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**IN THE MATTER OF THE REOPENED  
2005 CASINO LICENSE HEARING OF  
MARINA DISTRICT DEVELOPMENT  
COMPANY, LLC**

**STIPULATION OF SETTLEMENT**

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The above-captioned matter having been discussed by and between the parties involved, Paula T. Dow, Attorney General of New Jersey, attorney for State of New Jersey, Department of Law and Public Safety, Division of Gaming Enforcement (“Division”), Josh Lichtblau, Director, by George N. Rover, Assistant Attorney General, and Anthony J. Zarrillo, Jr., Assistant Attorney General, and Fox Rothschild LLP by Nicholas Casiello, Jr., Esq. and Patrick Madamba, Jr., Esq., attorneys for MGM MIRAGE, the following facts have been agreed upon and stipulated as to the Division and MGM MIRAGE:

**STIPULATED FACTS:**

1. MGM MIRAGE, a Delaware corporation, is a “holding company” and a “publicly traded corporation” as those terms are defined in Sections 26 and 39 of the Casino Control Act, N.J.S.A. 5:12-1 et seq. (the “Act”).

2. Mirage Resorts, Incorporated (“MRI”), a Nevada corporation, is a wholly owned subsidiary of MGM MIRAGE. It is not a “publicly traded corporation” as that term is defined in Section 39 of the Act, but is a “holding company” and “intermediary company” as those terms are defined in Sections 26 and 28 of the Act.

3. MAC, CORP. (“MAC”), a New Jersey corporation, is a wholly owned subsidiary of MRI. It is not a “publicly traded corporation” as that term is defined in Section 39 of the Act, but is a “holding company” and “intermediary company” as those terms are defined in Sections 26 and 28 of the Act.

4. MAC owns 50% of Marina District Development Holding Co., LLC (“MDDH”), a New Jersey limited liability company. MDDH is not a “publicly traded corporation” as that term is defined in Section 39 of the Act, but is a “holding company” and “intermediary company” as those terms are defined in Sections 26 and 28 of the Act.

5. Boyd Gaming Corporation (“Boyd”), a Nevada corporation, is a “holding company” and a “publicly traded corporation” as those terms are defined in Sections 26 and 39 of the Act. Boyd is not an “affiliate” of MGM MIRAGE as that term is defined in Section 2.1 of the Act.

6. Boyd Atlantic City, Inc. (“BAC”), a New Jersey corporation, is a wholly owned, indirect subsidiary of Boyd. BAC is not a “publicly traded corporation” as that term is defined in Section 39 of the Act, but is a “holding company” and “intermediary company” as those terms are defined in Sections 26 and 28 of the Act. BAC owns the other 50% of MDDH.

7. MDDH owns 100% of Marina District Development Company, LLC (“MDDC”), a New Jersey limited liability company. Consequently, MGM MIRAGE and Boyd each indirectly own 50% of MDDC. MDDC is the holder of a casino license issued by the Casino

Control Commission (the "Commission") for a term expiring June 30, 2010, for the "Borgata Hotel Casino & Spa®", an approved casino hotel facility.

8. The day-to-day management and operation of casino licensee MDDC is controlled by Boyd, through its wholly owned, indirect subsidiary, BAC, pursuant to a Second Amended and Restated Joint Venture Agreement of Marina District Development Co. (the predecessor in interest to MDDC) dated August 31, 2000, and as amended by the Contribution and Adoption Agreement dated December 13, 2000, the First Amendment to the Operating Agreement of MDDH dated June 18, 2003, and the Agreement dated as of February 26, 2010, by and among MDDH, MGM MIRAGE, Boyd, BAC and MAC (the "Second Amendment" and, collectively, the "Amended Operating Agreement").

9. MAC, BAC, MDDH and MDDC have entered into an Attribute Allocation Agreement dated as of April 15, 2005 (the "Attribute Allocation Agreement"), to provide for a methodology to account for certain "tax attributes" (as such term is therein defined) utilized in the New Jersey consolidated corporate business tax return filed annually by the parties thereto and, as applicable, to provide for an annual payment to or from either or both of MAC and BAC for the use of tax attributes, all as set forth in the Attribute Allocation Agreement.

10. MGM MIRAGE, through its subsidiaries, indirectly owns approximately 130 acres on the area commonly referred to as "Renaissance Pointe" in Atlantic City, New Jersey. Approximately ten of the acres are subject to long-term ground leases with MDDC for use in the Borgata Hotel Casino & Spa® casino hotel operations. The long-term ground leases are more fully described as follows:

(a) That certain Lease and Option Agreement dated as of January 16, 2002, by and between MAC and MDDC pertaining to Block 576, Tax Lot 1.05 on the Tax Map of the City of Atlantic City, New Jersey, as amended (the "Employee Parking Structure Ground Lease");

(b) That certain Lease Agreement dated as of January 1, 2005, by and between MAC and MDDC pertaining to Block 576, Tax Lot 1.08 on the Tax Map

of the City of Atlantic City, New Jersey, and any amendments thereto (the “Restaurant Expansion Ground Lease”), and

(c) That certain Lease Agreement dated as of January 1, 2005, by and between MAC and MDDC pertaining to Block 576, Tax Lots 1.10 and 1.11 on the Tax Map of the City of Atlantic City, New Jersey, as amended (the “Additional Structured Parking Lot/Tower Expansion Parcel Ground Lease”). (The Employee Parking Structure Ground Lease, Restaurant Expansion Ground Lease and Additional Structured Parking Lot/Tower Expansion Parcel Ground Lease are collectively referred to as the “Long-Term Ground Leases”).

11. Of the remaining 120 acres indirectly owned by MGM MIRAGE through its subsidiary, MAC, approximately 72 acres are suitable for development (the “Renaissance Pointe Proposed Casino Site”). In October 2007, MGM MIRAGE announced plans for a multi-billion dollar casino hotel resort complex on the 72-acre Renaissance Pointe Proposed Casino Site. MAC is an applicant with the Commission for a casino license and such application is currently pending before the Commission.

12. Approximately nine of the developable acres that are a part of the Renaissance Pointe Proposed Casino Site are subject to a short-term (month-to-month) ground lease with MDDC for surface parking (the “Surface Parking Lot Lease”) and a portion of the remaining acres consists of common roads, landscaping and master plan improvements, which MGM MIRAGE caused to be designed and developed as required by an agreement with BAC in connection with the development of the “Borgata Hotel Casino & Spa®”.

13. The Surface Parking Lot Lease is more fully described as that certain Lease Agreement dated as of August 20, 2004, by and between MAC and MDDC pertaining to Block 576, Tax Lot 1.07 on the Tax Map of the City of Atlantic City, New Jersey, as amended. The real property subject to the Surface Parking Lot Lease is an integral part of the Renaissance Pointe Proposed Casino Site and thus such real property was leased by MAC to MDDC on a short-term, temporary basis (and not as a permanent part of MDDC’s approved casino hotel

facility site for the “Borgata Hotel Casino & Spa®”) with the understanding that the Surface Parking Lot Lease would be terminable at anytime (subject to the applicable notice period for termination) to preserve the value of and allow for development on the Renaissance Pointe Proposed Casino Site.

14. MGM MIRAGE, through its subsidiary, AC Holding Corp. II, owns an additional approximately 14 acres in the area of Atlantic City, New Jersey, commonly referred to as the “Marina District”, which is near but not contiguous to Renaissance Pointe (the “Marina District Site”). (The approximately 130 acres on the area commonly referred to as Renaissance Pointe and the Marina District Site are collectively referred to as the “Atlantic City Real Property”).

15. Independent of its investments and ownership of real property in Atlantic City, MGM MIRAGE indirectly owns, through a series of wholly-owned subsidiaries, fifty percent (50%) of MGM Grand Paradise Limited, an entity which developed and operates “MGM Grand Macau”, a hotel casino resort in Macau S.A.R., China.

16. Ms. Pansy Ho Chiu-king, directly and indirectly, owns the other fifty percent (50%) of MGM Grand Paradise Limited. MGM MIRAGE and certain of its affiliates entered into an agreement with Ms. Ho and certain of her affiliates governing their relationship with respect to the development and operation of the MGM Grand Macau on June 19, 2004, as amended and restated.

17. MDDC’s casino license was most recently renewed by the Commission on June 22, 2005. See Commission Resolution No. 05-06-22-15. In connection therewith, the Commission found each of MGM MIRAGE, MRI and MAC qualified as a holding company of MDDC. See Commission Resolution No. 05-06-22-15, Findings and Rulings, ¶ 2.

18. In the Division’s June 1, 2005, report to the Commission with respect to MDDC’s 2005 casino license renewal (the “Division 2005 Renewal Report”), however, the Division stated that it was “monitoring MGM [MIRAGE’S] activities” in Macau and it would “continue to review this joint venture project [with Pansy Ho] and report any material information to the Commission as deemed appropriate.” Division 2005 Renewal Report at 19.

19. On May 18, 2009, the Division filed a report with the Commission captioned 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 (the "Special Report"). The Special Report is the culmination of the Division's investigation with respect to MGM MIRAGE's investment in Macau and its relationship with Pansy Ho.

20. In the Special Report, the Division made the following recommendations to the Commission:

- (a) That Stanley Ho be found to be an unsuitable person under the Act;
- (b) That Pansy Ho be found to be an unsuitable person under the Act;
- (c) That Pansy Ho be found not to be independent of Stanley Ho;
- (d) That MGM MIRAGE be directed to disengage itself from any direct or indirect business or financial association with Pansy Ho, or her related entities;
- (e) That MGM MIRAGE's due diligence/compliance efforts be found to be deficient under the Act, and
- (f) That a public hearing be held to address the facts and circumstances set forth in the Special Report.

21. In furtherance of the Division's request that the Commission hold a hearing to address the issues raised in the Special Report, by letter dated July 27, 2009, the Division requested the Commission to reopen the 2005 casino license hearing of MDDC pursuant to Section 88a of the Act. Consequently, by correspondence dated August 3, 2009, the Commission notified the Division and counsel to joint petitioners that MDDC's casino license hearing is reopened and that further proceedings would be scheduled.

22. On August 18, 2009, a Joint Petition bearing reference number 2300906 was filed by MGM MIRAGE, Boyd and MDDC seeking certain declaratory rulings with respect to procedural issues related to the reopened casino license hearing. On August 18, 2009, joint

petitioners also filed letter-briefs in support of the Joint Petition. On August 28, 2009, the Division filed a letter-brief in response to the Joint Petition. The Commission then heard the matter at its public meeting of September 22, 2009, and granted in part and denied in part the relief sought by way of the Joint Petition (all as set forth in Commission Resolution No. 09-09-22-13).

**SETTLEMENT AGREEMENT:**

IT IS THEREFORE AND HEREBY consented to and agreed upon by the Division and MGM MIRAGE that:

A. MGM MIRAGE shall irrevocably place in a divestiture trust (the "Trust") its entire indirect ownership interest in casino licensee MDDC. More particularly, MGM MIRAGE shall cause its wholly owned, indirect subsidiary, MAC, to place in the Trust all of MAC's limited liability company ownership interest in MDDH. MGM MIRAGE shall also cause MAC to place in the Trust title to the real property subject to the Long-Term Ground Leases and assign to the Trust the Long-Term Ground Leases themselves, none of which shall be amended without the prior approval of the Commission.<sup>i</sup> (The MDDH limited liability company interests owned by MAC together with title to the real property subject to the Long-Term Ground Leases and the Long-Term Ground Leases themselves are collectively referred to as the "Trust Property".)

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<sup>i</sup> As a result of changes in certain lot lines in connection with a minor subdivision that created Lot 1.12 in Block 576 on the Tax Map of the City of Atlantic City (in the area commonly referred to as Renaissance Pointe) that occurred after the initial execution of the Long-Term Ground Leases, the metes and bounds descriptions in such leases do not, in the case of the Restaurant Expansion Ground Lease and the Employee Parking Structure Ground Lease, conform to the subdivision map filed in the Clerk's Office for Atlantic County, New Jersey, on July 30, 2008, in Volume 00903 as no. 2008058558 (the "Subdivision Map"). In addition, the metes and bounds description in the Surface Parking Lot Lease does not conform to the Subdivision Map. MGM MIRAGE and MDDC have agreed upon the form of amendments to the Long-Term Ground Leases and the Surface Parking Lot Lease to correct the descriptions and address certain other matters. MAC and MDDC have also agreed upon the form of a certain "Ground Lease Agreement With Respect To Block 576, Lot 1.12" for the lease of Block 576, Lot 1.12 as shown on the Subdivision Map (the "Alternate Parking Lease"). The Alternate Parking Lease and the amendments to the Long-Term Ground Leases are subject to the approval of the Commission, and such approval by the Commission shall be considered contemporaneously with this Stipulation of Settlement and the Trust Agreement. Notwithstanding anything to the contrary in this Stipulation of Settlement or otherwise, however, only so much of such real property as conforms to the current lot lines on the Subdivision Map shall be a part of the Trust Property.

B. MGM MIRAGE shall also cause MAC to place in the Trust title to the real property subject to the Surface Parking Lot Lease and assign to the Trust the Surface Parking Lot Lease itself (the "Additional Trust Property"). Said real property is to be held on a short-term basis in the Trust until such time as the Surface Parking Lot Lease is terminated (as more fully described in paragraph K below). MGM MIRAGE shall also cause MAC to place in the Trust title to the real property subject to the Alternate Parking Lease and assign to the Trust the Alternate Parking Lease itself (the "Springing Trust Property").

C. MGM shall have the right to appoint a natural person to serve as the trustee under the Trust (the "Trustee"). The Trustee shall meet all of the criteria necessary to qualify as a casino key employee, except for residency, under the Act. The Trustee shall be someone acceptable to the Division in its discretion and approved by the Commission contemporaneously with the Commission's consideration of this Stipulation of Settlement. The Trustee shall also be someone who has had prior experience with the New Jersey casino regulatory system; provided, however, that the Trustee must not have had any prior relationship with MGM MIRAGE or its subsidiaries or affiliates, or any of their respective officers or directors, including any prior business or consulting relationship.

D. The trust agreement creating the Trust (the "Trust Agreement") shall be in the form attached hereto as Exhibit A and made a part hereof.

E. MGM MIRAGE and its subsidiaries shall be the economic beneficiaries of the Trust. The Commission and Division shall be the regulatory beneficiaries of the Trust.

F. MGM MIRAGE shall cause MAC to irrevocably transfer all of MAC's present and future interest in the Trust Property to the Trust and transfer MAC's present and future interest in the Additional Trust Property and the Springing Trust Property to the Trust no later than five (5) business days following approval of this Stipulation of Settlement by the Commission.

G. Neither MGM MIRAGE, nor any of its holding companies, subsidiaries or affiliates, nor any of their respective principals, directors, officers, employees or agents, shall

exercise or attempt to exercise any control or influence over the Trustee or MDDC, or communicate in any manner with the Trustee or MDDC, commencing upon the Effective Date of the Trust (as the term "Effective Date" is defined in the Trust Agreement) other than as may be expressly permitted under the terms of the Trust Agreement.

H. The Trust Property must be disposed of within thirty (30) months of the Effective Date of the Trust. MGM MIRAGE shall have the first eighteen (18) months from the Effective Date of the Trust (the "Divestiture Period") to direct the Trustee (strictly in accordance with, and solely to the extent provided under, the terms of the Trust Agreement) to dispose of all or any part of the Trust Property to any person(s) who satisfies all applicable requirements of the Act, and any such disposition shall be subject to the prior approval of the Commission.

I. If MGM MIRAGE fails to direct the Trustee to dispose of the entirety of the Trust Property within the Divestiture Period, the Trustee shall thereafter dispose of all of the Trust Property for cash within twelve (12) months from the expiration of the Divestiture Period (the "Terminal Sale Period"), and any such disposition shall be subject to the prior approval of the Commission. Prior to the consummation of any sale during the Terminal Sale Period, the Trustee shall obtain a customary opinion from a qualified investment banking firm that the transaction is fair from a financial point of view ("Fairness Opinion") as this term is defined below.

For purposes of this Stipulation of Settlement, the Fairness Opinion rendered by the investment banking firm shall determine the fairness of the consideration paid based upon factors which must include: (1) the current gaming market conditions, specifically those existing in Atlantic City, New Jersey, during the Terminal Sale Period at which the sale is to be consummated; (2) that the seller/Trustee is compelled by exigent circumstances to consummate the sale for cash within the twelve (12) month Terminal Sale Period, and (3) any other factors that are not inconsistent with factors (1) and (2) above.

The Fairness Opinion shall be provided to the Trustee with a copy to be provided to MGM MIRAGE upon the consummation of the disposition of the Trust Property and may be

relied upon by MGM MIRAGE. The Trustee may obtain the Fairness Opinion from the same firm that assisted the Trustee with the disposition of the Trust Property.

The Trustee shall utilize a nationally recognized investment banking firm with substantial experience in the gaming industry that is acceptable to the Commission and the Division. The cost to retain such an investment banking firm shall be an expense of the Trust.

J. In addition to the Trustee's general fiduciary duty to the Commission and Division as the regulatory beneficiaries of the Trust Agreement, during the Terminal Sale Period the Trustee shall owe a specific fiduciary duty to the Commission and the Division with respect to the Trustee's obligations to dispose of the Trust Property during, but prior to the expiration of, the Terminal Sale Period. During the Terminal Sale Period, the Trustee shall provide written reports in a form approved by the Commission in consultation with the Division to MGM MIRAGE regarding the Trustee's efforts to sell the Trust Property not less often than quarterly.

K. At all times, MGM MIRAGE shall have the right, on ten (10) business days prior written notice to the Commission and the Division, to direct, notwithstanding the ban on communication imposed under paragraph 14 of the Trust Agreement, the Trustee to terminate the Surface Parking Lot Lease strictly in accordance with its terms (which lease shall not be amended without the prior approval of the Commission). In the event that the Surface Parking Lot Lease is terminated, title to the real property previously subject to the Surface Parking Lot Lease shall be promptly reconveyed to MAC, and such real property shall no longer be subject to the Trust. In the event that the Surface Parking Lot Lease has not been terminated by the date of the disposition of the entirety of the Trust Property, the Surface Parking Lot Lease must then be promptly terminated unless the Commission and Division approve a request by MGM MIRAGE and MDDC, jointly, submitted within ten (10) days of the Trustee's completion of his final accounting pursuant to paragraph 25 below, to continue the Surface Parking Lot Lease in effect for a period and under such terms as may be approved by the Commission and Division in their discretion. Any such request seeking a continuation of the Surface Parking Lot Lease shall contain, at a minimum, a request that the Additional Trust Property remain subject to the Trust

Agreement for so long as the Commission deems necessary following a termination of the Surface Parking Lot Lease in accordance with its terms.

L. MGM MIRAGE hereby makes no admission of liability or culpability with respect to the matters set forth in the Special Report. The Division and MGM MIRAGE hereby agree that this Stipulation of Settlement and the fact of entry into it by MGM MIRAGE shall neither be construed, nor is it intended by way of suggestion or implication, to be any admission of liability or culpability on the part of MGM MIRAGE, or any of its subsidiaries or affiliates, or any of their respective officers or directors, with respect to the matters set forth in the Special Report.

M. MGM MIRAGE and the Division hereby agree that the Special Report is a public document upon approval of this Stipulation of Settlement by the Commission subject only to the redactions approved by the Division prior to entering into this Stipulation of Settlement. The redacted form of the Special Report to be released to the public is attached hereto as Exhibit B. Notwithstanding the foregoing, MGM MIRAGE and the Division acknowledge that the Commission exclusively retains the authority to determine what, if any, portions of the Special Report are entitled to confidential treatment and that nothing herein limits the Commission's authority in that regard.

N. In connection with the parties seeking the Commission's approval of this Stipulation, MGM MIRAGE shall cause (i) MAC to request that its application for a casino license be withdrawn, (ii) MAC to request that MAC be administratively removed from the Commission's Master Vendors List and (iii) MGM MIRAGE and each of MRI, MAC and Tracinda Corporation to request to withdraw from each and every status any of them may currently have as a holding company or intermediary company, or otherwise qualified, licensed or registered in any other capacity, as the case may be, under the Act. The Division hereby consents to all such foregoing withdrawals and removals. All of the foregoing withdrawals and removals shall not be effective unless and until the Commission approves this Stipulation of

Settlement and all of the Trust Property, the Additional Trust Property and the Springing Trust Property is transferred to the Trust.

O. Upon transferring all of the Trust Property, the Additional Trust Property and the Springing Trust Property to the Trust, and the Commission granting any necessary waivers from the qualification requirement pursuant to the Act (and without limitation N.J.S.A. 5:12-85(d)), MGM MIRAGE and each of its subsidiaries and affiliates (including, but not limited to, MAC, MRI and Tracinda Corporation), and each of their respective directors, officers and employees will no longer be in a status that requires any of them to be qualified as a holding company or intermediary company (as the case may be), or to be qualified, licensed or registered in any other capacity under the Act. With respect to the granting of any such necessary waivers, the Division shall concur with any granting thereof by the Commission.

P. Neither MGM MIRAGE nor any of its subsidiaries, affiliates or the principals of any of them shall file an application with the Commission for a casino license or to be found qualified as a security holder of a casino licensee or otherwise seek approval by the Commission under the Act or its regulations for a period of thirty (30) months following the dissolution of the Trust (the "Application Bar Period"); provided that, if the Surface Parking Lot Lease has not been terminated by the date of the disposition of the entirety of the Trust Property then the Application Bar Period shall begin to run on the date of the disposition of the entirety of the Trust Property. In the event that MGM MIRAGE or any of its subsidiaries or affiliates or any principal of any of them (including any former principal whose conduct bears upon the matters raised in the Special Report) files at any time after the Commission's approval (if any) of this Stipulation of Settlement an application with the Commission for a casino license or to be found qualified as a security holder of a casino licensee or otherwise seek approval by the Commission under the Act or its regulations, the Division shall have the right to assert any or all of the matters set forth in the Special Report (including matters redacted by the Commission or any judicial body) in connection with the Division's position on any such application.

Q. On and after the Effective Date of the Trust, any and all proceeds, earnings, distributions, returns and other income of any kind whatsoever attributable to the Trust Property, the Additional Trust Property and/or the Springing Trust Property (whether upon the disposition of the Trust Property pursuant to paragraph I above or otherwise), including but not limited to all lease payments attributable to the Long-Term Ground Leases, the Surface Parking Lot Lease, and the Alternate Parking Lease are to be paid directly to the Trustee to be held in the Trust with any distribution thereof to MGM MIRAGE strictly subject to paragraph V below. In the event of any payment, inadvertent or otherwise, of any such amount to MGM MIRAGE, or any of its affiliates, subsidiaries or the principals of any of them, any such recipient upon having actual knowledge of any such payment, notwithstanding the ban on communication imposed pursuant to the terms of the Trust Agreement, shall immediately notify the Trustee, the Commission and the Division of receipt of such payment, and within three (3) business days after such notice, forward the amount of such payment to the Trustee, failing which the Division shall be authorized to proceed on an emergent basis before the Commission for such relief as the Division deems appropriate.

R. Until the approval by the Commission of the final accounting incidental to the termination of the Trust Agreement in accordance with paragraph V below, the Trustee shall not in any event distribute or otherwise release, relinquish or turnover to MGM MIRAGE, or any of its affiliates, subsidiaries or the principals of any of them, any funds received by the Trustee including, but not limited to, those received by the Trustee on account of proceeds, earnings, distributions, returns, lease payments or other income of any kind whatsoever in connection with the Trust Property, the Additional Trust Property or the Springing Trust Property. If for any reason the Trustee, although obligated in accordance with paragraph V below to distribute to MGM MIRAGE all proceeds received on account of the disposition of the Trust Property (and any other proceeds, funds or things of value then remaining in the Trust) net of expenses of the transaction and of the Trustee, finds himself in possession thereof and so seeks to make an

additional distribution to MGM MIRAGE after termination of the Trust Agreement, the Trustee shall due so upon ten (10) business days prior written notice to the Commission and the Division.

S. The expenses associated with the maintenance of the property in the Trust and the fees and expenses of the Trustee (the "Trust Expenses") shall be the responsibility of, and paid directly by, MGM MIRAGE and MAC except as set forth herein. The Trust Expenses in any event include (i) the fees and expenses of the Trustee, (ii) real property taxes attributable to the property subject to the Long-Term Ground Leases, the Surface Parking Lot Lease and the Alternate Parking Lease, and (iii) all costs to correct any adverse condition on the Atlantic City Real Property that presents a real and present danger to the health, safety or welfare of the public, or a condition that requires correction or mitigation by order of any governmental body or agency. MGM MIRAGE and MAC shall pay directly the Trust Expenses and regulatory expenses of the Commission and the Division as and when the same become due and payable, except to the extent that the amount thereof is paid to the relevant payee by the Trustee as set forth herein below or in paragraph T hereof. The Trustee, prior to the date such expenses become due, shall promptly notify MGM MIRAGE, through the Division on notice to the Commission, if the Trustee requires expenses to be paid.

For purposes of this Stipulation of Settlement, "Minimum Cash Balance" shall mean a minimum balance in cash or cash equivalents of \$1,000,000 in the Trust (the "Minimum Cash Balance"). On the Effective Date of the Trust, there shall be at least the Minimum Cash Balance in the Trust. To the extent that the actual amount in cash or cash equivalents in the Trust at any time is less than the Minimum Cash Balance, MGM MIRAGE shall be obligated to and shall promptly advance to the Trust such amount(s) as may be necessary to maintain the Minimum Cash Balance in the Trust, provided that the aggregate amount which MGM MIRAGE is obligated to contribute to the Trust pursuant to this clause shall not exceed \$5,000,000. To the extent that the actual amount in cash or cash equivalents in the Trust at any time is greater than the Minimum Cash Balance, then, subject to paragraph R hereof, the amount thereof shall be available for Trust Expenses to the extent permitted herein and in paragraph T hereof. The

Trustee shall notify MGM MIRAGE, through the Division, if it requires a contribution pursuant to this clause.

To the extent the balance in the Trust exceeds the Minimum Cash Balance, the Trustee shall promptly pay the Trust Expenses (as hereinbefore defined) in accordance with the terms of the Trust Agreement.

T. To the extent the balance in the Trust exceeds the Minimum Cash Balance, the Trustee shall promptly pay (in addition to other amounts the Trustee deems necessary and reasonable) the following:

- (i) Real property taxes attributable to the Atlantic City Real Property (other than the property subject to the Long-Term Ground Leases, the Surface Parking Lot Lease and the Alternate Parking Lease), and such amounts shall be paid directly to the tax collector for the City of Atlantic City, New Jersey;
- (ii) Interest expenses related to the investment of MGM MIRAGE and its subsidiaries in MDDC under that certain Revolving Line Of Credit Promissory Note dated December 26, 2002, made by MAC in favor of MRI in the original principal amount of \$350 million, and such amounts shall be paid directly to Bank of America, N.A., as Administrative Agent for the Lenders under the Fifth Amended and Restated Loan Agreement dated as of October 3, 2006, as amended, among MGM MIRAGE, certain of its subsidiaries, the Lenders described therein, and Bank of America, N.A., as Administrative Agent, for the payment of principal and interest thereof;
- (iii) For so long as MDDH and MDDC are limited liability companies or other tax pass-through entities, the amount of the state and federal income tax liability attributable to MGM MIRAGE and its subsidiaries and affiliates by reason of the inclusion by MGM MIRAGE and/or its subsidiaries and

affiliates of its or their share of income, loss, credits and other tax attributes of MDDC in any applicable income tax returns filed by MGM MIRAGE and/or its subsidiaries and affiliates (determined solely on the basis of the tax attributes of MDDC and ignoring the tax attributes of MGM MIRAGE and its other subsidiaries and affiliates), and such amounts shall be paid directly to the respective taxing authority;

- (iv) Maintenance and lighting expenses attributable to the Renaissance Pointe Proposed Casino Site, and such amounts shall be paid directly to MDDC, and
- (v) Amounts payable to Boyd and/or its subsidiaries pursuant to and in compliance with Section 5 of the Second Amendment.

Notwithstanding any of the foregoing to the contrary, no payment shall actually be made by the Trustee without first giving the Commission and the Division ten (10) business days prior written notice of any such payment, and the Trustee having received no request during such ten (10) day notice period from either the Commission or the Division that the Trustee is required to obtain the formal approval of the Commission for the purpose of confirming that the subject payment is for an expense(s) within one or more of the foregoing categories of permitted expenses.

U. In the event that MDDC receives notice of a Triggering Event (as such capitalized term is defined in the Alternate Parking Lease), and MDDC, in its sole and absolute discretion, terminates the Alternate Parking Lease as provided for therein and strictly in accordance with its terms, upon such termination, title to the real property previously subject to the Alternate Parking Lease shall be promptly reconveyed to MAC, and such real property shall no longer be subject to the Trust. In the event that MDDC receives notice of a Triggering Event (as such capitalized term is defined in the Alternate Parking Lease), and MDCC, in its sole and absolute discretion, elects to not terminate the Alternate Parking Lease as provided for therein and strictly in accordance with its terms, then the Springing Trust Property shall become a part of the Trust Property. In the event of any other termination of the Alternate Parking Lease, upon such

termination, title to the real property previously subject to the Alternate Parking Lease shall be promptly reconveyed to MAC, and such real property shall no longer be subject to the Trust.

V. Within twenty (20) days following the disposition of all Trust Property in accordance with paragraphs H and/or I above (as the case may be) (and with the Trustee continuing to retain the proceeds from such disposition), the Trustee shall prepare his final accounting and shall present same to the Division for its review to be completed within ten (10) days thereafter and, if satisfactory to the Division, then submit the final accounting, along with a request to dissolve the Trust and discharge the Trustee, to the Commission for its approval in the normal course, without prejudice to any request being made to the Commission that it consider such matter within fifteen (15) days of such submission. If the Commission approves the final accounting by the Trustee, the Trustee shall then distribute to MGM MIRAGE (or its designated subsidiary or affiliate) any and all proceeds received on account of the disposition of the Trust Property (and any other proceeds, funds or things of value then remaining in the Trust, other than the Additional Trust Property in the event there is a pending or granted request to continue the Surface Parking Lot Lease as provided in paragraph K, above), net of expenses of the transaction and the Trustee, and with the approval of the Commission, the Trustee shall then be discharged, the Trust Agreement terminated and the Trust that it creates dissolved (except in the event that there is a pending or granted request to continue the Surface Parking Lot Lease as provided in paragraph K, above) without the necessity for further action on the part of any person.

W. MGM MIRAGE and its currently qualified subsidiaries shall have a continuing duty to cooperate with the Commission and Division and to provide any and all information requested by the Commission and Division relating to this Stipulation of Settlement and the Trust created hereunder until the dissolution of the Trust. A failure to cooperate (which includes for these purposes a violation of the terms of this Stipulation of Settlement or the Trust Agreement) with either the Commission or Division (or both) may be considered in the context of any prospective application by MGM MIRAGE (or any of its affiliates, subsidiaries or any natural person acting on behalf of any of them) with the Commission (for a casino license or to

be found qualified as a security holder of a casino licensee or otherwise seek approval by the Commission under the Act or its regulations). In addition, any such failure to cooperate may result in a monetary fine and/or a finding by the Commission of non-cooperation and MGM MIRAGE consents to the Commission's jurisdiction regarding the foregoing. The Commission shall have jurisdiction over MGM MIRAGE and each of its subsidiaries, and each of their respective directors, officers and employees for the purpose of, and to the extent necessary for, the enforcement of this Stipulation of Settlement and the related Trust Agreement.

X. On the Effective Date, MGM MIRAGE shall put in the Trust the sum of \$200,000.00 (the "Regulatory Advisory Contribution") to be used by the Commission and/or the Division to defray the cost of professional advisor(s) that either or both of them may retain in their discretion in connection with carrying out their regulatory oversight functions with respect to matters pertaining to the Stipulation of Settlement, the Trust, or both. The Regulatory Advisory Contribution is a non-refundable, one-time payment, and such payment is separate and distinct from the Minimum Cash Balance, and thus such payment shall be separately accounted for. To the extent that any part of the Regulatory Advisory Contribution remains after the termination of the Trust under paragraph V above, any remainder shall be donated to Gamblers Anonymous®. The Division and MGM MIRAGE hereby agree that the payment of the Regulatory Advisory Contribution shall neither be construed nor is it intended by way of suggestion or implication to be a fine or penalty with respect to the matters set forth by the Division in the Special Report or any other matter or activity of MGM MIRAGE or any of its subsidiaries or affiliates.

Y. MGM MIRAGE represents to the Commission and the Division that MGM MIRAGE has obtained any and all third party consents necessary for MGM MIRAGE to execute this Stipulation of Settlement.

Z. This Stipulation of Settlement concludes the reopened 2005 casino license renewal hearing of MDDC and the casino license of MDDC shall remain in full force and effect

to the extent authorized in the Act notwithstanding any conduct of MGM MIRAGE, its subsidiaries, affiliates or the principals of any of them.

AA. This Stipulation of Settlement set forth herein above shall be final and binding upon the parties only by approval thereof in total by the Commission (including, approval of the Stipulation of Settlement, the Trust Agreement, the Second Amendment, the Long-Term Ground Leases (as amended), the Surface Parking Lot Lease (as amended), the Alternate Parking Lease and that certain letter agreement by and among MDDC, MAC and MGM MIRAGE to be dated as of the same date as the Commission's approval of this Stipulation of Settlement). If the Commission does not approve this Stipulation of Settlement within thirty (30) days following its full execution by MGM MIRAGE and the Division, this Stipulation of Settlement shall be null and void and of no further force or effect unless otherwise extended upon the election of MGM MIRAGE and the Division.

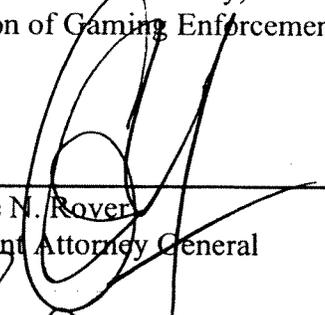
BB. This Stipulation of Settlement shall be null and void and of no further force and effect, and the Trust Agreement and the Trust that it creates shall be immediately terminated, without the necessity for further action on the part of any person, in the event that the Commission revokes or otherwise rescinds any necessary waivers from the qualification requirement pursuant to the Act (and without limitation N.J.S.A. 5:12-85(d)) for MGM MIRAGE and each of its subsidiaries and affiliates (including, but not limited to, MAC, MRI and Tracinda Corporation), and each of their respective directors, officers and employees to no longer be in a status that requires any of them to be qualified as a holding company or intermediary company (as the case may be), or to be qualified, licensed or registered in any other capacity under the Act at any time while the Trust Agreement is in effect as provided for in paragraph O above and thus requires MGM MIRAGE and/or any of its subsidiaries and/or affiliates (including, but not limited to, MAC, MRI and Tracinda Corporation), and/or any of their respective directors, officers and/or employees to be qualified as a holding company or intermediary company (as the case may be), or to be qualified, licensed or registered in any other capacity under the Act.

CC. To the extent applicable, Boyd, BAC, MDDH and MDDC join in and agree to be bound by the terms of paragraph 14 of the Trust Agreement.

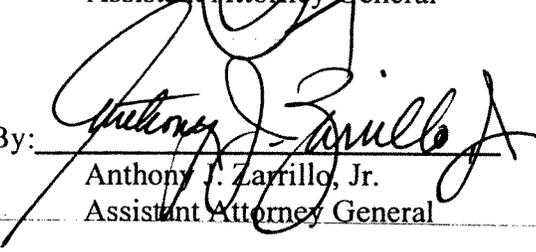
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State of New Jersey, Department  
of Law and Public Safety,  
Division of Gaming Enforcement

Dated: 11 March 2010

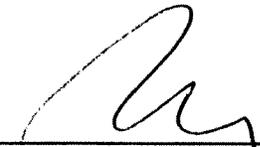
By:   
George M. Rover  
Assistant Attorney General

Dated: March 11, 2010.

By:   
Anthony J. Zarrillo, Jr.  
Assistant Attorney General

Fox Rothschild LLP

Dated: March 11, 2010

By:   
Nicholas Casiello, Jr., Esquire  
Patrick Madamba, Jr., Esquire  
Attorneys for MGM MIRAGE

Sterns & Weinroth, P.C.

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Paul M. O'Gara, Esquire  
Attorneys for Boyd Gaming Corporation,  
Boyd Atlantic City, Inc., Marina District  
Development Holding Co., LLC and Marina  
District Development Company, LLC  
(Joinder as to paragraphs Z and CC  
only)

State of New Jersey, Department  
of Law and Public Safety,  
Division of Gaming Enforcement

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
George N. Rover  
Assistant Attorney General

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Anthony J. Zarrillo, Jr.  
Assistant Attorney General

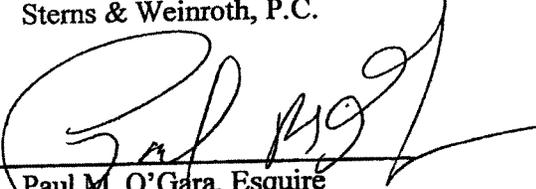
Fox Rothschild LLP

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Nicholas Casiello, Jr., Esquire  
Patrick Madamba, Jr., Esquire  
Attorneys for MGM MIRAGE

Sterns & Weinroth, P.C.

Dated: 3/16/2010

By:   
Paul M. O'Gara, Esquire  
Attorneys for Boyd Gaming Corporation,  
Boyd Atlantic City, Inc., Marina District  
Development Holding Co., LLC and Marina  
District Development Company, LLC  
(Joinder as to paragraphs Z and CC  
only)

**EXHIBIT A**  
**TO THE STIPULATION OF SETTLEMENT**

## TRUST AGREEMENT

This Trust Agreement (this "Trust Agreement") is made this \_\_\_ day of March, 2010, by and among MGM MIRAGE, a Delaware corporation, having an address at 3600 Las Vegas Boulevard South, Las Vegas, Nevada 89109 (for and on behalf of itself and MAC, CORP. ("MAC"), a New Jersey corporation), the Division of Gaming Enforcement (the "Division"), having an address at 140 East Front Street, Trenton, New Jersey, 08625, and James R. Zazzali, an individual, having an address at One Gateway Center, Newark, New Jersey 07102 (the "Trustee"). MGM MIRAGE and MAC shall be the sole economic beneficiaries of this Trust Agreement, and the Casino Control Commission (the "Commission") and the Division shall be the regulatory beneficiaries of this Trust Agreement.

### RECITALS:

A. MGM MIRAGE is a "holding company" and a "publicly traded corporation" as those terms are defined in Sections 26 and 39 of the Casino Control Act, N.J.S.A. 5:12-1 et seq. (hereinafter "Act").

B. Mirage Resorts, Incorporated ("MRI"), a Nevada corporation, is a wholly owned subsidiary of MGM MIRAGE. It is not a "publicly traded corporation" as that term is defined in Section 39 of the Act, but is a "holding company" and "intermediary company" as those terms are defined in Sections 26 and 28 of the Act.

C. MAC is a wholly owned subsidiary of MRI. It is not a "publicly traded corporation" as that term is defined in Section 39 of the Act, but is a "holding company" and "intermediary company" as those terms are defined in Sections 26 and 28 of the Act.

D. MAC owns 50% of Marina District Development Holding Co., LLC ("MDDH"), a New Jersey limited liability company. MDDH is not a "publicly traded corporation" as that term is defined in Section 39 of the Act, but is a "holding company" and "intermediary company" as those terms are defined in Sections 26 and 28 of the Act.

E. Boyd Gaming Corporation ("Boyd"), a Nevada corporation, is a "holding company" and a "publicly traded corporation" as those terms are defined in Sections 26 and 39 of the Act. Boyd is not an "affiliate" of MGM MIRAGE as that term is defined in Section 2.1 of the Act.

F. Boyd Atlantic City, Inc. ("BAC"), a New Jersey corporation, is a wholly owned, indirect subsidiary of Boyd. BAC is not a "publicly traded corporation" as that term is defined in

Section 39 of the Act, but is a “holding company” and “intermediary company” as those terms are defined in Sections 26 and 28 of the Act. BAC owns the other 50% of MDDH.

G. MDDH owns 100% of Marina District Development Company, LLC (“MDDC”), a New Jersey limited liability company. Consequently, MGM MIRAGE and Boyd each indirectly own 50% of MDDC. MDDC is the holder of a casino license issued by the Commission for a term expiring June 30, 2010, for the “Borgata Hotel Casino & Spa®”, an approved casino hotel facility.

H. The day-to-day management and operation of casino licensee MDDC is controlled by Boyd, through its wholly owned, indirect subsidiary, BAC, pursuant to a Second Amended and Restated Joint Venture Agreement of Marina District Development Co. (the predecessor in interest to MDDC), dated August 31, 2000, and as amended by the Contribution and Adoption Agreement dated December 13, 2000, the First Amendment to the Operating Agreement of MDDH dated June 18, 2003, and the Agreement dated as of February 26, 2010, by and among MDDH, MGM MIRAGE, Boyd, BAC and MAC (the “Second Amendment” and, collectively, the “Amended Operating Agreement”).

I. MAC, BAC, MDDH and MDDC have entered into an Attribute Allocation Agreement dated as of April 15, 2005 (the “Attribute Allocation Agreement”), to provide for a methodology to account for certain “tax attributes” (as such term is therein defined) utilized in the New Jersey consolidated corporate business tax return filed annually by the parties thereto and, as applicable, to provide for an annual payment to or from either or both of MAC and BAC for the use of tax attributes, all as set forth in the Attribute Allocation Agreement.

J. MGM MIRAGE, through its subsidiaries, indirectly owns approximately 130 acres on the area commonly referred to as “Renaissance Pointe” in Atlantic City, New Jersey. Approximately ten of the acres are subject to long-term ground leases with MDDC for use in the Borgata Hotel Casino & Spa® casino hotel operations. The long-term ground leases are more fully described as follows:

(i) That certain Lease and Option Agreement dated as of January 16, 2002, by and between MAC and MDDC pertaining to Block 576, Tax Lot 1.05 on the Tax Map of the City of Atlantic City, New Jersey, as amended (the “Employee Parking Structure Ground Lease”);

(ii) That certain Lease Agreement dated as of January 1, 2005, by and between MAC and MDDC pertaining to Block 576, Tax Lot 1.08 on the Tax Map of the City of Atlantic City, New Jersey, and any amendments thereto (the “Restaurant Expansion Ground Lease”), and

(iii) That certain Lease Agreement dated as of January 1, 2005, by and between MAC and MDDC pertaining to Block 576, Tax Lots 1.10 and 1.11 on the Tax Map of the City of Atlantic City, New Jersey, as amended (the "Additional Structured Parking Lot/Tower Expansion Parcel Ground Lease"). (The Employee Parking Structure Ground Lease, Restaurant Expansion Ground Lease and Additional Structured Parking Lot/Tower Expansion Parcel Ground Lease are collectively referred to as the "Long-Term Ground Leases".)

K. Of the remaining 120 acres indirectly owned by MGM MIRAGE through its subsidiary, MAC, approximately 72 acres are suitable for development (the "Renaissance Pointe Proposed Casino Site"). In October 2007, MGM MIRAGE announced plans for a multi-billion dollar casino hotel resort complex on the 72-acre Renaissance Pointe Proposed Casino Site. MAC is an applicant with the Commission for a casino license and such application is currently pending before the Commission.

L. Approximately nine of the developable acres that are a part of the Renaissance Pointe Proposed Casino Site are subject to a short-term (month-to-month) ground lease with MDDC for surface parking (the "Surface Parking Lot Lease") and a portion of the remaining acres consists of common roads, landscaping and master plan improvements, which MGM MIRAGE caused to be designed and developed as required by an agreement with BAC in connection with the development of the "Borgata Hotel Casino & Spa®".

M. The Surface Parking Lot Lease is more fully described as that certain Lease Agreement dated as of August 20, 2004, by and between MAC and MDDC pertaining to Block 576, Tax Lot 1.07 on the Tax Map of the City of Atlantic City, New Jersey, as amended. The real property subject to the Surface Parking Lot Lease is an integral part of the Renaissance Pointe Proposed Casino Site and thus such real property was leased by MAC to MDDC on a short-term, temporary basis (and not as a permanent part of MDDC's approved casino hotel facility site for the "Borgata Hotel Casino & Spa®") with the understanding that the Surface Parking Lot Lease would be terminable at anytime (subject to the applicable notice period for termination) to preserve the value of and allow for development on the Renaissance Pointe Proposed Casino Site.

N. MGM MIRAGE, through its subsidiary, AC Holding Corp. II, owns an additional approximately 14 acres in the area of Atlantic City, New Jersey, commonly referred to as the "Marina District", which is near but not contiguous to Renaissance Pointe (the "Marina District Site"). (The approximately 130 acres on the area commonly referred to as Renaissance Pointe and the Marina District Site are collectively referred to as the "Atlantic City Real Property".)

O. Independent of its investments and ownership of real property in Atlantic City, MGM MIRAGE indirectly owns, through a series of wholly-owned subsidiaries, fifty percent (50%) of MGM Grand Paradise Limited, an entity which developed and operates “MGM Grand Macau”, a hotel casino resort in Macau S.A.R., China.

P. Ms. Pansy Ho Chiu-king, directly and indirectly, owns the other fifty percent (50%) of MGM Grand Paradise Limited. MGM MIRAGE and certain of its affiliates entered into an agreement with Ms. Ho and certain of her affiliates governing their relationship with respect to the development and operation of the MGM Grand Macau on June 19, 2004, as amended and restated.

Q. MDDC’s casino license was most recently renewed by the Commission on June 22, 2005. See Commission Resolution No. 05-06-22-15. In connection therewith, the Commission found each of MGM MIRAGE, MRI and MAC qualified as a holding company of MDDC. See Commission Resolution No. 05-06-22-15, Findings and Rulings, ¶ 2.

R. In the Division’s June 1, 2005, report to the Commission with respect to MDDC’s 2005 casino license renewal (the “Division 2005 Renewal Report”), however, the Division stated that it was “monitoring MGM [MIRAGE’S] activities” in Macau and it would “continue to review this joint venture project [with Pansy Ho] and report any material information to the Commission as deemed appropriate.” Division 2005 Renewal Report at 19.

S. On May 18, 2009, the Division filed a report with the Commission captioned 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 (the “Special Report”). The Special Report is the culmination of the Division’s investigation with respect to MGM MIRAGE’s investment in Macau and its relationship with Pansy Ho.

T. In the Special Report, the Division made the following recommendations to the Commission:

- (i) That Stanley Ho be found to be an unsuitable person under the Act;
- (ii) That Pansy Ho be found to be an unsuitable person under the Act;
- (iii) That Pansy Ho be found not to be independent of Stanley Ho;

- (iv) That MGM MIRAGE be directed to disengage itself from any direct or indirect business or financial association with Pansy Ho, or her related entities;
- (v) That MGM MIRAGE's due diligence/compliance efforts be found to be deficient under the Act, and
- (vi) That a public hearing be held to address the facts and circumstances set forth in the Special Report.

U. MGM MIRAGE and the Division have agreed to settle and resolve the issues raised in the Special Report (i) through the execution of a stipulation of settlement in a form acceptable to each of them in all material respects (the "Stipulation of Settlement"), and (ii) by MGM MIRAGE irrevocably placing in a divestiture trust (the "Trust") its entire indirect ownership interest in casino licensee MDDC and title to the real property subject to the Long-Term Ground Leases and assigning to the Trust the Long-Term Ground Leases themselves. The latter is to be accomplished by MGM MIRAGE causing its wholly owned, indirect subsidiary, MAC, to place in the Trust all of MAC's present and future right, title, and interest in the limited liability company ownership interest in MDDH. MGM MIRAGE shall also cause MAC to place in the Trust title to the real property subject to the Long-Term Ground Leases and assign to the Trust the Long-Term Ground Leases themselves. (The MDDH limited liability company interests owned by MAC together with title to the real property subject to the Long-Term Ground Leases and the Long-Term Ground Leases themselves are collectively referred to as the "Trust Property".<sup>1</sup>) (None of the Long-Term Ground Leases or the Alternate Parking Lease shall be amended without the prior approval of the Commission.)

V. Pursuant to the terms of the Stipulation of Settlement, MGM MIRAGE shall also cause MAC to place in the Trust title to the real property subject to the Surface Parking Lot Lease and assign to the Trust the Surface Parking Lot Lease itself (the "Additional Trust

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<sup>1</sup> As a result of changes in certain lot lines in connection with a minor subdivision that created Lot 1.12 in Block 576 on the Tax Map of the City of Atlantic City (in the area commonly referred to as Renaissance Pointe) that occurred after the initial execution of the Long-Term Ground Leases, the metes and bounds descriptions in such leases do not, in the case of the Restaurant Expansion Ground Lease and the Employee Parking Structure Ground Lease, conform to the subdivision map filed in the Clerk's Office for Atlantic County, New Jersey, on July 30, 2008, in Volume 00903 as no. 2008058558 (the "Subdivision Map"). In addition, the metes and bounds description in the Surface Parking Lot Lease does not conform to the Subdivision Map. MGM MIRAGE and MDDC have agreed upon the form of amendments to the Long-Term Ground Leases and the Surface Parking Lot Lease to correct the descriptions and address certain other matters. MAC and MDDC have also agreed upon the form of a certain "Ground Lease Agreement With Respect To Block 576, Lot 1.12" for the lease of Block 576, Lot 1.12 as shown on the Subdivision Map (the "Alternate Parking Lease"). The Alternate Parking Lease and the amendments to the Long-Term Ground Leases are subject to the approval of the Commission, and such approval by the Commission shall be considered contemporaneously with the Stipulation of Settlement and this Trust Agreement. Notwithstanding anything to the contrary in this Trust Agreement or otherwise, however, only so much of such real property as conforms to the current lot lines on the Subdivision Map shall be a part of the Trust Property.

Property”). Said real property is to be held on a short-term basis in the Trust until such time as the Surface Parking Lot Lease is terminated and title to the real property is then reconveyed to MAC.

W. Pursuant to the terms of the Stipulation of Settlement, MGM MIRAGE shall also cause MAC to place in the Trust title to the real property subject to the Alternate Parking Lease and assign to the Trust the Alternate Parking Lease itself (the “Springing Trust Property”).

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING PREMISES AND MUTUAL AGREEMENTS AND COVENANTS HEREINAFTER CONTAINED, THE PARTIES AGREE AS FOLLOWS:

1. Transfer Of Trust Property. MGM MIRAGE shall cause MAC to irrevocably transfer all of MAC’s present and future interest in the Trust Property to the Trust and transfer MAC’s present and future interest in the Additional Trust Property and the Springing Trust Property to the Trust (in each case, free and clear of any mortgage or other security interest) no later than five (5) business days following approval of the Stipulation of Settlement by the Commission. The date on which all of the Trust Property, the Additional Trust Property and the Springing Trust Property have been transferred to the Trustee shall be referred to hereinafter as the “Effective Date”. If the Commission does not approve the Stipulation of Settlement within thirty (30) days following full execution of this Trust Agreement, this Trust Agreement and the Trust that it creates shall be null and void and of no further force or effect unless otherwise extended upon the election of MGM MIRAGE and the Division.
2. Trustee's Acceptance Of Property In Trust. The Trustee shall accept the Trust Property, the Additional Trust Property and the Springing Trust Property in trust as and when actually transferred to the Trust, and the Trustee agrees to hold the Trust Property, the Additional Trust Property and the Springing Trust Property subject to and in accordance with the terms and conditions of this Trust Agreement and subject to and accordance with the terms and conditions of any agreements governing the Trust Property, the Additional Trust Property and/or the Springing Trust Property, including the Amended Operating Agreement, Attribute Allocation Agreement, Long-Term Ground Leases (as amended), the Surface Parking Lot Lease (as amended) and the Alternate Parking Lease.
3. Fiduciary Duty Of Trustee. When exercising his rights and powers under this Trust Agreement, the Trustee shall use the same degree of care and skill as a prudent person would exercise or use under the circumstances in the conduct of his own affairs.
4. Duties Of Trustee. The Trustee shall have the duty to: (a) take all necessary and reasonable steps to maintain the Trust Property, the Additional Trust Property and the Springing

Trust Property in his name once transferred to the Trust (except as provided with respect to the Additional Trust Property pursuant to paragraph 9 below and the Springing Trust Property pursuant to paragraph 24 below); (b) protect the value of MGM MIRAGE's and MAC's interests in this Trust Agreement as the sole economic beneficiaries; (c) serve as a fiduciary with respect to the Commission's and the Division's interest in this Trust Agreement as the regulatory beneficiaries, and (d) dispose (and must dispose) of the Trust Property within thirty (30) months of the Effective Date strictly in accordance with the provisions of this Trust Agreement. The parties recognize and agree that the purpose of this Trust Agreement is to allow for the orderly divestiture of all of MGM MIRAGE's indirect interest in MDDC's approved casino hotel facility, i.e., the "Borgata Hotel Casino & Spa®", in accordance with the terms of this Trust Agreement.

5. Duties Of MGM MIRAGE. On and after the Effective Date, MGM MIRAGE shall have the duty to ensure that neither MGM MIRAGE, nor any of its holding companies, subsidiaries or affiliates, nor any of their respective principals, directors, officers, employees or agents, exercise or attempt to exercise any control or influence over (a) the Trustee or any of his advisors other than as expressly and exclusively permitted under the terms of paragraph 7 of this Trust Agreement or (b) MDDC or any of its holding companies, subsidiaries or affiliates (or any of their respective directors, officers, employees or agents).

6. Trustee's Control Over The Trust Property. On and after the Effective Date, the Trustee, in his sole discretion (and to the exclusion of MGM MIRAGE, its affiliates or the principals of any of them except as otherwise hereinafter specifically set forth) shall exercise all rights incident to the ownership of the Trust Property (including, the right to vote any securities that are a part of the Trust Property), and shall be vested with all powers, authority, and duties necessary to the unencumbered exercise of such rights, except that, without the consent of MGM MIRAGE (which shall not be unreasonably withheld), the Trustee shall not vote any securities that are part of the Trust Property in favor of any action that will (i) require MGM MIRAGE or any of its affiliates to make a capital contribution to MDDH or MDDC (or both of them), (ii) result in a reduction in the return on MGM MIRAGE's investment in MDDH or MDDC (or both of them), or the amount of any distribution from MDDH or MDDC (or both of them) to their respective members (other than a reduction as a result of a capital expenditure of not more than \$25 million in any single tax year), provided, in any event, that MGM MIRAGE's receipt of any such return or distribution shall be subject to the prior approval of the Commission, or (iii) authorize MDDH or MDDC (or both of them) to engage in an extraordinary act or transaction (by way of example, and without limitation, a sale of MDDH or MDDC (or both of them), or substantially all of their assets, the restructuring or reorganization of MDDH or MDDC (or both of them), the restatement or amendment of MDDH's or MDDC's (or both of their) respective operating agreements or other governing documents, or the filing of a voluntary petition by MDDH or MDDC (or both of them) for protection under Chapter 11 of the United States

Bankruptcy Code). Notwithstanding any other provision of this Trust Agreement to the contrary, the Trustee shall not have the authority to incur any indebtedness for borrowed money or create, incur, or suffer to exist any liens upon the Trust Property, the Additional Trust Property or the Springing Trust Property. Nothing herein shall be deemed to preclude the trustee, MDDC, the Division or any of them from applying to any administrative or judicial tribunal, including but not limited to the Commission, for relief in connection with MGM MIRAGE having withheld its consent under this paragraph, and nothing herein shall authorize them to do so.

7. MGM MIRAGE's Right To Instruct Trustee To Dispose Of The Trust Property.

The Trust Property must be disposed of within thirty (30) months of the Effective Date. MGM MIRAGE shall have the first eighteen (18) months from the Effective Date (the "Divestiture Period") to direct the Trustee (in writing), strictly and exclusively to the extent authorized herein, to dispose of all or any part of the Trust Property to any person(s) who satisfies all applicable requirements of the Act, and the Trustee shall be subject to and fully comply with the written instructions of MGM MIRAGE in this regard with respect to the Trust Property, subject only (a) to receipt of all necessary approvals from the Commission required under the Act to effectuate such a disposition and (b) to such rights, if any, as BAC and its affiliates may have under the Amended Operating Agreement. MGM MIRAGE shall give the Commission and Division a copy of any such instructions ten (10) days prior to giving such instructions to the Trustee. Until the expiration of the Divestiture Period, the Trustee shall have no right to dispose of any of the Trust Property on other than the express instructions of MGM MIRAGE.

8. Trustee's Right To Dispose Of The Trust Property.

(a) If upon or prior to the expiration of the Divestiture Period, MGM MIRAGE has directed the Trustee, strictly and exclusively to the extent authorized herein, to dispose of all or any part of the Trust Property and caused the Trustee to enter into a final and binding agreement(s) to dispose of such Trust Property ("MGM Sales Transaction") in accordance with paragraph 7 above, and the closing of such MGM Sales Transaction has not occurred prior to the expiration of the Divestiture Period, the Trustee shall take all necessary and reasonable steps to consummate the MGM Sales Transaction; provided, however, that in any event the closing of the MGM Sales Transaction must occur prior to the expiration of the Terminal Sale Period, and the documents governing the MGM Sales Transaction shall so provide.

(b) If MGM MIRAGE fails to direct the Trustee to dispose of the entirety of the Trust Property within the Divestiture Period, the Trustee, to the exclusion of MGM MIRAGE and without need to receive instructions or other communication from it (which MGM MIRAGE is prohibited from making), shall thereafter dispose of the Trust Property (not otherwise subject to an MGM Sales Transaction), for cash within twelve (12) months from the expiration of the

Divestiture Period (the "Terminal Sale Period"), and any such disposition shall be subject to the prior approval of the Commission. Prior to the consummation of any sale during the Terminal Sale Period, the Trustee shall obtain a customary opinion from a qualified investment banking firm that the transaction is fair from a financial point of view ("Fairness Opinion") as this term is defined in paragraph 8(c) below.

(c) For purposes of this Trust Agreement, the Fairness Opinion rendered by the investment banking firm shall determine the fairness of the consideration paid based upon factors which must include: (i) the current gaming market conditions, specifically those existing in Atlantic City, New Jersey, during the Terminal Sale Period at which the sale is to be consummated; (ii) that the seller/Trustee is compelled by exigent circumstances to consummate the sale for cash within the twelve (12) month Terminal Sale Period, and (iii) any other factors that are not inconsistent with factors (i) and (ii) above.

(d) The Fairness Opinion shall be provided to the Trustee with a copy to be provided to MGM MIRAGE upon the consummation of the disposition of the Trust Property and may be relied upon by MGM MIRAGE. The Trustee may obtain the Fairness Opinion from the same firm that assisted the Trustee with the disposition of the Trust Property.

(e) The Trustee shall utilize a nationally recognized investment banking firm with substantial experience in the gaming industry that is acceptable to the Commission and the Division. The cost to retain such an investment banking firm shall be an expense of the Trust.

(f) In addition to the Trustee's general fiduciary duty to the Commission and Division as the regulatory beneficiaries of this Trust Agreement, during the Terminal Sale Period the Trustee shall owe a specific fiduciary duty to the Commission and the Division with respect to the Trustee's obligations to dispose of the Trust Property during, but prior to, the expiration of the Terminal Sale Period.

(g) During the Terminal Sale Period, the Trustee shall provide written reports in a form approved by the Commission in consultation with the Division to MGM MIRAGE regarding the Trustee's efforts to sell the Trust Property not less often than quarterly.

(h) The Trustee shall take all steps necessary to comply with and effect the terms of Sections 3, 4 and 5 of the Second Amendment.

9. MGM MIRAGE's Right To Terminate The Surface Parking Lot Lease. At all times, MGM MIRAGE shall have the right, on ten (10) business days prior written notice to the Commission and the Division, to direct, notwithstanding the ban on communication elsewhere herein imposed, the Trustee to terminate the Surface Parking Lot Lease strictly in accordance

with its terms (which lease shall not be amended without the prior approval of the Commission). In the event that the Surface Parking Lot Lease is terminated, title to the real property previously subject to the Surface Parking Lot Lease shall be promptly reconveyed to MAC, and such real property shall no longer be subject to the Trust. In the event that the Surface Parking Lot Lease has not been terminated by the date of the disposition of the entirety of the Trust Property, the Surface Parking Lot Lease must then be promptly terminated unless the Commission and Division approve a request by MGM MIRAGE and MDDC, jointly, submitted within ten (10) days of the Trustee's completion of his final accounting pursuant to paragraph 25 below, to continue the Surface Parking Lot Lease in effect for a period and under such terms as may be approved by the Commission and Division in their discretion. Any such request seeking a continuation of the Surface Parking Lot Lease shall contain, at a minimum, a request that the Additional Trust Property remain subject to this Trust Agreement for so long as the Commission deems necessary following a termination of the Surface Parking Lot Lease in accordance with its terms.

10. Receipt Of Proceeds On Account Of The Trust Property, The Additional Trust Property and the Springing Trust Property. On and after the Effective Date, any and all proceeds, earnings, distributions, returns and other income of any kind whatsoever attributable to the Trust Property, the Additional Trust Property and/or the Springing Trust Property (whether upon the disposition of the Trust Property pursuant to paragraph 8 above or otherwise), including but not limited to all lease payments attributable to the Long-Term Ground Leases, the Surface Parking Lot Lease and the Alternate Parking Lease, are to be paid directly to the Trustee to be held in the Trust with any distribution thereof to MGM MIRAGE strictly subject to paragraph 12 below. In the event of any payment, inadvertent or otherwise, of any such amount to MGM MIRAGE, or any of its affiliates, subsidiaries or the principals of any of them, any such recipient upon having actual knowledge of any such payment, notwithstanding the ban on communication elsewhere herein imposed, shall immediately notify the Trustee, the Commission and the Division of receipt of such payment, and within three (3) business days after such notice, forward the amount of such payment to the Trustee, failing which the Division shall be authorized to proceed on an emergent basis before the Commission for such relief as the Division deems appropriate.

11. Expenses; Minimum Cash Balance In The Trust.

(a) The expenses associated with the maintenance of the property in the Trust and the fees and expenses of the Trustee (the "Trust Expenses") shall be the responsibility of, and paid directly by, MGM MIRAGE and MAC except as set forth herein. The Trust Expenses in any event include (i) the fees and expenses of the Trustee, (ii) real property taxes attributable to the property subject to the Long-Term Ground Leases, the Surface Parking Lot Lease and the Alternate Parking Lease, and (iii) all costs to correct any adverse condition on the Atlantic City

Real Property that presents a real and present danger to the health, safety or welfare of the public, or a condition that requires correction or mitigation by order of any governmental body or agency. MGM MIRAGE and MAC shall pay directly the Trust Expenses and the regulatory expenses of the Commission and the Division as and when the same become due and payable, except to the extent that the amount thereof is paid to the relevant payee by the Trustee pursuant to paragraph 11(c) below or paragraph 13 hereof. The Trustee, prior to the date such expenses become due, shall promptly notify MGM MIRAGE, through the Division on notice to the Commission, if the Trustee requires expenses to be paid.

(b) For purposes of this Trust Agreement, "Minimum Cash Balance" shall mean a minimum balance in cash or cash equivalents of \$1,000,000 in the Trust (the "Minimum Cash Balance"). On the Effective Date of the Trust, there shall be at least the Minimum Cash Balance in the Trust. To the extent that the actual amount in cash or cash equivalents in the Trust at any time is less than the Minimum Cash Balance, MGM MIRAGE shall be obligated to and shall promptly advance to the Trust such amount(s) as may be necessary to maintain the Minimum Cash Balance in the Trust, provided that the aggregate amount which MGM MIRAGE is obligated to contribute to the Trust pursuant to this clause (b) shall not exceed \$5,000,000. To the extent that the actual amount in cash or cash equivalents in the Trust at any time is greater than the Minimum Cash Balance, then, subject to paragraph 12 hereof, the amount thereof shall be available for Trust Expenses to the extent permitted by paragraph 11(c) below and paragraph 13 hereof. The Trustee shall notify MGM MIRAGE, through the Division, if it requires a contribution pursuant to this clause (b).

(c) To the extent the balance in the Trust exceeds the Minimum Cash Balance, the Trustee shall promptly pay the Trust Expenses (as hereinbefore defined in paragraph 11(a) above), except that the fees and expenses of the Trustee shall not be paid without the prior approval of the Commission in accordance with paragraph 21 below. (Notwithstanding the foregoing, formal approval of the Commission shall not be required for payment of fees and expenses of the Trustee if MGM MIRAGE does not object to such fees and/or expenses during the notice period.)

(d) The Trustee in the exercise of the Trustee's reasonable discretion may make investments of cash held in the Trust only in investments which constitute cash equivalents.

(e) For purposes of this Trust Agreement, the term "cash equivalents" means investments in:

(i) Government securities due within one year after the date of the making of the investment;

(ii) Readily marketable direct obligations of any State of the United States of America or any political subdivision of any such State or any public agency or instrumentality thereof given on the date of such investment a credit rating of at least Aa by Moody's or AA by S&P in each case due within one year from the making of the investment;

(iii) Certificates of deposit issued by, bank deposits in, bankers' acceptances of, and repurchase agreements covering government securities executed by any bank incorporated under the laws of the United States of America, any State thereof or the District of Columbia and having on the date of such investment combined capital, surplus and undivided profits of at least \$250,000,000, or total assets of at least \$5,000,000,000, in each case due within one year after the date of the making of the investment;

(iv) Repurchase agreements covering government securities executed by a broker or dealer registered under Section 15(b) of the Securities Exchange Act of 1934, as amended, having on the date of the investment capital of at least \$50,000,000, due within ninety (90) days after the date of the making of the investment; provided that the Trustee receives written confirmation of the transfer to the Trustee of record ownership of the government securities on the books of a "primary dealer" in such government securities or on the books of such registered broker or dealer, as soon as practicable after the making of the investment;

(v) Readily marketable commercial paper or other debt securities issued by corporations doing business in and incorporated under the laws of the United States of America or any State thereof or of any corporation that is the holding company for a bank described in clause (c) or (d) above given on the date of such investment a credit rating of at least P-1 by Moody's or A-1 by S&P, in each case due within one year after the date of the making of the investment, and

(vi) A readily redeemable "money market mutual fund" sponsored by a bank described in clause 11(d)(iii) above, or a registered broker or dealer described in clause 11(d)(iii) above, that has and maintains an investment policy limiting its investments primarily to instruments of the types described in clauses 11(d)(i) through 11(d)(v) above and given on the date of such investment a credit rating of at least Aa by Moody's and AA by S & P.

12. Prohibited Distributions To MGM MIRAGE. Until the approval by the Commission of the final accounting incidental to the termination of this Trust Agreement in accordance with paragraph 25 below, the Trustee shall not in any event distribute or otherwise release, relinquish or turnover to MGM MIRAGE, or any of its affiliates, subsidiaries or the principals of any of them, any funds received by the Trustee including, but not limited to, those received by the Trustee on account of proceeds, earnings, distributions, returns, lease payments

or other income of any kind whatsoever in connection with the Trust Property, the Additional Trust Property or the Springing Trust Property. If for any reason the Trustee, although obligated in accordance with paragraph 25 to distribute to MGM MIRAGE all proceeds received on account of the disposition of the Trust Property (and any other proceeds, funds or things of value then remaining in the Trust) net of expenses of the transaction and of the Trustee, finds himself in possession thereof and so seeks to make an additional distribution to MGM MIRAGE after termination of this Trust Agreement, the Trustee shall do so upon ten (10) business days prior written notice to the Commission and the Division, but only in the absence of an objection from either of them delivered to the Trustee within such ten-day period..

13. Permitted Distributions To Third Parties. To the extent the balance in the Trust exceeds the Minimum Cash Balance, the Trustee shall promptly pay (in addition to other amounts the Trustee deems necessary and reasonable) the following:

(a) Real property taxes attributable to the Atlantic City Real Property (other than the property subject to the Long-Term Ground Leases, the Surface Parking Lot Lease and the Alternate Parking Lease), and such amounts shall be paid directly to the tax collector for the City of Atlantic City, New Jersey;

(b) Interest expenses related to the investment of MGM MIRAGE and its subsidiaries in MDDC under that certain Revolving Line Of Credit Promissory Note dated December 26, 2002, made by MAC in favor of MRI in the original principal amount of \$350 million, and such amounts shall be paid directly to Bank of America, N.A., as Administrative Agent for the Lenders under the Fifth Amended and Restated Loan Agreement dated as of October 3, 2006, as amended, among MGM MIRAGE, certain of its subsidiaries, the Lenders described therein, and Bank of America, N.A., as Administrative Agent, for the payment of principal and interest thereof;

(c) For so long as MDDH and MDDC are limited liability companies or other tax pass-through entities, the amount of the state and federal income tax liability attributable to MGM MIRAGE and its subsidiaries and affiliates by reason of the inclusion by MGM MIRAGE and/or its subsidiaries and affiliates of its or their share of income, loss, credits and other tax attributes of MDDC in any applicable income tax returns filed by MGM MIRAGE and/or its subsidiaries and affiliates (determined solely on the basis of the tax attributes of MDDC and ignoring the tax attributes of MGM MIRAGE and its other subsidiaries and affiliates), and such amounts shall be paid directly to the respective taxing authority;

(d) Maintenance and lighting expenses attributable to the Renaissance Pointe Proposed Casino Site, and such amounts shall be paid directly to MDDC, and

(e) Amounts payable to Boyd and/or its subsidiaries pursuant to and in compliance with Section 5 of the Second Amendment.

Notwithstanding any of the foregoing to the contrary, no payment shall actually be made by the Trustee without first giving the Commission and the Division ten (10) business days prior written notice of any such payment, and the Trustee having received no request during such ten (10) day notice period from either the Commission or the Division that the Trustee is required to obtain the formal approval of the Commission for the purpose of confirming that the subject payment is for an expense(s) within one or more of the foregoing categories of permitted expenses.

14. Communication Restrictions.

(a) General Rule Prohibiting Communication. On and after the Effective Date and until the termination of this Trust Agreement, in accordance with paragraph 5 of this Trust Agreement, neither MGM MIRAGE, nor any of its holding companies, subsidiaries or affiliates, nor any of their respective principals, directors, officers, employees or agents, shall exercise or attempt to exercise any control or influence over (i) the Trustee or any of his advisors or (ii) MDDC or any of its holding companies, subsidiaries or affiliates or any of their respective principals, directors, officers, employees or agents. To that end, MGM MIRAGE, its holding companies, subsidiaries, or affiliates and any of their respective principals, directors, officers, employees or agents, and the Trustee shall not communicate with each other, except as hereinafter provided. In addition, MGM MIRAGE, its holding companies, subsidiaries, or affiliates and any of their respective principals, directors, officers, employees or agents and MDDC or any of its holding companies, subsidiaries or affiliates or any of their respective principals, directors, officers, employees or agents shall not communicate with each other, except as hereinafter provided. In recognition of the obligation of MGM MIRAGE to dispose of the Trust Property and the obligation of MGM MIRAGE to comply with certain legal requirements, such as public reporting and tax filings, the parties acknowledge that at times some communication between MGM MIRAGE, its holding companies, subsidiaries or affiliates, and their respective principals, directors, officers, employees or agents, the Trustee, and MDDC and its holding companies, subsidiaries or affiliates or any of their respective principals, directors, officers, employees or agents, may be necessary and desirable to effectuate the terms of this Trust Agreement and such communication may be permitted as set forth below.

(b) Trustee Exceptions. On and after the Effective Date and until the termination of this Trust Agreement, MGM MIRAGE, its holding companies, subsidiaries or affiliates, and their respective principals, directors, officers, employees or agents and the Trustee may communicate ("Restricted Communication") with each other if the party desiring to engage in Restricted Communications first provides the Commission and Division (except for the written communications as expressly permitted under paragraph 7) three (3) business days prior

written notice of the manner, substance and parties to the intended communication, and do not receive any objection during such three (3) day notice period from either the Commission or the Division. Any communication between MGM MIRAGE and the Trustee shall be limited to the manner, substance and parties identified in such notice.

(c) MDDC Exceptions. On and after the Effective Date and until the termination of this Trust Agreement, MGM MIRAGE, its holding companies, subsidiaries or affiliates, and their respective principals, directors, officers, employees or agents, may communicate ("Restricted Communication") with MDDH, MDDC or BAC, or any natural person on any of their behalf, if MGM MIRAGE, MDDH, MDDC or BAC (as the case may be) first provide the Commission and the Division five (5) business days prior written notice of the manner, substance and parties to the intended communication, and do not receive any objection during such five (5) business day notice period from either the Commission or the Division. Any communication between MGM MIRAGE, MDDH, MDDC and/or BAC (as the case may be) shall be limited to the manner, substance and parties identified in such notice. Notwithstanding anything contained in this section to the contrary, the parties acknowledge and agree that MGM MIRAGE may communicate, orally or in writing, ("Restricted Communication") with MDDC, MDDH, MDDC, BAC and/or Boyd with respect to the pending IRS audit of MDDH, provided that, MGM MIRAGE shall provide two (2) business days notice to the Trustee, the Commission and the Division of the manner, substance and parties to any such communication.

(d) Non-New Jersey Exceptions. In recognition of the significant involvement of MGM MIRAGE and Boyd in gaming in general and gaming in Las Vegas, Nevada, in particular, the location of their corporate offices in Las Vegas, Nevada, and the social and business relationships of certain of their officers and directors, MGM MIRAGE, its holding companies, subsidiaries or affiliates, and their respective principals, directors, officers, employees or agents shall be permitted to communicate with Boyd and its holding companies, subsidiaries or affiliates, and their respective principals, directors, officers, employees or agents, on any matter except for those matters related to New Jersey (which are expressly addressed in paragraph 14(c) above), including, but not limited to MDDH, MDDC, BAC, the Stipulation of Settlement (and the implementation thereof), the Trust Agreement (and the implementation thereof), the Trustee, the Trust Property, the Additional Trust Property, the Springing Trust Property and/or the Atlantic City casino gaming industry (the "Restricted Communication").

(e) All Restricted Communication pursuant to the process contained in (b) and (c) above shall be in writing unless otherwise permitted by the Commission (or its designee) and the Division, provided that, if the Restricted Communication is oral, there shall be a writing by MGM MIRAGE memorializing such Restricted Communication filed with the Commission and the Division (or, the Trustee as applicable) within five (5) business days thereafter. Upon request of either the Commission (or its designee) or the Division, (i) copies of any written

communication shall be provided to both the Commission and the Division and (ii) representatives of each agency shall be afforded the opportunity to be present in person or through appropriate electronic means during any oral communication.

15. Qualification Of Trustee. The Trustee warrants and represents that:

- (a) He meets all of the criteria necessary to qualify as a casino key employee, except for residency, under the Act and that he shall continue to meet such criteria throughout the duration of this Trust Agreement;
- (b) He has had prior experience with the New Jersey casino regulatory system, and
- (c) He has not had any prior relationship with MGM MIRAGE or its subsidiaries or affiliates, or any of their respective officers or directors, including any prior business or consulting relationship.

The Trustee agrees that if he commits an act or becomes aware of any information that would cause a reasonable person to believe that he will ultimately not be able to meet the qualification criteria required of a casino key employee under the Act, or, after being found so qualified, that he no longer meets such criteria, he will notify MGM MIRAGE, the Commission and the Division within two (2) business days of becoming aware of such information, in a writing that sets forth the details of his action or knowledge. The Trustee further agrees that if he becomes aware of any information that would cause a reasonable person to believe that MGM MIRAGE has violated or will violate the terms of the Stipulation of Settlement or this Trust Agreement, he will immediately notify the Commission and the Division.

16. Removal Of Trustee. MGM MIRAGE shall, acting in its sole discretion, have the right to petition the Commission on an emergent basis to remove the Trustee immediately from his position as Trustee under this Trust Agreement for good cause, and, with the approval of the Commission, to replace him with a qualified successor trustee.

17. Resignation Of Trustee. The Trustee shall have the right to resign as Trustee under this Trust Agreement on ten (10) days notice to MGM MIRAGE, the Commission and the Division; provided, however, that the resignation by the Trustee shall not be effective unless and until a successor trustee shall have been approved by the Commission and the Division.

18. Successor Trustee. MGM MIRAGE, acting in its sole discretion, may at any time propose to replace the Trustee by submitting a writing to the Commission and the Division that

sets forth the good cause basis for the proposed removal. In that writing, MGM MIRAGE may recommend a successor trustee, however, the successor trustee shall be someone acceptable to the Division in its discretion and approved by the Commission, and the successor trustee shall otherwise satisfy the qualifications set forth in paragraph 15 above. If no such person is proposed within five (5) business days of the death, disability, disqualification, resignation, or removal of the Trustee pursuant to this Trust Agreement, the Commission, in its sound discretion and after due consultation with the Division, may appoint any qualified person to serve as a successor trustee. The successor trustee shall promptly execute and deliver to MGM MIRAGE, the Commission and the Division a copy of this Trust Agreement. On the death, disability, disqualification, resignation, or removal of the Trustee pursuant to this Trust Agreement, the Trust Property, the Additional Trust Property and the Springing Trust Property shall be transferred to the successor trustee, and he or she shall hold the Trust Property, the Additional Trust Property and the Springing Trust Property subject to the terms of this Trust Agreement.

19. Liability Of Trustee. The Trustee shall incur no responsibility to MGM MIRAGE (or any of its subsidiaries or affiliates) as holder of the Trust Property, the Additional Trust Property, the Springing Trust Property or otherwise, except in instances in which an action or omission constitutes gross negligence, fraud or willful misconduct, or the breach of the express terms of this Trust Agreement. The Trustee shall serve without bond.

20. Records.

(a) The Trustee agrees to keep records of all of his business and transactions as Trustee. These records shall include a detailed listing of the time spent by the Trustee in attending to trust business and the expenses incurred in connection with such business. The Trustee shall send MGM MIRAGE a quarterly statement, in a form approved by the Division, that lists every transaction made by the Trustee and the time spent and expenses incurred by him in completing each transaction in the quarter previous to the date of the statement. Each quarterly statement shall be furnished to MGM MIRAGE, the Commission and the Division not later than the 5<sup>th</sup> business day following the end of the quarter. Notwithstanding anything to the contrary herein, each quarterly statement shall include at a minimum all receipts, disbursements, and sources of funds sufficient to allow MGM MIRAGE to fully comply with MGM MIRAGE's public reporting and disclosure requirements as a publicly traded company.

(b) The Trustee agrees to make his records available to the Division and Commission. MGM MIRAGE expressly consents to the Trustee allowing the Division and Commission to view the Trustee's records of his transactions and business as Trustee.

21. Compensation Of Trustee And Other Matters.

(a) MGM MIRAGE agrees to pay to the Trustee the sum of \$37,500.00 on the execution of and approval of this Trust Agreement by the Commission. MGM MIRAGE agrees to pay to the Trustee the additional sum of \$37,500.00 on the termination of this Trust Agreement; provided, however, that the Trustee shall forfeit this final payment if the Commission directs his removal for good cause, which shall include the following by way of illustration and not limitation:

(i) Disqualification under the Act;

(ii) Mental incapacity;

(iii) Continued neglect, after notice from MGM MIRAGE, the Commission, or the Division, of any of his duties and responsibilities under this Trust Agreement;

(iv) Breach of his fiduciary duty as set forth in this Trust Agreement, or

(iii) A breach of any of his obligations under paragraphs 21(b) through 21(g) below.

(b) On approval by the Commission, after ten (10) business days notice to MGM MIRAGE and an opportunity to be heard (at such time as designated by the Commission), MGM MIRAGE shall pay the Trustee \$350.00 per hour for all time spent reasonably by the Trustee in administering trust business and shall reimburse the Trustee for all reasonable expenses incurred in fulfilling his duties under this Trust Agreement, including the retention of any necessary financial and/or legal advisors. Expenses incurred by the Trustee in remaining qualified under the Act shall be deemed to be reasonable expenses incurred in his fulfilling his duties under this Trust Agreement. (Notwithstanding the foregoing, formal approval of the Commission shall not be required for payment of fees and expenses of the Trustee if MGM MIRAGE does not object to such fees and/or expenses during the notice period.)

(c) To secure the prompt payment of the compensation and expenses of the Trustee and his advisors, the Trustee with the approval of the Commission and the Division, after notice to MGM MIRAGE and an opportunity to be heard (at such time as designated by the Commission), shall be permitted (upon any disposition of the Trust Property or receipt of any earnings, distributions, returns, income or lease payments in connection with the Trust Property, the Additional Trust Property or the Springing Trust Property) to pay all amounts then

outstanding to which he and his advisors are reasonably entitled prior to making any payment or distribution under paragraphs 13 or 25.

(d) Notwithstanding anything to the contrary in this Trust Agreement, MGM MIRAGE shall not be responsible for the payment (either directly or from cash or cash equivalents in the Trust) of any fees or costs incurred by the Trustee for financial advisors (other than (i) accounting services and (ii) financial advisory services for investments held in the Trust), legal advisors (other than casino regulatory counsel) or any other advisors during the period from the date of execution of this Trust Agreement through and including the date that is exactly one (1) year following the Effective Date.

(e) Notwithstanding anything to the contrary in this Trust Agreement, the Trustee shall not retain or otherwise engage in connection with his services as trustee under this Trust Agreement any professional services firm or business (including, but not limited to, any law firm) in which the Trustee has an interest in, or is otherwise employed by, associated with, and/or affiliated.

(f) Notwithstanding anything to the contrary in this Trust Agreement, the Trustee shall not retain or otherwise engage in connection with his services as trustee under this Trust Agreement any financial advisor, legal advisor or other advisor without the prior approval of the Commission (or its designee). In accordance with paragraph 21(b) above, no advisory fees or costs incurred by the Trustee shall be paid except on approval by the Commission, after ten (10) business days notice to MGM MIRAGE and an opportunity to be heard (at such time as designated by the Commission).

(g) The Trustee shall execute and abide by the form of the Confidentiality and Non-Disclosure Agreement attached hereto as Exhibit A.

22. Indemnification Of Trustee. MGM MIRAGE agrees to indemnify and hold harmless the Trustee to the fullest extent permitted by law from and against all taxes (other than taxes based on income), suits, actions, claims, losses, damages, expenses (including reasonable legal fees), penalties, assessments, liabilities, or other charges incurred by or assessed against the Trustee arising out of any action or omission in connection with the performance of his duties under this Trust Agreement, except in instances in which an action or omission constitutes gross negligence, fraud or willful misconduct. The rights of the Trustee under this paragraph 22 shall survive the termination of this Trust Agreement regardless of whether any taxes (other than taxes based on income), suits, actions, claims, losses, damages, expenses, penalties, assessments, liabilities, or other charges are incurred or assessed prior or subsequent to the termination of this Trust Agreement.

23. Rights Of The Trustee. The Trustee may rely on any notice, instruction, certificate, statement, request, consent, confirmation, agreement, or other instrument that is authorized or permitted by this Trust Agreement and that he reasonably believes to be genuine and to have been signed or presented by a proper person or persons. Without limiting the foregoing, the Trustee may accept as valid any notice, instruction, certificate, statement, request, consent, confirmation, agreement, or other instrument made, given, or submitted by MGM MIRAGE, but shall act thereon only if such is authorized or permitted in accordance with this Trust Agreement. As a condition to the taking, suffering, or omitting of any action by him hereunder, the Trustee may consult with counsel, and the written advice of such counsel or any opinion of counsel shall be full and complete authorization and protection in respect of any action taken, suffered, or omitted by him hereunder in good faith and in reliance thereon.

24. Alternate Parking Lease.

(a) In the event that MDDC receives notice of a Triggering Event (as such capitalized term is defined in the Alternate Parking Lease), and MDDC, in its sole and absolute discretion, terminates the Alternate Parking Lease as provided for therein and strictly in accordance with its terms, upon such termination, title to the real property previously subject to the Alternate Parking Lease shall be promptly reconveyed to MAC, and such real property shall no longer be subject to the Trust;

(b) In the event that MDDC receives notice of a Triggering Event (as such capitalized term is defined in the Alternate Parking Lease), and MDDC, in its sole and absolute discretion, elects to not terminate the Alternate Parking Lease as provided for therein and strictly in accordance with its terms, then the Springing Trust Property shall become a part of the Trust Property, or

(c) In the event of any other termination of the Alternate Parking Lease, upon such termination, title to the real property previously subject to the Alternate Parking Lease shall be promptly reconveyed to MAC, and such real property shall no longer be subject to the Trust.

25. Termination Of Trust Agreement. Within twenty (20) days following the disposition of all Trust Property in accordance with paragraphs 7 and/or 8 above (as the case may be) (and with the Trustee continuing to retain the proceeds from such disposition), the Trustee shall prepare his final accounting and shall present same to the Division for its review to be completed within ten (10) days thereafter and, if satisfactory to the Division, then submit the final accounting, along with a request to dissolve the Trust and discharge the Trustee, to the Commission for its approval in the normal course, without prejudice to any request being made to the Commission that it consider such matter within fifteen (15) days of such submission. If the Commission approves the final accounting by the Trustee, the Trustee shall then distribute to

MGM MIRAGE (or its designated subsidiary or affiliate) any and all proceeds received on account of the disposition of the Trust Property (and any other proceeds, funds or things of value then remaining in the Trust, other than the Additional Trust Property in the event there is a pending or granted request to continue the Surface Parking Lot Lease as provided in paragraph 9, above), net of expenses both of the transaction and of the Trustee, and with the approval of the Commission, the Trustee shall then be discharged, this Trust Agreement terminated and the Trust that it creates dissolved (except in the event that there is a pending or granted request to continue the Surface Parking Lot Lease as provided in paragraph 9, above) without the necessity for further action on the part of any person.

26. Benefits Of Trust Agreement. Nothing in this Trust Agreement, express or implied, shall give to any person, other than MGM MIRAGE (and its subsidiaries) and the Trustee, and their successors hereunder, and the Commission and the Division, any benefit or any legal or equitable right, remedy or claim under this Trust Agreement.

27. Grantor Trust. This Trust Agreement and the Trust that it creates shall be deemed a grantor trust for federal income tax and other tax purposes, and MAC shall be considered the sole economic beneficiary for such purposes. Consequently, MAC shall continue to report its share of all items of income, loss, credits, and other tax attributes of MDDH and MDDC in all applicable income tax returns that MAC is required to file.

28. Assignability. MGM MIRAGE shall have the right to assign its rights under this Trust Agreement, but only with prior written notice to the Division and the approval of the Commission.

29. Amendment; Waiver. This Trust Agreement may not be amended, modified, or supplemented, nor may any provisions of this Trust Agreement be waived, discharged, or revoked, without the prior written consent of MGM MIRAGE and the Trustee. No amendment, modification, or supplement to this Trust Agreement shall be effective without the prior approval of the Commission and the Division after notice to the Commission and the Division of any proposed amendment, modification, or supplement.

30. Recitals. The various recitals at the beginning of this Agreement form a part of this Agreement.

31. Headings. The various headings of the paragraphs of this Trust Agreement are for reference purposes only and shall in no way affect the meaning or interpretation of this Trust Agreement.

32. Invalidity. The invalidity of any provision of this Trust Agreement shall not be deemed to impair or affect in any manner the validity or enforceability of the remainder of this Trust Agreement.

33. Notices. Any notice or other communication required to be given under this Trust Agreement shall be given in writing by facsimile, email, or other similar means of electronic communication and by a follow-up writing sent by any overnight delivery service. Written notice shall be deemed to be given on transmission (and in the case of facsimile, upon the issuance of a confirmation of error-free transmission receipt by the sender's facsimile machine) or on its being delivered by any overnight delivery service. The numbers and addresses for providing notice under this Trust Agreement shall be those contained in Exhibit B to this Trust Agreement. The numbers and addresses used for providing notice under this Trust Agreement may be changed by giving notice pursuant to paragraph 33 of this Trust Agreement.

34. Counterparts. This Trust Agreement may be executed in counterparts, each of which when executed and delivered shall be an original and both of which together will constitute the same Trust Agreement.

35. Variations In Pronouns. All pronouns and any variations thereof refer to the masculine, feminine, or neuter, singular or plural, as the identity of the person or persons may require.

36. Waivers. No delay on the part of any party in exercising any right, power, or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of any party of any right, power, or privilege hereunder, nor any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power, or privilege hereunder. The rights and remedies provided herein are cumulative and are not exclusive of any rights or remedies that any party may otherwise have at law or in equity.

37. Governing Law. The parties agree that this Trust Agreement shall be governed and construed in accordance with the laws of the State of New Jersey, including the Act, and the regulations promulgated thereunder, and nothing herein shall be construed to limit the rights of the Commission or Division to take any action required or permitted by law.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Trust Agreement to be executed and delivered as of the date first above written.

MGM MIRAGE, for and on behalf of  
itself and MAC, CORP.

By: \_\_\_\_\_  
Name:  
Title:

TRUSTEE

\_\_\_\_\_  
James R. Zazzali

State of New Jersey, Department  
of Law and Public Safety,  
Division of Gaming Enforcement

By: \_\_\_\_\_  
George N. Rover  
Assistant Attorney General

**EXHIBIT A**  
**TO THE TRUST AGREEMENT**

## CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT

This **AGREEMENT** is entered into as of this \_\_\_ day of March, 2010, by and between MGM MIRAGE, a Delaware corporation (“Discloser”), and James R. Zazzali, an individual (“Recipient”), having an address at One Gateway Center, Newark, New Jersey 07102.

### BACKGROUND

Discloser desires to disclose to Recipient certain of Discloser’s Confidential Information (as hereinafter defined) in order to enable Recipient to consider serving as a trustee and fiduciary on Discloser’s behalf. Discloser desires to maintain the confidentiality of the Confidential Information disclosed to Recipient by Discloser, to Recipient by the Casino Control Commission (“CCC”), and to Recipient by the Division of Gaming Enforcement (“DGE”) (as hereinafter described).

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein and intending to be legally bound hereby, the parties agree as follows:

1. Confidentiality. During the term of this Agreement and at all times thereafter, Recipient will hold and maintain the confidentiality of any and all Confidential Information (as hereinafter defined) previously or subsequently disclosed to Recipient or otherwise obtained by Recipient from Discloser, and/or from the CCC (as hereinafter described), and/or the DGE (as hereinafter described), except as permitted under this Agreement, and Recipient will not, without the prior written consent of Discloser use any such Confidential Information for his own benefit, or publish, disclose, communicate, reveal, or divulge any such Confidential Information to, or use any such Confidential Information for the direct or indirect benefit of, any person, corporation or other entity other than Discloser and will use the same degree of care to avoid publication or dissemination of any such Confidential Information as Recipient uses with respect to his own information which he does not desire to have published or disseminated.

2. Definition of Confidential Information. As used herein, the term “Confidential Information” will include, without limitation, any and all information disclosed to Recipient by Discloser. In addition, Confidential Information shall include any and all information disclosed to Recipient by the DGE prior to the date of this Agreement and thereafter regarding Discloser. Confidential Information shall also include any and all information disclosed to Recipient by the CCC. Confidential Information does not include information that:

- (a) Is known to Recipient on or before the date of disclosure to Recipient;
- (b) Is or becomes a part of the public domain through no wrongful act of Recipient; or
- (c) Is obtained by Recipient from a third party, not including the CCC and/or the DGE as described in Paragraph 2 above, without restriction and without breach of this Agreement or any similar agreement.

3. Disclosures Required by Law. Recipient will be entitled to release Confidential Information only pursuant to an order of a court or government agency or authority; provided, however, that: (a) Recipient will immediately provide written notice thereof to Discloser, upon the earlier of knowledge of or receipt of any such order, and for a reasonable time thereafter withhold the release of Confidential Information for a period sufficient to allow Discloser the opportunity to object to such production or to seek an order protecting its Confidential Information from disclosure; and (b) Recipient will object to the production of, and refuse to produce, such Confidential Information as being in violation of the terms of this Agreement.

4. Ownership and Return. All Confidential Information will be and remain the sole and exclusive property of Discloser. All physical representations of such Confidential Information will be returned to Discloser promptly upon request therefor, together with all copies made thereof. All such Confidential Information will be returned with a letter executed by Recipient affirming that all such Confidential Information, whether in original or copied form, has been returned to Discloser or destroyed.

5. Presumption of Confidentiality. All materials disclosed or otherwise made available by Discloser, and/or the CCC, and/or the DGE to Recipient will be presumed to constitute Confidential Information and will be so regarded by Recipient, unless Recipient establishes to the contrary that certain of such materials are not encompassed within such definition.

6. Other Rights or Obligations. Nothing contained in this Agreement will be construed as obligating either party to transact any business with the other party as a result of the execution of this Agreement. The disclosure of Confidential Information hereunder or otherwise shall not be construed as granting or conferring any rights on Recipient.

7. Termination. This Agreement will continue and remain in full force and effect until terminated in writing by notice from one party to the other, and will apply to all Confidential Information disclosed before the date on which such notice of termination is received by the non-terminating party. Notwithstanding any termination of this Agreement, the obligations imposed on Recipient by this Agreement will continue to apply to any Confidential Information provided or communicated to Recipient before such termination.

8. Injunctions. Each party acknowledges that the covenants contained in this Agreement, in view of the nature of the business in which Discloser is engaged, are reasonable and necessary in order to protect Discloser's legitimate business interests, and that any violation thereof would result in irreparable injury to Discloser. Recipient agrees that, if he violates any of such covenants, then Discloser will be entitled to obtain from any court of competent jurisdiction temporary, preliminary and permanent injunctive relief, without bond, which right will be cumulative and in addition to any other rights or remedies to which Discloser may otherwise be entitled at law or in equity.

9. Modification. If all or any portion of the covenants contained in this Agreement or the application thereof are construed to be invalid or unenforceable, then the remainder of such covenant or covenants and/or the application thereof will not be affected and any remaining covenants will then be given full force and effect without regard to the invalid or

unenforceable portions. If any covenant is held to be unenforceable because of the geographic area covered, the duration thereof, or the scope thereof, then the court making such determination will have the power to reduce the area and/or the duration, and/or limit the scope thereof, and the covenant will then be enforceable in its reduced form.

10. Severability. The provisions of this Agreement are independent of and separable from each other, and the invalidity or unenforceability, in whole or in part, of any one or more provisions of this Agreement will not affect or render invalid or unenforceable any other provision of this Agreement.

11. Venue. Except for actions brought by Discloser seeking an injunction, which may be brought in the jurisdiction of Discloser's choosing, the parties agree that any action brought by one of them against the other must be instituted only in a state or federal court having subject matter jurisdiction thereof located in or for Atlantic County or Camden County, New Jersey, and they irrevocably waive any objection they may have to the jurisdiction or the venue of these courts.

12. No Defense. Recipient expressly agrees that the existence of any claims he may have against Discloser, whether or not arising from this Agreement, will not constitute a defense to the enforcement by Discloser of the provisions regarding the Confidential Information set forth in this Agreement.

13. Miscellaneous. Neither this Agreement nor either party's rights hereunder may be assigned or transferred to any other party. This Agreement constitutes the full and entire agreement between the parties, supersedes all prior agreements, understandings, inducements or conditions, express or implied, oral or written, and may only be waived, modified or terminated by a written document signed by both of the parties hereto. This Agreement will be governed by and construed in accordance with the laws of the State of New Jersey. This Agreement will be binding upon and inure to the benefit of the parties hereto, and their respective representatives and, successors and permitted assigns.

[SIGNATURES ON NEXT PAGE]

*IN WITNESS WHEREOF*, the parties hereto have caused their duly authorized representatives to execute this Agreement as of the date first above written.

**ATTEST:**

**MGM MIRAGE**

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**WITNESS:**

\_\_\_\_\_

\_\_\_\_\_  
James R. Zazzali

Dated: \_\_\_\_\_

**EXHIBIT B**  
**TO THE TRUST AGREEMENT**

Exhibit B – Notice

MGM MIRAGE:

3600 Las Vegas Boulevard South  
Las Vegas, Nevada 89109  
Phone: (702) 632-9877  
Fax: (702) 632-9878  
Email: [jmcmamus@mgmmirage.com](mailto:jmcmamus@mgmmirage.com)  
Attention: John McManus, Esquire

With a copy to:

Fox Rothschild LLP  
1301 Atlantic Avenue  
Suite 400  
Atlantic City, NJ 08401  
Phone: (609) 348-4515  
Fax: (609) 348-6834  
Email: [ncasiello@foxrothschild.com](mailto:ncasiello@foxrothschild.com)  
Attention: Nicholas Casiello, Jr., Esquire

Trustee:

James R. Zazzali  
One Gateway Center  
Newark, NJ 07102  
Phone: (973) 596-4589  
Fax: (973) 639-648  
Email: [JZazzali@gibbonslaw.com](mailto:JZazzali@gibbonslaw.com)

Exhibit B to the Trust  
Agreement

New Jersey Casino Control Commission

Dianna W. Fauntleroy, General Counsel  
Casino Control Commission  
Tennessee Avenue and The Boardwalk  
Arcade Building  
Atlantic City, New Jersey 08401  
Phone: (609) 441-3815  
Fax: (609) 441-3329  
Email: [dfauntleroy@ccc.state.nj.us](mailto:dfauntleroy@ccc.state.nj.us)

New Jersey Division of Gaming Enforcement

Josh Lichtblau, Director  
Division of Gaming Enforcement  
140 East Front Street  
P. O. Box 047  
Trenton, New Jersey 08625  
Phone: (609) 292-5113  
Fax: (609) 633-7355  
Email: [Josh.Lichtblau@njdge.org](mailto:Josh.Lichtblau@njdge.org)

George N. Rover, Assistant Attorney General  
Division of Gaming Enforcement  
140 East Front Street  
P. O. Box 047  
Trenton, New Jersey 08625  
Phone: (609) 984-2481  
Fax: (609) 633-7355  
Email: [George.Rover@njdge.org](mailto:George.Rover@njdge.org)