino, we believe the relevant indicator of volumes in the mass market casino should be actual table games win.

#### *Non-casino revenues*

Non-casino revenues increased 2.6%, or \$29.1 million, to \$1,159.4 million for the year ended December 31, 2014, from \$1,130.3 million for the same period of 2013, driven by a 10.3% increase in rooms revenue.

Rooms revenue increased 10.3%, or \$50.5 million, to \$542.8 million for the year ended December 31, 2014, from \$492.2 million in the same period of 2013. Our Las Vegas Operations accounted for \$31.4 million of the increase, while Macau Operations accounted for \$19.1 million, both experiencing an increase in ADR and occupancy.

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The table below sets forth our rooms revenue and associated key operating measures for our Macau and Las Vegas Operations.

	Years Ended December 31,		
	2014	2013	Percent Change (a)
<b>Macau Operations:</b>			
Total rooms revenue (in thousands)	\$ 133,781	\$ 114,638	16.7
Occupancy	98.4%	95.5%	2.9
ADR	\$ 333	\$ 313	6.4
REVPAR	\$ 327	\$ 299	9.4
<b>Vegas Operations:</b>			
Total rooms revenue (in thousands)	\$ 408,981	\$ 377,592	8.3
Occupancy	86.9%	84.6%	2.3
ADR	\$ 274	\$ 258	6.2
REVPAR	\$ 238	\$ 218	9.2

(a) Except occupancy, which is presented as a percentage point change.

Food and beverage revenues increased 3.1%, or \$18.0 million, to \$604.7 million for the year ended December 31, 2014, from \$586.7 million for the same period of 2013. The increase is primarily a result of an increase in revenues at our Las Vegas Operations.

Entertainment, retail and other decreased 4.2%, or \$17.5 million, to \$401.2 million for the year ended December 31, 2014, from \$418.7 million for the same period of 2013. The decrease is primarily due to a decline in revenue from retail shops at our Macau Operations.

Promotional allowances increased 6.0%, or \$21.9 million, to \$389.2 million for the year ended December 31, 2014, from \$367.3 million for the same period of 2013. As a percentage of total casino revenues, promotional allowances were 9.1% for the year ended December 31, 2014 compared to 8.2% for the same period of 2013.

#### *Operating costs and expenses*

Operating costs and expenses decreased 3.8%, or \$163.5 million, to \$4,167.4 million for the year ended December 31, 2014, from \$4,330.8 million for the same period of 2013. The reduction was primarily driven by decreases of casino expenses and depreciation and amortization, partially offset by increases in general and administrative expenses and pre-opening costs.

Casino expenses decreased 6.3%, or \$179.5 million, to \$2,667.0 million for the year ended December 31, 2014, from \$2,846.5 million for the same period of 2013, primarily due to lower gaming taxes from the 39.0% gross win tax incurred at our Macau Operations. The decline in gaming taxes was commensurate with the 5.8% decrease in casino revenues at our Macau Operations.

Rooms expense increased 11.1%, or \$14.8 million, to \$148.3 million for the year ended December 31, 2014, from \$133.5 million for the same period of 2013. The increase is due to certain rooms expense from our Las Vegas Operations to maintain a premium guest experience and expenses associated with the increase in occupancy over the prior year at both our Macau and Las Vegas Operations.

Food and beverage expenses increased 4.2%, or \$13.6 million, to \$337.2 million for the year ended December 31, 2014, from \$323.6 million for the same period of 2013. The increase in food and beverage expenses is primarily a result of higher costs in the current period for entertainment at Wynn Las Vegas nightclubs.

General and administrative expenses increased 9.7%, or \$43.7 million, to \$492.5 million for the year ended December 31, 2014, from \$448.8 million in the same period of 2013 primarily from our Macau Operations. Our Macau Operations experienced an increase compared to the prior year in labor costs, along with certain property maintenance and repair expenses

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and other miscellaneous items. Our Macau Operations incurred additional general and administrative labor costs associated with a new 2014 bonus program for non-management employees.

Pre-opening costs were \$30.1 million for the year ended December 31, 2014, compared to \$3.2 million for the same period of 2013 and were primarily associated with the design and planning for Wynn Palace. We expect our pre-opening costs to increase in the future as the construction and development of Wynn Palace progresses toward the expected completion in the first half of 2016 and with the beginning of development for the Wynn resort in Massachusetts.

Depreciation and amortization decreased 15.3%, or \$56.9 million, to \$314.1 million for the year ended December 31, 2014, from \$371.1 million for the same period of 2013 due to certain Las Vegas Operations assets with a five year useful life becoming fully depreciated.

#### *Interest expense, net of capitalized interest*

Interest expense, net of capitalized interest, increased 5.4%, or \$16.0 million, to \$315.1 million for the year ended December 31, 2014, up from \$299.0 million for the same period of 2013, attributable to a \$39.0 million increase in interest expense partially offset by a \$23.0 million increase in capitalized interest. During 2013, we completed issuances of \$500 million 4 1/4% senior notes, \$600 million 5 1/4% senior notes and exercised our option to increase our Macau senior term loan facility by \$200 million. During the first quarter of 2014, we issued an additional \$750 million of 5 1/4% senior notes. These issuances of long-term debt were partially offset by the principal repayment of \$500 million 7 7/8% first mortgage notes through a cash tender offer in May 2013 and redemption of untendered notes in November 2013. In addition, our interest expense associated with our first mortgage notes reduced year-over-year as a result of open market repurchases we made during 2014. Capitalized interest decreased due to the construction costs of Wynn Palace. Capitalized interest will continue to increase with the ongoing borrowings and construction costs related to Wynn Palace.

#### *Other non-operating income and expenses*

We incurred a loss of \$9.6 million on the extinguishment of debt for the year ended December 31, 2014 compared to a loss of \$40.4 million for the same period of 2013. During the year ended December 31, 2014, the loss was due to the premium paid on the purchase of first mortgage notes due in 2020 through open market transactions and the write-off of related unamortized deferred financing costs and original issue discount. During the year ended December 31, 2013, the loss was primarily from the premium paid in the cash tender offer of our first mortgage notes due in 2017 and the write-off of related unamortized deferred financing costs and original issue discount.

We incurred a loss of \$4.4 million for the year ended December 31, 2014 from the decrease in the fair value of our interest rate swaps compared to a gain of \$14.2 million from the increase in fair value for the same period in 2013.

Interest income was \$20.4 million for the year ended December 31, 2014, compared to \$15.7 million for the same period in 2013. During 2014 and 2013, our short-term investment strategy has been to preserve capital while retaining sufficient liquidity. The majority of our short-term investments were in time deposits, fixed deposits and money market accounts with a maturity of three months or less.

#### *Income Taxes*

For the years ended December 31, 2014 and 2013, we recorded a tax benefit of \$3.8 million and \$17.6 million, respectively. For the year ended December 31, 2014, our benefit for income taxes primarily relates to a release of valuation allowance on prior year foreign tax credits resulting from the implementation of a tax planning strategy. For the year ended December 31, 2013, our income tax benefit is primarily related to a decrease in our deferred tax liabilities reduced by foreign taxes assessable on the dividends of Wynn Macau SA. Since June 30, 2010, we have no longer considered our portion of the tax earnings and profits of Wynn Macau, Limited to be permanently reinvested. No additional U.S. tax provision has been made with respect to amounts not considered permanently reinvested as we anticipate that U.S. foreign tax credits should be sufficient to eliminate any U.S. tax provision relating to such repatriation. We have not provided deferred U.S. income taxes or foreign withholding taxes on temporary differences which are considered indefinitely reinvested.

Wynn Macau SA received an exemption from Macau's 12% Complementary Tax on casino gaming profits through December 31, 2015. Accordingly, we were exempt from the payment of \$99.4 million and \$107.3 million in such taxes during the year ended December 31, 2014 and 2013, respectively. Our non-gaming profits remain subject to the Macau Complementary Tax and casino winnings remain subject to the Macau

Special Gaming tax and other levies together totaling 39% in accordance with our concession agreement.

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In December 2013, we received notification that for the 2014 tax year we had been accepted for the Compliance Maintenance phase of the Internal Revenue Service ("IRS") Compliance Assurance Program ("CAP"), which accelerates IRS examination of key transactions with the goal of resolving any issues before the taxpayer files its return. In the Compliance Maintenance phase, the IRS, at its discretion, may reduce the level of review of the taxpayer's tax positions based on the complexity and number of issues, and the taxpayer's history of compliance, cooperation and transparency in the CAP.

In February 2014, we received notification that the IRS completed its examination of our 2012 U.S. income tax return and had no changes. In December 2014, we received notification that we were accepted into the Compliance Maintenance phase of CAP for the 2015 tax year.

In March 2013, the Financial Services Bureau commenced an examination of the 2009, 2010, and 2011 Macau income tax returns of Wynn Macau SA. In December 2014, Wynn Macau SA reached an agreement with the Macau Financial Services Bureau regarding issues raised during its examination. While no additional tax was due as a result of the examination, adjustments were made to Wynn Macau SA's foreign net operating loss carryforwards. On December 31, 2014, the statute of limitations for the 2009 Macau Complementary tax return expired.

*Net income attributable to noncontrolling interests*

Net income attributable to noncontrolling interests was \$231.1 million for the year ended December 31, 2014, compared to \$275.5 million for the year ended December 31, 2013. These amounts represent the noncontrolling interests' share of net income from Wynn Macau, Limited for each year.

*Financial results for the year ended December 31, 2013 compared to the year ended December 31, 2012.*

*Net Revenues*

The following table presents net revenues from our Macau and Las Vegas Operations (in thousands):

	Years Ended December 31,		Percent Change
	2013	2012	
<b>Net revenues</b>			
Macau Operations	\$ 4,040,526	\$ 3,667,454	10.2
Las Vegas Operations	1,580,410	1,486,830	6.3
	<u>\$ 5,620,936</u>	<u>\$ 5,154,284</u>	<u>9.1</u>

Net revenues increased 9.1% to \$5,620.9 million for the year ended December 31, 2013, from \$5,154.3 million for the same period in 2012. The net revenue growth was primarily driven by an increase of 10.6%, or \$365.4 million in casino revenue from our Macau Operations and an increase of 15.3%, or \$90.5 million in casino revenues from our Las Vegas Operations.

The following table presents net revenues from our casino revenues and non-casino revenues (in thousands).

	Years Ended December 31,		Percent Change
	2013	2012	
<b>Net revenues</b>			
Casino revenues	\$ 4,490,637	\$ 4,034,759	11.3
Non-casino revenues	1,130,299	1,119,525	1.0
	<u>\$ 5,620,936</u>	<u>\$ 5,154,284</u>	<u>9.1</u>

Casino revenues were 79.9% of total net revenues for the year ended December 31, 2013 compared to 78.3% of total net revenues for the same period of 2012, while non-casino revenues were 20.1% of total net revenues compared to 21.7% in the prior year.

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*Casino Revenues*

Casino revenues increased 11.3% to \$4,490.6 million for the year ended December 31, 2013, from \$4,034.8 million in the same period of 2012. Our Macau Operations experienced a year-over-year increase in casino revenues of 10.6% from \$3,442.5 million to \$3,807.9 million. The increase is primarily due to stronger table game volumes in both mass market and VIP gaming operations. Our Las Vegas Operations experienced a 15.3% increase in casino revenues from \$592.3 million for the year ended December 31, 2012 to \$682.8 million in the same period of 2013 due to a significant increase in our table games win percentage.

The table below sets forth our casino revenues and associated key operating measures for our Macau and Las Vegas Operations (in thousands, except for win per unit per day and average number of table games and slots).

	Years Ended December 31,			
	2013	2012	Increase/ (Decrease)	Percent Change
<b>Macau Operations:</b>				
Total casino revenues	\$ 3,807,850	\$ 3,442,451	\$ 365,399	10.6
Average number of table games	491	489	2	0.4
<b>VIP</b>				
VIP turnover	\$ 122,991,763	\$ 119,251,854	\$ 3,739,909	3.1
VIP win as a % of turnover	3.01%	2.84%	0.17	
<b>Mass market</b>				
Drop (1)	\$ 2,633,870	\$ 2,764,664	\$ (130,794)	(4.7)
Table games win	\$ 992,872	\$ 843,001	\$ 149,871	17.8
Table games win % (1)	37.7%	30.5%	7.2	
Table games win per unit per day	\$ 13,098	\$ 11,549	\$ 1,549	13.4
Average number of slot machines	866	941	(75)	(8.0)
Slot machine handle	\$ 4,846,938	\$ 4,697,463	\$ 149,475	3.2
Slot machine win	\$ 245,578	\$ 247,020	\$ (1,442)	(0.6)
Slot machine win per unit per day	\$ 777	\$ 718	\$ 59	8.2
<b>Las Vegas Operations:</b>				
Total casino revenues	\$ 682,787	\$ 592,308	\$ 90,479	15.3
Average number of table games	233	220	13	5.9
Drop	\$ 2,617,634	\$ 2,591,833	\$ 25,801	1.0
Table games win	\$ 657,927	\$ 567,014	\$ 90,913	16.0
Table games win %	25.1%	21.9%	3.2	
Table games win per unit per day	\$ 7,729	\$ 7,031	\$ 698	9.9
Average number of slot machines	2,030	2,358	(328)	(13.9)
Slot machine handle	\$ 2,874,646	\$ 2,908,678	\$ (34,032)	(1.2)
Slot machine win	\$ 177,452	\$ 177,420	\$ 32	—
Slot machine win per unit per day	\$ 239	\$ 206	\$ 33	16.0

(1) Customers purchase mass market casino gaming chips at either the gaming tables or the casino cage. Chips purchased at the casino cage are excluded from table games drop and will increase the expected win percentage. Because of the large number of chip purchases occurring at the casino cage in our Macau mass market casino, we believe the relevant indicator of volumes in the mass market casino should be table games win.

*Non-casino revenues*

Non-casino revenues increased 1.0%, or \$10.8 million, to \$1,130.3 million for the year ended December 31, 2013, from \$1,119.5 million for the same period of 2012.

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Rooms revenue increased 2.6%, or \$12.2 million, to \$492.2 million for the year ended December 31, 2013, from \$480.0 million in the same period of 2012. Rooms revenue at our Las Vegas Operations increased 4.2%, or \$15.3 million, due to increased occupancy and an increase in room rates compared to 2012. Rooms revenue at our Macau Operations decreased 2.6%, or \$3.0 million, to \$114.6 million compared to the prior year period of \$117.7 million. During 2013, we renovated approximately 600 guest rooms in the original Wynn Macau tower, contributing to an approximate 4.8% reduction in the number of available room-nights during the year.

The table below sets forth our rooms revenue and associated key operating measures for our Macau and Las Vegas Operations.

	Years Ended December 31,		
	2013	2012	Percent Change (a)
<b>Macau Operations:</b>			
Total rooms revenue (in thousands)	\$ 114,638	\$ 117,666	(2.6)
Occupancy	95.5%	93.0%	2.5
ADR	\$ 313	\$ 315	(0.6)
REVPAR	\$ 299	\$ 293	2.0
<b>Las Vegas Operations:</b>			
Total rooms revenue (in thousands)	\$ 377,592	\$ 362,317	4.2
Occupancy	84.6%	82.9%	1.7
ADR	\$ 258	\$ 252	2.4
REVPAR	\$ 218	\$ 209	4.3

(a) Except occupancy, which is presented as a percentage point change.

Entertainment, retail and other revenues were relatively flat at \$418.7 million for the year ended December 31, 2013 compared \$417.2 million for the same period in 2012. An increase in retail revenues at our Macau Operations from stronger business in leased stores and Las Vegas Operations with the completed reconfiguration of certain stores in our retail area during 2012 was offset by a decrease in entertainment revenues. Decline in entertainment revenues was driven by a Las Vegas show which ended its run in November 2012.

*Operating costs and expenses*

Operating costs and expenses increased 5.0%, or \$205.8 million, to \$4,330.8 million for the year ended December 31, 2013, from \$4,125.0 million for the same period of 2012.

Casino expenses increased 8.4%, or \$219.7 million, to \$2,846.5 million for the year ended December 31, 2013, from \$2,626.8 million for the same period of 2012. The increase was due primarily to higher gaming taxes commensurate with the increase in casino revenue at our Las Vegas Operations and Macau Operations (where we incur a gaming tax and other levies at a rate totaling 39% in accordance with the concession agreement).

Food and beverage expenses increased 4.9%, or \$15.2 million, to \$323.6 million for the year ended December 31, 2013, from \$308.4 million for the same period of 2012. The increase in food and beverage expenses is primarily due to additional nightclub promotional costs at our Las Vegas Operations.

Entertainment, retail and other expenses decreased 7.7%, or \$14.6 million, to \$175.3 million for the year ended December 31, 2013, from \$189.8 million for the same period of 2012 due primarily to a Las Vegas show that ended its run in November 2012.

General and administrative expenses increased 1.6%, or \$7.1 million, to \$448.8 million for the year ended December 31, 2013 from \$441.7 million in the same period of 2012. The increase was primarily due to higher stock-based compensation expense related to the accelerated vesting of a restricted stock award that was previously granted to our former chief operating officer and increased development costs. The increase was partially offset by higher expenses incurred during the prior year related to the share redemption and litigation with a former shareholder.

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Provision for doubtful accounts decreased 34.3%, or \$6.2 million, to \$11.9 million for the year ended December 31, 2013, from \$18.1 million for the same period of 2012. During years ended 2013 and 2012, we recorded adjustments of \$14.9 million and \$30.9 million, respectively, to our reserve estimates for casino accounts receivable based on the results of historical collection patterns and current collection trends.

Pre-opening costs were \$3.2 million for the year ended December 31, 2013, compared to \$0.5 million for the same period of 2012 and were attributable to Wynn Palace. We began to incur pre-opening costs during October 2012 related to the design and planning for Wynn Palace.

Depreciation and amortization for the year ended December 31, 2013, was \$371.1 million compared to \$373.2 million for the year ended December 31, 2012. During the construction of our resorts, costs incurred in the construction of the buildings, improvements to land and the purchases of assets for use in operations were capitalized. Once these resorts opened, their assets were placed into service and we began recognizing the associated depreciation expense. Depreciation expenses will continue throughout the estimated useful lives of these assets. In addition, we continually evaluate the useful life of our property and equipment, intangible assets and other assets and adjust them when warranted. The maximum useful life of assets at our Macau Operations is the remaining life of the gaming concession or land concession, which currently expire in June 2022 and August 2029, respectively. Consequently, depreciation related to our Macau Operations is charged on an accelerated basis when compared to our Las Vegas Operations.

#### *Property charges and other*

Property charges and other for the year ended December 31, 2013, was \$17.1 million compared to \$40.0 million for the year ended December 31, 2012. For the year ended December 31, 2013, property charges and other related primarily to miscellaneous renovations and abandonments at our resorts, a contract termination fee and entertainment development costs. For the year ended December 31, 2012, property charges and other related primarily to a remodel of a Las Vegas restaurant, charges related to the cancellation of a Las Vegas show which ended its run in November 2012, and miscellaneous renovations and abandonments.

#### *Interest expense, net of capitalized interest*

Interest expense was \$299.0 million, net of capitalized interest of \$10.5 million, for the year ended December 31, 2013, compared to \$288.8 million, net of capitalized interest of \$2.0 million, for the year ended December 31, 2012. Our interest expense increased compared to the prior year period primarily due to the issuance of \$500 million 4 1/4% senior notes in May 2013 and a full period of expense for the \$1.94 billion Redemption Note and \$900 million 5 3/8% first mortgage notes, which were issued in 2012. Capitalized interest increased due to the construction costs of Wynn Palace.

#### *Other non-operating costs and expenses*

Interest income was \$15.7 million and \$12.5 million for the years ended December 31, 2013 and 2012, respectively. This increase is mainly due to higher cash balances during 2013. During 2013 and 2012, our short-term investment strategy was to preserve capital while retaining sufficient liquidity. The majority of our short-term investments were primarily in money market accounts, time deposits and fixed deposits with a maturity of three months or less.

We recorded a gain of \$14.2 million and \$1.0 million for the years ended December 31, 2013 and December 31, 2012, respectively, resulting from the changes in the fair value of our interest rate swaps during those years.

During the year ended December 31, 2013, we recognized \$40.4 million in loss from extinguishment of debt. On May 22, 2013, Wynn Las Vegas completed the purchase of \$274.7 million of the 7 7/8% First Mortgage Notes due 2017 (the "2017 Notes") pursuant to a tender offer for any and all of the 2017 Notes. In connection with this tender offer, Wynn Las Vegas, LLC paid \$19.6 million in consideration to holders who tendered their notes. Additionally, Wynn Las Vegas, LLC expensed \$6.7 million of unamortized financing costs and original issue discount related to the 2017 Notes and incurred other fees of approximately \$0.3 million related to the tender offer. On November 1, 2013, Wynn Las Vegas, LLC redeemed the untendered 2017 Notes plus accrued and unpaid interest. As a result of the redemption, we incurred redemption fees of \$8.9 million and expensed \$4.9 million of unamortized financing costs and original issue discount.

During the year ended December 31, 2012, we recognized \$25.2 million in loss from extinguishment of debt primarily attributable to the amendment of our credit agreements. In March 2012, Wynn Las Vegas, LLC entered into an eighth amendment to its Amended and Restated Credit Agreement (the "Wynn Las Vegas Credit Agreement"). In connection with this

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amendment, Wynn Las Vegas, LLC prepaid all term loans under the Wynn Las Vegas Credit Agreement, terminated all of its revolving credit commitments that were due to expire in 2013, and terminated all but \$100 million of its revolving credit commitments expiring in 2015. In connection with this transaction, we expensed deferred financing fees of \$4.8 million. Additionally, as described in Item 8—"Financial Statements and Supplementary Data", Note 8 "Long-Term Debt" to our Consolidated Financial Statements, we amended our Wynn Macau credit facilities in 2012. In connection with amending the Wynn Macau credit facilities, we expensed \$17.7 million of deferred financing costs and third party

### Income Taxes

For the year ended December 31, 2013, we recorded a tax benefit of \$17.6 million, and for the year ended December 31, 2012, we recorded an expense of \$4.3 million. Our income tax benefit was primarily related to a decrease in our deferred tax liabilities reduced by foreign taxes assessable on the dividends of Wynn Macau SA. Since June 30, 2010, we have no longer considered our portion of the tax earnings and profits of Wynn Macau, Limited to be permanently reinvested. No additional U.S. tax provision has been made with respect to amounts not considered permanently reinvested as we anticipate that U.S. foreign tax credits should be sufficient to eliminate any U.S. tax provision relating to such repatriation. We have not provided deferred U.S. income taxes or foreign withholding taxes on temporary differences which are considered indefinitely reinvested.

On November 30, 2010, Wynn Macau SA received an exemption from Macau's 12% Complementary Tax on casino gaming profits, thereby exempting the casino gaming profits of Wynn Macau SA through December 31, 2015. Accordingly, we were exempted from the payment of approximately \$107.3 million and \$87.1 million in such taxes for the years ended December 31, 2013 and 2012, respectively. Our non-gaming profits remain subject to the Macau Complementary Tax and casino winnings remain subject to the Macau Special Gaming tax and other levies at a rate totaling 39% in accordance with our concession agreement.

In April 2012, the Company reached an agreement with the Appellate division of the IRS regarding issues raised during the examination of the 2006 through 2009 U.S. income tax returns. The settlement with the Appellate division did not impact the Company's unrecognized tax benefits. The settlement of the 2006 through 2009 examination issues resulted in a cash tax payment of \$1.3 million and the utilization of \$3.1 million and \$0.9 million in foreign tax credit and general business credit carryforwards, respectively.

During December 2012, the IRS completed an examination of the Company's 2010 U.S. income tax return and had no changes. In May 2013, the Company received notification that the IRS completed its examination of the Company's 2011 U.S. income tax return and had no changes.

In July 2012, the Macau Financial Services Bureau commenced an examination of the 2008 Macau income tax return of Wynn Macau SA. In November 2012, the Company received the results of the examination. While no additional tax was due, adjustments were made to the Company's foreign net operating loss carryforwards.

In January 2013, the Macau Financial Services Bureau examined the 2009 and 2010 Macau income tax returns of Palo, which is a co-holder of the land concession for Wynn Palace. The exam resulted in no change to the tax returns.

### Net income attributable to noncontrolling interests

Net income attributable to noncontrolling interests of \$275.5 million for the year ended December 31, 2013, compared to \$226.7 million for the year ended December 31, 2012. These amounts represent the noncontrolling interests' share of net income from Wynn Macau, Limited for each year.

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### Adjusted Property EBITDA

We use Adjusted Property EBITDA to manage the operating results of our segments. Adjusted Property EBITDA is earnings before interest, taxes, depreciation, amortization, pre-opening costs, property charges and other, corporate expenses, intercompany golf course and water rights leases, stock-based compensation, and other non-operating income and expenses, and includes equity in income from unconsolidated affiliates. Adjusted Property EBITDA is presented exclusively as a supplemental disclosure because we believe that it is widely used to measure the performance, and as a basis for valuation, of gaming companies. We use Adjusted Property EBITDA as a measure of the operating performance of our segments and to compare the operating performance of our properties with those of our competitors. We also present Adjusted Property EBITDA because it is used by some investors as a way to measure a company's ability to incur and service debt, make capital expenditures and meet working capital requirements. Gaming companies have historically reported EBITDA as a supplement to financial measures in accordance with U.S. generally accepted accounting principles ("GAAP"). In order to view the operations of their casinos on a more stand-alone basis, gaming companies, including us, have historically excluded from their EBITDA calculations pre-opening expenses, property charges, corporate expenses and stock-based compensation that do not relate to the management of specific casino properties. However, Adjusted Property EBITDA should not be considered as an alternative to operating income as an indicator of our performance, as an alternative to cash flows from operating activities as a measure of liquidity, or as an alternative to any other measure determined in accordance with GAAP. Unlike net income, Adjusted Property EBITDA does not include depreciation or interest expense and therefore does not reflect current or future capital expenditures or the cost of capital. We have significant uses of cash flows, including capital expenditures, interest payments, debt principal repayments, taxes and other non-recurring charges, which are not reflected in Adjusted Property EBITDA. Also, our calculation of Adjusted Property EBITDA may be different from the calculation methods used by other companies and, therefore, comparability may be limited.

The following table summarizes Adjusted Property EBITDA (in thousands) for our Macau and Las Vegas Operations as reviewed by management and summarized in Item 8—"Financial Statements and Supplementary Data", Note 18 "Segment Information." That footnote also

presents a reconciliation of Adjusted Property EBITDA to net income.

**Macau Operations**  
**Las Vegas Operations**

Years Ended December 31,		
2014	2013	2012
\$ 1,258,082	\$ 1,324,119	\$ 1,167,340
515,196	486,682	408,472
\$ 1,773,278	\$ 1,810,801	\$ 1,575,812

Adjusted Property EBITDA at our Macau Operations decreased year-over-year by 5.0% for the year ended December 31, 2014 due to decline in VIP turnover, partially offset by an increase in table games win from our mass market gaming operations. Adjusted Property EBITDA at our Las Vegas Operations increased year-over-year by 5.9% for the year ended December 31, 2014 driven by our non-casino revenue performance.

Adjusted Property EBITDA at our Macau and Las Vegas Operations increased year-over-year by 13.4% and 19.1% for the year ended December 31, 2013, respectively. Both benefited from stronger operating results primarily in the casino department due to an increase in table games volume and win percentage.

Refer to the discussions above regarding the specific details of our results of operations.

## Liquidity and Capital Resources

### Operating Activities

Our operating cash flows primarily consist of our operating income generated by our Macau and Las Vegas Operations (excluding depreciation and other non-cash charges), interest paid and earned, and changes in working capital accounts such as receivables, inventories, prepaid expenses, and payables. Our table games play both in Macau and Las Vegas is a mix of cash play and credit play, while our slot machine play is conducted primarily on a cash basis. A significant portion of our table games revenue is attributable to the play of a limited number of premium international customers that gamble on credit. The ability to collect these gaming receivables may impact our operating cash flow for the period. Our rooms, food and beverage, and entertainment, retail, and other revenue is conducted primarily on a cash basis or as a trade receivable. Accordingly, operating cash flows will be impacted by changes in operating income and accounts receivables.

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Net cash provided by operations for the year ended December 31, 2014 was \$1,098.3 million compared to \$1,676.6 million provided by operations for the year ended December 31, 2013. The decline in cash provided by operations was primarily due to a decrease in our accounts payable, accrued expenses and customer deposits and from a reduction in operating income driven by our casino revenue results. Net cash provided by operations for the year ended December 31, 2013 was \$1,676.6 million compared to \$1,185.7 million provided by operations for the year ended December 31, 2012. Cash flow from operations improved due to significant changes in ordinary working capital accounts such as accounts payable and accrued expenses. Also benefiting operating cash flow for the year ended December 31, 2013 was increased operating income that was driven primarily by stronger operating results in the casino department.

### Investing Activities

Net cash used in investing activities for the year ended December 31, 2014 was \$1,114.4 million compared to net cash used in investing activities of \$677.6 million for the same period in 2013. During the year ended December 31, 2014, we had \$1,127.0 million in capital expenditures, net of construction payables and retention, primarily for Wynn Palace construction. In addition, we used \$218.9 million in cash for deposits primarily associated with the Wynn Palace construction and for payment of our Massachusetts gaming license. Net cash used in investing activities for the year ended December 31, 2014 was partially offset by proceeds of \$198.9 million provided by restricted cash that we applied to repayment of certain Wynn Palace related construction and development costs. The primary use of cash for the year ended December 31, 2013 was \$506.8 million for capital expenditures related to site preparation costs for Wynn Palace land and various renovations at our resorts including Wynn Macau guest room renovations.

Net cash used in investing activities for the year ended December 31, 2012 was \$344.9 million. During 2012, our primary uses were capital expenditures of \$241.0 million and the restriction of \$99.2 million in proceeds from our debt instruments for the payment of certain Wynn Palace related construction and development costs. Capital expenditures included site preparation costs for the Wynn Palace land, a one-time payment in consideration of an unrelated third party's relinquishment of certain rights in and future development on the Wynn Palace land, remodel of two Las Vegas restaurants and the conversion of certain storage and office areas in Macau to two new retail outlets.

### Financing Activities

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

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**FORM 10-Q**

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

For the quarterly period ended March 31, 2015

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 000-50028

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**WYNN RESORTS, LIMITED**

(Exact name of registrant as specified in its charter)

NEVADA

(State or other jurisdiction of  
incorporation or organization)

46-0484987

(I.R.S. Employer  
Identification No.)

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)

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N/A

(Former name, former address and former fiscal year, if changed since last report)

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

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 ☒

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class

Outstanding at April 30, 2015

Macau Operations		
Wynn Macau	\$ 1,414,179	\$ 1,520,098
Wynn Palace	2,219,439	1,854,521
Other Macau	267,891	974,170
Total Macau	3,901,509	4,348,789
Las Vegas Operations	3,457,992	3,472,931
Corporate and other	1,792,179	1,241,141
	<u>\$ 9,151,680</u>	<u>\$ 9,062,861</u>

**Note 17 - Subsequent Events**

On April 28, 2015, the Company announced a cash dividend of \$0.50 per share, payable on May 21, 2015 to stockholders of record as of May 11, 2015.

On May 1, 2015, the Company redeemed the untendered 7 7/8% 2020 Notes principal amount of \$71.1 million. The redemption price was equal to 103.938% of the aggregate principal amount of the 7 7/8% 2020 Notes plus accrued and unpaid interest on May 1, 2015. The Company expensed \$2.8 million associated with the premium of the redemption price and \$1.1 million of unamortized financing costs and original issue discount.

Table of Contents**Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations**

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements and related notes included elsewhere in this Form 10-Q and our consolidated financial statements appearing in our annual report on Form 10-K for the year ended December 31, 2014. Unless the context otherwise requires, all references herein to the "Company," "we," "us" or "our," or similar terms, refer to Wynn Resorts, Limited, a Nevada corporation, and its consolidated subsidiaries. This discussion and analysis contains forward-looking statements. Please refer to the section below entitled "Special Note Regarding Forward-Looking Statements."

**Overview**

We are a developer, owner and operator of destination casino resorts (integrated resorts). In the Macau Special Administrative Region of the People's Republic of China ("Macau"), we own 72% of Wynn Macau, Limited and operate Wynn Macau and Encore at Wynn Macau. We refer to the integrated Wynn Macau and Encore at Wynn Macau resort as Wynn Macau | Encore or as our Macau Operations. In Las Vegas, Nevada, we own 100% of and operate Wynn Las Vegas and Encore at Wynn Las Vegas, which we refer to as Wynn Las Vegas | Encore or our Las Vegas Operations. We are developing Wynn Palace, an integrated casino resort in the Cotai area of Macau. In addition, we are developing an integrated casino resort in Everett, Massachusetts.

*Macau Operations*

We operate Wynn Macau | Encore under a 20-year casino concession agreement granted by the Macau government in June 2002. We lease from the Macau government approximately 16 acres of land in downtown Macau's inner harbor where Wynn Macau | Encore is located.

Wynn Macau | Encore features the following as of April 15, 2015:

- Approximately 284,000 square feet of casino space offering 24-hour gaming and a full range of games with 497 table games and 706 slot machines, private gaming salons, sky casinos and a poker pit;
- Two luxury hotel towers with a total of 1,008 spacious guest rooms and suites;
- Casual and fine dining in eight restaurants;
- Approximately 57,000 square feet of high-end, brand-name retail shopping, including stores and boutiques by Bvlgari, Cartier, Chanel, Dior, Dunhill, Ermenegildo Zegna, Ferrari, Giorgio Armani, Graff, Gucci, Hermes, Hugo Boss, Jaeger-LeCoultre, Loro

Piana, Louis Vuitton, Miu Miu, Piaget, Prada, Richard Mille, Roger Dubuis, Rolex, Tiffany, Vacheron Constantin, Van Cleef & Arpels, Versace, Vertu, and others;

- Approximately 31,000 square feet of space for lounges and meeting facilities;
- Recreation and leisure facilities, including two health clubs, spas, a salon and a pool; and
- Rotunda show featuring a Chinese zodiac-inspired ceiling along with gold "prosperity tree" and "dragon of fortune" attractions.

In response to our evaluation of our Macau Operations and the reactions of our guests, we have made and expect to continue to make enhancements and refinements to Wynn Macau | Encore. In February 2015, we completed the renovation of approximately 27,000 square feet of our casino space at Wynn Macau for new VIP gaming rooms.

#### *Las Vegas Operations*

Wynn Las Vegas | Encore is located at the intersection of the Las Vegas Strip and Sands Avenue, and occupies approximately 215 acres of land fronting the Las Vegas Strip. In addition, we own approximately 18 acres across Sands Avenue, a portion of which is utilized for employee parking and an office building, and approximately 5 acres adjacent to the golf course on which an office building is located.

Wynn Las Vegas | Encore features the following as of April 15, 2015:

- Approximately 186,000 square feet of casino space, offering 24-hour gaming and a full range of games with 237 table games and 1,856 slot machines, private gaming salons, a sky casino, a poker room, and a race and sports book;

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- Two luxury hotel towers with a total of 4,748 spacious guest rooms, suites and villas;
- 34 food and beverage outlets featuring signature chefs;
- Approximately 99,000 square feet of high-end, brand-name retail shopping, including stores and boutiques by Alexander McQueen, Brioni, Cartier, Chanel, Chlo  , Chopard, Dior, Givenchy, Graff, Hermes, IWC Schaffhausen, Jaeger-LeCoultre, Loro Piana, Louis Vuitton, Manolo Blahnik, Nicholas Kirkwood, Oscar de la Renta, Piaget, Rolex, Vertu and others;
- Approximately 290,000 square feet of meeting and convention space;
- Three nightclubs and a beach club;
- Specially designed theater presenting "Le R  ve-The Dream," a water-based theatrical production and a theater presenting "Steve Wynn's Showstoppers," a Broadway-style entertainment production;
- Recreation and leisure facilities, including an 18-hole golf course, swimming pools, private cabanas and two full service spas and salons;
- A Ferrari and Maserati automobile dealership; and
- Wedding chapel.

#### *Future Development*

We are currently constructing Wynn Palace, an integrated resort containing a 1,700-room hotel, performance lake, meeting space, casino, spa, retail offerings and food and beverage outlets in the Cotai area of Macau. In July 2013, we signed a \$2.6 billion guaranteed maximum price ("GMP") contract for the project's construction. The total project budget, including construction costs, capitalized interest, pre-opening expenses, land costs and financing fees, is approximately \$4.1 billion. As of March 31, 2015, we have invested approximately \$2.2 billion in the project. We expect to open Wynn Palace on Cotai in the first half of 2016.

In November 2014, the Company was awarded a gaming license to develop and construct an integrated resort in Everett, Massachusetts, outside of Boston. On January 2, 2015, the Company purchased 33 acres of land along the Mystic River, which will be the main site to build the Wynn resort in Massachusetts. The resort will contain a hotel, restaurants, casino, spa, premium retail offerings, meeting and convention space and a waterfront boardwalk.

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

#### **Operating Measures**



Certain key operating measures specific to the gaming industry are included in our discussion of our operational performance for the periods for which a Condensed Statement of Operations is presented. Below are definitions of these key operating measures discussed:

- Drop is the amount of cash and net markers issued that are deposited in a gaming table's drop box.
- Turnover is the sum of all losing rolling chip wagers within our Macau Operations' VIP program.
- Table games win is the amount of drop or turnover that is retained and recorded as casino revenue.
- Rolling chips are identifiable chips that are used to track turnover for purposes of calculating incentives.
- Slot win is the amount of handle (representing the total amount wagered) that is retained by us and is recorded as casino revenue.
- Average daily rate ("ADR") is calculated by dividing total room revenues including the retail value of promotional allowances (less service charges, if any) by total rooms occupied including complimentary rooms.
- Revenue per available room ("REVPAR") is calculated by dividing total room revenues including the retail value of promotional allowances (less service charges, if any) by total rooms available.
- Occupancy is calculated by dividing total occupied rooms, including complimentary rooms, by the total rooms available.

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Below is a discussion of the methodologies used to calculate win percentage at our resorts.

In our VIP casino in Macau, customers primarily purchase non-negotiable chips, commonly referred to as rolling chips, from the casino cage and there is no deposit into a gaming table drop box from chips purchased from the cage. Non-negotiable chips can only be used to make wagers. Winning wagers are paid in cash chips. The loss of the non-negotiable chips in the VIP casino is recorded as turnover and provides a base for calculating VIP casino win percentage. It is customary in Macau to measure VIP casino play using this rolling chip method. We expect our win as a percentage of turnover in this segment to be within the range of 2.7% to 3.0%.

The measurement base used in the mass market casino in Macau is not the same as that used in the VIP casino. In our mass market casino in Macau, customers may purchase cash chips at either the gaming tables or at the casino cage. The cash used to purchase the cash chips at the gaming tables is deposited into the gaming table's drop box. This is the base of measurement that we use for calculating win percentage in our mass market casino. We do not report an expected range for the win percentage in our mass market casino as chips purchased at the casino cage are excluded from table games drop and distort our expected win percentage. Because of the large number of chip purchases occurring at the casino, we believe the relevant indicator of volumes in the mass market segment should be table games win.

The measurements in our VIP casino and the mass market casino are not comparable as the mass market casino tracks the initial purchase of chips at the gaming table while the measurement method in our VIP casino tracks the sum of all losing wagers. Accordingly, the base measurement in the VIP casino is much larger than the base measurement in the mass market casino. As a result, the expected win percentage with the same amount of gaming win is smaller in the VIP casino when compared to the mass market casino.

In Las Vegas, customers purchase chips at the gaming tables. The cash and net markers used to purchase chips are deposited in the gaming table's drop box. This is the base of measurement that we use for calculating win percentage in Las Vegas. Each type of table game has its own theoretical win percentage. Our expected table games win percentage in Las Vegas is 21% to 24%.

#### **Results of Operations**

##### *Summary first quarter 2015 results*

(in thousands, except per share data)	Three Months Ended March 31,		Percent Change
	2015	2014	
Net revenues	\$ 1,092,238	\$ 1,513,613	(27.8)
Net income (loss) attributable to Wynn Resorts, Limited	\$ (44,601)	\$ 226,896	(119.7)
Diluted net income (loss) per share	\$ (0.44)	\$ 2.22	(119.8)
Adjusted Property EBITDA	\$ 323,019	\$ 494,616	(34.7)

During the three months ended March 31, 2015, our net loss attributable to Wynn Resorts, Limited was \$44.6 million, a decrease of 119.7% over the same period of 2014, resulting in diluted net loss per share of \$0.44. The reduction in net income (loss) attributable to Wynn Resorts, Limited was driven by a decrease in casino revenues from our Macau Operations and \$116.2 million in losses from the extinguishment of debt related to the purchase of first mortgage notes due 2020 pursuant to a cash tender offer. Adjusted Property EBITDA decreased year-over-year by 34.7%, from \$494.6 million for the three months ended March 31, 2014 to \$323.0 million for the same period of 2015. Our results reflect continued weak VIP gaming operations performance, with reduction in turnover of 52.4% for three months ended March 31, 2015 compared to the same period in 2014. The VIP turnover reduction is a result of the current market conditions in Macau as well as regional economic factors on

games promoters and our premium customers.

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**Financial results for the three months ended March 31, 2015 compared to the three months ended March 31, 2014.**

**Net Revenues**

The following table presents net revenues from our Macau and Las Vegas Operations (in thousands):

	Three Months Ended March 31,		Percent Change
	2015	2014	
<b>Net revenues</b>			
Macau Operations	\$ 705,357	\$ 1,132,698	(37.7)
Las Vegas Operations	386,881	380,915	1.6
	<u>\$ 1,092,238</u>	<u>\$ 1,513,613</u>	<u>(27.8)</u>

Net revenues decreased 27.8%, or \$421.4 million, to \$1,092.2 million for the three months ended March 31, 2015, from \$1,513.6 million for the same period in 2014. The decline is primarily due to a \$406.5 million decrease in casino revenues from our Macau Operations.

Non-casino revenues consist of operating revenues from rooms, food and beverage, entertainment, retail and other, less promotional allowances. The following table presents net revenues from our casino revenues and non-casino revenues (in thousands).

	Three Months Ended March 31,		Percent Change
	2015	2014	
<b>Net revenues</b>			
Casino revenues	\$ 826,099	\$ 1,226,133	(32.6)
Non-casino revenues	266,139	287,480	(7.4)
	<u>\$ 1,092,238</u>	<u>\$ 1,513,613</u>	<u>(27.8)</u>

Casino revenues were 75.6% of total net revenues for the three months ended March 31, 2015 compared to 81.0% for the same period of 2014, while non-casino revenues were 24.4% of total net revenues compared to 19.0% for the same period of 2014. The significant decline in casino revenues from our Macau Operations has affected the mix of casino and non-casino revenues.

**Casino Revenues**

Casino revenues decreased 32.6%, or \$400.0 million, to \$826.1 million for the three months ended March 31, 2015, from \$1,226.1 million in the same period of 2014. The decline is primarily due to our Macau Operations, which experienced a year-over-year decrease in casino revenues of 38.0% from \$1,070.9 million to \$664.3 million. Our VIP gaming operations drove the Macau Operations casino revenue reduction, with \$17.1 billion in VIP turnover for the three months ended March 31, 2015 compared to \$36.0 billion for the same period of 2014.

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The table below sets forth our casino revenues and associated key operating measures for our Macau and Las Vegas Operations (in thousands, except for win per unit per day and average number of table games and slots).

	Three Months Ended March 31,		Increase/ (Decrease)	Percent Change
	2015	2014		
<b>Macau Operations:</b>				
Total casino revenues	\$ 664,320	\$ 1,070,854	\$ (406,534)	(38.0)
Average number of table games	466	492	(26)	(5.3)

**VIP**

VIP turnover	\$	17,127,666	\$	35,997,716	\$	(18,870,050)	(52.4)
VIP win as a % of turnover		2.80%		2.79%		0.01	

**Mass market**

Drop (1)	\$	591,866	\$	692,459	\$	(100,593)	(14.5)
Table games win	\$	279,560	\$	300,709	\$	(21,149)	(7.0)
Table games win % (1)		47.2%		43.4%		3.8	
Table games win per unit per day	\$	14,517	\$	15,695	\$	(1,178)	(7.5)
Average number of slot machines		649		842		(193)	(22.9)
Slot machine handle	\$	1,039,615	\$	1,398,890	\$	(359,275)	(25.7)
Slot machine win	\$	47,777	\$	69,437	\$	(21,660)	(31.2)
Slot machine win per unit per day	\$	818	\$	917	\$	(99)	(10.8)

**Las Vegas Operations:**

Total casino revenues	\$	161,779	\$	155,279	\$	6,500	4.2
Average number of table games		237		231		6	2.6
Drop	\$	573,612	\$	647,436	\$	(73,824)	(11.4)
Table games win	\$	135,679	\$	133,734	\$	1,945	1.5
Table games win %		23.7%		20.7%		3.0	
Table games win per unit per day	\$	6,351	\$	6,419	\$	(68)	(1.1)
Average number of slot machines		1,854		1,866		(12)	(0.6)
Slot machine handle	\$	762,184	\$	743,798	\$	18,386	2.5
Slot machine win	\$	48,417	\$	45,501	\$	2,916	6.4
Slot machine win per unit per day	\$	290	\$	271	\$	19	7.0

- (1) Customers purchase mass market casino gaming chips at either the gaming tables or the casino cage. Chips purchased at the casino cage are excluded from table games drop and will increase the expected win percentage. Because of the large number of chip purchases occurring at the casino cage in our Macau mass market casino, we believe the relevant indicator of volumes in the mass market casino should be actual table games win.

**Non-casino revenues**

Non-casino revenues decreased 7.4%, or \$21.3 million, to \$266.1 million for the three months ended March 31, 2015, from \$287.5 million for the same period of 2014, driven by a \$16.5 million decrease in entertainment, retail and other revenues.

Room revenues decreased 3.2%, or \$4.4 million, to \$132.1 million for the three months ended March 31, 2015, from \$136.5 million in the same period of 2014. Our Las Vegas Operations accounted for \$3.4 million of the decrease, while Macau Operations accounted for \$1.0 million of the decrease. The decrease in our Las Vegas Operations is primarily a result of a year-over-year decrease in occupancy of 4.8 percentage points partially offset by the impact of a 2.9% increase in ADR to \$283 for the three months ended March 31, 2015.

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The table below sets forth our room revenues and associated key operating measures for our Macau and Las Vegas Operations.

	Three Months Ended March 31,			
	2015	2014		Percent Change (a)
<b>Macau Operations:</b>				
Total room revenues (in thousands)	\$ 32,415	\$ 33,404		(3.0)
Occupancy	97.5%	98.1%		(0.6)

ADR	\$	331	\$	338	(2.1)
REVPAR	\$	323	\$	331	(2.4)

**Las Vegas Operations:**

Total room revenues (in thousands)	\$	99,640	\$	103,072	(3.3)
Occupancy		83.0%		87.8%	(4.8)
ADR	\$	283	\$	275	2.9
REVPAR	\$	235	\$	241	(2.5)

(a) Except occupancy, which is presented as a percentage point change.

Food and beverage revenues decreased 4.1%, or \$5.8 million, to \$136.0 million, for the three months ended March 31, 2015, from \$141.8 million for the same period of 2014 primarily as a result of a decrease in revenue from restaurants at our Macau Operations.

Entertainment, retail and other decreased 15.4%, or \$16.5 million, to \$90.4 million, for the three months ended March 31, 2015, from \$106.9 million for the same period of 2014. The decrease is primarily due to a decline in revenue from retail shops at our Macau Operations.

Promotional allowances decreased 5.5%, or \$5.4 million, to \$92.3 million for the three months ended March 31, 2015, from \$97.7 million for the same period of 2014. As a percentage of total casino revenues, promotional allowances were 11.2% for the three months ended March 31, 2015 compared to 8.0% for the same period of 2014. The increase in percentage of total casino revenues is primarily the result of a new customer loyalty program initiated at our Macau Operations in the second quarter of 2014.

*Operating costs and expenses*

Operating costs and expenses decreased 20.2%, or \$229.6 million, to \$907.2 million for the three months ended March 31, 2015, from \$1,136.8 million for the same period of 2014, mainly from a decrease in casino expenses.

Casino expenses decreased 33.1%, or \$259.7 million, to \$524.1 million for the three months ended March 31, 2015, from \$783.7 million for the same period of 2014, primarily due to lower gaming taxes with a 39.0% gross win tax incurred at our Macau Operations. The decline in gaming taxes was commensurate with the 38.0% decrease in casino revenues at our Macau Operations.

Room expenses were relatively flat with \$36.7 million for the three months ended March 31, 2015 compared to \$35.3 million for the same period of 2014.

Food and beverage expenses were relatively flat with \$76.4 million for the three months ended March 31, 2015 compared to \$75.0 million for the same period of 2014.

Entertainment, retail and other expenses decreased 9.5%, or \$4.2 million to \$40.3 million for the three months ended March 31, 2015, from \$44.5 million in the same period of 2014, mainly from a reduction in merchandise cost at Wynn Macau associated with the decline in retail shop revenues.

General and administrative expenses increased 9.8%, or \$10.9 million, to \$122.2 million for the three months ended March 31, 2015, from \$111.3 million in the same period of 2014. The majority of the increase is attributable to a \$7.0 million

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increase from charitable contributions and other corporate related expenses and a \$3.3 million increase in advertising expenses and other administrative expenses from our Las Vegas Operations.

Provision for doubtful accounts increased \$8.8 million from a benefit of \$2.7 million for three months ended March 31, 2014 to a provision of \$6.1 million for the same period of 2015. We experienced a benefit during the three months ended March 31, 2014 due to increased casino accounts receivable collections from our Macau Operations.

Pre-opening costs were \$16.1 million for the three months ended March 31, 2015, compared to \$3.1 million for the same period of 2014 and were associated with the design and planning for our development projects. We expect our pre-opening costs to increase in the future as the construction and development of Wynn Palace progresses toward the expected completion in the first half of 2016 and with development for the Wynn resort in Massachusetts.

Depreciation and amortization increased 8.1%, or \$6.2 million, to \$82.9 million for the three months ended March 31, 2015, from \$76.7

million for the same period of 2014. The increase is primarily due to additional depreciation associated with equipment additions at our Las Vegas nightclubs and building improvements, including our new VIP gaming rooms, at our Macau Operations.

#### *Interest expense, net of amounts capitalized*

Interest expense, net of amounts capitalized, increased 3.6%, or \$2.7 million, to \$78.0 million for the three months ended March 31, 2015, from \$75.3 million for the same period in 2014, attributable to a \$7.9 million increase in interest expense, which was primarily offset by a \$5.2 million increase in capitalized interest. In February 2015, we issued \$1.8 billion of 5 1/2% senior notes due 2025 and used the proceeds for the purchase of \$305.8 million of 7 3/4% first mortgage notes due 2020 and \$1,146.5 million of 7 7/8% first mortgage notes due 2020 pursuant to a cash tender offer. In March 2014, we issued \$750 million of 5 1/4% senior notes due 2021. These financing activities increased the Company's long-term debt resulting in higher interest expense incurred during the three months ended March 31, 2015 compared to the same period of 2014. We expect that capitalized interest will continue to increase with the ongoing borrowings and construction costs related to Wynn Palace and the Wynn resort in Massachusetts.

#### *Other non-operating income and expenses*

During the three months ended March 31, 2015, we recognized \$116.2 million in loss from extinguishment of debt compared to \$1.5 million for the same period of 2014. The majority of the losses during the three months ended March 31, 2015 are in connection with the cash tender offer discussed above. We paid \$101.2 million in consideration to holders who tendered their first mortgage notes due 2020. Additionally, we expensed \$17.2 million of unamortized financing costs and original issue discount and incurred other fees of approximately \$0.1 million related to the cash tender offer.

We incurred a loss of \$4.6 million and a gain of \$0.8 million for the three months ended March 31, 2015 and 2014 respectively, from the change in the fair value of our interest rate swaps. For further information on our interest rate swaps, see Item 3 — "Quantitative and Qualitative Disclosures about Market Risk."

Interest income was \$1.7 million for the three months ended March 31, 2015, compared to \$4.8 million for the three months ended March 31, 2014. During 2015 and 2014, our short-term investment strategy has been to preserve capital while retaining sufficient liquidity. The majority of our investment securities were in time deposits, fixed deposits and money market accounts with a maturity of three months or less.

#### *Income Taxes*

For the three months ended March 31, 2015 and 2014, we recorded a tax expense of \$3.2 million and \$2.6 million, respectively. Our income expense in the current year and in the prior year is primarily related to an increase in the domestic valuation allowance for U.S. foreign tax its ("FTCs") that are not expected to provide a U.S. tax benefit in future years.

Since June 30, 2010, we have no longer considered our portion of the tax earnings and profits of Wynn Macau, Limited to be permanently invested. No additional U.S. tax provision has been made with respect to amounts not considered permanently invested as we anticipate that U.S. FTCs should be sufficient to eliminate any U.S. tax provision relating to repatriation. We have not provided deferred U.S. income taxes or foreign withholding taxes on temporary differences as these amounts are permanently reinvested. For the three months ended March 31, 2015 and 2014, we recognized income tax benefits related to excess tax deductions associated with stock compensation costs of \$0.3 million and \$2.4 million, respectively.

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Wynn Resorts (Macau) S.A. has received a 5-year exemption from Macau's 12% Complementary Tax on casino gaming profits through December 31, 2015. Accordingly, we were exempt from the payment of \$13.8 million and \$31.6 million in such taxes during the three months ended March 31, 2015 and 2014, respectively. Our non-gaming profits remain subject to the Macau Complementary Tax and casino winnings remain subject to the Macau Special Gaming tax and other levies together totaling 39% in accordance with our concession agreement.

In December 2014, we received notification that for the 2015 tax year we had been accepted for the Compliance Maintenance phase of the Internal Revenue Service ("IRS") Compliance Assurance Program ("CAP"). CAP accelerates IRS examination of key transactions with the goal of resolving any issues before the taxpayer files its return. In the Compliance Maintenance phase, the IRS, at its discretion, may reduce the level of review of the taxpayer's tax positions based on the complexity and number of issues, and the taxpayer's history of compliance, cooperation and transparency in the CAP.

#### *Net income attributable to noncontrolling interests*

Net income attributable to noncontrolling interests was \$30.7 million for the three months ended March 31, 2015, compared to \$76.1 million for the three months ended March 31, 2014. These amounts represent the noncontrolling interests' share of net income from Wynn Macau, Limited.

**Adjusted Property EBITDA**

We use Adjusted Property EBITDA to manage the operating results of our segments. Adjusted Property EBITDA is earnings before interest, depreciation, amortization, pre-opening costs, property charges and other, corporate expenses, intercompany golf course and water rights fees, stock-based compensation, and other non-operating income and expenses, and includes equity in income from unconsolidated affiliates. Adjusted Property EBITDA is presented exclusively as a supplemental disclosure because we believe that it is widely used to measure the performance, and as a basis for valuation, of gaming companies. We use Adjusted Property EBITDA as a measure of the operating performance of our segments and to compare the operating performance of our properties with those of our competitors. We also present Adjusted Property EBITDA because it is used by some investors as a way to measure a company's ability to incur and service debt, make capital expenditures and meet working capital requirements. Gaming companies have historically reported EBITDA as a supplement to financial measures in accordance with U.S. generally accepted accounting principles ("GAAP"). In order to view the operations of their casinos on a more stand-alone basis, gaming companies, including us, have historically excluded from their EBITDA calculations pre-opening expenses, property charges, corporate expenses and stock-based compensation that do not relate to the management of specific casino properties. However, Adjusted Property EBITDA should not be considered as an alternative to operating income as an indicator of our performance, as an alternative to cash flows from operating activities as a measure of liquidity, or as an alternative to any other measure determined in accordance with GAAP. Unlike measures of net income, Adjusted Property EBITDA does not include depreciation or interest expense and therefore does not reflect current or future capital expenditures or the cost of capital. We have significant uses of cash flows, including capital expenditures, interest payments, debt principal repayments, taxes and other non-recurring charges, which are not reflected in Adjusted Property EBITDA. Also, our calculation of Adjusted Property EBITDA may be different from the calculation methods used by other companies and, therefore, comparability may be limited.

The following table summarizes Adjusted Property EBITDA (in thousands) for our Macau and Las Vegas Operations as reviewed by management and summarized in Item 1—"Notes to Condensed Consolidated Financial Statements", Note 16 "Segment Information." That footnote also presents a reconciliation of Adjusted Property EBITDA to net income (loss).

	Three Months Ended March 31,	
	2015	2014
Macau Operations	\$ 212,342	\$ 384,328
Las Vegas Operations	110,677	110,288
	<u>\$ 323,019</u>	<u>\$ 494,616</u>

Adjusted Property EBITDA at our Macau Operations decreased year-over-year by 44.7% for the three months ended March 31, 2015 primarily due to the decline in VIP turnover.

Adjusted Property EBITDA at our Las Vegas Operations was relatively flat with \$110.7 million for the three months ended March 31, 2015 compared to \$110.3 million for the three months ended March 31, 2014.

Refer to the discussion above regarding the specific details of our results of operations.

**Table of Contents****Liquidity and Capital Resources****Operating Activities**

Our operating cash flows primarily consist of our operating income generated by our Macau and Las Vegas Operations (excluding depreciation and other non-cash charges), interest paid and earned, and changes in working capital accounts such as receivables, inventories, prepaid expenses, and payables. Our table games play both in Macau and Las Vegas is a mix of cash play and credit play, while our slot machine play is conducted primarily on a cash basis. A significant portion of our table games revenue is attributable to the play of a limited number of premium international customers that gamble on credit. The ability to collect these gaming receivables may impact our operating cash flow for the period. Our rooms, food and beverage, and entertainment, retail, and other revenue is conducted primarily on a cash basis or as a trade receivable. Accordingly, operating cash flows will be impacted by changes in operating income and accounts receivables.

Net cash used in operations for the three months ended March 31, 2015 was \$15.0 million compared to \$209.2 million provided by operations for the three months ended March 31, 2014. The reduction was primarily due to lower operating income that was driven by stronger operating results in the prior year and from the change in ordinary working capital accounts.

**Investing Activities**

Net cash used in investing activities for the three months ended March 31, 2015 was \$521.6 million compared to net cash provided by

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

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**FORM 10-Q**

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

For the quarterly period ended June 30, 2015

OR

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

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File No. 000-50028

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**WYNN RESORTS, LIMITED**

(Exact name of registrant as specified in its charter)

NEVADA

(State or other jurisdiction of  
incorporation or organization)

46-0484987

(I.R.S. Employer  
Identification No.)

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)

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N/A

(Former name, former address and former fiscal year, if changed since last report)

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

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 ☒

Indicate the number of shares outstanding of each of the issuer's classes of common stock, as of the latest practicable date.

Class

Outstanding at July 31, 2015

capital expenditures and meet working capital requirements. Gaming companies have historically reported EBITDA as a supplement to financial measures in accordance with U.S. generally accepted accounting principles ("GAAP"). In order to view the operations of their casinos on a more stand-alone basis, gaming companies, including Wynn Resorts, Limited, have historically excluded from their EBITDA calculations pre-opening expenses, property charges, corporate expenses and stock-based compensation that do not relate to the management of specific casino properties. However, Adjusted Property EBITDA should not be considered as an alternative to operating income as an indicator of the Company's performance, as an alternative to cash flows from operating activities as a measure of liquidity, or as an alternative to any other measure determined in accordance with GAAP. Unlike measures of net income, Adjusted Property EBITDA does not include depreciation or interest expense and therefore does not reflect current or future capital expenditures or the cost of capital. The Company has significant uses of cash flows, including capital expenditures, interest payments, debt principal repayments, taxes and other non-recurring charges, which are not reflected in Adjusted Property EBITDA. Also, Wynn Resorts' calculation of Adjusted Property EBITDA may be different from the calculation methods used by other companies and, therefore, comparability may be limited.

	June 30, 2015	December 31, 2014
<b>Assets</b>		
Macau		
Macau Operations	\$ 1,317,663	\$ 1,520,098
Wynn Palace	2,623,258	1,854,521
Other Macau	127,956	974,170
Total Macau	4,068,877	4,348,789
Las Vegas Operations	3,372,595	3,472,931
Corporate and other	1,841,570	1,241,141
	<u>\$ 9,283,042</u>	<u>\$ 9,062,861</u>

#### Note 17 - Subsequent Event

On July 29, 2015, the Company announced a cash dividend of \$0.50 per share, payable on August 20, 2015 to stockholders of record as of August 11, 2015.

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### Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion and analysis of our financial condition and results of operations should be read in conjunction with our condensed consolidated financial statements and related notes included elsewhere in this Form 10-Q and our consolidated financial statements appearing in our annual report on Form 10-K for the year ended December 31, 2014. Unless the context otherwise requires, all references herein to the "Company," "we," "us" or "our," or similar terms, refer to Wynn Resorts, Limited, a Nevada corporation, and its consolidated subsidiaries. This discussion and analysis contains forward-looking statements. Please refer to the section below entitled "Special Note Regarding Forward-Looking Statements."

#### Overview

We are a developer, owner and operator of destination casino resorts (integrated resorts). In the Macau Special Administrative Region of the People's Republic of China ("Macau"), we own 72% of Wynn Macau, Limited and operate Wynn Macau and Encore at Wynn Macau. We refer to the integrated Wynn Macau and Encore at Wynn Macau resort as Wynn Macau | Encore or as our Macau Operations. In Las Vegas, Nevada, we own 100% of and operate Wynn Las Vegas and Encore at Wynn Las Vegas, which we refer to as Wynn Las Vegas | Encore or our Las Vegas Operations. We are developing Wynn Palace, an integrated casino resort in the Cotai area of Macau. In addition, we are developing an integrated casino resort in Everett, Massachusetts.

#### Macau Operations



We operate Wynn Macau | Encore under a 20-year casino concession agreement granted by the Macau government in June 2002. We lease from the Macau government approximately 16 acres of land in downtown Macau's inner harbor where Wynn Macau | Encore is located.

Wynn Macau | Encore features the following as of July 15, 2015:

- Approximately 284,000 square feet of casino space offering 24-hour gaming and a full range of games with 469 table games and 749 slot machines, private gaming salons, sky casinos and a poker pit;
- Two luxury hotel towers with a total of 1,008 spacious guest rooms and suites;
- Casual and fine dining in eight restaurants;
- Approximately 57,000 square feet of high-end, brand-name retail shopping, including stores and boutiques by Bvlgari, Cartier, Chanel, Dior, Dunhill, Ermenegildo Zegna, Ferrari, Giorgio Armani, Graff, Gucci, Hermes, Hugo Boss, Jaeger-LeCoultre, Loro Piana, Louis Vuitton, Miu Miu, Piaget, Prada, Richard Mille, Roger Dubuis, Rolex, Tiffany, Vacheron Constantin, Van Cleef & Arpels, Versace, Vertu, and others;
- Approximately 31,000 square feet of space for lounges and meeting facilities;
- Recreation and leisure facilities, including two health clubs, spas, a salon and a pool; and
- Rotunda show featuring a Chinese zodiac-inspired ceiling along with gold "prosperity tree" and "dragon of fortune" attractions.

In response to our evaluation of our Macau Operations and the reactions of our guests, we have made and expect to continue to make enhancements and refinements to Wynn Macau | Encore. In February 2015, we completed the renovation of approximately 27,000 square feet of our casino space at Wynn Macau for new VIP gaming rooms.

#### *Las Vegas Operations*

Wynn Las Vegas | Encore is located at the intersection of the Las Vegas Strip and Sands Avenue, and occupies approximately 215 acres of land fronting the Las Vegas Strip. In addition, we own approximately 18 acres across Sands Avenue, a portion of which is utilized for employee parking and an office building, and approximately five acres adjacent to the golf course on which an office building is located.

Wynn Las Vegas | Encore features the following as of July 15, 2015:

- Approximately 186,000 square feet of casino space, offering 24-hour gaming and a full range of games with 235 table games and 1,868 slot machines, private gaming salons, a sky casino, a poker room, and a race and sports book;

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- Two luxury hotel towers with a total of 4,748 spacious guest rooms, suites and villas;
- 35 food and beverage outlets featuring signature chefs;
- Approximately 99,000 square feet of high-end, brand-name retail shopping, including stores and boutiques by Alexander McQueen, Brioni, Cartier, Chanel, Chloé, Chopard, Dior, Givenchy, Graff, Hermes, IWC Schaffhausen, Jaeger-LeCoultre, Loro Piana, Louis Vuitton, Manolo Blahnik, Nicholas Kirkwood, Oscar de la Renta, Piaget, Rolex, Vertu and others;
- Approximately 290,000 square feet of meeting and convention space;
- Three nightclubs and a beach club;
- Specially designed theater presenting "Le Réve-The Dream," a water-based theatrical production and a theater presenting "Steve Wynn's Showstoppers," a Broadway-style entertainment production;
- Recreation and leisure facilities, including an 18-hole golf course, swimming pools, private cabanas and two full service spas and salons;
- A Ferrari and Maserati automobile dealership; and
- Wedding chapel.

In response to our evaluation of our Las Vegas Operations and the reactions of our guests, we have made and expect to continue to remodel make enhancements and refinements to Wynn Las Vegas | Encore. In June 2015, we began the remodel of guest rooms in our Encore hotel or. We expect these room renovations to be completed by the end of 2015 and believe there will not be a significant impact to our operations

and results during the renovation period.

#### *Future Development*

We are currently constructing Wynn Palace, an integrated resort containing a 1,700-room hotel, a performance lake, meeting space, a casino, a spa, retail offerings and food and beverage outlets in the Cotai area of Macau. In July 2013, we signed a \$2.6 billion guaranteed maximum price ("GMP") contract for the project's construction. The total project budget, including construction costs, capitalized interest, pre-opening expenses, land costs and financing fees, is approximately \$4.1 billion. As of June 30, 2015, we have invested approximately \$2.7 billion in the project. We expect to open Wynn Palace on Cotai in the first half of 2016.

In November 2014, the Company was awarded a gaming license to develop and construct an integrated resort in Everett, Massachusetts, outside of Boston. On January 2, 2015, the Company purchased 33 acres of land along the Mystic River, which will be the main site to build the Wynn resort in Massachusetts. The resort will contain a hotel, a waterfront boardwalk, meeting space, a casino, a spa, retail offerings and food and beverage outlets.

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

#### **Key Operating Measures**

Certain key operating measures specific to the gaming industry are included in our discussion of our operational performance for the periods for which Condensed Consolidated Statements of Income are presented. Below are definitions of these key operating measures discussed:

- Table drop for our Macau Operations is the amount of cash that is deposited in a gaming table's drop box plus cash chips purchased at the casino cage.
- Table drop for our Las Vegas Operations is the amount of cash and net markers issued that are deposited in a gaming table's drop box.
- Turnover is the sum of all losing rolling chip wagers within our Macau Operations' VIP program.
- Table games win is the amount of table drop or turnover that is retained and recorded as casino revenue.
- Rolling chips are identifiable chips that are used to track turnover for purposes of calculating incentives.
- Slot win is the amount of handle (representing the total amount wagered) that is retained by us and is recorded as casino revenue.
- Average daily rate ("ADR") is calculated by dividing total room revenues including the retail value of promotional allowances (less service charges, if any) by total rooms occupied including complimentary rooms.
- Revenue per available room ("REVPAR") is calculated by dividing total room revenues including the retail value of promotional allowances (less service charges, if any) by total rooms available.

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- Occupancy is calculated by dividing total occupied rooms, including complimentary rooms, by the total rooms available.

Below is a discussion of the methodologies used to calculate win percentage at our resorts.

In our VIP casino in Macau, customers primarily purchase non-negotiable chips, commonly referred to as rolling chips, from the casino cage and there is no deposit into a gaming table drop box from chips purchased from the cage. Non-negotiable chips can only be used to make wagers. Winning wagers are paid in cash chips. The loss of the non-negotiable chips in the VIP casino is recorded as turnover and provides the basis for calculating VIP casino win percentage. It is customary in Macau to measure VIP casino play using this rolling chip method. We expect our win as a percentage of turnover in this segment to be within the range of 2.7% to 3.0%.

In our mass market casino in Macau, customers may purchase cash chips at either the gaming tables or at the casino cage. Beginning in the second quarter of 2015, the sum of these purchases is the base of measurement we will use for calculating win percentage in our mass market casino in accordance with standard Macau industry practice. All prior period amounts have been adjusted to conform to this new measurement.

The measurements in our VIP casino and the mass market casino are not comparable as the mass market casino tracks the initial purchase of chips at the gaming table and casino cage while the measurement method in our VIP casino tracks the sum of all losing wagers. Accordingly, the base measurement in the VIP casino is much larger than the base measurement in the mass market casino. As a result, the expected win percentage with the same amount of gaming win is smaller in the VIP casino when compared to the mass market casino.

In Las Vegas, customers purchase chips at the gaming tables. The cash and net markers used to purchase chips are deposited in the gaming table's drop box. This is the base of measurement that we use for calculating win percentage in Las Vegas. Each type of table game has its own theoretical win percentage. Our expected table games win percentage in Las Vegas is 21% to 24%.

#### **Results of Operations**

## Summary second quarter 2015 results

(dollars in thousands, except per share data)	Three Months Ended June 30,			Six Months Ended June 30,		
	2015	2014	Percent Change	2015	2014	Percent Change
Net revenues	\$ 1,040,458	\$ 1,412,063	(26.3)	\$ 2,132,696	\$ 2,925,676	(27.1)
Net income attributable to Wynn Resorts, Limited	\$ 56,460	\$ 203,906	(72.3)	\$ 11,859	\$ 430,802	(97.2)
Diluted net income per share	\$ 0.56	\$ 2.00	(72.2)	\$ 0.12	\$ 4.22	(97.2)
Adjusted Property EBITDA	\$ 295,428	\$ 467,425	(36.8)	\$ 618,447	\$ 962,041	(35.7)

During the three months ended June 30, 2015, our net income attributable to Wynn Resorts, Limited was \$56.5 million, a decrease of 72.3% over the same period of 2014, resulting in diluted net income per share of \$0.56. The reduction in net income attributable to Wynn Resorts, Limited was driven by a decrease in casino revenues from both our Macau Operations and Las Vegas Operations. Adjusted Property EBITDA decreased year-over-year by 36.8%, from \$467.4 million for the three months ended June 30, 2014 to \$295.4 million for the same period of 2015. Our results reflect continued weak VIP gaming operations performance from our Macau Operations, with reduction in turnover of 41.1% for the three months ended June 30, 2015 compared to the same period in 2014. The VIP turnover reduction is a result of the current market conditions in Macau as well as regional economic factors on games promoters and our premium customers.

During the six months ended June 30, 2015, our net income attributable to Wynn Resorts, Limited was \$11.9 million, a decrease of 97.2% over the same period of 2014, resulting in diluted net income per share of \$0.12. Adjusted Property EBITDA decreased year-over-year by 35.7%, from \$962.0 million for the six months ended June 30, 2014 to \$618.4 million for the same period of 2015. Our results for the six months ended June 30, 2015 were primarily driven by a decrease in casino revenues from our Macau Operations and \$120.0 million in losses from the extinguishment of debt related to the purchase of first mortgage notes due 2020 pursuant to a cash tender offer and subsequent redemption of untendered notes.

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## Financial results for the three months ended June 30, 2015 compared to the three months ended June 30, 2014.

## Net Revenues

The following table presents net revenues from our Macau and Las Vegas Operations (dollars in thousands):

	Three Months Ended June 30,		Percent Change
	2015	2014	
Net revenues			
Macau Operations	\$ 616,952	\$ 960,635	(35.8)
Las Vegas Operations	423,506	451,428	(6.2)
	<u>\$ 1,040,458</u>	<u>\$ 1,412,063</u>	<u>(26.3)</u>

Net revenues decreased 26.3%, or \$371.6 million, to \$1,040.5 million for the three months ended June 30, 2015, from \$1,412.1 million for the same period in 2014. The decline is primarily due to a \$329.5 million decrease in casino revenues from our Macau Operations.

Non-casino revenues consist of operating revenues from rooms, food and beverage, entertainment, retail and other, less promotional allowances. The following table presents net revenues from our casino revenues and non-casino revenues (dollars in thousands):

	Three Months Ended June 30,		Percent Change
	2015	2014	
Net revenues			
Casino revenues	\$ 714,208	\$ 1,091,595	(34.6)
Non-casino revenues	326,250	320,468	1.8
	<u>\$ 1,040,458</u>	<u>\$ 1,412,063</u>	<u>(26.3)</u>

Casino revenues were 68.6% of total net revenues for the three months ended June 30, 2015, compared to 77.3% for the same period of 2014, while non-casino revenues were 31.4% of total net revenues, compared to 22.7% for the same period of 2014. The significant decline in casino revenues from our Macau Operations and the non-casino revenue performance at our Las Vegas Operations has affected the mix of casino non-casino revenues.

### Casino Revenues

Casino revenues decreased 34.6%, or \$377.4 million, to \$714.2 million for the three months ended June 30, 2015, from \$1,091.6 million in the same period of 2014. The decline is primarily due to our Macau Operations, which experienced a year-over-year decrease in casino revenues of 36.3% from \$909.1 million to \$579.5 million. Our VIP gaming operations drove the Macau Operations casino revenue reduction, with \$15.5 billion in VIP turnover for the three months ended June 30, 2015, compared to \$26.4 billion for the same period of 2014. In addition, our mass market gaming operations contributed to the Macau Operations decline with a 16.5% decrease in table drop combined with a reduction in table games win percentage of 4.3 percentage points.

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The table below sets forth our casino revenues and associated key operating measures for our Macau and Las Vegas Operations (dollars in thousands, except for win per unit per day).

	Three Months Ended June 30,			
	2015	2014	Increase/ (Decrease)	Percent Change
<b>Macau Operations:</b>				
Total casino revenues	\$ 579,519	\$ 909,061	\$ (329,542)	(36.3)
Average number of table games	470	455	15	3.3
<b>VIP</b>				
Average number of table games	247	263	(16)	(6.1)
VIP turnover	\$ 15,537,003	\$ 26,361,791	\$ (10,824,788)	(41.1)
Table games win	\$ 453,203	\$ 771,152	\$ (317,949)	(41.2)
VIP win as a % of turnover	2.92%	2.93%	(0.01)	
Table games win per unit per day	\$ 20,177	\$ 32,176	\$ (11,999)	(37.3)
<b>Mass market</b>				
Average number of table games	223	192	31	16.1
Table drop	\$ 1,193,916	\$ 1,429,987	\$ (236,071)	(16.5)
Table games win	\$ 208,620	\$ 311,049	\$ (102,429)	(32.9)
Table games win %	17.5%	21.8%	(4.3)	
Table games win per unit per day	\$ 10,274	\$ 17,852	\$ (7,578)	(42.4)
Average number of slot machines	707	624	83	13.3
Slot machine handle	\$ 1,027,557	\$ 1,457,653	\$ (430,096)	(29.5)
Slot machine win	\$ 51,138	\$ 65,983	\$ (14,845)	(22.5)
Slot machine win per unit per day	\$ 795	\$ 1,163	\$ (368)	(31.6)
<b>Las Vegas Operations:</b>				
Total casino revenues	\$ 134,689	\$ 182,534	\$ (47,845)	(26.2)
Average number of table games	235	233	2	0.9
Table drop	\$ 509,309	\$ 629,047	\$ (119,738)	(19.0)
Table games win	\$ 99,313	\$ 172,054	\$ (72,741)	(42.3)
Table games win %	19.5%	27.4%	(7.9)	
Table games win per unit per day	\$ 4,650	\$ 8,130	\$ (3,480)	(42.8)

Average number of slot machines	1,868	1,837	31	1.7
Slot machine handle	\$ 712,147	\$ 706,870	\$ 5,277	0.7
Slot machine win	\$ 51,010	\$ 46,131	\$ 4,879	10.6
Slot machine win per unit per day	\$ 300	\$ 276	\$ 24	8.7

*Non-casino revenues*

Non-casino revenues increased 1.8%, or \$5.8 million, to \$326.3 million for the three months ended June 30, 2015, from \$320.5 million for the same period of 2014.

Room revenues decreased 1.0%, or \$1.4 million, to \$139.9 million for the three months ended June 30, 2015, from \$141.4 million for the same period of 2014 due to a \$2.4 million decline from our Macau Operations, partially offset by an increase in our Las Vegas Operations.

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The table below sets forth our room revenues and associated key operating measures for our Macau and Las Vegas Operations.

	Three Months Ended June 30,		
	2015	2014	Percent Change (a)
<b>Macau Operations:</b>			
Total room revenues (dollars in thousands)	\$ 31,078	\$ 33,444	(7.1)
Occupancy	96.4%	98.4%	(2.0)
ADR	\$ 321	\$ 334	(3.9)
REVPAR	\$ 310	\$ 329	(5.8)
<b>Vegas Operations:</b>			
Total room revenues (dollars in thousands)	\$ 108,834	\$ 107,911	0.9
Occupancy	88.4%	88.4%	—
ADR	\$ 289	\$ 283	2.1
REVPAR	\$ 255	\$ 251	1.6

(a) Except occupancy, which is presented as a percentage point change.

Food and beverage revenues increased 3.8%, or \$6.7 million, to \$181.0 million for the three months ended June 30, 2015, from \$174.3 million for the same period of 2014. The increase is primarily due to an increase in revenues at our Las Vegas nightclubs, partially offset by a decline in revenues from restaurants at our Macau Operations.

Entertainment, retail and other decreased 11.3%, or \$11.2 million, to \$87.5 million for the three months ended June 30, 2015, from \$98.6 million for the same period of 2014. The decrease is primarily due to a decline in revenue from retail shops at our Macau Operations.

Promotional allowances decreased 12.5%, or \$11.7 million, to \$82.1 million for the three months ended June 30, 2015, from \$93.8 million for the same period of 2014. As a percentage of total casino revenues, promotional allowances were 11.5% for the three months ended June 30, 2015, compared to 8.6% for the same period of 2014, as the decline in total complimentary was less than the decline in total casino revenues.

*Operating costs and expenses*

Operating costs and expenses decreased 18.6%, or \$199.4 million, to \$871.3 million for the three months ended June 30, 2015, from \$1,070.7 million for the same period of 2014, mainly from a decrease in casino expenses.

Casino expenses decreased 31.5%, or \$214.7 million, to \$466.5 million for the three months ended June 30, 2015, from \$681.2 million for the same period of 2014, primarily due to lower gaming taxes with a 39.0% gross win tax incurred at our Macau Operations. The decline in gaming taxes was commensurate with the 36.3% decrease in casino revenues at our Macau Operations.

Room expenses were relatively flat at \$37.6 million for the three months ended June 30, 2015, compared to \$37.7 million, for the same period of 2014.

Food and beverage expenses increased 10.2%, or \$10.3 million, to \$111.0 million for the three months ended June 30, 2015, from \$100.7 million for the same period of 2014. The increase is primarily a result of higher costs in the current period for entertainment at our Las Vegas nightclubs.

General and administrative expenses decreased 11.5%, or \$14.8 million, to \$113.7 million for the three months ended June 30, 2015, from \$128.5 million in the same period of 2014. The majority of the reduction is attributable to a decrease in bonus expense associated with annual performance awards, pre-development costs for the three months ended June 30, 2014 for our Wynn resort in Everett which were incurred prior to being awarded a gaming license in Massachusetts and other corporate-related expenses.

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We had a provision for doubtful accounts of \$4.3 million for the three months ended June 30, 2015, compared to a benefit for doubtful accounts of \$2.7 million for the same period of 2014. The change in the provision was primarily due to the impact of historical collection patterns and current collection trends, as well as specific review of customer accounts, on our estimated allowance for the respective periods.

Pre-opening costs were \$16.9 million for the three months ended June 30, 2015, compared to \$5.0 million for the same period of 2014 and were associated with the design and planning for our development projects. We expect our pre-opening costs to increase in the future as the construction and development of Wynn Palace progresses toward the expected completion in the first half of 2016 and with development of the Wynn resort in Massachusetts.

Depreciation and amortization increased 4.5%, or \$3.6 million, to \$81.9 million for the three months ended June 30, 2015, from \$78.4 million for the same period of 2014. The increase is primarily due to additional depreciation associated with building improvements at our Macau Operations, including our new VIP gaming rooms, and equipment additions at our Las Vegas nightclubs.

#### Interest expense, net of amounts capitalized

The following table summarizes information related to interest expense (dollars in thousands):

	Three Months Ended June 30,		Percent Change
	2015	2014	
<b>Interest expense</b>			
Interest cost, including amortization of deferred financing costs and original issue discount and premium	\$ 86,990	\$ 89,374	(2.7)
Capitalized interest	(11,754)	(7,609)	54.5
	<u>\$ 75,236</u>	<u>\$ 81,765</u>	<u>(8.0)</u>

Capitalized interest increased \$4.1 million to \$11.8 million for the three months ended June 30, 2015, due to the ongoing borrowings and construction costs related to Wynn Palace and the Wynn resort in Massachusetts. Our interest cost decreased \$2.4 million to \$87.0 million for the three months ended June 30, 2015. In February 2015, we issued \$1.8 billion of 5 1/2% senior notes due 2025 and used the proceeds for the purchase of \$305.8 million of 7 7/8% first mortgage notes due 2020 and \$1,146.5 million of 7 3/4% first mortgage notes due 2020 pursuant to a cash tender offer. In March 2014, we issued \$750 million of 5 1/4% senior notes due 2021. As a result of these financing activities, our weighted average interest rate was lower for the three months ended June 30, 2015, compared to the same period of 2014.

#### Other non-operating income and expenses

During the three months ended June 30, 2015, we recognized \$3.8 million in loss on extinguishment of debt, compared to \$2.3 million for the same period of 2014. In connection with the May 2015 redemption of the untendered 7 7/8% first mortgage notes due 2020, we incurred a loss associated with the premium paid, unamortized financing costs and original issue discount. During the three months ended June 30, 2014, the loss was for the premium paid on first mortgage notes due 2020 through open market transactions and the write-off of related unamortized financing costs and original issue discount.

We incurred a loss of \$1.1 million and \$4.7 million for the three months ended June 30, 2015 and 2014, respectively, from the change in the fair value of our interest rate swaps. For further information on our interest rate swaps, see Item 3 — "Quantitative and Qualitative Disclosures about Market Risk."

Interest income was \$1.5 million for the three months ended June 30, 2015, compared to \$5.5 million for the three months ended June 30, 2014. During 2015 and 2014, our short-term investment strategy has been to preserve capital while retaining sufficient liquidity. The majority of investment securities were in time deposits, fixed deposits and money market accounts with a maturity of three months or less.

*Income Taxes*

For the three months ended June 30, 2015 and 2014, we recorded a tax expense of \$13.3 million and \$0.8 million, respectively. Our income tax expense in the current year and in the prior year is primarily related to an increase in the domestic valuation allowance for U.S. foreign tax credits ("FTCs") that are not expected to provide a U.S. tax benefit in future years.

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Since June 30, 2010, we have no longer considered our portion of the tax earnings and profits of Wynn Macau, Limited to be permanently invested. We recorded deferred U.S. income taxes of \$2.8 million with respect to amounts not considered permanently invested. We have not provided deferred U.S. income taxes or foreign withholding taxes on temporary differences as these amounts are permanently reinvested. For the three months ended June 30, 2015 and 2014, we recognized income tax benefits related to excess tax deductions associated with stock compensation costs of \$0.1 million and \$4.1 million, respectively.

Wynn Resorts (Macau) S.A. ("Wynn Macau SA") has received a 5-year exemption from Macau's Complementary Tax on casino gaming profits through December 31, 2015. In June 2015, Wynn Macau SA applied for an additional 5-year exemption from Macau Complementary Tax on casino gaming profits through December 31, 2020. During each of the three months ended June 30, 2015 and 2014, we were exempt from the payment of \$10.1 million and \$23.0 million in such taxes respectively. Our non-gaming profits remain subject to the Macau Complementary Tax and casino winnings remain subject to the Macau Special Gaming tax and other levies together totaling 39% in accordance with our concession agreement.

In 2011, Wynn Macau SA entered into an agreement with the Macau Special Administrative Region that provides for an annual payment of MOP \$15.5 million (approximately \$1.9 million) to the Macau Special Administrative Region as complementary tax due by shareholders on dividend distributions. This agreement on dividends is effective through December 31, 2015. In June 2015, Wynn Macau SA applied for an extension of the agreement for an additional five years effective through December 31, 2020.

In December 2014, we received notification that for the 2015 tax year we had been accepted for the Compliance Maintenance phase of the Internal Revenue Service ("IRS") Compliance Assurance Program ("CAP"). CAP accelerates IRS examination of key transactions with the goal of resolving any issues before the taxpayer files its return. In the Compliance Maintenance phase, the IRS, at its discretion, may reduce the level of review of the taxpayer's tax positions based on the complexity and number of issues, and the taxpayer's history of compliance, cooperation and transparency in the CAP.

In June 2015, the Financial Services Bureau commenced an examination of the 2012 Macau income tax return of Wynn Macau SA. Since the examination is in its initial stages, we are unable to determine if it will conclude within the next 12 months. We believe that our liability for uncertain tax positions is adequate with respect to these years.

*Net income attributable to noncontrolling interest*

Net income attributable to noncontrolling interest was \$20.7 million for the three months ended June 30, 2015, compared to \$54.5 million for the three months ended June 30, 2014. These amounts represent the noncontrolling interest's share of net income from Wynn Macau, Limited.

*Financial results for the six months ended June 30, 2015 compared to the six months ended June 30, 2014.**Net Revenues*

The following table presents net revenues from our Macau and Las Vegas Operations (dollars in thousands):

	Six Months Ended June 30,		Percent Change
	2015	2014	
<b>Net revenues</b>			
Macau Operations	\$ 1,322,309	\$ 2,093,333	(36.8)
Las Vegas Operations	810,387	832,343	(2.6)
	<u>\$ 2,132,696</u>	<u>\$ 2,925,676</u>	(27.1)

Net revenues decreased 27.1%, or \$793.0 million, to \$2,132.7 million for the six months ended June 30, 2015, from \$2,925.7 million for the same period in 2014. The decline is primarily due to a \$736.1 million decrease in casino revenues from our Macau Operations.

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Non-casino revenues consist of operating revenues from rooms, food and beverage, entertainment, retail and other, less promotional allowances. The following table presents net revenues from our casino revenues and non-casino revenues (dollars in thousands):

	Six Months Ended June 30,		Percent Change
	2015	2014	
<b>Net revenues</b>			
Casino revenues	\$ 1,540,307	\$ 2,317,728	(33.5)
Non-casino revenues	592,389	607,948	(2.6)
	<u>\$ 2,132,696</u>	<u>\$ 2,925,676</u>	(27.1)

Casino revenues were 72.2% of total net revenues for the six months ended June 30, 2015, compared to 79.2% for the same period of 2014, while non-casino revenues were 27.8% of total net revenues, compared to 20.8% for the same period of 2014. The significant decline in casino revenues from our Macau Operations and the non-casino revenue performance at our Las Vegas Operations has affected the mix of casino and non-casino revenues.

*Casino Revenues*

Casino revenues decreased 33.5%, or \$777.4 million, to \$1,540.3 million for the six months ended June 30, 2015, from \$2,317.7 million in the same period of 2014. The decline is primarily due to our Macau Operations, which experienced a year-over-year decrease in casino revenues of 37.2% from \$1,979.9 million to \$1,243.8 million. Our VIP gaming operations drove the Macau Operations casino revenue reduction, with \$32.7 billion in VIP turnover for the six months ended June 30, 2015, compared to \$62.4 billion for the same period of 2014.

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The table below sets forth our casino revenues and associated key operating measures for our Macau and Las Vegas Operations (dollars in thousands, except for win per unit per day).

	Six Months Ended June 30,		Increase/ (Decrease)	Percent Change
	2015	2014		
<b>Macau Operations:</b>				
Total casino revenues	\$ 1,243,839	\$ 1,979,915	\$ (736,076)	(37.2)
Average number of table games	468	473	(5)	(1.1)
<b>VIP</b>				
Average number of table games	250	271	(21)	(7.7)
VIP turnover	\$ 32,664,669	\$ 62,359,507	\$ (29,694,838)	(47.6)
Table games win	\$ 933,568	\$ 1,774,388	\$ (840,820)	(47.4)
VIP win as a % of turnover	2.86%	2.85%	0.01	
Table games win per unit per day	\$ 20,665	\$ 36,157	\$ (15,492)	(42.8)
<b>Mass market</b>				
Average number of table games	218	202	16	7.9
Table drop	\$ 2,474,260	\$ 2,799,783	\$ (325,523)	(11.6)
Table games win	\$ 488,180	\$ 611,758	\$ (123,578)	(20.2)
Table games win %	19.7%	21.9%	(2.2)	
Table games win per unit per day	\$ 12,339	\$ 16,722	\$ (4,383)	(26.2)
Average number of slot machines	678	732	(54)	(7.4)



Slot machine handle	\$	2,067,172	\$	2,856,543	\$	(789,371)	(27.6)
Slot machine win	\$	98,916	\$	135,420	\$	(36,504)	(27.0)
Slot machine win per unit per day	\$	806	\$	1,022	\$	(216)	(21.1)

**Las Vegas Operations:**

Total casino revenues	\$	296,468	\$	337,813	\$	(41,345)	(12.2)
Average number of table games		236		232		4	1.7
Table drop	\$	1,082,921	\$	1,276,483	\$	(193,562)	(15.2)
Table games win	\$	234,992	\$	305,788	\$	(70,796)	(23.2)
Table games win %		21.7%		24.0%		(2.3)	
Table games win per unit per day	\$	5,501	\$	7,281	\$	(1,780)	(24.4)
Average number of slot machines		1,861		1,851		10	0.5
Slot machine handle	\$	1,474,331	\$	1,450,668	\$	23,663	1.6
Slot machine win	\$	99,427	\$	91,632	\$	7,795	8.5
Slot machine win per unit per day	\$	295	\$	274	\$	21	7.7

**Non-casino revenues**

Non-casino revenues decreased 2.6%, or \$15.6 million, to \$592.4 million for the six months ended June 30, 2015, from \$607.9 million for the same period of 2014, driven by a reduction from our Macau Operations primarily offset by an increase from our Las Vegas Operations.

Room revenues decreased 2.1%, or \$5.9 million, to \$272.0 million for the six months ended June 30, 2015, from \$277.8 million in the same period of 2014. Our Macau Operations accounted for \$3.4 million of the decrease, while our Las Vegas Operations accounted for \$2.5 million of the decrease.

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The table below sets forth our room revenues and associated key operating measures for our Macau and Las Vegas Operations.

		Six Months Ended June 30,		Percent Change (a)
		2015	2014	
<b>Macau Operations:</b>				
Total room revenues (dollars in thousands)	\$	63,493	\$ 66,847	(5.0)
Occupancy		96.9%	98.3%	(1.4)
ADR	\$	326	\$ 336	(3.0)
REVPAR	\$	316	\$ 330	(4.2)
<b>Las Vegas Operations:</b>				
Total room revenues (dollars in thousands)	\$	208,474	\$ 210,983	(1.2)
Occupancy		85.7%	88.1%	(2.4)
ADR	\$	286	\$ 279	2.5
REVPAR	\$	245	\$ 246	(0.4)

(a) Except occupancy, which is presented as a percentage point change.

Food and beverage revenues were relatively flat with \$317.0 million for the six months ended June 30, 2015, compared to \$316.1 million for the same period of 2014. We experienced an increase in revenues at our Las Vegas nightclubs offset by a decline in revenues from restaurants at our Macau Operations.

Entertainment, retail and other decreased 13.5%, or \$27.7 million, to \$177.8 million for the six months ended June 30, 2015, from \$205.5

million for the same period of 2014. The decrease is primarily due to a decline in revenue from retail shops at our Macau Operations.

Promotional allowances decreased 8.9%, or \$17.1 million, to \$174.4 million for the six months ended June 30, 2015, from \$191.5 million for the same period of 2014. As a percentage of total casino revenues, promotional allowances were 11.3% for the six months ended June 30, 2015, compared to 8.3% for the same period of 2014.

#### *Operating costs and expenses*

Operating costs and expenses decreased 19.4%, or \$429.0 million, to \$1,778.5 million for the six months ended June 30, 2015, from \$2,207.5 million for the same period of 2014, mainly from a decrease in casino expenses.

Casino expenses decreased 32.4%, or \$474.4 million, to \$990.6 million for the six months ended June 30, 2015, from \$1,465.0 million for the same period of 2014, primarily due to lower gaming taxes with a 39.0% gross win tax incurred at our Macau Operations. The decline in gaming taxes was commensurate with the 37.2% decrease in casino revenues at our Macau Operations.

Room expenses were relatively flat for the six months ended June 30, 2015 compared to the same period of 2014.

Food and beverage expenses increased 6.7%, or \$11.7 million, to \$187.4 million for the six months ended June 30, 2015, from \$175.6 million for the same period of 2014. The increase is primarily a result of higher costs in the current period for entertainment at our Las Vegas nightclubs.

Entertainment, retail and other expenses decreased 6.1%, or \$5.1 million to \$79.3 million for the six months ended June 30, 2015, from \$84.4 million in the same period of 2014. The decrease is primarily attributable to the reduction in merchandise cost at our Macau Operations associated with the decline in retail shop revenues, partially offset by an increase from our Las Vegas Operations due to costs associated with Steve Wynn's Showstoppers, which opened in December 2014.

General and administrative expenses decreased 1.6%, or \$3.9 million, to \$235.9 million for the six months ended June 30, 2015, from \$239.8 million in the same period of 2014. The majority of the reduction is attributable to a decrease in bonus expense associated with annual performance awards, pre-development costs for the six months ended June 30, 2014 for our

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Wynn resort in Everett which were incurred prior to being awarded a gaming license in Massachusetts, partially offset by increases in other corporate-related expenses and advertising expenses from our Las Vegas Operations.

Provision for doubtful accounts increased \$15.8 million from a benefit of \$5.4 million for six months ended June 30, 2014 to a provision of \$10.4 million for the same period of 2015. The change in the provision was primarily due to the impact of historical collection patterns and current collection trends, as well as specific review of customer accounts, on our estimated allowance for the respective periods.

Pre-opening costs were \$33.0 million for the six months ended June 30, 2015, compared to \$8.1 million for the same period of 2014 and were associated with the design and planning for our development projects. We expect our pre-opening costs to increase in the future as the construction and development of Wynn Palace progresses toward the expected completion in the first half of 2016 and with development of the Wynn resort in Massachusetts.

Depreciation and amortization increased 6.3%, or \$9.8 million, to \$164.8 million for the six months ended June 30, 2015, from \$155.0 million for the same period of 2014. The increase is primarily due to additional depreciation associated with building improvements at our Macau Operations, including our new VIP gaming rooms, and equipment additions at our Las Vegas nightclubs.

#### *Interest expense, net of amounts capitalized*

The following table summarizes information related to interest expense (dollars in thousands):

	Six Months Ended June 30,		Percent Change
	2015	2014	
<b>Interest expense</b>			
Interest cost, including amortization of deferred financing costs and original issue discount and premium	\$ 175,831	\$ 170,327	3.2
Capitalized interest	(22,612)	(13,306)	69.9
	<u>\$ 153,219</u>	<u>\$ 157,021</u>	(2.4)

Capitalized interest increased \$9.3 million to \$22.6 million for the six months ended June 30, 2015, due to the ongoing borrowings and construction costs related to Wynn Palace and the Wynn resort in Massachusetts. Our interest cost increased \$5.5 million to \$175.8 million for the months ended June 30, 2015. In February 2015, we issued \$1.8 billion of 5 1/2% senior notes due 2025 and used the proceeds for the purchase of \$305.8 million of 7 7/8% first mortgage notes due 2020 and \$1,146.5 million of 7 3/4% first mortgage notes due 2020 pursuant to a cash tender offer. In March 2014, we issued \$750 million of 5 1/4% senior notes due 2021. As a result of these financing activities, our weighted average interest rate was lower for the six months ended June 30, 2015 compared to the same period of 2014.

#### *Other non-operating income and expenses*

During the six months ended June 30, 2015, we recognized \$120.0 million in loss on extinguishment of debt, compared to \$3.8 million for the same period of 2014, which included \$116.2 million in loss from extinguishment of debt primarily in connection with the cash tender offer discussed above. In connection with the May 2015 redemption of the untendered 7 7/8% first mortgage notes due 2020, we incurred a loss associated with the premium paid, unamortized financing costs and original issue discount. During the six months ended June 30, 2014, the loss was for the premium paid on first mortgage notes due 2020 through open market transactions and the write-off of related unamortized financing costs and original issue discount.

We incurred a loss of \$5.7 million and \$3.8 million for the six months ended June 30, 2015 and 2014, respectively, from the change in the fair value of our interest rate swaps. For further information on our interest rate swaps, see Item 3 — "Quantitative and Qualitative Disclosures about Market Risk."

Interest income was \$3.2 million for the six months ended June 30, 2015, compared to \$10.3 million for the same period in 2014. During 2015 and 2014, our short-term investment strategy has been to preserve capital while retaining sufficient liquidity. The majority of our investment securities were in time deposits, fixed deposits and money market accounts with a maturity of three months or less.

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#### *Income Taxes*

For the six months ended June 30, 2015 and 2014, we recorded a tax expense of \$16.5 million and \$3.4 million, respectively. Our income tax expense in the current year and in the prior year is primarily related to an increase in the domestic valuation allowance for U.S. FTCs that are not expected to provide a U.S. tax benefit in future years.

Since June 30, 2010, we have no longer considered our portion of the tax earnings and profits of Wynn Macau, Limited to be permanently invested. We recorded deferred U.S. income taxes of \$2.8 million with respect to amounts not considered permanently invested. We have not provided deferred U.S. income taxes or foreign withholding taxes on temporary differences as these amounts are permanently reinvested. For the six months ended June 30, 2015 and 2014, we recognized income tax benefits related to excess tax deductions associated with stock compensation costs of \$0.5 million and \$6.5 million, respectively.

Wynn Macau SA has received a 5-year exemption from Macau's Complementary Tax on casino gaming profits through December 31, 2015. In June 2015, Wynn Macau SA applied for an additional 5-year exemption from Macau Complementary Tax on casino gaming profits through December 31, 2020. During the six months ended June 30, 2015 and 2014, we were exempt from the payment of \$23.9 million and \$54.6 million in such taxes respectively. Our non-gaming profits remain subject to the Macau Complementary Tax and casino winnings remain subject to the Macau Special Gaming tax and other levies together totaling 39% in accordance with our concession agreement.

In 2011, Wynn Macau SA entered into an agreement with the Macau Special Administrative Region that provides for an annual payment of MOP \$15.5 million (approximately \$1.9 million) to the Macau Special Administrative Region as complementary tax due by shareholders on dividend distributions. This agreement on dividends is effective through December 31, 2015. In June 2015, Wynn Macau SA applied for an extension of the agreement for an additional five years effective through December 31, 2020.

In December 2014, we received notification that for the 2015 tax year we had been accepted for the Compliance Maintenance phase of the IRS CAP. CAP accelerates IRS examination of key transactions with the goal of resolving any issues before the taxpayer files its return. In the Compliance Maintenance phase, the IRS, at its discretion, may reduce the level of review of the taxpayer's tax positions based on the complexity and number of issues, and the taxpayer's history of compliance, cooperation and transparency in the CAP.

In June 2015, the Financial Services Bureau commenced an examination of the 2012 Macau income tax return of Wynn Macau SA. Since the examination is in its initial stages, we are unable to determine if it will conclude within the next 12 months. We believe that our liability for uncertain tax positions is adequate with respect to these years.

#### *Net income attributable to noncontrolling interest*

Net income attributable to noncontrolling interest was \$51.4 million for the six months ended June 30, 2015, compared to \$130.6 million for

# PEPPERMILL RENO

## Peppermill Reno 1C Video and Reel Analysis

Payoff/Unit	Handle	Handle Unit/Day	Cash Handle	Cash Unit/Day	Gross Win	Gross Win Unit/Day	Hold %	Gross Theo	Free Play	Net Win	Net Win Unit/Day	Net Hold %	Over/Under Hold	Games	Days
2016	765,075,886	2,321	460,750,346	1,873	55,891,514	172	0.0741	0.0726	1,300,883	48,380,761	147	0.0633	466,433	384	
1/10/2010	13,404,917	2,116	11,542,418	1,824	978,875	155	0.0730	0.0712	131,449	847,426	134	0.0632	23,815	901	7
1/17/2010	14,787,681	2,335	12,520,315	1,979	1,019,211	161	0.0689	0.0712	158,489	860,722	136	0.0682	(34,218)	901	7
1/24/2010	9,881,577	1,549	7,937,109	1,244	765,552	120	0.0775	0.0711	135,915	629,637	99	0.0637	63,151	902	7
1/31/2010	13,189,724	2,068	10,906,870	1,710	931,701	146	0.0706	0.0713	160,640	770,861	121	0.0584	(8,194)	908	7
2/7/2010	13,822,723	2,157	11,731,688	1,831	985,916	154	0.0713	0.0710	147,714	838,202	121	0.0606	4,526	918	7
2/14/2010	15,817,084	2,473	13,702,993	2,142	1,055,641	165	0.0668	0.0711	149,085	906,756	142	0.0573	(69,234)	908	7
2/21/2010	15,187,914	2,373	13,027,599	2,038	1,034,394	162	0.0682	0.0712	151,916	882,778	138	0.0582	(45,554)	903	7
2/28/2010	14,863,654	2,330	12,613,890	1,978	1,089,087	171	0.0733	0.0711	157,842	931,255	146	0.0627	32,935	900	7
3/7/2010	14,181,316	2,224	11,805,317	1,867	1,027,763	161	0.0725	0.0710	160,905	868,858	136	0.0611	20,935	899	7
3/14/2010	16,342,275	2,578	14,022,799	2,210	1,203,283	190	0.0736	0.0710	162,076	1,041,207	164	0.0637	42,265	899	7
3/21/2010	15,873,564	2,514	13,688,856	2,167	1,132,716	179	0.0714	0.0712	153,273	979,443	155	0.0617	2,356	899	7
3/28/2010	15,790,896	2,473	13,625,441	2,134	1,076,517	169	0.0682	0.0711	152,819	923,688	145	0.0585	(46,907)	898	7
4/4/2010	14,921,316	2,363	12,646,718	1,995	1,060,318	167	0.0711	0.0712	160,220	900,098	142	0.0603	(1,356)	904	7
4/11/2010	15,372,187	2,428	13,985,536	2,049	1,126,832	178	0.0733	0.0710	166,831	980,101	152	0.0625	34,907	902	7
4/18/2010	15,643,435	2,475	13,263,617	2,098	1,148,407	182	0.0734	0.0712	166,901	981,506	155	0.0627	35,375	900	7
4/25/2010	14,448,742	2,279	11,630,023	1,834	1,012,707	160	0.0701	0.0712	166,415	814,292	128	0.0584	(15,926)	900	7
5/2/2010	15,041,902	2,360	12,704,115	2,010	1,040,797	165	0.0692	0.0710	164,080	878,717	139	0.0593	(27,359)	900	7
5/9/2010	16,042,763	2,538	13,410,590	2,122	1,187,038	185	0.0727	0.0711	165,074	981,864	155	0.0612	26,482	900	7
5/16/2010	15,820,139	2,503	13,349,833	2,112	1,144,173	181	0.0723	0.0711	173,195	970,978	154	0.0614	20,068	900	7
5/23/2010	19,706,999	3,101	16,178,340	2,546	1,433,247	226	0.0727	0.0712	249,687	1,183,560	186	0.0601	30,569	910	7
5/30/2010	15,471,514	2,445	12,921,028	2,042	1,192,085	188	0.0771	0.0715	181,417	1,010,878	160	0.0653	85,284	901	7
6/6/2010	17,914,196	2,832	15,368,546	2,430	1,271,753	201	0.0710	0.0713	178,672	1,093,081	173	0.0610	(6,307)	901	7
6/13/2010	15,492,765	2,437	13,014,467	2,052	1,048,231	165	0.0678	0.0714	173,286	874,933	136	0.0596	(54,461)	900	7
6/20/2010	15,178,257	2,384	12,581,344	1,984	1,095,155	173	0.0722	0.0714	182,816	912,339	144	0.0601	12,086	900	7
6/27/2010	13,767,152	2,177	11,633,170	1,840	987,316	156	0.0717	0.0722	150,117	837,189	132	0.0608	7,415	899	7
7/4/2010	15,481,320	2,428	13,007,424	2,045	1,167,247	182	0.0749	0.0722	173,420	983,927	165	0.0637	41,810	921	7
7/11/2010	16,086,189	2,534	13,400,017	2,125	1,207,328	190	0.0751	0.0743	188,908	1,017,420	180	0.0632	11,340	904	7
7/18/2010	14,206,089	2,246	11,872,937	1,880	1,020,962	162	0.0719	0.0753	173,877	847,065	134	0.0596	(49,363)	904	7
7/25/2010	12,823,190	2,038	11,028,382	1,739	1,008,443	159	0.0750	0.0756	140,636	867,907	137	0.0671	31,283	903	7
8/1/2010	16,881,255	2,665	14,348,050	2,265	1,288,349	200	0.0751	0.0754	169,375	1,078,874	170	0.0639	(5,032)	898	7
8/8/2010	16,846,125	2,660	14,831,296	2,357	1,242,369	196	0.0737	0.0757	144,502	1,097,867	173	0.0652	(33,460)	896	7
8/15/2010	13,700,039	2,165	12,152,904	1,920	1,068,684	172	0.0733	0.0758	116,019	970,675	153	0.0709	48,036	896	7