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Universal Entertainment Corporation’s Group Response to the Allegations of the Freeh Report

The Nevada Gaming Control Board (“NGCB”) requested information regarding the response of Universal Entertainment Corporation, Aruze USA, Inc., and Kazuo Okada (collectively, “Licensees”) to allegations of “apparent” violations of the Foreign Corrupt Practices Act (“FCPA”) and other laws in a February 18, 2012 report prepared by Freeh, Sporkin and Sullivan LLP and commissioned by Wynn Resorts, Ltd. (the “Freeh Report”).

The Freeh Report alleges potential FCPA and other violations regarding (1) “Philippine Constitutional Provisions and statutes that require 60% ownership land ownership by Philippine nationals”; (2) “making payments and gifts to ... chief gaming regulators at the Philippine Amusement and Gaming Corporation (PAGCOR)”; (3) the “possib[ility] that Okada, his associates, and companies made similar payments to a Korean government official”; (4) Okada’s alleged admissions regarding gift-giving; (5) supposed failures by Okada to comply with various requests of Wynn Resorts, Ltd.; and (6) the payment of expenses for former PAGCOR Chairman Genuino’s trip to the 2008 Beijing Olympics.

The following summarizes by category the response of Licensees to the February 18, 2012 Freeh Report allegations.

(1) **Philippine Land and Business Ownership**: Based upon a report commissioned from M.M. Lazaro & Associates, a local Philippine law firm, the Freeh Report noted an “apparent evasion of Republic of Philippines Legal Requirements” regarding the land ownership structure for a proposed casino development in “Entertainment City,” and requiring that land holdings for such a development be at least 60% Filipino-owned.

In response to this allegation, Licensees re-reviewed the legal advice they had been provided by the law firm SyCip Salazar Hernandez & Gatmaitan (“SyCip”), the largest law firm in the Philippines, prior to initiating the Entertainment City project. As reflected in an April 29, 2008

memorandum SyCip established and recommended the landholding structure ultimately put in place through Eagle I and Eagle II to allow for 60% local land ownership. SyCip specifically advised that “even if Aruze [now UEC] holds another 40% direct equity interest in a Philippine company (“HoldCo”) that holds 60% of the outstanding capital stock of LandCo (and the remaining 60% in HoldCo is held by a Philippine national), both HoldCo and LandCo will be considered Philippine nationals and LandCo will be qualified to own land.”

Licensees also confirmed that the international law firm of White & Case LLP, in conjunction with SyCip, assessed and evaluated the shareholder structure for Eagle I and Eagle II. . White & Case was responsible for the incorporation of Molly Investments Cooperative UA, which initially owned 40% of Eagle I. SyCip was responsible for the transfer of shares in 2009 to Platinum Gaming & Entertainment Corporation.

In assessing the Freeh Report, Licensees also confirmed that from the date of SyCip’s April 29, 2008 legal opinion to the date of the Freeh Report, no questions were raised regarding the ownership structure of Eagle I and Eagle II. This is despite the Philippine government’s knowledge and awareness of the land ownership structure given annual reporting by Eagle I and Eagle II to the Philippine Securities Exchange Commission in General Information Statements

Accordingly, Licensees determined that the Freeh Report’s allegations regarding the land ownership structure for the Entertainment City project lacked merit.

In addition to re-reviewing compliance with Philippine land ownership laws, Licensees re-reviewed compliance with the Foreign Investments Act of 1991, which limits foreign ownership of certain types of businesses to 40%. In an effort to induce Licensees to invest in the Philippines, PAGCOR advised Licensees in 2007 that “foreign equity restrictions shall be lifted” so that the planned casino business could be 100% owned by Licensees and affiliated companies without Filipino ownership. Similarly, in March 2008, the Department of Justice of the Philippines provided PAGCOR a written opinion that “foreign entities or companies that will invest or locate in the Integrated City Project may not be subjected to foreign equity restrictions,” and promised to assist PAGCOR in lifting such restrictions. UEC’s decision to proceed with the Entertainment City project “was based on [PAGCOR’s] assurance that the FIA [Foreign Investment Act] negative list issue could be resolved easily.” . Restrictions on foreign ownership of casino businesses were ultimately lifted through promulgation of the “Eighth Regular Foreign Investment Negative List” to the benefit of all casino businesses in the Philippines, including the four entities with provisional licenses for casinos in Entertainment City.

Licensees likewise obtained legal confirmation that tax benefits afforded by the Philippine Economic Zone Authority through designation of the proposed site for the Tiger resort as a “Tourism Economic Zone” were afforded to all entities and businesses seeking to invest in the Entertainment City project. The Philippine law firm of Poblador Bautista & Reyes confirmed this fact on behalf of Licensees, noting that it would be “baseless and misleading to claim or

imply that the declaration of the Entertainment City as a special economic zone was for the specific benefit of Tiger or was a special favor extended to Tiger.” .

(2) **Payment and Gift Allegations Regarding PAGCOR Officials:** The Freeh Report discusses various lodging and meal expenses incurred by Licenses through a Wynn Resorts City Ledger Account between May 2008 and June 2011 as “appear[ing] to be prima facie violations” of the FCPA.

The response by Licensees to the expenses most frequently discussed in the Freeh Report – a September 2010 visit by PAGCOR Chairman Cristino Naguiat to the Wynn Encore Property in Macau (erroneously referred to in the Freeh Report as a visit to Wynn Macau) – occurred long before the Freeh Report was published. Licensees investigated the September 2010 charges within two months of their incurrence, determined that the charges had not been approved and were excessive under Universal’s existing policies, and disciplined the employee responsible for them.

Charges incurred on the Wynn City Ledger Account maintained by Universal/Aruze are typically not reported to Universal/Aruze by Wynn Resorts until approximately two months after the charges are incurred. Specific charges are also sometimes omitted in the notifications provided to Universal Entertainment Corporation, and do not include specific items such as the purse allegedly purchased in connection with the September 2010 stay.

In December 2010, Hajime Tokuda (and then Toji Takeuchi) became aware of the charges surrounding Chairman Naguiat’s September 2010 visit to the Wynn Encore, found them to be excessive on their face (one charge was over \$50,000 USD), and attempted to determine whether the charges had been authorized.

As part of this investigation, Tokuda and his team reviewed the approval paperwork for the trip expenditures and determined that appropriate internal approvals had not been obtained for the charges under UEC’s Internal Memo Rules and Approval Authority Rules. Thus, in December 2010, the employee directly responsible for allowing the charges – Masato Araki – was reprimanded pursuant to Article 58, No. 1 of UEC’s Employee Work Regulations and thereafter his employment terminated. Several months later, another individual who helped organize the trip, Yoshiyuki Shoji, was also reprimanded and recommended to resign for his failures to obtain appropriate internal approvals for expenses related to the Macau trip, as well as several other violations of internal procedures. Shoji thereafter resigned.

After the Freeh Report was published in February 2012, Tokuda and Takeuchi, as well as others, investigated each of the City Ledger Account charges detailed in the Freeh Report, identified any amounts that had been reimbursed and/or paid by the guests, and identified the business purpose(s) of the various trips for which the charges were incurred.

As part of this investigation, Tokuda's team reviewed internal documents related to each of the charges and examined the purposes for each of the charges. After concluding this investigation, it was determined that there were valid business reasons for each of the trips at issue in the Freeh Report. Aside from the September 2010 expenses incurred at the Wynn Encore resort, Tokuda did not find any other instances in which the appropriate internal approvals for trip expenditures were not obtained either in advance of the trips or shortly after the trips. Nevertheless, at least in part to avoid further violations of Universal's policies regarding expense approval, Universal changed its approval system from a paper-based system to an electronic system.

Universal has also asked its legal counsel, Morgan Lewis & Bockius LLP, to review its current corporate policies regarding travel and entertainment expenses and to provide advice and recommendations regarding potential improvements to Universal's policies.

As noted, Licensees determined as part of their investigation that all remaining City Ledger Account charges referenced in the Freeh Report – other than those associated with the September 2010 Wynn Encore trip – to be both authorized and appropriate. On a very general level, this determination was made in light of the following facts:

- There was no incentive for Licensees to bribe PAGCOR officials in light of the August 5, 2008 Provisional License granted to Tiger, and no potential for any quid pro quo. The Provisional License conditioned Tiger's receipt of a casino gaming license solely "upon completion of the Project and upon approval by PAGCOR of the report detailing the actual total project cost to insure LICENSEE'S compliance with the approved project cost [at least \$1 billion USD] based upon the Project Implementation Plan." In other words, to secure a gaming license, Tiger needed only to fulfill its planned investment in the project and complete development.
- Mr. Soriano was not a PAGCOR official or consultant to PAGCOR at any relevant time. Indeed, as PAGCOR's Vice President for Legal Services recently testified before the Philippine House of Representatives Committee on Games and Amusements, Mr. Soriano's affiliation with PAGCOR as a consultant ended no later than February 2007, and likely in late 2006 – long before the charges incurred by Mr. Soriano and detailed in the Freeh Report were incurred.
- PAGCOR had its own economic incentive to assist Licensees and Tiger in completing the Entertainment City project, and the interests of Licensees and PAGCOR were aligned. As specified in the Provisional License, PAGCOR was to receive a significant share of revenues from Tiger's planned casino operations, including 25% of gross slot machine revenue, 15% of "high roller" table revenue, and 25% of "non-high roller" table revenue.

- PAGCOR had no historical expertise or knowledge regarding world-class gaming operations, and required significant education to learn how casino resorts can be successfully and safely operated. For this reason, the hotel stays noted in the Freeh Report invariably coincided with gaming conventions, educational tours, and other business-related events.

As part of their investigation, Licensees confirmed that the majority of the visits by PAGCOR officials detailed in the Freeh Report coincided with attendance at G2E conventions in Las Vegas and Macau. The Global Gaming Expo, or G2E, is the annual trade show and conference event for the international gaming industry held in Las Vegas, typically in November of each year. G2E Asia is a similar event and conference for the Asian market, and has been held on an annual basis in Macau in June of each year.

Licensees analyzed the thirty-six (36) City Ledger Account charges noted in the Freeh Report (and detailed in a chart appearing on pages 20-22 of the Report), and determined that the majority of charges, twenty-seven (27) in total, were incurred in connection with various G2E Las Vegas and G2E Asia conventions. Included within the 27 charges associated with G2E conventions is one charge for transportation in the amount of \$462.42 that the Freeh Report erroneously claims was incurred in August 2010, when in fact the charge was incurred in June 2010, as the exhibits to the Freeh Report demonstrate.

Of the remaining nine charges, three (3) related to a late April-early May 2009 visit to Wynn Las Vegas by Philip Lo and Manuel Roxas, which included a tour of Las Vegas casinos, as well as research on traffic patterns for large casino resorts. As a result of this and a subsequent visit to Wynn Las Vegas in 2010, the planned number of parking spaces for the Tiger resort in Entertainment City was increased to 3000 and Tiger's traffic planning study was re-assessed.

Two (2) of the remaining nine charges were in fact a single charge incurred by Anthony Genuino. Mr. Genuino, an attorney, attended a training seminar regarding gambling addiction in connection with his September 23-28, 2008 visit to Wynn Las Vegas, and paid for approximately half of his accommodation charges (\$2,386.26). However, the Freeh Report erroneously indicates that this amount was paid by UEC in September, with the other approximate half of the charges (\$2,326.49) paid by UEC the following month. UEC in fact paid \$2,326.49 just one time.

The final three (3) charges challenged in the Freeh Report (those of Suzzanne Bangsil, Rogelio J.B. Bangsil, and Jeffrey Opinion), and accounting for nearly half of the dollar value of all charges, related to the unauthorized September 2010 visit to the Wynn Encore. One (1) of the

charges associated with this visit, a dinner hosted by Kazuo Okada on September 24, 2010, was found to be authorized and appropriate.

After determining that all charges other than those associated with the September 2010 Wynn Encore visit were approved and had a legitimate business purpose, Licensees compared the monetary value of approved accommodation and meal charges borne by Licensees in Las Vegas and Macau (approximately \$58,000) to the estimated value of transportation and security detail expenses borne by PAGCOR in connection with Licensees' various trips to the Philippines between 2008 and 2011. During Licensees' numerous Philippine visits, PAGCOR officials invariably provided transportation and security detail at PAGCOR's expense throughout the visits. Licensees estimated that the total costs borne by PAGCOR in connection with these expenses is roughly equivalent to the approved accommodation and meal charges addressed in the Freeh Report.

(3) **Payment and Gift Allegations Regarding South Korean Officials:** Licensees undertook essentially the same analysis with respect to the "possible pattern" of FCPA violations involving representatives of Korea's Incheon Free Economic Zone Authority ("IFEZ") – charges noted in the Freeh Report as requiring "further investigation." This analysis showed that the accommodation and meal charges incurred by IFEZ representatives invariably coincided with G2E and G2E Asia conventions; portions of accommodation and meal charges were borne directly by the IFEZ representatives; and that the IFEZ reciprocated by paying for meals and meeting preparation expenses when Licensees visited South Korea several times in both 2010 and 2011.

(4) **Alleged Okada Admission:** The Freeh Report discusses at length a supposed statement made by Okada during a February 24, 2011 Wynn Resorts Board of Directors Meeting, and supposedly involving either gift-giving to foreign officials and/or the use of third parties to provide gifts to foreign officials. Okada denied making the statement attributed to him in connection with his interview with Mr. Freeh in February 2012, and has denied making the statement several times thereafter. All statements made by Okada at Wynn Resorts Board meetings were in Japanese, and required translation. No such statement appears in the minutes of the February 24, 2011 Wynn Resorts Board meeting minutes that Okada was provided in connection with the following meeting. Therefore, Licensees determined that no further response to this allegation was necessary.

(5) **Code of Conduct and FCPA Training Issues:** The Freeh Report criticizes Okada for failing to sign a Wynn Resorts Code of Conduct that was amended in November 2011, at the same time Okada was asked to resign as a Director of Wynn Resorts. Licensees investigated this allegation by questioning Okada, who indicated that he had no objection to acknowledging/signing the Code of Conduct (as he had with prior versions), but had been advised to obtain clearance from his legal counsel before signing given contentions by Wynn Resorts that Okada's planned Philippine casino would compete with Wynn Macau, and various

provisions within the Amended Code of Conduct regarding competition. Licensees are informed and believe that Okada's legal counsel attempted unsuccessfully to resolve these differences with Wynn Resorts' attorneys. Because Okada was otherwise willing to acknowledge/sign the Code of Conduct, Licensees determined that no further action was necessary.

The Freeh Report likewise criticizes Okada's failure to attend FCPA training arranged by Wynn Resorts on October 31, 2011. In response, Okada was questioned, and it was discovered that Okada was unable to attend the training on that day given his travel schedule. Okada's representatives asked for a recording of the training so that Okada could listen to it, but this request was denied by attorneys for Wynn Resorts.

To insure continued compliance with the FCPA, Universal Entertainment Corporation has requested that its current counsel, Morgan Lewis & Bockius LLP, provide FCPA training. Eric Kraeutler, a former Assistant U.S. Attorney and Co-Leader of Morgan Lewis's FCPA/Anti-Corruption Practice, will provide this training.

(6) **2008 Beijing Olympics**: The Freeh Report references Universal's payment of various expenses related to then-PAGCOR Chairman Genuino's trip to the 2008 Beijing Olympics as a potential FCPA violation. In response to this allegation, Hajime Tokuda, who organized the Beijing trip as a purchasing incentive for Universal's largest pachinko customers in Japan, investigated the allegations of the Freeh Report. His investigation confirmed his recollection of the trip, and found the following facts:

- Universal purchased approximately 20 Beijing Olympics tickets approximately one year before the Games were held as part of a sales promotion for Universal's largest pachinko parlor customers in Japan.
- For accommodations, Universal was required to rent an entire building – Annex 8 – for twenty days surrounding the Olympics. This requirement resulted in Universal having excess and unused hotel capacity.
- The Beijing Olympics were held from August 8-24, 2008, after Tiger received its Provisional License.
- Believing that Universal's customers would be interested to learn about potential casino operations in the Philippines, and might be interested in investing in the planned Philippine casino project, Tokuda originally requested that Steve Wynn attend the Olympics and provide a lecture to Universal's customers. Although initial steps were taken to secure Mr. Wynn's appearance for a lecture, Mr. Wynn was ultimately unable to attend due to a scheduling conflict.
- Tokuda then asked PAGCOR Chairman Genuino to attend the Olympics and provide a lecture on gaming potential in the Philippines. Then-Chairman Genuino did attend, and

did provide a lecture, although he was not paid for the lecture. His transportation and accommodations within Annex 18 were, however, paid for by Universal. Other PAGCOR officials also attended and had transportation and accommodation charges paid for by Universal.

- After attendance at the Olympics in Beijing, Universal and PAGCOR officials visited Wynn Macau (where accommodation charges for PAGCOR officials were paid for by Universal) and took the “Back Yard Tour” of the Wynn Macao resort. The “Back Yard Tour” is a comprehensive tour of casino facilities requiring advance security clearance from top-level management at Wynn Resorts, and designed to demonstrate casino and resort operations in detail.

In addition to investigating the specific contentions of the Freeh Report, Licensees also assessed the facts leading to the retention of Freeh, Sporkin and Sullivan LLP by Wynn Resorts; the means by which the Freeh Report was generated; and the use made by Wynn Resorts of the Report. This assessment further prompted Licensees to conclude that the Freeh Report lacked merit.

Mr. Okada was a founder of Wynn Resorts, and as the foundation documents demonstrate, was to hold a fifty percent interest in the company (less one share) through Aruze USA, Inc. However, Okada was the only Wynn Resorts Director to object to an unprecedented University of Macau Development Fund donation of \$135 million by Wynn Resorts during an April 2011 board meeting. Okada’s refusal to agree to the donation – despite the personal pleas of Mr. Wynn – led to escalating adverse actions by Wynn against Okada, including the commissioning of the Freeh Report.

The means by which the Freeh Report was generated was also assessed. Okada, who was interviewed by Mr. Freeh for the entire day on February 15, 2012, was provided no advance notice of the subject matters to be covered during the interview. The Freeh Report (a 47-page document containing 120 footnotes and approximately 1500 pages of appendices) was provided to the Board of Wynn Resorts just three days after Mr. Okada’s interview on February 18, 2012, indicating that the Report’s findings were determined long before Okada’s interview. Moreover, at the time of his interview with Mr. Freeh, Mr. Okada was advised that he would be provided an opportunity to rebut the charges and supply additional evidence. This opportunity was never provided.

The ultimate use of the Freeh Report also casts doubt on its legitimacy. The Report was not used to provide guidance to Licensees, but to justify the involuntary redemption and purported cancellation of Aruze USA, Inc.’s 24,549,222 shares of Wynn Resorts stock at a \$1 billion discount and in the form of a subordinated note. This action was a clear breach of the January 2010 Amended and Restated Stockholders Agreement by and between Steve Wynn, Elaine Wynn, and Aruze, including its specific prohibition against the transfer (including by way of

involuntary disposition) of shares without advance written consent of all parties. The redemption restored Mr. Wynn as the largest shareholder of Wynn Resorts, and caused the price of Wynn stock to appreciate. Because the Freeh Report provided the basis for these actions and their intended consequences, Licensees ultimately concluded that the Freeh Report was generated for an ulterior purpose and motive.