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15 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

16 WYNN RESORTS, LIMITED,

17 Petitioner,

18 vs.

19 THE EIGHTH JUDICIAL
20 DISTRICT COURT OF THE STATE
OF NEVADA, IN AND FOR THE
21 COUNTY OF CLARK; AND THE
HONORABLE ELIZABETH
22 GONZALEZ, DISTRICT JUDGE,
DEPT. XI,

23 Respondent,

24 KAZUO OKADA, UNIVERSAL
25 ENTERTAINMENT CORP.,
26 AND ARUZE USA, INC.,

27 Real Parties in Interest.
28

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Elizabeth A. Brown
Clerk of Supreme Court

Case No.

District Court Case No. A-12-656710-B

**WYNN RESORTS, LIMITED'S
MOTION TO FILE VOLUMES II
AND III OF ITS APPENDIX TO ITS
PETITION FOR WRIT OF
MANDAMUS OR ALTERNATIVELY
PROHIBITION UNDER SEAL**

1 **I. INTRODUCTION**

2 Petitioner Wynn Resorts, Limited ("Wynn Resorts") hereby moves to file
3 volumes II and III its Appendix of its Petition for Writ of Mandamus or
4 Alternatively Prohibition ("Petition") under seal. Wynn Resorts brings this motion
5 pursuant to Part VII of the Supreme Court Rules Governing Sealing and Redacting
6 Court Records. SRCR 3(4) permits sealing or redacting records when it furthers a
7 protective order entered under NRCP 26(c).

8 The District Court entered the Wynn Parties' Protective Order with Respect
9 to Confidentiality ("Protective Order") on February 14, 2013, and it governs the
10 process by which parties to this action may designate information as Confidential or
11 Highly Confidential as defined therein. Wynn Resorts' Appendix contains
12 information the parties designated Confidential or Highly Confidential pursuant to
13 the Protective Order, and the District Court ruled should be redacted and/or sealed.
14 As such, Wynn Resorts respectfully requests this Court grant its request to seal
15 Volumes II and III of its Appendix.

16 **II. RELEVANT FACTS**

17 The Protective Order entered on February 14, 2013 governs the use and
18 disclosure of Confidential and Highly Confidential information in this case,
19 including the filing of such information with the Court. It requires the filing of any
20 documents that summarize or quote from Highly Confidential or Confidential
21 information be submitted with a Motion to Seal and Redact. (Ex. 1 ¶ 13.) The
22 Protective Order permits the parties to designate materials that contain "information
23 that constitutes, reflects, or discloses nonpublic information, trade secrets, know-
24 how, or other financial, proprietary, commercially sensitive, confidential
25 business, marketing, regulatory, or strategic information (regarding business
26 plans or strategies, technical data, and nonpublic designs)" as Confidential.
27 (*Id.* ¶ 4.) Additionally, it allows for the designation of materials as Highly
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1 Confidential if "the disclosure of which would create a substantial risk of
2 competitive, business, or personal injury to the Producing Party." (*Id.* ¶ 5.) Any
3 information designated as Confidential or Highly Confidential and filed with the
4 Court may be kept under seal and/or redacted upon motion of a party. (*Id.* ¶ 9.)
5 If a Party wants to challenge a particular designation, the Protective Order sets forth
6 the procedure to do so. (*Id.* ¶ 18.) The materials retain their Confidential or
7 Highly Confidential designation unless and until the parties agree otherwise or the
8 District Court issues an order removing the designation. (*Id.*)

9 **III. ANALYSIS**

10 **A. Standards for Sealing or Redacting Court Records or Exhibits.**

11 Part VII of the Supreme Court Rules provides that records submitted to this
12 Court may be submitted in redacted or sealed form, subject to further order. The
13 Court will keep the documents redacted or under seal if there is an appropriate basis
14 under SRCR 3(4). SRCR 3(4) permits the sealing or redaction of the record
15 when justified by compelling privacy or safety interests that outweigh the public
16 interest in access to the court record. Furthermore, the public interest in
17 privacy outweighs the public interest in open court records when the sealing or
18 redaction furthers a protective order entered under NRCP 26(c). SRCR 3(4)(b).

19 **B. Wynn Resorts' Request to Seal Certain Volumes of its Appendix**
20 **Furtheres the Purpose of the Protective Order Entered by the**
21 **District Court.**

22 Each document Wynn Resorts seeks to file under seal contains information
23 designated Confidential or Highly Confidential pursuant to the Protective Order,
24 and ordered redacted or sealed by the District Court. The discussion below
25 identifies (1) the title of each document containing Confidential or
26 Highly Confidential information, (2) the specific portions of the document that were
27 ordered redacted and/or sealed by the District Court, (3) the date the District Court
28 granted the underlying motion to redact and/or seal, and (4) the location (by bates

1 number) of the Confidential or Highly Confidential information within the
2 Appendix.

3 ***1. Wynn Parties' Motion for Summary Judgment on Stock***
4 ***Redemption.***

5 On September 5, 2017, Wynn Resorts and the Wynn Director Parties (Linda
6 Chen, Russell Goldsmith, Ray R. Irani, Robert J. Miller, John A. Moran, Marc D.
7 Schorr, Alvin V. Shoemaker, and D. Boone Wayson) served a redacted version of
8 their Motion for Summary Judgment on Stock Redemption (hereinafter the "Motion
9 for Summary Judgment"), which is included in Volume I of the Appendix. This
10 version redacts Confidential and Highly Confidential Information related to events
11 which occurred at the February 18, 2012, as well as the investigation which led to
12 Mr. Okada, Aruze, and Universal's finding of unsuitability and the redemption of
13 Aruze's shares. On November 13, 2017, the Order Granting Motion to Redact
14 Wynn Parties' Motion for Summary Judgment on Stock Redemption and Seal
15 Exhibits 2 and 6-10 Thereto was entered. The unredacted version of the
16 Wynn Parties' Motion for Summary Judgment was filed under seal on September 6,
17 2017, and is included in volume II of the Appendix at App. Vol. II 114-27.

18 ***2. Appendix to Wynn Parties' Motion for Summary Judgment on***
19 ***Stock Redemption.***

20 Similar to the Wynn Parties' Motion for Summary Judgment, the Appendix to
21 the Motion for Summary Judgment was also served with certain exhibits sealed on
22 September 5, 2017, with the full Appendix to the Motion for Summary Judgment
23 filed under seal on September 6, 2017. Like the Motion, the Appendix to the
24 Motion for Summary Judgment includes Confidential and Highly Confidential
25 Information related to the redemption and the February 18, 2012 meeting.
26 Specifically, the Appendix to the Motion includes the Minutes of a Special Meeting
27 of the Board of Directors of Wynn Resorts, Limited dated February 18, 2012 and
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the testimony of Robert Miller, Russell Goldsmith, Ray Irani, Alvin Shoemaker, and D. Boone Wayson regarding the same. On November 13, 2017, the Order Granting Motion to Redact Wynn Parties' Motion for Summary Judgment on Stock Redemption and Seal Exhibits 2 and 6-10 Thereto was entered. The unredacted version of the Appendix to the Motion for Summary Judgment is included in Volumes II and III of the Appendix as App. Vol. II, 149-300 and App. Vol. III, 301-327, 337-378.

IV. CONCLUSION

Wynn Resorts respectfully requests an order allowing it to file Volumes II and III of its Appendix under seal.

DATED this 4th day of December, 2017.

PISANELLI BICE PLLC

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of PISANELLI BICE PLLC, and that on this 4th day of December, 2017, I electronically filed and served by electronic mail and United States Mail a true and correct copy of the above and foregoing **WYNN RESORTS, LIMITED'S MOTION TO FILE VOLUMES II AND III OF ITS APPENDIX TO ITS PETITION FOR WRIT OF MANDAMUS OR ALTERNATIVELY PROHIBITION UNDER SEAL** properly addressed to the following:

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