

**STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY**



**SPECIAL REPORT OF THE  
DIVISION OF GAMING ENFORCEMENT  
TO THE CASINO CONTROL COMMISSION  
ON ITS INVESTIGATION OF MGM MIRAGE'S  
JOINT VENTURE WITH PANSY HO IN MACAU,  
SPECIAL ADMINISTRATIVE REGION,  
PEOPLE'S REPUBLIC OF CHINA**

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## I. INTRODUCTION

This Special Report to the New Jersey Casino Control Commission (“Commission”) sets forth the findings and recommendations of the New Jersey Division of Gaming Enforcement (“Division”) regarding the joint venture between the New Jersey qualified entity, MGM MIRAGE (“MGM”), and Grand Paradise Macau, Limited, an entity wholly owned by Pansy Ho Catilina Chiu King (“Pansy Ho”), to develop and operate a casino in Macau, Special Administrative Region, People’s Republic of China (“Macau”). This joint venture resulted in the December 18, 2007 opening of the MGM Grand Macau, a casino in which MGM and Pansy Ho each hold a one-half interest.

In accordance with the Casino Control Act, N.J.S.A. 5:12-1 et seq. (“the Act”), MGM, as a licensed entity, bears the burden of establishing, by clear and convincing evidence, its “good character, honesty and integrity” on a continuing basis. N.J.S.A. 5:12-84(c). MGM and three related entities are subject to the Act’s suitability requirements and the jurisdiction of the Commission as licensed entities that hold a one-half ownership interest in Marina District Development Company, LLC, which, in turn, owns and operates the Borgata Hotel Casino and Spa (“Borgata”) in Atlantic City, New Jersey.<sup>1</sup> The Act further recognizes that a licensee’s “business, professional and personal associates” are relevant in assessing the suitability of a licensee such as MGM. As the Commission has noted, “associations are relevant only to the extent that they may reflect upon actual character and present fitness to either hold a casino license or participate in gaming operations.” In re Resorts Casino Application, 10 N.J.A.R. 251 (CCC 1979). The Commission has also noted that “it is

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<sup>1</sup>The three related entities are (1) MAC, CORP, which is wholly owned by Mirage Resorts, Incorporated, (2) Mirage Resorts, Incorporated, which in turn is wholly owned by MGM, and (3) Tracinda Corp., which owns a majority of

incumbent upon the applicant to demonstrate either that it had no involvement with notorious or unsavory persons or that such involvement indicates no lack of good character, honesty and integrity.”

Id.

This Special Report is the culmination of the Division’s review of the MGM/Pansy Ho joint venture to determine whether this business association negatively affects MGM’s “good character, honesty and integrity.”<sup>2</sup> The Division’s June 2005 report to the Commission in connection with the renewal of the Borgata casino license referenced MGM’s proposed casino operation in Macau and MGM’s association with Pansy Ho. It informed the Commission that, “over the years there have been numerous public allegations suggesting that Stanley Ho, the father of MGM’s joint venture partner Pansy Ho, has ties to Asian organized crime.” The report discussed the proposed joint venture with Pansy Ho and signaled to the Commission that the Division would review this business relationship and provide any material information to the Commission as appropriate.

The Division investigated all aspects of MGM’s joint venture with Pansy Ho to determine whether MGM’s actions, as well as its present business association with Pansy Ho, were consistent with the “good character, honesty and integrity” and compliance obligations required by the Act. Pursuant to the Division’s request, MGM’s joint venture partner, Pansy Ho, and her sister, Daisy Ho, submitted Multi-Jurisdictional Personal History Disclosure Forms (“MJ-PHD”) in January 2006 to

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the outstanding shares of MGM common stock and which is controlled by Kirk Kerkorian. Boyd Atlantic City, Inc. (“Boyd”) is the other one-half owner of Borgata. Boyd had no involvement with MGM’s development activities in Macau.

<sup>2</sup> Unless otherwise stated, this Report is based upon information as of December 31, 2008.

assist in the Division's investigation of the business association.<sup>3</sup> The investigation included 35 sworn interviews of seventeen individuals and numerous other investigative interviews. Attorneys and investigators made several trips to Hong Kong and Macau, as well as a host of other locations, both within and outside the United States, seeking information relevant to this investigation. In addition, Division staff analyzed thousands of pages of documents, including e-mails and correspondence, and contacted numerous domestic and international law enforcement and regulatory authorities.

As a starting point of the Division's analysis, the character and reputation of Stanley Ho, the father of MGM's joint venture partner, precludes any finding other than that he is unsuitable. MGM senior executives conceded his unsuitability during this investigation. Furthermore, numerous governmental and regulatory agencies have referenced Stanley Ho's associations with criminal enterprises, including permitting organized crime to operate and thrive within his casinos. Stanley Ho's unsuitability, and the obstacles that it posed to MGM in its effort to enter the Macau gaming market by partnering with entities under his control, is at the root of the joint venture's formation and current structure. In particular, upon concluding that it could not partner with Stanley Ho or entities under his control, and without conducting adequate due diligence on her suitability, MGM simply substituted Pansy Ho as its joint venture partner despite her financial dependence upon Stanley Ho and his companies.

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<sup>3</sup>Pansy Ho and Daisy Ho voluntarily filed these forms with the Division for investigative purposes; neither is an applicant for licensure.

Pansy Ho's extensive and continuing personal, financial, and professional relationship with her father directly affect her individual suitability and leave her vulnerable to his potential influence and control. She had no prior gaming experience before the joint venture, bringing to the partnership primarily opportunities and influence provided by her business and personal relationship with her father. Simply put, she has advanced professionally and accumulated wealth due to her father's largesse, and she continues to hold leadership and governance positions in his companies. Indeed, prior to MGM concluding that Stanley Ho and his companies were not a suitable partner, Pansy Ho participated as his company's representative at the negotiations with MGM. Ultimately, ninety percent of the funds on which she relied to fund the joint venture derived from her father. Her interactions with other persons associated with Asian organized crime also call into question her individual suitability. Together, Pansy Ho's susceptibility to her father's influence and issues of personal suitability render the joint venture and MGM vulnerable to improper associations and influences and compromise MGM's suitability as a New Jersey licensed entity.

Moreover, MGM's compliance failings during the formation and consummation of the joint venture were pervasive and persistent, suggesting that the company's fervor to entering Macau compromised its commitment to regulatory compliance. Throughout the process, the communications between MGM's management and its own Compliance Committee ("Committee") were, taken in the most favorable light, incomplete and untimely, effectively negating the Committee's ability to engage constructively and critically in the company's entry into Macau. MGM officials failed to keep the Committee apprised of the parties with whom it was negotiating. Regarding these parties, MGM failed to share with the Committee the due diligence or derogatory information that the company



possessed. Additionally, MGM failed to examine the most critical aspects of Pansy Ho's suitability, namely, her ability to finance her contribution to the joint venture and her independence from her father and the companies that he controls. In short, this is not an instance where MGM's research and due diligence led it to conclude that Pansy Ho was independent from her father; rather, MGM simply failed to explore the issue of her financial independence. At the same time, MGM also failed to adequately disclose the limited information it did possess relevant to its review of the Pansy Ho joint venture to regulators from New Jersey, as well as other jurisdictions. This conduct renders MGM's compliance efforts related to the Macau joint venture inadequate and insufficient to fulfill its obligations under the Act.

## II. THE PARTIES AND ENTITIES INVOLVED IN MGM'S JOINT VENTURE EFFORTS IN MACAU

This Special Report will examine the interactions between MGM senior executives and employees and Stanley Ho, Pansy Ho, Daisy Ho, their representatives, and the constellation of entities that Stanley Ho and Pansy Ho own or control. For the convenience of the Commission, the following table provides a brief description of the persons and entities central to the formation and creation of the MGM-Pansy Ho joint venture.

Name

Title

MGM

J. Terrence Lanni

Chief Executive Officer, Chairman of the Board<sup>4</sup>

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<sup>4</sup>Effective November 30, 2008, Lanni retired from his executive positions at MGM Mirage. He also resigned from the company's Board of Directors. On all dates relevant to this investigative report, Lanni held the titles Chief Executive Officer and Chairman of the Board.

James Murren	President & Chief Operating Officer <sup>5</sup>
Gary Jacobs	Executive Vice President, General Counsel, Secretary
Kenneth Rosevear	President of Development
William Hornbuckle	Executive Vice President
Philip Wang	Senior Vice President – Far East Marketing
Kyle Edwards	Vice President, Corporate Security and Gaming Surveillance
Bryan Wright	Assistant General Counsel, Compliance Officer
Kenneth Feng	Assistant Vice President – Finance

#### Ho Family Members

Stanley Ho	Group Executive Chairman, Shun Tak Managing Director, STDM Member, STDM Board of Directors Managing Director, SJM
Pansy Ho ( <i>daughter of Stanley Ho</i> )	Managing Director, Shun Tak Director of STDM Managing Director, MGM Grand Paradise Limited
Daisy Ho ( <i>daughter of Stanley Ho</i> )	Deputy Managing Director, Chief Financial Officer, Shun Tak Member, STDM Board of Directors <sup>6</sup> Class A Director, MGM Grand Paradise Limited

#### Other Individuals

Chen Yau Wong (CY Wong)	Employed by STDM (1993-1999) Financial Advisor – Shun Tak (1999-2007) Class A Director, MGM Grand Paradise Limited
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<sup>5</sup>Effective December 1, 2008, Murren holds the titles of Chairman and Chief Executive Officer. On all dates relevant to this investigative report, Murren held the titles President and Chief Operating Officer.

<sup>6</sup>According to Daisy Ho's counsel, as of September 13, 2008, Shun Tak was appointed a corporate director of STDM. The Shun Tak board nominated Daisy Ho to act as its representative on that Board. As a result of that

### Companies Owned or Controlled by Stanley Ho

Sociedade de Turismo e Diversoes de Macau (STDM)	One of the largest private businesses in Macau, founded with partners and now controlled by Stanley Ho.
Sociedade de Jogos de Macau (SJM)	Awarded one of the three Macau gaming concessions in 2002; owned and controlled by Stanley Ho and STDM. <sup>7</sup>
Shun Tak Holdings, Limited (Shun Tak)	A large publicly-traded Hong Kong-based conglomerate founded and controlled by Stanley Ho and family members.

### III. MACAU - GENERAL BACKGROUND

#### A. THE GROWTH OF GAMING IN MACAU AND THE INVOLVEMENT OF ORGANIZED CRIME IN STANLEY HO'S CASINOS

Introduced into the territory in 1847 to offset a decline in its shipping and trading industries, legalized gaming has long been Macau's chief economic engine. By the end of the nineteenth century, gaming tax revenues had already become the main source of income for the government of Macau. For most of the twentieth century, the Macanese gaming industry has operated under monopoly ownership. In 1937, Macau granted monopoly gaming concession rights to Tai Heng. In July 1961, Macau opened ownership of a 25-year casino monopoly to public bidding. Two groups offered bids. Tai Heng, who at that point still held the monopoly, led the first group. The second group consisted of Ho Hung Sun, hereinafter referred to as Stanley Ho; Henry Fok, a wealthy Hong Kong businessman and developer; Yip Hon, a Macau gambler; and Teddy Yip, Stanley Ho's brother-in-law. Stanley Ho's group won the bid. They formed Sociedade de Turismo e Diversoes de Macau

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appointment, counsel has represented that Daisy Ho resigned from her position as a member of the Supervisory Board of STDM.

<sup>7</sup>This report does not take into account any changes in ownership or directorship resulting from SJM's July 2008 initial public offering.

("STDM") and, in June 1962, signed a gaming concession contract with the Macau government. STDM opened its first casino, Casino Estoril, in 1962. In 1970, STDM opened its flagship casino, The Lisboa.

STDM's control of gaming in Macau proved extremely lucrative for the company and Stanley Ho. By the mid-1980's, Stanley Ho had gained control of STDM. During its forty years of monopoly over Macau's gaming industry, STDM became one of the largest private business enterprises in Macau, with investments in transportation, hospitality and tourism services, banking, and finance. Stanley Ho's personal net worth has been estimated most recently at approximately \$1 billion.<sup>8</sup>

Asian organized crime, attracted by the growing gaming market and accommodated by the establishment of VIP rooms in STDM casinos, penetrated the Macau gaming market. Beginning in the early 1990's and continuing until the transfer of sovereignty to China in 1999, Macau experienced a wave of violence as Asian organized crime enterprises, known as "triads," struggled for control of the private, high-stakes "VIP" rooms in STDM's casinos. As a report prepared by the Library of Congress observed, "[t]op individuals in the triad structure often have established reputations as legitimate businessmen."<sup>9</sup> The VIP room structure, introduced in 1986, facilitated the involvement of Asian organized crime in STDM casinos. Upon receipt of an up-front fee for the right to operate in one of the gaming rooms, STDM relinquished control of the VIP rooms to third party operators. The third party operators would then enter into business arrangements with junket operators or promoters

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<sup>8</sup>"The World's Billionaires 2009." *Forbes*, March 11, 2009, available at [http://www.forbes.com/lists/2009/10/billionaires-2009-richest-people\\_Stanley\\_ho\\_umen.html](http://www.forbes.com/lists/2009/10/billionaires-2009-richest-people_Stanley_ho_umen.html) (last visited May 5, 2009).

who market and promote the VIP rooms to attract customers. The VIP room operators would then compensate the junket operators on a commission basis.

The VIP rooms in the STDM casinos provided organized crime the entry into the Macau gaming market that it had previously lacked. According to one commentator, before STDM brought in third parties to manage the VIP rooms, “the power of triad societies was limited because they did not have direct administrative access in the casinos[.]”<sup>10</sup> With the establishment of the VIP rooms, however, STDM created a “lawless space” that allowed organized crime to gain a foothold in the Macau gaming industry.<sup>11</sup> This expert noted that the VIP room operator would employ his friends or “triad brethren” to help operate the room, serve as sales agents, and provide protection and other “ancillary” services (*e.g.*, drugs, prostitution, loan sharking, and debt collection).<sup>12</sup> Another scholar noted that, “organized crime in Macau’s casino industry began to grow in the wake of the STDM’s administrative decentralization.”<sup>13</sup> The International Narcotics Control Strategy Report, published annually by the United States State Department, observed that “[u]nder the old monopoly framework, organized crime groups were closely associated with the gaming industry through their control of VIP

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<sup>9</sup>Glenn E. Curtis et al., Fed. Res. Div., Library of Congress, Transnational Activities of Chinese Crime Organizations, 3 (April 2003). (Internal footnotes omitted.)

<sup>10</sup>Angela Veng Mei Leong, The “Bate-Ficha” Business and Triads in Macau Casinos, 2 Queensland University of Technology Law and Justice Journal 83, 88-89 (2002).

<sup>11</sup>Id.

<sup>12</sup>Leong, supra, at 86-90.

<sup>13</sup>Lo Shiu Hing, Casino Politics, Organized Crime and the Post-Colonial State in Macau, 14 J. Contemp. China 207, 210 (May 2005).

gaming rooms and activities such as racketeering, loan sharking, and prostitution. As a result, the gaming industry in particular provides an avenue for the laundering of illicit funds.”<sup>14</sup>

B. MACAU OPENS ITS GAMING INDUSTRY TO GREATER COMPETITION

Soon after becoming a special administrative region of China in 1999, Macau moved to expand and encourage competition within its gaming industry. In December 1999, pursuant to a treaty between Portugal and China, Macau reverted to Chinese sovereignty. Almost immediately thereafter, and in the context of Macau’s pervasive gaming-related violence, Edmund Ho, the newly-appointed chief executive of Macau, announced a review of the casino gaming industry.<sup>15</sup> In July 2000, the government formed the Macau Gaming Committee, which concluded that limited competition among several gaming operators would stimulate the economy and promote tourism. In August 2001, the Legislative Assembly passed a law providing that three gaming concessions would be granted upon the December 31, 2001 expiration of STDM’s monopoly concession. The law required that each bidder for a concession have a local partner who held at least a 10% interest in the casino venture.

The bidding and award process for the three concessions happened quickly. On October 30, 2001, the government formed an eight-member Casino Concessions Committee (“Concessions Committee”) responsible for coordinating the tendering process, receiving and reviewing the bids, and making recommendations to the Macau Chief Executive. The Concessions Committee accepted twenty-one bids between November 2, 2001 and December 7, 2001. MGM submitted its bid on

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<sup>14</sup>United States Department of State, Bureau of International Narcotics and Law Enforcement Affairs, International Narcotics Control Strategy Report (March 2008).

December 4, 2001. On February 8, 2002, the government announced the results of the bidding process. The government granted a concession to the following entities: Sociedade de Jogos de Macau, S.A. ("SJM"), the company created and owned by STDM for the purpose of applying for a gaming license; Wynn Resorts; and, Galaxy Casino, S.A. ("Galaxy") and Venetian Macau Group ("Venetian Macau"), a venture formed by Galaxy Casino owners Lui Che Woo and Peter Ho On Chun and Venetian Macau, a wholly owned subsidiary of the Las Vegas Sands Corporation. Two of the successful bidders – Las Vegas Sands Corporation and Wynn Resorts – are Nevada competitors of MGM. In announcing the winning bidders, the government also announced the fourth- through sixth-ranked proposals. The Concessions Committee ranked MGM's bid fifth.

The government ultimately granted three subconcessions, one for each concession. The subconcessions allowed groups other than the original three top bidders to establish casinos in Macau. In December, 2002, the Macau government split the Galaxy concession and authorized the granting of a subconcession to be held by Sheldon Adelson and the Venetian Macau. In April 2005, the government approved the grant of a subconcession by SJM to the MGM/Pansy Ho joint venture. Finally, in September 2006, the Macau government approved Wynn Resorts' grant of a subconcession to a group comprised of James Packer and Lawrence Ho, Stanley Ho's son. Accordingly, the Macau government has issued a total of six casino concessions or subconcessions in the Macau gaming market, with members of Stanley Ho's family involved in three of the six.

The Macau gaming industry has expanded significantly since the issuance of the concessions. As of March 31, 2008, the number of casinos in Macau has increased from 11 in 2002 to 29, with

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<sup>15</sup>Chief Executive Ho is no relation to Stanley Ho.

SJM operating nineteen casinos, Galaxy five, Venetian Macau two, Wynn one, Melco PBL one, and the MGM/Pansy Ho joint venture casino one, the MGM Grand Macau. In calendar year 2002, Macau's casino revenues were \$2.77 billion. By 2004, they had risen to \$5.17 billion. In calendar year 2007, these revenues increased to \$10.38 billion, an amount that exceeded casino revenues in 2007 for Nevada's Las Vegas Strip (\$6.83 billion). By way of further comparison, casino revenue for the entire state of Nevada in 2007 was \$12.85 billion.

#### IV. MGM'S EFFORTS TO ENTER THE MACAU GAMING MARKET

The belief of senior MGM officials that MGM had to pursue entry into the Macau market or risk being at a competitive disadvantage to its counterparts in Nevada motivated the company's concerted efforts to secure gaming rights in Macau. In testimony before the Nevada Gaming Control Board ("NGCB"), the agency responsible for regulating the gaming industry in Nevada, Gary Jacobs testified that MGM's "Nevada operations would be significantly disadvantaged if our competitors, Wynn Resorts and Las Vegas Sands, are in that market [Macau] while MGM Mirage is not." MGM's own analysis and research concluded that, despite its turbulent past, Macau's gaming market could be a potentially lucrative investment for the company.

As discussed in detail below, MGM pursued partnerships with several entities in an effort to fashion a workable venture that would meet regulatory approval. In its efforts to develop a viable bid to enter the Macau gaming market, MGM held discussions in the spring of 2001 with potential partners in Macau. Throughout 2001, MGM discussed and pursued various forms of partnership with several individuals and entities. MGM executives testified that they were constantly approached by outside parties pitching potential opportunities and claiming to have the necessary local contacts to



secure one of the gaming concessions. It began its exploration of entry into the Macau market with New World Development (“NWD”), a Hong Kong conglomerate led by Cheng Yu-Tung, an individual with extensive and longstanding associations with Stanley Ho, and Chan Siu Hung (“Chan”), an individual involved in several VIP rooms. After learning that it was not selected for a concession in February 2002, MGM then sought to partner with Shun Tak and operate under SJM’s concession, entities prominent in Stanley Ho’s empire. After Nevada regulators voiced concerns over the proposed arrangement with those corporate entities, in the fall of 2003 MGM began discussions to partner directly with Pansy Ho, the daughter of Stanley Ho, which culminated in a joint venture agreement entered into in June 2004.

A. MGM DISCUSSES BID SUBMISSION AND JOINT VENTURE WITH NEW WORLD DEVELOPMENT AND JOHNNY CHAN

Throughout much of 2001, MGM senior executives engaged in joint venture discussions with representatives of NWD, a conglomerate based in Hong Kong. In its June 5, 2001 corporate meeting, the MGM Executive Committee authorized the negotiation of a joint venture agreement with NWD. NWD representatives included its director and chairman, Cheng Yu-Tung, and his son and Managing Director of NWD, Henry Cheng Kar-Shun (“Henry Cheng”). Cheng Yu-Tung has had extensive business relations with Stanley Ho, is a substantial shareholder of STDM, and holds governance positions on the boards of both STDM and Shun Tak. Chan was also involved in the discussions on behalf of NWD. Chan and Chen Yu-Tung had established VIP rooms together in three different STDM casinos.

Also during this time, MGM considered Chan individually as a local partner.<sup>16</sup> In a November 6, 2001 memorandum to Kyle Edwards, Jacobs identified Chan as the company's prospective Macau partner and directed MGM's Corporate Security Department to begin a background check on Chan. On December 4, 2001, MGM submitted its bid to the Concessions Committee without naming a local partner. On December 6, 2001, a private investigation firm retained by MGM provided MGM Corporate Security a background investigation report on Chan. While the report noted that Chan had no criminal record in Macau, it stated that "Chan is directly involved in the VIP rooms of the Casinos that are notorious for triad activities. He is in partnership in one of these with CHENG Yu-tong a partner and associate of Stanley Ho." Edwards prepared and provided to Jacobs an MGM MIRAGE Corporate Security Report on Chan, based on the background investigation report. The report indicated that "[l]aw enforcement and private sources show no criminal arrests or convictions in Hong Kong." Noting Chan's role in operating three VIP rooms, the report commented that "[t]hese VIP rooms are notorious for triad activities" and that, according to sources, "it is nearly impossible to be in the casino business in Macau at present, without having associations with triad groups or what is known as organized crime." By memorandum dated January 4, 2002, Jacobs forwarded Edwards' Chan report to Terrence Lanni and Kenneth Rosevear, noting that Edwards' "cautionary note concerning 'associations' with individuals involved with organized crime are probably inevitable for people in the casino business in Macao under the old regime."

In the event one of the three successful bidders could not finalize its agreement or another opportunity arose, MGM continued to seek a local partner even after not receiving one of the initial

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<sup>16</sup>Testimony of Jacobs, May 30, 2007, pp. 59-61.

gaming concessions. In the event that any of the top three bidders were unable to finalize an agreement with the government, MGM anticipated that the government would grant a concession to the next-highest ranked bidder. In a March 25, 2002 letter to Henry Cheng and Chan, as representatives of New City Casino Ltd., Lanni stated that MGM maintained “a keen interest” in obtaining a concession should one become available. The letter proposed a joint venture that would be owned 40% and 20%, respectively, by an entity or entities led by Henry Cheng and Chan, and noted that MGM “contemplate[d] that Johnny Chan would serve as Executive Director of MGM Grand Macao.” The letter concluded that “we are ready, willing and able to proceed with discussions with you on the basis outlined above,” with the caveat that the proposed structure was “subject to the approval of the government of Macao S.A.R. and the gaming regulators to which we are subject.” By June 2002 each of the entities granted an initial concession had executed a gaming concessions contract with the Macau government and MGM’s conversations with NWD, Cheng, and Chan proceeded no further.

MGM signed and delivered the March 25, 2002 letter proposing a partnership despite its own internal due diligence noting the connections between Chan, the VIP rooms, and organized crime. Although both Lanni and Jacobs later testified that they had reservations about Henry Cheng as a partner, the letter suggests that the company would have entered the Macau market with Cheng and Chan as partners had the opportunity arose.

B. MGM’S OVERTURES TO STANLEY HO

MGM continued in its attempt to enter the Macau market. As Jacobs stated, “we licked our wounds for a bit, and then tried to analyze whether there were any other opportunities for us to enter

the Macau market.” In interviews with the Division, Jacobs stated that MGM had “no appetite whatsoever” to consider a partnership with those concessionaires who competed with MGM in the Nevada market, namely, Wynn Resorts and Las Vegas Sands. This decision to exclude its Nevada competitors from consideration left SJM, the entity established by Stanley Ho and STD, as the sole remaining concessionaire.

MGM approached SJM through outreach to Stanley Ho in spring 2002. Philip Wang, who had known Stanley Ho on a social basis, testified that he sought prior approval from Lanni before contacting Ho.<sup>17</sup> Lanni testified in direct contradiction that he was not aware that Wang was going to contact Stanley Ho.<sup>18</sup> Wang stated that contacting Stanley Ho “was really a wild card. At the time, we were very desperate.” He testified that Lanni said it was a “crazy idea” but said to “give it a shot.” Wang met with Stanley Ho at Ho’s office, and then followed up the meeting with a phone call. On both occasions, Stanley Ho responded, “are you serious?” Wang stated that, during the phone call, he replied “we [MGM] are very, very serious.” He testified that Stanley Ho advised him that he would “be leaving with a group of people, some family members and some of my business associates to the United States, and we [will] see what happens.” Wang stated that he informed Lanni of Stanley Ho’s future visit. Both agreed that it would be appropriate for MGM to host a dinner for Ho and his family in Las Vegas.

Stanley Ho designated Pansy Ho as his representative in discussions with MGM. Accompanied by business associates and family members, including Pansy Ho, Stanley Ho visited

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<sup>17</sup>Testimony of Philip Wang, July 31, 2007, pp. 20-21.

Las Vegas in April 2002. The Ho party accepted MGM's invitation to stay at a MGM property, the Mansion at MGM Grand, during their visit. During this trip, members of the Ho party, including Stanley Ho and Pansy Ho, had dinner with Lanni, Wang, and MGM majority shareholder Kirk Kerkorian. Wang testified that Stanley Ho stated to him after the dinner that, "from now on I want you to start the discussion and my daughter Pansy Ho will be my representative negotiating with you." Lanni similarly recalled that Stanley Ho designated Pansy Ho as his representative in the negotiations. Wang indicated that no further discussions with Stanley Ho occurred during the April 2002 trip.

Pansy Ho testified that she made it clear to Rosevear that because she was the Managing Director of Shun Tak, she would be representing Shun Tak, and not SJM, in the negotiations. She also testified that Stanley Ho had concluded that "of course SJM is not going to work with [MGM] as in becoming partners, there's no reason. I mean they're competitors at best."

Regardless of the particular entity that Pansy Ho was representing during the initial discussions, STDM, Shun Tak, and SJM have significant governance and ownership overlap. Stanley Ho is the largest individual shareholder of both STDM and Shun Tak. As of June 30, 2008, five individuals serve on the boards of both STDM and Shun Tak. Three Shun Tak directors serve on the SJM Board. Six STDM directors and five Shun Tak directors are members of the Ho family. The refusal of Pansy Ho and Daisy Ho to release material information relating to Shun Tak and STDM has

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<sup>18</sup>Testimony of Lanni, August 1, 2007, p. 70.

limited the Division's ability to fully evaluate and determine the corporate and business relationship between these entities.

C. MGM AND SHUN TAK NEGOTIATE TERMS OF JOINT VENTURE, WITH PANSY HO SERVING AS REPRESENTATIVE OF STANLEY HO AND SHUN TAK

MGM pursued its efforts to partner with Shun Tak, initially, and, then, Pansy Ho individually, despite the warnings of regulators and its own due diligence on Stanley Ho and his companies. Throughout the remainder of 2002 and through the summer of 2003, MGM and Pansy Ho, participating in her corporate capacity as managing director of Shun Tak and as her father's representative, negotiated and reached agreement on various aspects of a joint venture, including ownership, control, and the venture's arrangement with SJM, the holder of the gaming concession. By July 2003, the parties intended to travel to Macau in September to discuss the venture with Macanese regulators. An intervening request by Nevada regulators for discussions on the proposed joint venture structure convinced MGM officials that the proposed joint venture, as the parties had conceived it, would likely not meet regulatory approval because of the involvement of companies owned and controlled by Stanley Ho. Rather than abandon the joint venture, Pansy Ho, individually, replaced Shun Tak as the joint venture partner, the Macanese government reversed its position on granting any additional subconcessions, and SJM agreed to convey the subconcession to the joint venture at what MGM has acknowledged was a bargain price. This section will discuss the broad parameters of these negotiations insofar as they are pertinent to the final structure of the joint venture.

Following the April 2002 dinner conversation, Shun Tak and MGM began exploratory discussions on September 9 and 10, 2002, in Las Vegas regarding a joint venture between the parties.

Pansy Ho and CY Wong participated on behalf of Shun Tak. Lanni, Rosevear, Kenneth Feng, and Wang participated on behalf of MGM. Wong testified that MGM was “quite responsive” to the suggestion of a possible joint venture with Shun Tak and MGM owning 51 percent / 49 percent, respectively. The parties proceeded to work together to produce a financial business model. In early October, Feng and Patrick Crockett, an MGM development executive, went to Hong Kong to meet with Wong. Later that month, Lanni and Rosevear met with Pansy Ho and Wong in Hong Kong.

After additional meetings and subsequent discussions, the parties produced a general outline of the joint venture. As reflected in a February 4, 2003, document, major characteristics of the joint venture included:

- **Ownership:** MGM MIRAGE/Shun Tak project ownership in the ratio of 49%/51%;
- **Size of venture:** MGM MIRAGE and Shun Tak would make equity contributions of \$88.4M and \$92.1M, respectively;
- **VIP rooms:** No third-party operated VIP rooms in the initial years; and,
- **Income sharing with SJM:** SJM to receive 12.5% of gross revenue as license holder.
- **Casino site:** Land concession price payable to SJM by the joint venture for the casino site would be capped at \$60 million.<sup>19</sup>

Regarding discussions on the VIP rooms, MGM’s position, as articulated by Jacobs and Rosevear, was that the rooms would have to operate in a manner that satisfied the standards of United States

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<sup>19</sup>The \$60 million included monies that the joint venture would pay to both SJM and the Macanese government. Macanese law mandated that only a gaming concessionaire, or someone nominated by a concessionaire, could apply to the government to develop land designated as casino-related land. Development approval for land designated as casino-related land falls under the discretion of, and accelerated review by, the Chief Executive. Additionally, the Macanese government retained ownership of the land.

casino regulators. Furthermore, MGM maintained that all persons involved in VIP room operations would have to be investigated in a manner that satisfied United States casino regulators.

Several issues relating to operational control of the joint venture and the nature of SJM's involvement remained unresolved. Regarding operational control, MGM maintained that it would accept minority ownership in the venture if it had an equal role in all significant operations decisions. Pansy Ho insisted that she hold the title of Managing Director. Jacobs testified that MGM's concerns regarding that condition were (1) Pansy Ho's lack of gaming experience; and (2) accountability to other regulators, particularly those in the United States. Jacobs testified that MGM was concerned about Pansy Ho's ability to run the project "because at that time she was not knowledgeable in the gaming areas and in compliance."

The second outstanding issue related to the joint venture's business relationship with SJM. Per Jacobs, "it was generally understood that no matter what the form of the transaction, the substance had to be that SJM had to be passive and could not operate," due to the nature of public allegations relating to Stanley Ho, his ownership and control of SJM, and anticipated regulatory concerns regarding these allegations.<sup>20</sup> MGM concluded that joint venture payments to SJM made pursuant to an income formula would be sufficient to render SJM a passive participant. Jacobs testified that, at this stage of the negotiations, Pansy Ho understood that MGM could not enter into any type of relationship with her father.

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<sup>20</sup>Testimony of Jacobs, March 21, 2007, p. 172; testimony of Jacobs, May 30, 2007, p. 154.



D. MGM'S DUE DILIGENCE ON STANLEY HO, PANSY HO, AND SHUN TAK DISCUSSED STANLEY HO'S BUSINESS ASSOCIATIONS AND RELATIONS WITH ASIAN ORGANIZED CRIME AND NORTH KOREA, AS WELL AS PANSY HO'S ACTIVE INVOLVEMENT IN STANLEY HO'S COMPANIES

MGM's due diligence and background reports provided MGM executives with derogatory information regarding Stanley Ho and Pansy Ho's former husband. In the early stages of negotiations with Shun Tak in March 2003, Jacobs directed MGM's Corporate Security Department to investigate the backgrounds of Shun Tak, Stanley Ho, Pansy Ho, and Daisy Ho. In a March 7, 2003, memorandum to Jacobs about Stanley Ho and Shun Tak, Edwards referenced a commercial fraud investigation in Hong Kong during the 1990s that involved Tomson Group/World Trade Centre, companies of which Stanley Ho was either a director or chairman. The memorandum detailed numerous material derogatory allegations about Stanley Ho personally. It noted that Australian gaming authorities had found that Stanley Ho was "unsuitable to hold a gaming license," and added that a 1992 United States Senate committee investigation had concluded that Stanley Ho, while not a member of Asian organized crime, associated with individuals and business associates who were members.

The March 7, 2003 memorandum also commented on Pansy Ho. It noted that, in August 2000, Pansy Ho had a relationship with Gilbert Yeung Kei-lung ("Gilbert Yeung"), the son of Yeung, Sau Shing, Albert ("Albert Yeung"). Edwards explained in the memorandum that "Gilbert Yeung is the son of Albert Yeung a convicted felon for illegal bookmaking." A handwritten notation by Jacobs on the memorandum indicates that he forwarded it to Lanni, Rosevear, and James Murren. Later that month, on March 25, 2003, Edwards incorporated the various allegations of the March 7, 2003 memorandum into a draft MGM Mirage Corporate Security Background Report. In the transmittal

memorandum accompanying the background report, Edwards indicated that he had retained a private investigation firm to do further research. The memorandum also advised Jacobs that “[i]f there is any information you specifically need please tell and I will have them do the work. Upon each update I will forward to you the information.”

The private investigation firm submitted several investigative reports to MGM that documented derogatory information regarding Stanley Ho and Pansy Ho. In an e-mail dated March 14, 2003, the private investigation firm concluded that triads or persons associated with triads operated the VIP rooms in the SJM casinos. The private firm also noted that Stanley Ho was “linked closely” to the two major triads operating in Macau, the 14K and Sun Yee On. The firm also reported on its investigation into Shun Tak, discussing the extent of the Ho enterprises, the substantial business connections between Shun Tak and STDM, and other “cross pollination” between the two entities. It referenced the influence of the Ho family, noting that the family, through their various associations and interests, controlled most aspects of business in Macau and had substantial influence with the Macau government.

A report by the firm further discussed the involvement of organized crime in Stanley Ho’s casinos. It observed that “[t]he alleged Triad involvement in the VIP gaming rooms has been documented and corroborated information from two confidential sources” and concluded that “[t]here is no doubt that he [Stanley Ho] would have to and has interacted with Triads and must have dealings with them, by virtue of the VIP rooms and other projects.” The report also included a chart listing 48 VIP rooms, the individuals believed to be in charge of each room, and those individuals’ triad association. The report stated “that the majority of VIP rooms are in establishments that are either owned, controlled or a shareholding is held by one of [Stanley Ho's] group of companies.” While the report noted that it had found no “definitive evidence” that Stanley Ho “is associated with, is a

member of or is a leader of a Triad Society nor has he been convicted of any such offense,” it commented that “[Stanley Ho] has been associated with such [corruption] offenses in Hong Kong, Philippines and Canada, but no charges were ever brought against him.”

The report also discussed Stanley Ho’s “strong ties” to North Korea and noted that a casino located there “is ostensibly said to be owned by a reputed (but never convicted) senior Triad member Albert Yeung Sau Shing (alleged senior office bearer of the Sun Yee On), who also controls the Emperor Group a listed company on the Hong Kong Stock Exchange.”<sup>21</sup> In discussing Stanley Ho’s casino presence in North Korea, the report stated that “Wong Sing Wah (owns two VIP rooms), another suspected senior Triad member, is alleged to be a partner with SH [Stanley Ho] in a casino in North Korea.”

The firm also documented Pansy Ho’s personal relationships and her importance in Stanley Ho’s companies. The firm’s March 14, 2003 e-mail to Edwards noted that Pansy Ho had been married to Julian Hui (“Hui”), who operated a nightclub in Hong Kong,

In a separate report, the firm noted that Stanley Ho had named Pansy Ho as “his heir apparent” and that she was “actively involved in most facets of the day-to-day operations of two key companies in the Ho Empire: Shun Tak Holdings Ltd. and STDM.” It also stated that Pansy Ho had no record of any criminal or corruption offenses and that the report’s author was unable to obtain any intelligence reports on Pansy Ho.

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<sup>21</sup>As noted above, *infra* at 21, Edwards’ March 7, 2003 memorandum discussed the relationships between Pansy Ho and Albert Yeung’s son, Gilbert.

Edwards distilled the various reports from the private investigation firm into two MGM MIRAGE Corporate Security Background reports that set forth substantial derogatory information regarding primarily Stanley Ho, with some discussion of Pansy Ho. One report was seven pages; the other was five pages. They omitted some derogatory information contained in the investigative reports and e-mails, including the alleged triad involvement of Albert Yeung. Both reports were unsigned and undated and the seven-page report was stamped "DRAFT."<sup>22</sup> The reports stated that there "is no doubt that by virtue of the setups of the VIP rooms, Stanley has interacted with individuals that are members of Triads." The longer report also contained detailed allegations of Stanley Ho's involvement with members of Russian organized crime; his casino in Pyongyang, North Korea; and his relationship with Wong Sing Wah. The report identified Wong Sing Wah as a VIP room operator, a suspected triad member, and as an individual with ties to North Korea. It also noted press reports that, in a January 2003 meeting with a senior official of the Russian Consulate, Stanley Ho, "claiming that he was acting on behalf of the highest North Korean authorities, offered to facilitate the movement of Saddam Hussein, his family and other senior Iraqi leaders, to North Korea." The reports did not discuss Pansy Ho's relationship with Hui. Edwards sent both reports to Jacobs.

On March 20, 2003, Lanni and Jacobs also received derogatory due diligence information regarding Stanley Ho directly from Alan Feldman, MGM's Senior Vice President of Public Relations. In Feldman's e-mail to Lanni and Jacobs, he informed them that, in 1986, Australian authorities

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<sup>22</sup>Edwards testified that he "generally" marked reports "draft" because "that was Mr. Jacobs' general instruction at all times."

forced Stanley Ho to divest himself from an entity applying for a casino license because the regulators concluded that Stanley Ho was “an unsuitable person to hold a casino license.” The e-mail referred to and quoted two news articles from an Australian newspaper that discussed the connection of the VIP rooms to organized crime and violent crime in Macau. The e-mail also referenced a 1992 United States Senate Report that, according to Feldman, said that, “while Ho was ‘not known to be involved in organized crime’ Stanley Ho had ‘some connections’ to organized crime figures.”

E. NEVADA REGULATORS EXPRESS RESERVATIONS ABOUT THE STRUCTURE OF MGM’S PROPOSED JOINT VENTURE WITH SHUN TAK AND SJM

Although MGM senior executives maintained during their testimony that the company would not do business with Stanley Ho, MGM pursued plans to enter the Macau gaming market with two companies in which Stanley Ho had controlling ownership and held leadership positions: Shun Tak and SJM. In early 2003, Jacobs discussed MGM’s joint venture plans with individual members of the NGCB. Jacobs testified that, very early in the dialogue, a NGCB board member advised MGM that an affiliation or association with Stanley Ho “was going to cause some difficulties for our regulators.” Jacobs recalled receiving a telephone call from MGM’s outside counsel to discuss what he characterized as a NGCB member’s “grave reservations” about the proposed structure of the joint venture. Counsel also advised Jacobs that the same Board member had stated that “Nevada really had a problem with this structure because of the — because of Dr. Ho and SJM’s income stream participation [.]”

In an attempt to address these concerns, MGM pursued a written statement from Macau regarding the probity of Stanley Ho despite derogatory due diligence in its possession. On March 18, 2003, Jacobs advised the MGM Executive Committee that “in [in]formal conversations with members

of the Nevada Gaming Control Board, reservations were expressed concerning this involvement by Mr. [Stanley] Ho.” The minutes of this meeting note that Jacobs “had requested (and Ms. Ho agreed to provide) a written statement from the government of Macau S.A.R., to the effect that it had investigated and was satisfied as to the probity of Mr. Ho. Jacobs said that such a finding would be essential to support the company’s own probity review and to allay the concerns of Nevada and possibly other regulators.” Jacobs later testified, “my thinking was that . . . if Macau were prepared to provide documentation and/or support of the probity of Dr. Ho and his enterprises, that that would be a useful piece of evidence to present to Nevada.”

F. MGM AND SHUN TAK REACH CONSENSUS ON A JOINT VENTURE STRUCTURE

Despite the Nevada gaming regulators’ preliminary indication of concerns, MGM and Shun Tak proceeded to negotiate the terms of the proposed joint venture throughout the spring of 2003. The negotiations continued to focus on operational control and the regulatory viability of SJM as a participant in the joint venture. Pansy Ho maintained that she, as a representative of Shun Tak, must be the Managing Director. Jacobs responded that, due to “the realities that MGM Mirage must deal with at our regulatory and board level make it clear that we cannot go forward without demonstrating that MGM has operational control over the joint venture.”

MGM reached agreement with Pansy Ho, on behalf of Stanley Ho and Shun Tak, on the structure of a joint venture that would develop, construct, and operate hotel/resort gaming complexes in Macau. By July 2003, the parties had agreed on the “salient aspects” of the structure of an MGM-Shun Tak joint venture that still involved entering into a management agreement with SJM. On July 31, 2003, Pansy Ho, as the Managing Director of Shun Tak, and Lanni, as Chairman of the Board and

CEO of MGM, exchanged reciprocal letters acknowledging that the parties had reached a consensus regarding the structure of the joint venture. They further noted that they were prepared to recommend to their respective Boards of Directors that the project proceed but only after the parties consult with their prospective regulators to determine whether the regulators expressed any material objections or concerns to the proposed joint venture. A document titled "Proposed Casino JVC Structure," dated July 31, 2003, reflected those mutually agreed principles and arrangements that both MGM and Shun Tak were prepared to recommend to their respective boards of directors. With the general structure for an MGM-Shun Tak partnership in place, MGM executives planned to travel to Macau in September to resolve several outstanding issues with SJM and to present the joint structure to Macau regulatory authorities.

G. NEVADA REGULATORS EXPRESS CONCERN ABOUT MGM PARTICIPATING IN ANY TRANSACTION INVOLVING STANLEY HO

Nevada regulators continued to indicate to MGM that partnering with entities controlled by Stanley Ho was problematic. Prior to the proposed September 2003 meeting with regulators in Macau, on August 15, 2003, a staff member of the NGCB requested that Jacobs meet with a board member and staff to "discuss specifically and not generally" MGM's plans in Macau. Pursuant to that request, on August 26, 2003, Jacobs, Lanni, and William Hornbuckle, met with NGCB member Bobby Siller ("Siller") and NGCB staff. Siller advised that he was aware of information about Stanley Ho that was very troubling. Specifically, he raised concerns about Stanley Ho's alleged organized crime connections, issues involving loan sharking and debt collection at his Macau casinos, and Stanley Ho's experiences with other casino regulatory agencies. While Siller noted that he could not speak for the other two members of the Board, he advised the MGM executives that any

transaction involving Stanley Ho would necessitate a full investigation and some type of public suitability hearing in Nevada. Siller indicated that gaining approval for such a venture would be a “very difficult path,” and he advised that he, as a member of the NGCB, would not support any agreement that included Stanley Ho, Shun Tak, SJM, or STDM. For their part, the MGM executives did not present at the meeting any of the due diligence, background reports, or other records in their possession that contained due diligence, derogatory or otherwise, concerning Stanley Ho. To the contrary, MGM executives advised Siller that they had no “smoking gun” related to negative information about Stanley Ho.

On August 26, 2003, the same date as the meeting between MGM officials, Siller and NGCB staff, Siller received a letter signed by Secretary Francis Tam Pak Yeun (“Secretary Tam”), a high-ranking Macanese government official, but largely written by Jacobs and Pansy Ho’s attorney, David Stannard.<sup>23</sup> The August 1, 2003 letter, signed by Macau’s Secretary for Economy and Finance, was written pursuant to Jacobs’s request noted in the March 18, 2003 meeting of the MGM Executive Committee. The letter stated that the Macanese Government was seeking to “maintain the highest possible standards in the conduct of its gaming facilities,” including ensuring that “the operation and running of casino gaming is conducted in a manner which is fair, honest and free of the influence of criminal activities.” It further indicated that the Macau government had conducted a thorough background investigation on SJM and Shun Tak and had found both entities suitable, as well as their directors, holders of 5% or more of its share capital and its ultimate controlling shareholders. Further

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<sup>23</sup> On August 7, 2003, Wong emailed signed copies of the Secretary Tam letter to Jacobs. Wong also testified that he gave the signed original version of these letters to Wang for delivery to Nevada. The Secretary Tam letter received by Siller was a signed original that was stamped “Received August 26, 2003.” This is the same date as



review of the August 1, 2003 letter and MGM's internal documents reveals that, in large part, Jacobs, with some assistance from Stannard, wrote almost verbatim the Secretary Tam letter endorsing the suitability of Shun Tak, SJM and, by implication, Stanley Ho, due to his status as director and shareholder of those companies.

The assertions contained in Secretary Tam's letter notwithstanding, however, the meeting with Siller led MGM executives to conclude that the joint venture in its current form would not obtain regulatory approval in Nevada. On September 16, 2003, Jacobs informed MGM's Executive Committee that, "for regulatory reasons it would be necessary to deal directly with the Macau government, as distinct from participating in the market through an existing concessionaire and that the Company was exploring the feasibility of such an approach." In early September, 2003, MGM executives met with Stanley Ho to advise him personally of Nevada's regulatory concerns. Jacobs, Hornbuckle, and Wang met with Stanley Ho, Pansy Ho, Daisy Ho, Wong, and other advisors at Shun Tak's Hong Kong corporate offices. Jacobs testified that he advised Stanley Ho that MGM could not partner with him because of regulatory concerns expressed by Nevada regulators. According to Jacobs, Stanley Ho was "upset" by the news.

#### H. PANSY HO REPLACES SHUN TAK AS MGM'S JOINT VENTURE PARTNER

Later that month, after Stanley Ho had learned that MGM would be unable to partner with Shun Tak, the Macanese government reversed course on the granting of additional subconcessions. The government informed MGM that it would allow SJM to issue a subconcession for an MGM

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the meeting between MGM officials, Siller and NGCB staff.

casino. According to Jacobs, Jorge Oliveira, the head of the Macau Legal Commission, urged MGM to “move quickly ... to reach a definitive agreement with Pansy [Ho].”

MGM and Pansy Ho, in her individual capacity, explored different structures for a joint venture arrangement that would, in their views, meet regulatory approval while providing Pansy Ho sufficient involvement in the enterprise. Countering an MGM proposal that would have given Shun Tak a purely passive, non-voting role in a joint venture, Pansy Ho suggested that she replace Shun Tak as the subconcession holder. By early November 2003, MGM was negotiating with Pansy Ho individually. Jacobs testified that, despite Pansy Ho’s lack of gaming experience, MGM did not consider any partner other than Pansy Ho because of her influence with SJM. Both he and Rosevear acknowledged that the father-daughter relationship of Stanley Ho and Pansy Ho was instrumental in SJM being willing to deal with MGM. As Jacobs testified,

Well, the way I would more characterize it is that MGM, with any other partner, would not have been able to, in my judgment, obtain a subconcession from SJM. Clearly, it was in relationship - - she was the daughter and they were more amendable [sic] to allowing such a transaction.

As Rosevear noted, “we recognized that [Pansy Ho] had potential influence that others wouldn’t have.”

In November 2003, MGM and Pansy Ho met individually with members of the NGCB to apprise them of the modifications to the joint venture and to introduce them to Pansy Ho. At least two of the NGCB members reiterated their serious concerns about the suitability of Stanley Ho, noting that their concerns also extended to Shun Tak, as well. The NGCB members, aware of Pansy Ho’s leadership position in Shun Tak but unaware of any issues relating to her personal suitability,

advised MGM that it could proceed with a proposed joint venture with Pansy Ho individually. Jacobs later testified that, while the individual NGCB members indicated that MGM could further pursue an association with Pansy Ho, this preliminary indication did not mean that they had officially approved Pansy Ho's suitability, her independence, or the business association.

While the entities forming the proposed joint venture changed, the individuals at the negotiating table remained the same. Pansy Ho, previously negotiating on behalf of Shun Tak, was now negotiating in her individual capacity. Wong, who had previously negotiated on behalf of Shun Tak, was now representing Pansy Ho in her negotiations with MGM. He was also serving as a liaison to SJM on behalf of the joint venture for various issues, including the cost of the subconcession. During the negotiations, he retained his title of Financial Advisor at Shun Tak, occupied an office "yards" away from Stanley Ho's at Shun Tak Centre, served on Shun Tak's informal executive management committee, and was a director of approximately 66 Shun Tak group companies. Pansy Ho's personal attorney was a partner at the law firm established by Rui Cunha ("Cunha"), a director and the corporate secretary of SJM. Other Shun Tak and STDM employees continued to perform important functions, even after Pansy Ho, individually, had replaced Shun Tak as the joint venture partner. For example, Fred Chan, a Shun Tak employee with expertise in property issues, handled the land premium and boundary issues for the joint venture. Colin Ching ("Ching"), a Shun Tak employee with expertise in corporate finance, provided advice to Pansy Ho regarding the financing of the joint venture. Ching remained involved after Shun Tak was no longer a party to the deal. Miguel Queiroz ("Queiroz"), an STDM employee who functioned as counsel for SJM, performed legal work

for the joint venture during its formation and provided comments to MGM and Pansy Ho regarding the Shareholders Agreement and Articles of Association.<sup>24</sup>

I. MGM KNEW THAT PANSY HO'S FINANCIAL INDEPENDENCE FROM HER FATHER WOULD BE A KEY REGULATORY ISSUE

By mid-November 2003, MGM executives knew that Pansy Ho's independence from her father would be a critical area of inquiry by casino regulators. Specifically, they recognized that regulators would be interested in Pansy Ho's source of funds for the joint venture, her business and financial ties to her father, including her roles and responsibilities at Shun Tak and STDM, as well as her degree of independence from her father. Jacobs confirmed that, during the meetings with Nevada regulators, individual NGCB members inquired into Pansy Ho's source of funds. He testified that it was "no secret" that Pansy Ho's independence from her father was the underlying issue and that "[h]er source of funds would be a very, very significant component of such a determination." He also noted:

And again, in candor, the relationship of Pansy and her independence has always been from a due diligence standpoint or a regulatory standpoint the key issue because we always took as a posture that we accepted the notion that we couldn't be and wouldn't be in business with SJM, and so if you can draw the distinction between the daughter, the accomplished daughter and the controversial father, that was always an issue that we had to deal with.

He added that "[w]e did know that she would have to be making this investment personally from her personal funds." He stated that he told Pansy Ho that "she should anticipate that the gaming regulators will inquire and delve very, very deeply into her source of funds for this." Jacobs further

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<sup>24</sup>In March 2006, Division attorneys had a brief meeting with Stanley Ho at his Shun Tak corporate offices in Hong Kong. At that meeting, Stanley Ho was accompanied by Cunha and Queiroz.

testified that he made it “abundantly clear” to Pansy Ho that “this had to be her own money,” and that she indicated that she understood the issue. In his testimony, Lanni maintained that he did not discuss Pansy Ho’s finances or funding sources with her.

The degree of separation between its then-proposed joint venture partner, Pansy Ho, and her father, was a primary concern of MGM in its assessment of a business association with her. Despite this concern and knowledge of potential problems, from the fall of 2003 to the issuance of the subconcession in April 2005, MGM conducted no further due diligence on the issues of Pansy Ho’s independence, her source of funds for the joint venture, or other inquiries related to her financial and business affairs with her father or the entities he controlled.

J. PANSY HO SOUGHT THROUGHOUT THE NEGOTIATIONS TO INCLUDE SHUN TAK IN THE JOINT VENTURE PROJECT

Both Pansy Ho and Wong sought to secure some role in the joint venture for Shun Tak during the negotiations with MGM. In an October 23, 2003 memorandum to Jacobs, Rosevear noted that Pansy Ho and Wong remained “highly desirous of Shun Tak making an investment in the non-gaming element for a strictly commercial return unrelated to the gaming win or profits.” Hornbuckle also recalled that Pansy Ho tried to convince MGM that a Shun Tak development would benefit the joint venture. Jacobs attributed Pansy Ho’s advocacy in this area to her status as Managing Director of Shun Tak. He added that she wanted to find a development opportunity for Shun Tak because she, individually, had replaced Shun Tak as the joint venture partner. Jacobs observed that “my guess would be that she was trying to be sensitive to Shun Tak and its shareholders to try to minimize the inherent conflicts of this situation.”

Pansy Ho's efforts to include Shun Tak in the joint venture centered upon the inclusion of a Shun Tak project adjacent to the site of the proposed casino. In September 2002, the parties were considering the Nam Van site, which consisted of two contiguous parcels of land, one rectangular and the other triangular. The rectangular portion of land was approximately 10 acres. Various entities owned and controlled by SJM held the rights to petition the government to develop this parcel.<sup>25</sup> The 4 acre triangular parcel was located at the southern end and was underwater at the time. The triangular piece had been designated by the Macau government as land subject to reclamation and, as a result, it was directly under the control of the Macau government.<sup>26</sup>

In early 2003, Pansy Ho and her Shun Tak colleagues rejected MGM's initial plans that utilized the entire 14 acre site for the casino project and instead proposed the inclusion of a complementary project for the site that would be adjacent to the casino project and increase density on the entire site. MGM was asked to participate in the complementary project but declined.<sup>27</sup> Lengthy discussions ensued between the joint venture partners regarding the division of the 14 acre site for both projects. By spring of 2004, they had resolved the ultimate division of the property such that each site included a portion of the original rectangular site and the reclaimed triangular parcel. The

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<sup>25</sup>As noted, land in Macau is usually owned by the government and is leased, not sold, to third parties pursuant to a land concession agreement. The developer pays the government a land premium based on the size and type of project for the right to develop the property.

<sup>26</sup>Rosevear testified that he believed that SJM, as the owner of the adjacent parcel, was the appropriate party to apply for reclamation of the triangular portion. He testified, "[SJM was] the adjoining landowner and, I think, to expedite things I think they had to do the application for the land fill until the land got transferred." He continued, "for expediency, they [SJM] started the development of the application process because you had to be an adjoining land owner to make that application."

<sup>27</sup>According to Jacobs, after the November 2003 meetings between NGCB members and Pansy Ho and Daisy Ho, Nevada regulators informally advised MGM that they had no general objections to the development and operation of a

site on which the casino project would be constructed became known as Site A; the site for the complementary project became known as Site B.

K. MGM CONTRIBUTES \$100 MILLION DOLLARS TO JOINT VENTURE AS "PREMIUM" TO INCREASE PANSY HO'S EQUITY CONTRIBUTION

Once Pansy Ho replaced Shun Tak as the joint venture partner, the parties structured the financing of the joint venture to accommodate her limited ability to finance her interest. Rosevear testified that, throughout the negotiations, Wong emphasized Pansy Ho's financial limitations and advised that Pansy Ho's maximum equity contribution to the joint venture was \$80 million. Rosevear arrived at the "common sense" conclusion that Pansy Ho was leveraging herself to fund her portion of the joint venture equity. He testified that he believed that he discussed the subject of Pansy Ho's borrowing with Lanni or Jacobs.

Underscoring both limitations on Pansy Ho's ability to raise funds independently as well as her reliance on Stanley Ho's money, Pansy Ho's representatives inquired whether Stanley Ho could directly gift Pansy Ho a portion of her required equity contribution to the joint venture. On June 15, 2004, four days before the signing of the joint venture agreement, Jacobs sent an e-mail informing Rosevear, Lanni, and Murren that the question was raised whether "[Stanley] Ho could gift a portion of the PH/PHCo. equity," referring to the equity contribution of Pansy Ho's joint venture investment company. Jacobs e-mail indicated that he replied, "I said that would not be desirable, as a [key] question will always be PH's source of equity."

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retail and/or hotel project by Shun Tak on land adjacent to the joint venture project, provided that the joint venture casino had no economic relationship with the Shun Tak project.

While equal contributions to the joint venture would have required Pansy Ho to contribute \$180 million of the project's anticipated costs of \$360 million, Rosevear testified that he recognized that Pansy Ho lacked the financial resources of a corporate entity such as MGM. To compensate for these limitations while achieving the project's initial capital contribution, MGM agreed to contribute an extra \$100 million as a "premium" to Pansy Ho for the ability and opportunity to be in business with her in Macau. The premium, not contemplated in the joint venture with Shun Tak, was designated as equity and increased Pansy Ho's equity contribution to the joint venture by \$50 million, with no cash outlay on her part.

L. NINETY PERCENT OF PANSY HO'S EQUITY CONTRIBUTION TO THE JOINT VENTURE CAME FROM GIFTS FROM STANLEY HO

The MGM Grand Paradise joint venture required an initial capital contribution by Pansy Ho totaling \$80 million. Of this \$80 million equity contribution, Pansy Ho contributed \$70 million, and her sister Daisy Ho loaned her the remaining \$10 million. A total of \$72 million – or ninety percent – of the contribution came from gifts made by Stanley Ho to Pansy Ho and Daisy Ho.<sup>28</sup> The various sources of funds used by Pansy Ho to fund her interest in the joint venture are set forth below:

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<sup>28</sup>During the February 27, 2007 hearing before the Nevada Gaming Control Board, the Board explored Pansy Ho's financing of her equity contribution. Through questioning by the chair, Pansy Ho discussed her funding of the contribution through her "personal funds," including the "pledging of some of my Shun Tak terms" acquired through "share options granted," "shares that [she] bought from the market," and through the rights issue. She informed the Board that the funds used to exercise the rights came as a gift from Stanley Ho. Pansy Ho agreed with the chair's assessment that "it looks like your current status has been achieved through a combination of gifts from your father as well as your exercise of options which were granted to you based on your positions with Shun Tak, as well as the rights issue." She also agreed that the chair's characterization encompassed the "basic sources of the capital that [Pansy Ho] infused into this particular project."



### Pansy Ho's Source of Funds for the Joint Venture

<u>Source</u>	<u>Amount</u>
Withdrawal from Petunia Trust (Trust funded entirely by Stanley Ho)	\$24,000,000
Bank Loan from Goldman Sachs (Loan collateralized 100% by Shun Tak stock obtained through 2002 rights offering)	\$20,000,000
Bank Loan from UBS AG (Loan collateralized 100% by Shun Tak stock obtained through 2002 rights offering)	\$8,000,000
Bank Loan to Pansy Ho from HSBC Private Bank (Loan collateralized 100% by Shun Tak stock obtained through 2002 rights offering)	\$13,000,000
Funds from Pansy Ho's Accounts	\$5,000,000
Loan from Daisy Ho <sup>29</sup> Withdrawal from Trust (Trust funded entirely by Stanley Ho)	\$7,000,000
Funds from Daisy Ho's Accounts	<u>\$3,000,000</u>
<b>Total Funds</b>	<b>\$80,000,000</b>

Pansy Ho obtained \$24 million of the \$80 million that she invested in the casino joint venture from the Petunia Trust, a trust funded entirely by her father.<sup>30</sup> Additionally, Shun Tak stock obtained

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<sup>29</sup>In her January 2006 disclosure form, Daisy Ho characterized the \$10 million as a loan to Grand Paradise Macau Ltd. Of the \$10 million that Daisy Ho loaned to Pansy Ho, \$7 million came from a trust that their father established and funded on Daisy Ho's behalf.

<sup>30</sup>Pansy Ho testified that Stanley Ho established the Cordoba Trust in 1999. In September 2002, at the request of the beneficiaries, the Cordoba Trust was terminated and its assets were distributed into three sub-trusts, with Pansy Ho the beneficiary of the Petunia Trust sub-trust. Pansy Ho further stated that Stanley Ho initially funded the trust with \$10,000. Through its Trustees, the Trust has represented that, approximately one month later, Stanley Ho contributed an additional \$60 million to the Trust. It has further advised that, with the knowledge and consent of the trustees, Stanley Ho transferred these funds directly to two individuals designated as investment managers for the trust funds.

Pansy Ho testified that [redacted] was a "personal friend," and further testified that she asked him to serve as the investment manager for the trust's assets.

The Division was unable to independently corroborate the representations made regarding the timing of Stanley Ho's deposits to the trust. The managers never deposited these funds in any account controlled or maintained by the Trustees. During the existence of this arrangement, the investment managers did not provide any reports or statements

through a series of gifts from her father served as collateral for the \$41 million dollars worth of bank loans to an entity wholly owned by Pansy Ho, Beeston Profits Limited, from Goldman Sachs, UBS AG, and HSBC.<sup>31</sup> Of the \$10 million that Daisy Ho loaned to Pansy Ho for the express purpose of funding the equity contribution, she obtained \$7 million from the Daisy Ho Trust, a trust funded entirely through a gift by Stanley Ho. Her remaining \$3 million contribution came from her personal bank accounts.

M. PANSY HO, RATHER THAN SHUN TAK, ACQUIRES SITE B DEVELOPMENT RIGHTS FOR NOMINAL CONSIDERATION AND THEN SELLS THEM SIXTEEN MONTHS LATER FOR \$239 MILLION

Although all documents exchanged between the parties prior to the signing of the joint venture agreements on June 19, 2004 indicated that Shun Tak was to acquire Site B for its complimentary project, Pansy Ho in fact acquired the site. On the same day that MGM and Pansy Ho formally entered into the joint venture, she acquired, through a wholly owned company, Classic Time Developments Limited (“Classic Time”), the Site B development rights from SJM for nominal consideration. In March 2005, at the suggestion of Pansy Ho’s counsel, the joint venture acquired the development rights to Site B, allowing the approval process for the development of Site B to proceed

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regarding these funds to Pansy Ho, Daisy Ho, or the fund’s Trustees. Through Pansy Ho’s counsel, the investment manager refused to provide evidence relating to the investment of these funds and “unequivocally refused” to meet with Division investigators.

<sup>31</sup>Through a series of gifting transactions from her father, Pansy Ho obtained 97,820,707 share of Shun Tak stock in connection with a 2002 rights offering. The offering allowed existing shareholders to acquire one share of Shun Tak stock for every four existing shares held. Based on their individual holdings, Pansy Ho and Daisy Ho were eligible to purchase 2.2 million and 2.3 million shares, respectively. Stanley Ho and the companies that he controlled were eligible to acquire approximately 219 million shares. On April 29, 2002, the Shun Tak Board of Directors announced that Stanley Ho and his companies had procured their full subscription, with the rights actually subscribed by Pansy Ho, Daisy Ho, and Maisey Ho. This transaction allowed Pansy Ho and Daisy Ho to each acquire almost 98 million Shun Tak shares – more than 50% of all shares issued pursuant to this offering – and to increase substantially their ownership of Shun Tak. Pansy

through the same expedited process granted to casino development proposals. On April 19, 2005, the day the Macau government issued the subconcession, the joint venture transferred all development rights back to Pansy Ho and Classic Time for HK \$10.<sup>32</sup>

Ultimately, Pansy Ho received approximately \$239 million in cash and stock from the sale of these development rights that, by MGM's accounts and understanding, were intended to be transferred to Shun Tak in the first instance. Furthermore, she received the proceeds of the transaction with no personal investments on her part.<sup>33</sup> In September 2005, Classic Time agreed to sell her Site B interests to two companies, Hong Kong Land and a wholly owned subsidiary of Shun Tak. When the transaction closed in June 2006, Classic Time received \$82 million in cash and approximately \$157 million worth of Shun Tak shares. Rosevear stated that "I always thought it [Site B] was going to Shun Tak," and commented that he was "surprised" both by Pansy Ho's acquisition of the Site B rights as well as her subsequent sale of those rights.

When Pansy Ho appeared before the NGCB in February 2007, board members questioned her about her acquisition of this parcel for little consideration and the financial windfall she received from its sale. She testified that she acquired the land and bore the risk of the property not being suitable for development. Pansy Ho also indicated that the prospects for mixed-use development were highly speculative at the time, given uncertainties in the market.

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Ho testified that Stanley Ho gifted to her the approximately \$12.2 million necessary to convert her rights into shares. As of April 19, 2005, these shares had a value of \$123 million.

<sup>32</sup>Unless otherwise noted, all currency references are in U.S. dollars. The conversion rate used by the Division to convert Hong Kong dollars to United States dollars is \$1 US = \$7.8 HK.

N. MGM AND PANSY HO ENTER INTO A JOINT VENTURE

On April 13, 2004, the MGM Executive Committee considered MGM's proposed joint venture with Pansy Ho. At the meeting, committee members received a four-page document captioned Executive Summary - Macau ("Executive Summary") that outlined the structure and various other aspects of the joint venture. In particular, it noted:

- That the joint venture would operate under a subconcession autonomous from SJM.
- That virtually all decisions of significance could only be made with the agreement of both parties.
- If Pansy Ho should become a controlling person of SJM, she would retain a passive economic interest in the joint venture but would give up her management authority.
- If Shun Tak enters the Macau gaming market in a "significant or non-passive way," Pansy Ho would have to either step down from Shun Tak or cease to have a management role in the joint venture, with one identified exception.<sup>34</sup>
- That a portion of the joint venture site would be acquired by Shun Tak separately for a wholly separate Shun Tak development.

On that same day, the Executive Committee passed a resolution authorizing management to enter into definitive agreements with Pansy Ho "provided such agreements are substantially consistent with the Executive Summary."

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<sup>33</sup>Although Pansy Ho did incur some expenses for retaining consultants in respect of the Site B development plans, Hong Kong Land/Shun Tak reimbursed her for all expenses at the time of closing.

<sup>34</sup>This provision, although present in various drafts as late as April 12, 2004, was not incorporated into the final Shareholder Agreement.

The signing of various documents related to the joint venture at Stanley Ho's house demonstrated his continued involvement in the affairs of the joint venture. On June 19, 2004, MGM, Pansy Ho and SJM signed various agreements relating to the casino joint venture at Stanley Ho's private residence. Stanley Ho was present at the signing and executed documents on behalf of SJM. Jacobs testified that the parties signed the document at Stanley Ho's personal residence as "a matter of courtesy" and shared a celebratory glass of champagne. Jacobs described the chosen location of Stanley Ho's home to Lanni as a "very nice touch, one symbolic, but highly meaningful." The creation of the joint venture between MGM and Pansy Ho, as well as the transfer of the land rights and acquisition of the subconcession, required the execution of several documents, the most significant of which are described briefly below.

(i) The Shareholder Agreement Between MGM and Pansy Ho

The Amended and Restated Subscription and Shareholder Agreement ("Shareholder Agreement") established the terms and conditions of the ownership and control of the joint venture, MGM Grand Paradise Limited. Pursuant to the Shareholder Agreement, each party, through various entities, owned 50% of the joint venture. The joint venture's governance structure created two classes of directors. It allowed Pansy Ho to appoint a maximum of four "A" directors and MGM to appoint a maximum of three "B" directors. However, both groups of directors, "A," and "B," collectively, possessed three votes. It gave Pansy Ho the right to nominate the company's Managing Director from the "A" directors while giving MGM the right to nominate the company's Chairman of the Board from the "B" directors.

The Agreement grants each partner in the joint venture effective veto power with respect to major decisions. It provides that all “decisions of significance” involving the joint venture require agreement between the shareholders, or a majority of each of the “A” and “B” directors.<sup>35</sup> In the event of a deadlock on any matter, the Chairman is not permitted to break a tie. According to Jacobs, the agreement purposely contains no dispute resolution mechanism and merely provides that any disagreements are to be resolved “reasonably and through good faith discussions.”

The Shareholder Agreement allows Pansy Ho to acquire a significant shareholding interest in SJM without affecting her management or economic interests in the joint venture. The Shareholder Agreement provides that if Pansy Ho exceeds certain defined shareholding thresholds in SJM, or were to become its Managing Director, she would be deemed in “control of SJM” and be required to relinquish her operational authority, but not her economic interest, in the joint venture. The agreement places no restrictions upon her management or economic interests in the joint venture in the event that she increases her shareholding in, or becomes a controlling person of, STDM or Shun Tak.

(ii) SJM Agreement

On June 19, 2004, the parties entered in an agreement with Stanley Ho that specified the terms and conditions under which SJM agreed to enter into a gaming subconcession with MGM Grand Paradise and to transfer to MGM Grand Paradise the interest, held by an SJM subsidiary company, in Site A. Pursuant to this Agreement, SJM was to receive a total of \$260 million, \$200 million of

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<sup>35</sup>The Shareholders Agreement identifies 44 decisions and actions that are considered major, such as the hiring of any employee making more than US \$100,000 per year, the approval of standards for the operation of the casino, and the sale, transfer or lease of the property and/or assets of the joint venture.

which was the one time lump sum payment for the subconcession.<sup>36</sup> The remaining \$60 million related to the cost of the land.<sup>37</sup> The SJM Agreement was amended on March 22, 2005 to provide a mechanism for MGM Grand Paradise to acquire the interests, held through SJM subsidiary companies, in both Site A and Site B.

(iii) Subconcession Agreement

The Subconcession Agreement is a trilateral agreement between MGM Grand Paradise, SJM and the Macau government.<sup>38</sup> On June 19, 2004, the parties entered into a draft subconcession agreement, with Stanley Ho signing on behalf of SJM and Pansy Ho and Jacobs signing on behalf of MGM Grand Paradise. Less than one month after the signing of the Shareholders Agreement and other joint venture related documents, Secretary Tam issued a memorandum, dated July 6, 2004, that stated, in part, that the subconcession to be granted to MGM Grand Paradise “shall be autonomous in relation to SJM.” The Macau government officially approved this agreement on April 19, 2005. The Subconcession Agreement provided that SJM would grant a subconcession to MGM Grand Paradise. The term of the subconcession expires on March 31, 2020, at which time the subconcession, the

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<sup>36</sup>Due to its concern about the regulatory perception of MGM maintaining a continuing business relationship with Stanley Ho and SJM, MGM favored a one-time lump sum payment to SJM for the subconcession. MGM estimated that the subconcession was worth a lump sum payment of \$200 million. Although SJM documents indicate that SJM valued the concession between \$300 and \$400 million, SJM ultimately agreed with MGM’s valuation and sold the subconcession to the joint venture for \$200 million. Rosevear acknowledged that the \$200 million figure was low, and he surmised that SJM consented to this amount because of the relationship between Stanley Ho and Pansy Ho.

<sup>37</sup>The final land price paid by the joint venture was \$60 million, with \$22.7 million paid to SJM and \$37.3 million paid to the Macau government.

<sup>38</sup>The subconcession agreement is entitled Subconcession Contract for the Exploitation of Games of Fortune and Chance or Other Games in Casino in the Special Administrative Region of Macau.

casino, and all of the casino equipment revert “gratuitously and automatically” to the Macau government.<sup>39</sup>

Three MGM executives received special bonuses in return for their efforts related to the joint venture. Jacobs received \$700,000. Rosevear and Wang received \_\_\_\_\_ and \_\_\_\_\_ respectively, for their efforts. According to Lanni, these bonuses were in recognition of their “extraordinary efforts” on behalf of the company in securing a subconcession in Macau. He testified that he proposed these bonuses on April 25, 2005, which was shortly after the Macau government issued the subconcession to the joint venture. Lanni also testified that Jacobs had no input in Lanni’s decision to award these special bonuses. MGM paid one-half of the bonuses at the groundbreaking for the casino, with the balance paid at the opening of the property.

O. A U.S. LAW ENFORCEMENT PROFESSIONAL IN HONG KONG UNOFFICIALLY ADVISES MGM THAT DOING BUSINESS WITH PANSY HO WILL ENTAIL A CERTAIN RISK DUE TO STANLEY HO’S CONNECTIONS TO ORGANIZED CRIME

MGM undertook additional due diligence efforts relating to Stanley Ho and Pansy Ho in early 2005. Specifically, in January 2005, Bruce Gebhardt (“Gebhardt”), MGM’s newly hired Senior Vice President of Global Risk, asked a Hong Kong source about Stanley Ho and MGM’s association in the joint venture with Pansy Ho.<sup>40</sup> The source, whom Gebhardt described as a “very knowledgeable” “US

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<sup>39</sup>The Subconcession Agreement also provided that a total annual premium was payable by MGM Grand Paradise to the Macau government as consideration for the granting of the subconcession. This annual premium was comprised of an annual fixed payment of approximately \$3.75 million and a variable annual payment based on the number of table games and electrical or mechanical machines operated by the subconcessionaire. Additionally, the agreement requires that the subconcessionaire make monthly contributions to a public foundation whose purpose is for the development and promotion of various cultural and social actions.

<sup>40</sup>Gebhardt began working at MGM on November 1, 2004.



law enforcement official assigned to Hong Kong,” responded to Gebhardt via e-mail. Gebhardt’s source stated, in part:

Due to [Stanley] HO’s current social status, and connections to the government and crime underworld in both Macau and HK, no one would openly accuse him of Triad membership or affiliation. Further, there is usually no “proof” showing a person’s triad membership, since a person becomes a made member of a Triad after participating in a ceremony, which may have occurred decades ago. There is no contract or anything in black and white.

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Due to the sensitivity of the issue and the high-profile status of [Stanley] HO, I am certain the HKP [Hong Kong Police] would not confirm or deny his Triad affiliation or membership unless I can produce an official request showing the need-to-know. Doing business with his daughter will, undoubtedly, entail a certain risk down the road.

Gebhardt provided this document to Lanni and Jacobs on February 15, 2005. Jacobs acknowledged receiving this email from Gebhardt and reading it. Although Lanni testified that he never received the document, Jacobs’ secretary noted on the document that Gebhardt told her that he had provided Lanni with a copy.

P. STANLEY HO ATTENDS MAJOR EVENTS IN THE LAUNCHING OF THE JOINT VENTURE

Stanley Ho was a visible presence at three major public events associated with the joint venture’s activities. On April 19, 2005, the parties held a public event at Macau government offices to officially sign the Subconcession Agreement. In addition to high ranking government officials and the principals of the joint venture partners, Stanley Ho was present on behalf of SJM. He was also present at a reception following the June 1, 2005 groundbreaking ceremony held at the MGM Grand

Paradise casino site. Pansy Ho testified that he was an invited guest. According to Lanni and Jacobs, Stanley Ho was not invited to the event. They testified that he showed up after the formal groundbreaking ceremony had concluded. At the December 18, 2007 grand opening ceremony for the joint venture casino, Stanley Ho sat at the head table along with government officials, MGM senior executives, and his daughters Pansy Ho and Daisy Ho.

Q. REGULATORS FROM OTHER U.S. GAMING JURISDICTIONS DO NOT OPPOSE MGM'S JOINT VENTURE WITH PANSY HO

Other regulators have either waived approval of or approved the joint venture. On February 17, 2005, MGM announced that “the Mississippi Gaming Commission has unanimously granted a waiver of approval with respect to the Company's application to engage in gaming activities in Macau S.A.R.” On February 27, 2007, the NGCB held a public Special Meeting regarding MGM’s application for a finding of suitability under Nevada’s foreign gaming act for it to engage in the Macau joint venture. The Board heard testimony from Lanni, Jacobs, Rosevear, Pansy Ho, Daisy Ho, and others. At the conclusion of testimony, NGCB members unanimously approved MGM’s application for a finding of suitability.<sup>41</sup> On March 23, 2007, the Nevada Gaming Commission (“NGC”) conducted a public hearing to determine whether it would support the NGCB decision. At the conclusion of testimony, the NGC unanimously approved MGM’s application.

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<sup>41</sup>Mr. Siller retired from the NGCB on December 31, 2006.

V. THE SUITABILITY OF STANLEY HO AND PANSY HO

A. MGM ACKNOWLEDGES THAT STANLEY HO'S BACKGROUND AND ASSOCIATIONS RENDER HIM UNSUITABLE

Stanley Ho's acknowledged unsuitability on multiple bases frames the inquiry into whether Pansy Ho has demonstrated financial and professional independence from her father and the entities that he controls. While MGM executives state, in direct and candid terms, that Stanley Ho is not suitable for licensure under United States standards and that MGM would not consider entering into a business relationship with him, the company nonetheless pursued a business relationship with companies that he controlled.

MGM senior executives acknowledge that Stanley Ho is unsuitable. In sworn testimony, Lanni, the company's chief executive officer at all times relevant to this inquiry, stated MGM could not do business with Stanley Ho:

Well, I would put it this way is I don't think it gets down to the specifics of his [Stanley Ho] companies, I think the issue is could we be involved in business as a joint venture in which he would be operating a casino with us, I mean why waste anyone's time even thinking about that.

I wouldn't want to [be involved in a joint venture with Stanley Ho], no regulator would allow us to do that. I mean that's a pretty foregone conclusion. I realize he's never been indicted, he's never been convicted, but perception is reality and maybe there is reality there also beyond the failure to have the indictments or convictions. But it just never crossed my mind in that regard.

As to whether anyone on the MGM Board of Directors, Executive or Management Committee inquired about Stanley Ho's suitability, Lanni noted, "I think it was so clear that it wasn't necessary. I wouldn't say it wouldn't merit, it just would be redundant to things that people were well aware of

anyway.” He stated that, because most of the MGM Board members have been around the industry for a long time, “you would have to be living under a rock not to know about Stanley Ho and what the perception of Stanley Ho is. I think it is common knowledge.”

MGM’s most senior executives were aware of the problems associated with Stanley Ho. Lanni stated he was aware that Australian authorities had found Stanley Ho unsuitable as early as 1986. He added:

I’ve determined [Stanley Ho] many, many years ago to be an individual we couldn’t do business with and be a partner of. It was not going to be the case. So I knew this particular piece of information from the – unrelated many years ago, just reading about it, about the Australian issue.

Lanni was asked whether he felt that MGM should assume that Stanley Ho was unsuitable:

Q: MGM. In other words, I know you are not saying that the specific finding was made, but for purposes of your corporate decision-making process, was the position we are going to assume that he's unsuitable?

A: I think that - - I can speak for myself. My assumption is that that is correct. I cannot speak for others.

He further indicated that he made his opinion on Stanley Ho’s unsuitability “abundantly clear” to Jacobs and Edwards and that “I don’t think anyone in our company thought that that was different.” He later added, “there was no way of clearing Stanley Ho in the eyes of regulators.”

Jacobs expressed similar views, conceding Stanley Ho’s unsuitability. He stated that “a relationship with Dr. Ho would be very, or SJM would be very, very problematic with the regulators

because of his reputation[.]” Indeed, Jacobs states that he had “made the assumption that for regulatory purposes and any other purposes Stanley Ho was a bad man.” Jacobs also stated:

[. . .] certainly we knew - I mean we never thought that we were going to either have the ability to or the substance to or the responsibilities to persuade any regulator that Stanley Ho was okay that was not something that we would ever have the capacity to do, nor any appetite to do. I mean it was a fact of life that he was whoever he was and was, call it connected, call it functional in Macau, whatever that implies.

So I never, nor would management ever, dream of trying to say through evidence that we could accumulate, that the Nevada or New Jersey or anybody should bless an association with Stanley Ho. That was never going to happen, nor perhaps should it ever have happened.

He testified that the MGM’s objective was “to see if we can figure out how to structure a transaction that would make economic sense and structure it as well that would have the maximum ability to withstand regulatory scrutiny, because to a certain degree SJM is the elephant in the room [.]” In a February 2005 letter to Mississippi gaming regulators, Jacobs echoed these comments, stating that “we long ago recognized that our regulators would not want us to engage in ongoing business relations with him [Stanley Ho].”

MGM’s due diligence on Stanley Ho amply supported the conclusion of senior MGM executives that Stanley Ho was unsuitable. The Division’s own independent investigation of Stanley Ho not only corroborated the opinions expressed by MGM executives and the company’s investigative findings but also uncovered additional derogatory information concerning Stanley Ho. Specifically, the Division located several reports issued by United States governmental agencies that concluded that Stanley Ho, through his involvement in the casino industry, has been and continues to be associated with organized crime figures.

A 1988 report by the United States Department of Justice noted Stanley Ho's associations with Asian organized crime. In the report, the Asset Forfeiture and Money Laundering Section of the United States Department of Justice, Criminal Division, described the triads and their illegal activities. The report included an appendix that identified some individuals as associated or affiliated with triads, and indicated their "location" and primary triad affiliation.<sup>42</sup> Under the location "Hong Kong (and Macau)," the report listed three names: Stanley Ho, Hung Wah Yin, and Yip Hon, one of the original founders of STDM. The report identified the particular triads for Yip Hon and Hung Wah Yin; for Stanley Ho, it indicated "Unk," as in unknown. The author of the report informed the Division that the "unk" designation next to Stanley Ho's name reflected Stanley Ho's close ties to more than one triad and the author's inability to conclude that Stanley Ho had a primary affiliation with one particular triad over another.

United States Senate Subcommittee hearings in 1992 similarly documented Stanley Ho's association with organized crime groups. Materials submitted to the Subcommittee during the course of the hearings noted that Stanley Ho had direct associations with two known members of triads, Yip Hon and Lau Wing Kui.<sup>44</sup> While the materials did not identify Stanley Ho as a member of a triad, it

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<sup>42</sup>The body of the report does not mention Stanley Ho. The Division contacted the author of the report. According to the report's author, the body of the report intentionally omitted any mention of Stanley Ho for two reasons. First, the report focused on the United States and Canada, and the USDOJ had no definitive information regarding Stanley Ho's involvement in organized crime in those countries. Second, members of the Royal Hong Kong Police who provided substantial intelligence and assistance in support of the report asked that Stanley Ho's name not be included out of fear of retaliation.

<sup>44</sup>Asian Organized Crime: The New International Criminal: Hearings before the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, 102nd Cong. (1992) (materials submitted by Scott E. Orchard, Staff Investigator to the Minority, Senate Permanent Subcommittee on Investigations) pp. 99-100, 139-41

noted: “The Macao casinos are a major center of Asian organized crime activity, including money laundering and loan sharking, and while the exact role of Yip Hon and Stanley Ho in such criminal activity is unclear, they have specifically been linked to a number of criminal figures.”<sup>45</sup>

Other United States government agencies have noted Stanley Ho’s association with the organized crime groups that operate in his casino’s VIP rooms. In its 2007 annual report, the United States Department of State, Bureau of International Narcotics and Law Enforcement Affairs, specifically commented on Macau’s casino gaming operations noting, in pertinent part, that “[u]nder the old monopoly framework, [i.e., when STDM was the sole casino operator in Macau], organized crime groups were, and continue to be, closely associated with the gaming industry through their control of VIP gaming rooms, and activities such as racketeering, loan sharking and prostitution.” Virtually identical language was included in the Bureau of International Narcotics and Law Enforcement Affairs’ annual reports for Macau in 2003, 2004, 2005, and 2006.<sup>46</sup>

Through his leadership position and ownership control of SJM, Stanley Ho continues to associate with individuals in the Macau gaming industry who are connected to organized crime. Specifically, a number of casinos in Macau are referred to as third-party-promoted casinos and are

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<sup>45</sup>Id. at 173, 184. The materials explain that, “[a]lthough Stanley Ho has been tied to organized crime figures such as Yip Hon and Lau Wing Kui, he does not meet the Subcommittee’s strict criteria for identification as an ‘Asian Organized Crime Figure.’ The Subcommittee requires two independent law enforcement sources to identify an individual as a member or associate of an organized crime group for such identification to take place. Additionally, the Subcommittee Staff was not able to establish Ho’s ties to a specific criminal group.”

<sup>46</sup>See also International Crime Threat Assessment, Chapter III, Worldwide Areas of International Criminal Activity - China, p. 21. (2000), available at <http://www.fas.org/irp/threat/pub45270chap3.html> (visited on November 3, 2008) (noting that organized crime dominates Macau gaming industry and commenting that “Macao business tycoon Stanley Ho, a reputed organized crime figure, controls the gaming monopoly that has the sole license for casino gambling in Macau.”).

engaged in gaming activities through a management or income sharing agreement with SJM. In each arrangement, monies are paid to SJM by owners of the casino property in accordance with the terms of an agreement with SJM. In numerous instances, the owners are alleged to be associated with organized crime.<sup>47</sup>

B. PANSY HO HAS FAILED TO DEMONSTRATE PERSONAL, FINANCIAL, AND PROFESSIONAL INDEPENDENCE FROM HER FATHER AND THE COMPANIES UNDER HIS CONTROL

Pansy Ho's familial relationship to her father, as well as her business relationships and financial interconnections with him, created the opportunity and formed the foundation for her joint venture with MGM that is the subject of this review. Indeed, she initially participated in the negotiations with MGM as her father's representative and took the lead individually only after members of the NGCB informally advised MGM that any ongoing arrangement with Stanley Ho and entities under his control was problematic. She has advanced professionally through positions and titles in companies that her father controls or that derive a significant portion of their business from Stanley Ho-owned entities. She has accumulated the vast majority of her wealth through gifts from, and business relationships with, her father. Pansy Ho's receipt and acceptance of financial benefits and professional opportunities from her father raise suitability issues where her involvement in the project results from her father's reputation, influence, business connections and financial resources, as opposed to just receiving gifts in the ordinary course. Simply put, not only are the financial

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<sup>47</sup>SJM has entered such arrangements with numerous individuals, including Heung Wah Keung, identified by the 1992 United States Senate Report as an office bearer in the Sun Yee On triad, and Albert Yeung, identified in MGM's due diligence as a reputed office bearer in the Sun Yee On triad.



connections to her father related to her primary and continuing source of income, but they serve to establish her position in the same field as her father: gaming in Macau.<sup>48</sup>

Pansy Ho has depended upon companies controlled by Stanley Ho for the majority of her pre-joint venture income and professional advancement. While Stanley Ho is the Group Executive Chairman and the largest individual shareholder of Shun Tak, Pansy Ho has assumed the role of the public face of Shun Tak and has held its highest operational title, Managing Director, since 1999.<sup>49</sup> She is also the company's second largest individual shareholder. Without considering any income that she may be receiving now from the joint venture, Pansy Ho has historically relied on Shun Tak as her primary source of income. She has historically derived the vast majority of her taxable income from Shun Tak; for tax years 2004, 2005, and 2006, she earned at least 97% of her total reported earned income from Shun Tak.<sup>50</sup> Furthermore, her total compensation from Shun Tak more than doubled during the time in which she was acquiring funding for her contribution to the joint venture.

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<sup>48</sup>Other casino regulatory agencies have expressed concerns that Stanley Ho might be behind an application for licensure submitted by a family member. In 1996, Stanley Ho's wife and two of his daughters, Daisy and Maisy Ho, submitted an application for a casino license with the British Columbia Gaming Commission ("BCGC"). The regulators found "support for the proposition that Dr. Ho was quite capable of exerting undue influence given his great wealth," noting the potential for undue influence by Stanley Ho upon his family members, specifically, in that instance, his wife. His wife ultimately declined to provide full disclosure of Stanley Ho's financial information to the BCGC, which, in turn, rejected the application for licensure.

Moreover, in 2004, the Alderney Gambling Control Commission ("AGCC"), concerned that Stanley Ho might be involved in his daughter company, conducted a special investigation into the company. At the close of its investigation, the AGCC expressed concerns about the "reputation" of Stanley Ho and whether he could influence

company. It further concluded that "it would be difficult to separate the business activities of from that of her father, Stanley Ho, and it was likely that her involvement may have been a front for her father."

<sup>49</sup>In January 1995, on the recommendation of her father, Pansy Ho joined the Shun Tak Board as a director.

<sup>50</sup>These figures were derived from the earned income as reported on Pansy Ho's Hong Kong tax returns, and do not include more than \$2.6M in dividend income from Shun Tak stocks that she earned in this period.

Pansy Ho has also received significant compensation from STDM and STDM-related entities.<sup>51</sup> Between January 2001 and June 2006, Pansy Ho received more than \$1.87 million from STDM. Similar to her compensation pattern at Shun Tak, payments by STDM to Pansy Ho increased in the interim between the signing of the Shareholders Agreement and the parties' contributions of equity to the joint venture. For the fiscal years ending March 31, 2004 through March 31, 2005, Pansy Ho's total payments from STDM increased by 38.3%, from \$167,949 to \$232,319. For the fiscal year ending March 31, 2006, those STDM payments had increased to \$1,020,206, or an increase of 339% from the prior fiscal year. Beginning in 2002, STDM paid Pansy Ho an annual Director's Entertainment Allowance of \$64,000. She stated that this is an entertainment allowance given to STDM board members to conduct business on behalf of STDM. In August 2004, STDM gave Pansy Ho \$64,000 as a past due "Insurance Allowance" for calendar years 2002 and 2003. She testified that she was not exactly sure as to the specific purpose of this payment, but believed it might have been related to the purchase of insurance for STDM employees. In April 2005, two weeks before the official signing of the Subconcession Agreement, STDM paid Pansy Ho a special director's bonus of \$641,000. In addition, bank records reflect that, in 2005, Pansy Ho received \$126,000 as a dividend on her 100 shares of STDM stock for years 2002 and 2003. She has stated that STDM only started

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<sup>51</sup>One of those entities is Air Macau, a Macau-based company that is fourteen-percent owned by STDM. Pansy Ho testified that her father appointed her to serve as an executive director on the Board of Air Macau as a corporate representative of STDM to supervise the company's interests in Air Macau. In that capacity, she receives monthly salary checks from Air Macau, regularly attends board meetings, and is involved in policy-making decisions and the oversight of the operational management team. Between January 2001 and June 2006, Pansy Ho received more than \$425,000 in total compensation from Air Macau.

paying dividends again that year after changing its tax structure and having a better cash position. In November 2005, STDM issued Pansy Ho another dividend payment for \$85,000.<sup>52</sup>

Pansy Ho's personal business affairs derive substantial revenue from entities controlled by her father. Pansy Ho has two wholly owned personal businesses that have significant business connections to Shun Tak as well as STDM. Since 1998, one of the companies has had a \$25,000 per month retainer agreement with STDM to serve as its marketing and public relations consultant. Between 2001 and 2004, Pansy Ho received approximately \$1 million in payments from these entities.

Additionally, STDM compensates Pansy Ho for her active involvement in STDM's corporate governance. Pansy Ho testified that, although she attends STDM meetings of the directors, she does not have any day-to-day involvement in the company or its subsidiaries. However, Pansy Ho's role as an STDM Director is not simply a passive one. She testified on several occasions in Macanese legal proceedings as the corporate representative for STDM,<sup>53</sup> and serves as an STDM representative on several STDM-related entities. On at least one occasion in June 2005, she served as Stanley Ho's

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<sup>52</sup>In a September 11, 2007 letter, Pansy Ho confirmed that "neither my sister, Ms Daisy Ho, nor I filed tax returns in Macau SAR between 1995 and 2006." In an April 9, 2008 letter to counsel, the Division requested additional information from Pansy Ho regarding her tax obligations to the Macau government. Specifically, the letter requested (a) "a letter indicating whether or not any type of economic benefit paid to or received by Miss Pansy Ho ... from STDM, STDM related entities and Air Macau, as well as Destinations Network, are subject to tax by government authorities in Macau"; (b) the amount of taxes, if any, paid on behalf of Pansy Ho by each such entity for tax years 1995-2007; and (c) documentation evidencing any type of tax payment or withholding. In letters dated June 25, 2008, both Pansy Ho and Daisy Ho indicated that they were "awaiting information from third parties and will revert to you on this matter in due course." Pansy Ho stated in sworn testimony that she believed that "an entity which gives a direct remuneration to us, will have already taken care of that tax filing, vis-à-vis the government. So our payments are net of government taxes." Daisy Ho also characterized the withholding of taxes as the obligation and duty of the employer. To date, they have provided no further information or documentation in response to the April 9, 2008 letter.

representative at an STDM General Assembly meeting. Additionally, evidence suggests that she has been involved with STDM's business and gaming activities outside of Macau, including a January 2007 trip to Kazakhstan at her father's request to assess gaming and non-gaming development possibilities on behalf of STDM and Shun Tak.<sup>54</sup> Wong Sing Wah accompanied her on that trip.<sup>55</sup> Pansy Ho's position as an STDM board member has also provided her at least an indirect involvement in SJM's significant strategic and investment decisions.<sup>56</sup>

MGM executives recognized the problems posed by Pansy Ho's presence on the STDM Board. In a May 24, 2004 e-mail to Lanni, Rosevear, and Murren, Jacobs commented, "I should note that Pansy is on the board of STDM – it would not surprise me if Nevada asks her to step down from that position." In a February 22, 2005 e-mail to Lanni, Rosevear, and Murren, Jacobs recounted a conversation with a high-level Macau official concerning Pansy Ho's STDM directorship. In pertinent part, the e-mail stated:

Pansy is a member of the board of STDM; this is being and will be used against us as showing too close a link to SJM (note – we have previously discussed this internally, and I have raised it with Pansy, C.Y. and David Stannard as a problem we could anticipate; Pansy's response is that she needs to be on the Board to protect Shun Tak's

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<sup>53</sup>Pansy Ho has asserted, through counsel, that Macanese law precludes her from providing information regarding the nature or substance of her testimony in these proceedings.

<sup>54</sup>STDM also has investments in companies with gaming operations in North Korea, Portugal, and Vietnam.

<sup>55</sup>See *infra*, at 23 (discussing Wong Sing Wah's involvement in VIP rooms and alleged connections to organized crime).

<sup>56</sup>She testified also that the STDM Board has no involvement with SJM's casino operations, although she acknowledged that STDM must approve any significant or major transactions entered into by SJM. She also acknowledged that the decision to go forward with SJM's initial public offering required the approval of the STDM board. The July 2008 SJM initial public offering states that Stanley Ho and STDM are the controlling shareholders of SJM Holdings, implicating their control of SJM, as well.

investment and investor equilibrium at the STDM level, and that she does not/will not be involved in the SJM aspect of STDM (STDM has vast other holdings). [The government official] clearly thinks Pansy needs to step down from STDM; I do not disagree.<sup>57</sup>

This correspondence evidenced MGM's concerns about their joint venture partner being involved with this Stanley Ho-controlled entity.

Pansy Ho relied on individuals associated with companies owned and controlled by her father for professional and technical services. Throughout the joint venture negotiations and formation, employees of Shun Tak and other individuals associated with Stanley Ho assisted Pansy Ho. Throughout the negotiations and the formation of the joint venture, Pansy Ho and Wong negotiated with MGM on behalf of Pansy Ho individually. In fact, when MGM abandoned plans to establish a joint venture with Shun Tak in favor of a joint venture with Pansy Ho individually, the faces at the negotiating table—Pansy Ho and Wong—remained the same. She also relied on other Shun Tak employees for financial and land use assistance.

Pansy Ho's positions with Shun Tak and STDM, her father's influence and control over SJM, and her relationship with her father were indispensable in SJM selling a subconcession to the joint venture, as well as the joint venture's ability to secure the concession at a discounted price. MGM has acknowledged that various aspects and favorable outcomes of the joint venture's negotiations with SJM were a result of the father/daughter relationship between Stanley and Pansy Ho. When asked if Pansy Ho's relationship with her father was "instrumental" in getting the subconcession from SJM,

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<sup>57</sup>In his sworn testimony, Jacobs qualified the sentiments expressed in his e-mail. He stated that, based on his conversations with Pansy Ho, Stannard, and others, as well as his understanding of her role on the STDM board, it was appropriate for her to remain on the STDM board.

Jacobs replied “Oh, I’m sure. I couldn’t go and get one.” Jacobs candidly stated that he did not think the subconcession would have been available unless Pansy Ho was involved. He noted, “[t]hat’s why we pay the premium in order to be in business with her because it was our conclusion we couldn’t have gotten, come hell or high water for anything because it was a unique commodity and, sure, I mean, as parents, I help my kids.” Similarly, the joint venture obtained the subconcession at a cost of \$200 million when its value was, arguably, much greater. Rosevear acknowledged that MGM would have been willing to pay a higher amount. In sum, as acknowledged by MGM, MGM ultimately partnered with Pansy Ho under this arrangement because of her personal and business connections to her father and the companies under his control.

In addition to Stanley Ho’s remuneration to Pansy Ho through companies he controls, Stanley Ho has also given her numerous sizeable gifts. These substantial and continuing gifts provided to Pansy Ho by her father carry with them a degree of influence that is relevant to the independence analysis. Pansy Ho receives from her father monthly contributions and other significant cash payments on an annual basis (*e.g.*, birthday presents). Between January 2001 and June 2006, these gifts totaled almost \$5 million.<sup>58</sup> Her father has also gifted her significant interests in real estate assets, with those gifts accounting for ninety-six percent of the total estimated value of the real estate portfolio identified in her January 2006 MJ-PHD filing. In early 2004, Stanley Ho provided her, in two transactions, with \$16.6 million dollars as a gift to purchase a residence in Hong Kong.<sup>59</sup> A

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<sup>58</sup>In addition to gifts from her father, on May 13, 2004 and May 31, 2004, respectively, Daisy Ho and Pansy Ho each also received a gift of HK \$5 million from their mother, Lucinda Ho. Daisy Ho testified that “she [my mother] called me and said I want to give all the girls a gift, a cash gift.” Daisy Ho continued, “I thought it was so odd.”

<sup>59</sup>The purchase price for the property was \$15.2 million. Pansy Ho retained the surplus \$1.4 million as a gift.

separate parcel of real estate, gifted to Pansy Ho and her sisters by her parents, was sold in March 2004 with Pansy Ho and Daisy Ho receiving \$2 million. Added to these transactions are substantial gifts provided to Pansy Ho by her father via the Pansy Ho Trust, the Cordoba/Petunia Trust, the 2002 Shun Tak Rights Issue, and the Alpha Davis transaction.<sup>60</sup>

(i) Pansy Ho's Relationship With Individuals Who Are Not Suitable

Apart from her financial, professional, and personal dependence upon her father, Pansy Ho's relationships with several other individuals who are known or alleged to be associated with organized crime independently call into question her personal suitability and MGM's business association with her. Those individuals include Gilbert Yeung, Albert Yeung, and Albert Yeung's brother Yeung Hoi Sing, Sonny ("Sonny Yeung"). Pansy Ho, herself, however, has no criminal convictions and no bankruptcies.

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<sup>60</sup>In 2004, Pansy Ho and Daisy Ho, on behalf of Shun Tak and a wholly owned subsidiary of Shun Tak, negotiated for the acquisition of development rights for an undeveloped parcel of land adjacent to the Macau Tower. Shun Tak and the subsidiary would pay HK \$1.5 billion, in equal proportions cash and Shun Tak stock, to the selling entity, which was controlled by Stanley Ho. The selling entity designated a new entity, Alpha Davis Investments Limited ("Alpha Davis"), to be the recipient of the 148.9 million shares of stock received by Stanley Ho as proceeds of the sale. The owners of Alpha Davis, and their effective percentage of ownership, are, as follows: Stanley Ho, 47%; Pansy Ho, 27.03%; Daisy Ho, 20.67%; and Maisy Ho, 5.3%. Per the testimony of Pansy Ho and Daisy Ho, Stanley Ho created Alpha Davis in order to gift the Shun Tak shares to his three daughters. Thus, despite participating in negotiations on behalf of Shun Tak during the transaction, Pansy Ho stands to receive more than 40 million Shun Tak shares from the transaction when it closes in June 2009.

Pansy Ho has had personal relationships and financial transactions with various member of the Yeung family. Pansy Ho was also involved in a relationship with Gilbert Yeung in August 2000. During that time, Gilbert Yeung was arrested and charged with drug possession. Pansy Ho also indicated that Gilbert Yeung misappropriated some of her money at the end of their relationship.



Pansy Ho has also had financial transactions with Gilbert Yeung's father, Albert Yeung. Albert Yeung is a partial owner of the Emperor Palace Casino in Macau, which operates under an SJM concession. He also controls several VIP rooms in Macau casinos. Albert Yeung has two previous felony convictions in Hong Kong, including a 1986 conviction for illegal bookmaking, and is a reputed member of an organized crime group. In her testimony before the Division, Pansy Ho stated she was aware of public reports that indicated that Albert Yeung was associated with triads, and was aware that Albert Yeung had "trouble with the police and had been investigated by the Commercial Crime bureau." Pansy Ho's bank records indicate that, in April 2001, Pansy Ho deposited a check for approximately \$166,000 from Albert Yeung into her savings account. Pansy Ho has stated that the payment by Albert Yeung reimbursed her for funds she had loaned to Gilbert Yeung in 2000.

Pansy Ho has also had several financial transactions with Gilbert Yeung's uncle, Sonny Yeung, who is also a reputed member of a triad. He is a partner with SJM in the Ponte 16 casino resort project and involved in VIP rooms in Macau. She stated that she had presented her allegation that Gilbert Yeung had misappropriated her funds to Sonny Yeung and had threatened to notify the police if she were not reimbursed. Pansy Ho testified that Sonny Yeung made regular payments to her totaling approximately \$461,000 to reimburse her for monies misappropriated by Gilbert Yeung.

(ii) Daisy Ho

Daisy Ho's position as a Class A director of the joint venture, her financial support of Pansy Ho in meeting her equity requirements and developing Site B, and Daisy Ho's financial and professional relationships with her father and companies under his control merit discussion of Daisy

Ho's relationship with her father and his companies.<sup>61</sup> In fact, Daisy Ho has benefited from many of the same professional and personal relationships, gifts, and transactions detailed above in respect of Pansy Ho.

Daisy Ho has advanced professionally and holds leadership positions within companies controlled by Stanley Ho. She is the Deputy Managing Director, Chief Financial Officer, and the third-largest individual shareholder of Shun Tak, which is the primary source of her personal income.

Daisy Ho serves on the STDM Board as Shun Tak's corporate representative, as well as serving as STDM and Stanley Ho's owner representative for Shun Tak Centre, the building housing Shun Tak's corporate offices.

She has accumulated her wealth through her employment at her father's companies and his substantial gifts to her. Financial records and her testimony indicate that her annual STDM compensation is approximately HK \$1 million. She also receives an annual entertainment allowance of \$64,000, as well as in-kind benefits through an STDM charge account. Additionally, her father's gifts have allowed Daisy Ho to substantially increase her ownership interest in Shun Tak through the 2002 rights offering<sup>62</sup> and the Alpha Davis transaction.<sup>63</sup>

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<sup>61</sup>Between December 2004 and March 2005, Daisy Ho made approximately \$587,000 in payments for the professional costs relating to the development of Site B. Pansy Ho reimbursed her for these expenditures in July 2005.

<sup>62</sup>See discussion of 2002 rights offering, *supra* at note 31.

<sup>63</sup>See discussion of Alpha Davis transaction, *supra* at note 60.

Stanley Ho provides her a monthly allowance of \$25,000, as well as annual birthday gifts. Additionally, as noted above, her mother gave her HK \$5 million (US \$641,000) as a gift in May 2004. She benefited from her father's establishment and funding of the Daisy Ho Trust, from which she provided the bulk of her loan to Pansy Ho for the joint venture equity contribution. She, along with Pansy Ho and a third sister, was a beneficiary of the Cordoba Trust, and its subsequent distribution into sub-trusts.<sup>64</sup>

## VI. MGM'S COMPLIANCE EFFORTS

### A. FACTUAL BACKGROUND

As with other gaming companies, the MGM Compliance Committee was designed to "identify potentially unsuitable situations, potentially unsuitable persons" and to function as an internal "quasi-gaming regulatory body." Lanni testified that an effective compliance program required a "proactive and well-informed" Compliance Committee that is made aware of significant issues, particularly those relating to suitability, early enough to engage in a meaningful review of the issues.

MGM's Compliance Committee learned little about the company's plans in Macau or the background of the entities and individuals with which it sought to partner. The minutes from the Compliance Committee meeting of February 11, 2002 reflect that the Committee was advised that "the company was not selected as one of the three finalists for a license to be issued in Macao." Minutes from subsequent meetings indicate that the Committee did not discuss anything related to the subject of Macau, Stanley Ho, Pansy Ho, Shun Tak, and STDM again until approximately two years

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<sup>64</sup>See discussion of Cordoba Trust, supra at note 30.

later at its February 19, 2004 meeting. While MGM and Shun Tak were negotiating the terms of a proposed joint venture from early 2003, the Committee received no due diligence information or reports gathered or produced by the MGM Corporate Security Department on Stanley Ho, Pansy Ho, Daisy Ho, or Shun Tak. During this same period, MGM's Compliance Officer also did not receive any due diligence information or reports relating to Macau.<sup>65</sup>

MGM did not provide its Compliance Committee with information that would have been relevant to its consideration of the Macau joint venture. According to its minutes, the Compliance Committee first learned of MGM's potential joint venture with Pansy Ho at its February 19, 2004 meeting. The minutes state:

Gary Jacobs then discussed a potential joint venture in Macau with Pansy Ho, daughter of Stanley Ho. Mr. Jacobs indicated that he has discussed this potential joint venture extensively with the Company's gaming regulators. Also, he reported that Corporate Security has completed a background investigation on Pansy Ho, and such report has not generated any derogatory information about Pansy Ho.

Earlier minutes reflect that the Committee was not informed about the proposed Shun Tak/SJM relationship or the regulatory concerns about Stanley Ho and his affiliated entities raised informally by the Nevada regulators. The minutes are devoid of any indication that Jacobs informed the Committee of the derogatory information that MGM possessed regarding Pansy Ho, including her relationship with Gilbert Yeung, the reputation of his father, Albert Yeung. Similarly, the minutes reflect that the Compliance Committee did not consider Pansy Ho's financial and business relationships with Stanley Ho.

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<sup>65</sup>Edwards, MGM's head of Corporate Security, testified that he provided all of his Macau due diligence

The Compliance Committee did not learn of the terms and structures of the deal until after the June 19, 2004 signing of the joint venture's Shareholder Agreement. The Committee did not receive the April 13, 2004 Executive Summary, which was presented to the MGM Executive Committee, regarding the terms and structure of the joint venture, until August 21, 2004, despite having a meeting on May 17, 2004.

Jacobs, although aware of derogatory information in MGM's possession and a member of the company's Compliance Committee, did not share that information with the Committee or MGM's Compliance Officer, Bryan Wright ("Wright"). As a corporate officer as well as a member of the Compliance Committee, Jacobs had obligations in both roles. When asked about his failure to inform the Compliance Committee of the derogatory information, he attributed it to "some sloppiness in our procedures."<sup>66</sup> Both Lanni and Jacobs acknowledged that MGM should have shared its due diligence with the Committee by July 2003, when MGM and Shun Tak had reached a general consensus on the structure of a proposed joint venture.<sup>67</sup>

MGM did not engage in or request from a private firm any investigation or analysis of her independence from her father or of her financial resources, including her source of funds for the

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information to Jacobs only, to whom he reported on all matters.

<sup>66</sup>Jacobs also indicated that he did not bring it to the attention of the Committee because the responsibility of reporting matters to the committee was the responsibility of his subordinate, Wright. That justification carries little weight because Jacobs did not give him the reports until much later. Jacobs was aware that Wright had no access to background and due diligence reports requested by either Jacobs or Lanni unless the requestor provided a copy of these reports to Wright.

<sup>67</sup>MGM executives similarly did not apprise the Committee regarding the company's discussions with NWD and Chan. In 2001, despite the MGM Executive Committee's June 2001 resolution authorizing MGM to negotiate a joint venture agreement with NWD and correspondence between the parties concerning specific corporate structures and

transaction, net worth, income sources, or business or financial relationships. Beginning in October 2003, when Pansy Ho individually was identified as MGM's joint venture partner, the company was aware that the central regulatory issues were Pansy Ho's independence from her father and her source of funds for the joint venture. Wright, Edwards, and Gebhardt testified that neither Jacobs nor any other MGM executive asked them to investigate these areas.

Additionally, MGM failed to timely disclose the due diligence within its possession to New Jersey, Nevada and Mississippi regulators. On October 14, 2004, Jacobs provided an MGM Mirage Corporate Security report, captioned "Shun Tak", to New Jersey regulators. In the cover letter, Jacobs stated that "enclosed are materials we have on Pansy and Daisy." The letter noted, "[S]ince we have access to public sources, these materials are limited. With their filings and releases, you will, of course, be able to go deeper." As noted in this report, beginning in early 2003 MGM possessed a significant amount of derogatory due diligence relating to Stanley Ho and Macau's casinos, as well as information about Pansy Ho, much of which was incorporated into MGM Corporate Security Background reports that were shared with senior MGM executives. Regarding the transmittal letter to New Jersey, Jacobs testified that he "should have been clearer" that "this was not everything we [MGM] had." He characterized it as "probably ... a miscommunication."

MGM provided Nevada and Mississippi regulators the identical MGM MIRAGE Corporate Security Background Report that it had provided to New Jersey. NGCB has advised the Division that MGM admitted that it had "failed" to provide certain due diligence documents during its investigation

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financial terms, the Compliance Committee's minutes do not indicate that it received any information regarding the entities or individuals involved. Similarly, the Committee's minutes contain no references to Chan.

and “that the flow of information relating to its then constituted Compliance Committee was not adequate.”<sup>68</sup>

B. MGM FAILED TO APPRISE ITS COMPLIANCE COMMITTEE AND REGULATORS OF ALL RELEVANT INFORMATION IN A TIMELY MANNER, AND LEFT UNEXPLORED KEY QUESTIONS RELATED TO PANSY HO’S SUITABILITY

MGM fell short of its obligations to its Compliance Committee and its regulators in conducting and disclosing pertinent due diligence in a timely fashion. The minutes of the Compliance Committee meetings reflect that MGM executives did not disclose, let alone discuss, virtually any aspects of the Company’s development activities in Macau with the Compliance Officer and Committee. Despite possessing a significant amount of derogatory information, much of which was incorporated into various written investigative reports, neither Jacobs nor Edwards, both members of the Compliance Committee, provided any of these documents to the company’s Compliance Officer or the Committee as a whole. In addition, with the exception of one report that omitted the bulk of derogatory information in the company’s possession, MGM did not share any other due diligence with the Division of Gaming Enforcement. Rather, the Division uncovered certain due diligence that MGM possessed in the course of its investigation of the joint venture.

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<sup>68</sup> In a letter dated April 4, 2008 to the Division regarding MGM’s admitted compliance failures, the NGCB advised that:

...certain Nevada related factors should be considered: (a) while various information is required to be provided to Compliance Committees pursuant to the terms of their Compliance Plans, the NGCB views such requirements as guidance for self governance rather than an automatic grounds for discipline; and (b) none of the NGCB Members, in their discretion, pursued disciplinary action regarding the matters detailed in the referenced sections of the Investigative Reports as they were not deemed serious enough to warrant such action in view of the totality of the investigation regarding compliance with the Foreign Gaming Act.

Moreover, once MGM became aware in the fall of 2003 that Pansy Ho was to be its joint venture partner, company executives knew that Pansy Ho's independence from her father was, according to Jacobs, "from a due diligence standpoint or a regulatory standpoint the key issue." Nevertheless, MGM failed to investigate the issue, conducting no due diligence on the question of independence or Pansy Ho's personal financial resources or business relationships. It assumed independence, ignoring the ample evidence within its possession to the contrary, including: knowledge that the individuals participating in the negotiating and formation of the joint venture did not change when Pansy Ho individually replaced Shun Tak; knowledge that Pansy Ho was borrowing to finance her equity contribution, and sought to obtain the funds directly from Stanley Ho mere days before the joint venture's formation; and knowledge that Pansy Ho held leadership and governance positions in companies controlled by Stanley Ho. In short, MGM cannot now claim surprise at the extent of her dependence upon her father's financial and corporate resources when it failed to pursue the requisite investigation into these issues on its own.

MGM's efforts to obtain a letter from the Macau government attesting to the integrity of SJM's gaming operations and the probity of that company's major shareholders (including Stanley Ho) evidences a lack of commitment and sensitivity to compliance and the role of regulators. As set forth above, MGM was in possession of derogatory information relating to Stanley Ho and his companies. Despite believing that Stanley Ho was unsuitable for regulatory purposes, Jacobs took a lead role in drafting the August 1, 2003 Secretary Tam letter. In addition, although MGM knew that the NGCB possessed the Secretary Tam letter, the company failed to present the derogatory due diligence in its possession that undercut the letter's very assertions. On this record, MGM's



presentation of the Secretary Tam letter to members of the NGCB constitutes an unacceptable compromise of regulatory integrity in favor of business interests.<sup>69</sup>

## VII. CONCLUSION

Pansy Ho's relationship with her father, the central role that he and his companies have played in her successes and the formation of the joint venture, and her associations with persons alleged to be associated with organized crime render her susceptible to influence by unsuitable persons. The joint venture Shareholders Agreement provides no mechanism for dispute resolution other than the agreement of both parties. While MGM points to that provision as assurance that the joint venture will act in a manner that is consistent with MGM's regulatory obligations by requiring MGM approval for all significant actions, the converse is also true: all significant actions by the joint venture will require the approval of Pansy Ho. Given the extent of STDM, SJM, and Stanley Ho's influences and involvement in gaming in Macau, and the multiple roles that Pansy Ho plays in the Stanley Ho empire, the possibility of Pansy Ho's competing and conflicting interests influencing the operation of the joint venture's casinos is real and significant.

In addition to and apart from questions of suitability related to the parties with whom MGM has entered into the joint venture, its conduct in pursuing and consummating that venture raises concerns about its commitment to corporate regulatory integrity. In several instances, MGM's conduct evidences a willingness to seek partnerships with persons it knew to be associated with or

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<sup>69</sup>The Secretary Tam letter was also provided to Mississippi regulators. MGM never presented the letter to the Division.

alleged to be associated with organized crime. Additionally, the company failed to conduct due diligence on issues that it acknowledged were important to regulators, primarily whether Pansy Ho was sufficiently independent from her father. Finally, MGM minimized the role and effectiveness of its own Compliance Officer and Committee, by failing to present to its Compliance Officer and Compliance Committee complete and timely due diligence relating to the negotiations, the joint venture, or its partner.

In sum, the joint venture between MGM and Pansy Ho was the culmination of a concerted effort by MGM to enter the Macau market. The Macau market represented to MGM not only a fast-growing and lucrative gaming market in Asia, but also an important market from which it could attract additional clientele to the company's Las Vegas properties. MGM believed that it had to establish a presence in Macau, which it did by securing a local partner, obtaining a subconcession, identifying and gaining approval for development on a particular parcel, and ultimately constructing and opening a casino. Its efforts and actions in Macau furthered those corporate objectives. As a licensed entity in the State of New Jersey, however, MGM must at all times satisfy its statutory obligations. Here, the lack of personal, financial, and professional independence of its joint venture partner from an individual acknowledged to be unsuitable, the partner's own questionable personal suitability, and MGM's failure in compliance and disclosure, lead the Division to conclude that MGM's joint venture partnership in Macau does not satisfy its obligations under the Act.

## VIII. RECOMMENDATIONS

Based upon the information contained in this Special Report and revealed pursuant to the Division's investigation, the Division recommends that the Commission find Stanley Ho to be an

unsuitable person under the Act. The Division's recommendation is supported by the opinions of MGM senior executives, MGM's own due diligence, the actions of other casino regulatory agencies, Stanley Ho's continued business ties to persons associated with organized crime, and the Division's own investigation. In addition to his substantial, although indirect, funding of Pansy Ho's joint venture equity contributions, Stanley Ho was present at every major event leading to the opening of the joint venture, including the signing of the joint venture agreement at his personal residence, the groundbreaking, and the grand opening. In most if not all instances, he was present at the invitation of MGM.

The Division recommends that the Commission also find Pansy Ho to be an unsuitable person under the Act based on her dependence upon her father and her association with individuals connected to organized crime. The Division's recommendation is supported by the fact of her direct, substantial, and continuing business and financial ties to her father, Stanley Ho. Historically, almost all of her income and accumulated wealth was directly attributable to him, or entities controlled by him. The majority of the assets used to fund her interest in the joint venture with MGM came directly or indirectly from Stanley Ho.

The Division also recommends that the Commission find that Pansy Ho is not independent of her father, Stanley Ho. The closely intertwined financial and business associations that support a negative finding on her individual suitability similarly require a determination that Pansy Ho lacks independence from her father. Her controlling position at Shun Tak and her presence on the STDM Board present obvious conflicts with the MGM joint venture that leave her vulnerable to the potential influence or control of her father or his associations. Moreover, her involvement with MGM in the very industry in which her father's organized crime associations, both past and present, are linked give the Division extreme concern. Aside from the significant evidence of substantial and continuing business and financial connections to her father, genuine concerns about Pansy Ho's lack of independence are evidenced by, among other issues, the pervasive involvement of individuals

associated with or employed by Stanley Ho or the entities he controls, her January 2007 trip to Kazakhstan on behalf of STDM/Shun Tak, her representation on behalf of her father at a STDM General Assembly meeting, her designation as a representative of STDM to testify in court proceedings, and Stanley Ho's appearance at the MGM Grand Macau's opening in December 2007. These economic and professional ties to her father demonstrate a lack of the independence necessary to insulate the joint venture from the potential of influence or control by Stanley Ho, his business entities, or associates.

Separate and apart from her father's organized crime associations, Pansy Ho herself

has been involved in several financial transactions with other individuals reputed to have triad associations.

The Division also recommends that the Commission find that MGM failed to follow its own internal compliance procedures. From the beginning of its efforts to enter Macau, MGM pursued partnerships with persons that it knew were associated with those aspects of gaming in Macau most heavily penetrated by organized crime. After its unsuccessful bid to obtain a gaming concession, MGM proposed a joint venture with Henry Cheng and Chan, with Chan as managing director of the joint venture, despite its Corporate Security report documenting Chan's involvement in VIP rooms and his associations with persons involved in organized crime. After it became apparent that the original three successful bidders would, in fact, receive a concession, MGM sought to partner with SJM, the only concessionaire who was not a direct competitor in the Las Vegas market. Despite their sworn statements to the contrary, MGM's interest and efforts in securing an arrangement with SJM evidences a willingness to do business with Stanley Ho and his companies. Indeed, Pansy Ho was initially present at the negotiating table at her father's request as a representative of Stanley Ho.

Additionally, in light of the due diligence in MGM's possession at the time, MGM's role in acquiring a letter from a high-ranking member of the Macanese government attesting to the suitability of SJM and Shun Tak, and its subsequent delivery to members of the NGCB, reflects, at best, a lack of candor to that regulatory entity. The drafting of the letter, the efforts to secure the signature, and its presentation to regulators—despite the significant amount of due diligence within the company's possession that contradicted or qualified the assertions contained therein—demonstrate that MGM did in fact attempt to rehabilitate Stanley Ho and his companies in the eyes of Nevada regulators.

MGM provided inadequate and untimely disclosure of the Macau venture and its partners to its compliance personnel. In particular, despite their presence on the Compliance Committee, and their awareness of the due diligence MGM possessed, and in the case of Jacobs his additional knowledge of the various negotiations, neither Jacobs nor Edwards kept the Committee or Compliance Officer informed. In light of Jacob's complicity in failing to provide the Compliance Committee with timely and complete information, the payment of a bonus to Jacobs creates, at the very least, an appearance that the securing of a lucrative joint venture absolved any shortcomings in following internal policies regarding compliance. Furthermore, MGM's presentation of the joint venture to the Compliance Committee after the joint venture signing left the Committee unable to offer any meaningful guidance.

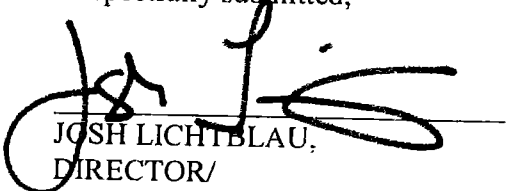
MGM also failed to conduct adequate due diligence on the very issue that the company's leadership acknowledges is central to regulatory inquiry on the joint venture, namely, Pansy Ho's financial independence from her father and her source of funds for the joint venture. MGM's records reveal that MGM did not undertake additional due diligence or background investigation into Pansy

Ho's personal, financial, and professional independence, despite the company's recognition that Pansy Ho had limited ability to finance the deal and despite the extensive derogatory public allegations relating to Stanley Ho, organized crime, and his casino empire.

Based upon a careful review of all the facts, the Division makes the following recommendations to the Commission:

1. That Stanley Ho be found to be an unsuitable person under the Act;
2. That Pansy Ho be found to be an unsuitable person under the Act;
3. That Pansy Ho be found not to be independent of Stanley Ho;
4. That MGM be directed to disengage itself from any direct or indirect business or financial association with Pansy Ho, or her related entities;
5. That MGM's due diligence/compliance efforts be found to be deficient under the Act; and
6. That a public hearing be held to address the facts and circumstances set forth in this Special Report.

Respectfully submitted,



JOSH LICHTBLAU,  
DIRECTOR/  
ASSISTANT ATTORNEY GENERAL

c Members of the Commission