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The Pansy Ho and MGM Mirage Partnership: What is the Role of State Regulators in a Global Gaming Economy?

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The Pansy Ho and MGM Mirage Partnership:

What is the Role of State Regulators in a Global Gaming Economy?

by

Jason Yates
I. Introduction

Gaming in the United States expanded beyond the Nevada state borders quite some time ago. Casinos can now be found from California to New Jersey and many places in between. Nevada may have been lukewarm to the idea of gaming spreading its wings across the nation, but it soon figured out that other states were not taking a piece of the pie from Las Vegas. Rather, the size of the pie was increasing so much it was hard to get out of the oven. Nevada gaming regulators came to terms with Nevada gaming licensees operating casinos outside of Nevada in the late 1970’s shortly after New Jersey opened up Atlantic City to casino gaming. With the passage of the Foreign Gaming Act in 1977 the Nevada legislature began the process of regulating Nevada operators who were operating in jurisdictions outside of Nevada.
Gaming in the United States outside of Nevada has been regulated by licensing entities much the same way that gaming inside of Nevada was regulated by the Nevada Gaming Commission. Many states patterned their gaming regulatory laws on Nevada’s gaming laws and have developed systems that are very similar to those used in Nevada. The regulations in states other than Nevada so closely resembled the Nevada regulations that Nevada never had an opportunity to dust off its Foreign Gaming Act to investigate whether the actions of a licensee were detrimental to the gaming industry in Nevada. Apparently, Nevada regulators have been comfortable with the controls put in place by other states and have not run into situations where they felt the need to conduct their own investigations.

But what happens when a Nevada licensee starts an operation in a foreign country instead of just another state in the U.S.? Nevada licensees who have started operations in countries other than the United States have been able to do so without going through investigations by the Nevada Gaming Commission. State regulators accepted assurances from the operators that they would operate the casinos in other countries with the same controls they use in Nevada. This, it was thought, was enough to protect Nevada’s industry from being harmed.

Recently, however, provisions of the Nevada Foreign Gaming Act have come under scrutiny. In 2004, MGM Mirage Inc. entered into a partnership with businesswoman Pansy Ho to open a new mega-resort in the Chinese Special Administrative Region (S.A.R.) of Macau. Ms. Ho’s father, Stanley, happened to be the man who exclusively controlled gaming in Macau for years before the Chinese took over the S.A.R. in 1999. MGM Mirage asked for a determination from the Nevada Gaming
Commission that the partnership was suitable in the eyes of Nevada. Thirty years after the passage of the Foreign Gaming Act, Nevada regulators would be applying the Act to consider the operation of a Nevada licensee in a jurisdiction outside of Nevada.

In early 2006, the Nevada Gaming Commission launched an investigation that lasted over a year. It scoured the background of Ms. Ho and her relationship with her father to ascertain whether the partnership would damage the gaming industry in Nevada. Regulators had to determine what to do with the information after they obtained it. Because this was the first time that the Act had been used to study a venture outside the U.S., the Commission also had to determine what its role was in approving the partnership and what standards it would use to measure the propriety of the venture.

The decision of the Commission would be an important one. It would shape the way the Foreign Gaming Act would be used in future applications and also shape the future of foreign gaming. Would the Commission look with a kind eye on the ventures of its licensees into areas of the world far from the reach of Nevada regulators? While other states in the U.S. patterned their gaming regulations on those used in Nevada, foreign countries may have their own ideas about how to regulate the industry. The decision by the Nevada Gaming Commission on the MGM Mirage partnership with Pansy Ho would help set the stage for gaming expansion worldwide in the 21st Century, and determine the ability of Nevada licensees to take part in the worldwide growth opportunities. The Nevada Gaming Commission approved the partnership on March 23, 2007.¹

This paper traces the development of Nevada’s Foreign Gaming Act. It will look back at the intent of legislators and regulators who drafted the law. The paper will also

analyze the recent application of the law to the MGM Mirage/Pansy Ho partnership in Macau. Finally, the paper will look forward at how Nevada regulators are coming to terms with the international expansion of gaming.

II. MGM Mirage Inc.-King of the Hill

In an industry where bigger and bolder is always the name of the game, MGM Mirage is at the front of the pack. The company is a perfect example of 21st Century gaming in the state of Nevada. Its properties run the gamut from luxurious palaces to Egyptian-themed pyramids. A new mixed-use development with residential, arts, and luxury hotel components is billed as the “future of urban living.” The company appears to be growing in every sector where it operates. MGM Mirage’s stock has risen over 100% in the past year. The gaming industry is experiencing explosive growth in the United States and around the world, and MGM Mirage Inc. is one of the leaders of this expansion.

MGM Mirage Inc. is Nevada’s largest employer and taxpayer. Terri Lanni, CEO of the corporation, reminded the Commission of that fact during the four-hour hearing. The corporation is also no stranger to monumental transactions. In 2000, the then MGM Grand Inc. paid $6.4 billion for Steve Wynn’s Mirage Resorts and was renamed MGM Mirage. The deal included the Golden Nugget in downtown Las Vegas, Monte Carlo (50% stake), Boardwalk, Mirage, Treasure Island, and Bellagio casinos on the Las Vegas

4 Ritter, supra note 1.
Strip, the Golden Nugget in Laughlin, Nevada, and a casino in Mississippi.\(^6\) Both Golden Nugget properties were sold by the corporation in 2004.\(^7\)

In 2005, MGM Mirage closed a $7.9 billion deal for the Mandalay Resort Group in which it acquired full ownership of the Monte Carlo, several parcels of real estate on the strip and the Las Vegas casinos Mandalay Bay, Luxor, Excalibur, Circus Circus, and Slots-a-Fun.\(^8\) That deal also included whole or partial ownership in 10 other casinos elsewhere in Nevada and other states.\(^9\) As part of this ambitious growth in 2005, MGM Mirage also began construction on its joint venture with Pansy and Daisy Ho in Macau.\(^10\) MGM Mirage is currently the world’s second largest casino company behind only Harrah’s Entertainment.\(^11\)

III. Ladies and Gentlemen, Introducing Pansy Ho

MGM’s partner in their expansion into Macau is a name familiar to the gaming industry as well. While Pansy Ho has limited experience in the gaming industry, her father, Stanley Ho, owned a total monopoly on gaming in Macau until 1999.\(^12\) He owned all 17 casinos that were operating on the island before the market was opened up for outside gaming investment in 2001 by the Chinese government.\(^13\) But Mr. Ho is not just known as a gaming mogul. Whenever his name is brought up, rumors of ties to organized

\(^6\) Id.
\(^7\) Id.
\(^8\) Id.
\(^9\) Id.
\(^10\) Id.
\(^11\) Id.
\(^12\) Vince Chong, Why the fuss over Stanley Ho?, Straits Times (Singapore), March 4, 2007, at Section: Think, available at 2007 WLNR 4122149. In fact, the gaming operation controlled by the MGM Mirage/Pansy Ho partnership will be operated subconcession granted to Pansy Ho by her father, Stanley Ho. Mr. Ho does not have an ownership stake in the partnership and, as discussed below in detail, he will not directly influence decisions made by the partnership.
\(^13\) Id.
crime soon follow.\textsuperscript{14} Mr. Ho has always denied the rumors and no concrete evidence tying him to organized crime has ever been made public.\textsuperscript{15} His influence in Macau extends far beyond the gaming industry, with an empire which includes huge investments in property and transportation. All told, his holdings account for one third of Macau’s gross domestic product.\textsuperscript{16}

Despite everything Stanley Ho has accomplished from a business perspective in Macau, the shadow of rumored illicit activities still lingers over everything attached to his name. Mr. Ho has always denied having ties to organized crime in Macau.\textsuperscript{17} Nevertheless, regulators in several gaming jurisdictions have denied Mr. Ho a gaming license.\textsuperscript{18} In 1992 and 1993, he tried unsuccessfully to invest in gaming operations in Australia.\textsuperscript{19} The New South Wales licensing board permanently sealed its report on the investigation of Mr. Ho, but the Australian press reported at the time that he was deemed an unsuitable person to hold a gaming license in Australia.\textsuperscript{20} In 1996, Mr. Ho ran into similar problems in Canada when he applied for licenses in Vancouver and Niagara Falls in a partnership with his daughters, Pansy and Daisy, both of whom hold Canadian passports.\textsuperscript{21} The results of the Canadian licensing investigation have never been released, but the Ho partnership did not receive a license.\textsuperscript{22} In 2002, Nevada regulators rejected a
proposed joint venture between Stanley Ho and MGM Mirage. Some have claimed the denial in Nevada was based on Ho being an associate of organized crime.

When MGM Mirage decided to invest in Macau it chose as its partner the daughter of Stanley Ho, 44 year-old Pansy Ho. Pansy Ho had already established herself as a successful businesswoman by running one of her father’s biggest companies—Shun Tak Holdings, Ltd. The company is involved with shipping, property investment, and hotels and has an almost complete monopoly on the ferry business between Hong Kong and Macau. The company also owns one of the world’s largest fleets of high-speed jetfoils. As early as 2001, Pansy Ho was identified as the heir apparent to Stanley Ho’s gaming empire in Macau. But it wasn’t until much more recently that she started maneuvering her company to take advantage of the new gaming opportunities.

IV. Macau—Shangri La of Gaming

Macau surpassed the Las Vegas Strip in 2006 as the most lucrative gaming market on the planet. The Gaming Inspection and Coordination Bureau of Macau reported $7.1 billion in gross gaming revenue for the year which represented a 23% increase over 2005. During the same period, Las Vegas Strip operators posted an 11%

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23 Id.
24 Id. The assertion was made by members of a faith-based anti-gambling coalition based in New York. The assertions and the evidence produced by the group is available at their website: http://www.familyfocuscoalition.org/ .
27 Id.
28 Id.
29 Pansy Ho is running hot, supra note 25.
31 Id.
increase in gross revenue for a total $6.69 billion in gross receipts.\textsuperscript{32} The Nevada totals do not include downtown casinos or casinos in surrounding communities.\textsuperscript{33} The growth has not just been in revenue. The number of casinos and gaming tables operating in Macau is also rapidly increasing. In 2006, there were 2,762 tables operating in 24 casinos compared to 1,388 tables and 17 casinos for the year before.\textsuperscript{34} The patrons who visit the casinos in Macau take their gaming seriously. The per table win for casinos in Macau was nearly ten times the per table win on the Las Vegas Strip.\textsuperscript{35}

The pool of potential customers for casinos in Macau is enormous and largely untapped. Macau is the only place in China where gaming is legal.\textsuperscript{36} The Chinese economy is growing by leaps and bounds. There are over 100 million people within a three hour drive of Macau and over 1 billion people within a three hour plane ride.\textsuperscript{37} And the development of the Macau gaming market is just beginning. Until now, Macau has been largely a daytrip for gamblers with customers staying an average of just 1.1 days.\textsuperscript{38} Gamblers from Hong Kong averaged just a day.\textsuperscript{39} The current influx of Las Vegas-style resorts like the new MGM Mirage property is intended to entice customers to spend more time in Macau and at the tables and slots.\textsuperscript{40} The trends are already pointing toward the plan being successful. Occupancy rates in Macau’s hotel rooms have grown from 50% to 75% since 1999.\textsuperscript{41}

\textsuperscript{32} Id.
\textsuperscript{33} Id.
\textsuperscript{34} Id.
\textsuperscript{36} Id.
\textsuperscript{37} Id.
\textsuperscript{38} Id.
\textsuperscript{39} Id.
\textsuperscript{40} Id.
\textsuperscript{41} Id.
MGM Mirage is not the only Las Vegas Strip operator attempting to cash-in on the opportunity in Macau. Wynn Resorts invested $1.2 billion in Wynn Macau, which opened in September of 2006 and has already announced plans for expansion. The largest casino in the world is also in Macau- the Sands Macau. It seems clear that the opportunities that Macau has to offer are too great for the large operators of Las Vegas to pass up. If there were any doubt about the gaming industry going global, they were put to rest by the influx of investment in Macau. The process in Macau will likely be a blueprint for how gaming expansion into other foreign markets might take place.

V. Nevada’s Foreign Gaming Act—Reaching Out to the World

In 1977, Nevada passed a law intended to regulate, to some extent, the practices of its gaming licensees in jurisdictions other than Nevada. The Foreign Gaming Act, in pertinent part, prohibits Nevada licensees from engaging in an activity that reflects discredit or disrepute on the state of Nevada or gaming in the state of Nevada. This is the provision that the Nevada Gaming Commission considered central to its investigation of the association of MGM Mirage with Pansy Ho for the Macau venture. That is, the Commission focused on whether the relationship between MGM Mirage and Pansy Ho would reflect poorly on the gaming industry in Nevada.

During the 1977 hearings regarding the Act, legislators struggled with how state regulators would be able to investigate its licensees in jurisdictions other than Nevada.

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42 Id.
43 Mark Kleinman, Is Macau piling too many chips on new casinos? The island’s gambling boom, with heavyweight U.S. operators vying with local tycoons, could be at its peak, Daily Telegraph (London), January 27, 2007, at City Section, available at 2007 WLNR 1633099.
46 Ritter, supra note 1.
The legislators and gaming regulators appeared most concerned about something happening in another jurisdiction that reflected poorly on the licensee’s Nevada operation and harmed Nevada’s gaming industry as a result. The gaming regulators clearly perceived the duty to investigate or monitor operations in a foreign country or another jurisdiction as a significant burden.

The other important point raised during the 1977 legislative hearings was the issue that prompted adoption of the law in the first place. Legislators and gaming regulators apparently considered another option for protecting the reputation of Nevada gaming: prohibiting its licensees from owning operations anywhere outside of Nevada. Such a rule would relieve Nevada officials of the need to keep an eye on what was going on in other jurisdictions. However, the Nevada Attorney General’s Office advised the Gaming Commission that interstate commerce rulings by the U.S. Supreme Court suggested that prohibiting licensees from conducting operations in other jurisdictions based on economic considerations would be unconstitutional.

Legislators were concerned about capital generated from operations in Nevada flowing into foreign jurisdictions where the gaming regulators would not be able to keep an eye on the money. Again, the Attorney General advised the Commission and the legislators that the outflow of capital could not be the deciding factor for whether a Nevada licensee could begin operations elsewhere.

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48 Id.  
49 Id.  
50 Id.  
51 Id.  
52 Id.  
53 Id.  
54 Id.
As the Act had the support of the gaming industry and regulators, the legislature did not spend large amounts of time debating the measure. The Act passed unanimously in the House and with only one dissenting vote in the Senate.  

VI. Previous Applications of the “Disrepute” Standard-Ralph and Adolf

While the Foreign Gaming Act was applied for the first time in the determination made by the Commission about the MGM Mirage/Pansy Ho partnership, the legal standard prohibiting actions which bring the reputation of Nevada gaming into disrepute has been previously applied. However, none of these rulings are of recent origin.

In 1988, the Gaming Control Board recommended fines and possible revocation of the gaming license of Ralph Engelstad, owner of the Imperial Palace Hotel and Casino in Las Vegas. This action was based on conduct which, the Board thought, may have damaged the reputation of the Nevada gaming industry.  

Engelstad was accused of amassing a large collection of Nazi memorabilia which he housed within the casino. He also hosted birthday parties for Adolf Hitler at the casino on two occasions and had a painting commissioned of himself in a Nazi uniform with the inscription, “To Adolf from Ralphie.” His antique car collection also included several vehicles used by the Nazis in Germany. When his actions became public, there was a flurry of interest by the media and the Gaming Control Board jumped in to investigate the issue.

When the Gaming Commission held hearings to determine whether Engelstad had damaged the reputation of the Nevada gaming industry in such a way to warrant

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57 Id.
58 Id.
59 Id.
60 Id.
punishment, it decided that articles and negative publicity would not be enough to meet the required standard.\textsuperscript{61} One of the attorneys who represented the Gaming Control Board in the Imperial Palace complaint was an attorney for MGM Mirage in the Pansy Ho hearing.\textsuperscript{62} Dan Reaser argued that bad publicity without independent facts was not enough to support a ruling that the reputation of the state has been damaged.\textsuperscript{63} In order to meet that standard, he argued, the regulators would have to show that tourists were not coming to the state because of the actions which brought about the negative publicity, or there had been a decrease in tax revenues as the result of the action.\textsuperscript{64}

In the Imperial Palace complaint, the Commission never had to reach a final decision on the matter because Engelstad settled the issue with regulators by apologizing and paying a $1.5 million fine.\textsuperscript{65} Despite the fact that a formal finding was never reached in the Imperial Palace hearing, it was still used as a guide by the Gaming Commission for determining how it should consider whether MGM Mirage’s business relationship with Pansy Ho would bring discredit or disrepute to the Nevada gaming industry.\textsuperscript{66}

VII. The Gaming Commission Meets Pansy Ho

On March 23, 2007, the Nevada Gaming Commission unanimously approved the partnership between MGM Mirage and Pansy Ho.\textsuperscript{67} “There is no demonstrable evidence that would bring disrepute to the state,” said Commission Chairman Peter Bernhard.\textsuperscript{68} Commissioner Arthur Marshall similarly stated, “I don’t see anything that would bring

\textsuperscript{62} Id.
\textsuperscript{63} Id.
\textsuperscript{64} Id.
\textsuperscript{65} Id.
\textsuperscript{66} Id.
\textsuperscript{67} Id.
\textsuperscript{68} Id.
discredit to the state of Nevada.\textsuperscript{69} He did make clear, however, that the Commission was not issuing a license, but making a “finding of suitability” of the partnership.\textsuperscript{70} The news reports about Stanley Ho and any possible influence he may have on the business dealings of his daughter were not enough to keep the regulators from approving the partnership. As the rationale from the Imperial Palace complaint indicated, the Commission would have to make a finding more substantial than just general bad publicity.

The Commission went out of its way to differentiate the standard used in approving partnerships for foreign gaming operations, and the standard used to determine whether an individual should receive a gaming license in the state of Nevada.\textsuperscript{71} One important reason for the different standard is that the regulators only have control over the conduct of MGM Mirage, which is licensed in Nevada. The regulatory control does not extend directly to all of the partners or the regulating entity in the foreign jurisdiction.\textsuperscript{72} In this case, Commissioners were limited to determining whether the partnership was suitable and decided to use the same standards it applied in the Imperial Palace hearing nearly 20 years earlier.\textsuperscript{73} Those standards are much less rigid than those used in licensing investigations. A hearing to determine whether Pansy Ho was to be granted a gaming license would have involved a more aggressive Commission and Gaming Control Board investigation. In a licensing hearing, regulators are free to deny a license if they are left with unanswered questions about the background of the

\textsuperscript{69} Ritter, supra note 1.
\textsuperscript{70} Id.
\textsuperscript{71} Benston, supra note 61.
\textsuperscript{72} Id.
\textsuperscript{73} Id.
applicant.\textsuperscript{74} They are also very likely to look at the source of funds for the venture.\textsuperscript{75} This dates back to regulations adopted in the mid-1970’s to keep money with organized crime sources from being used to finance gambling operations in Nevada.\textsuperscript{76} The source of funds would have been a difficult hurdle for the Commission to clear with respect to Ms. Ho. The Commission would have had to look much closer at Ms. Ho’s relationship with her father.

For the Pansy Ho partnership decision, there seemed to be some uncertainty regarding what standard the Commission would use to analyze the venture. Commission Chairman Peter Bernhard said before the approval that he was concerned about the source of the funds.\textsuperscript{77} This is an issue that would have been examined very closely in a licensing hearing, as it was clear that Pansy Ho had received most of her fortune from or through her father.\textsuperscript{78} The fact that the Commission approved the partnership shows the fundamental difference between licensing standards and the standards under the Foreign Gaming Act. In fact, the Commission concluded that regulations regarding the source of funds do not apply at all to investigations under the Foreign Gaming Act, but only to license applicants.\textsuperscript{79}

There was no way that the Commission could look at the partnership without acknowledging the dubious background of Stanley Ho and his gaming operations in Macau. Mr. Ho’s sister, Winnie Ho, made a statement through her attorney to the Commission that alleged Mr. Ho’s casinos in Macau are tied to organized crime and that

\textsuperscript{74} Id.
\textsuperscript{75} Id.
\textsuperscript{76} Id.
\textsuperscript{77} Ritter, supra note 1.
\textsuperscript{78} Benston, supra note 61.
\textsuperscript{79} Id.
he has previously tried to use Pansy Ho to operate a casino.\textsuperscript{80} In addition to the airing of dirty laundry by the Ho family, there was also a significant push by a faith-based group from New York to call public attention to the partnership and try to pressure regulators into not allowing it to move forward.\textsuperscript{81} The group reportedly blitzed Nevada regulators and media members with emails and internet reports regarding Stanley Ho’s background and possible ties to organized crime.\textsuperscript{82} If there were ever going to be a situation where news reports and publicity alone would be enough for the Commission to decide that the reputation of the Nevada gaming industry would be damaged by the foreign partnership, this would seemed to have been the one.

The Commission was given assurances by the general counsel for MGM Mirage that the agreement that had been put together between the company and Ms. Ho was crafted to prevent the influence of any third parties.\textsuperscript{83} The general counsel also said that no important decision in the Macau venture could be made without MGM Mirage, and that Nevada regulators would have access to that information any time it was requested.\textsuperscript{84} MGM Mirage took the stance that Nevada licensees are responsible to regulators in Nevada regardless of where they are operating.\textsuperscript{85} This commitment by MGM Mirage to act as though it were operating within Nevada even when it is operating outside the country, and the access that Nevada regulators would have to the operations in Macau, likely helped the Commission reach the decision to approve the venture.

\textsuperscript{81} Benston, \textit{supra} note 61.
\textsuperscript{82} Id.
\textsuperscript{83} Ritter, \textit{supra} note 1.
\textsuperscript{84} Id.
\textsuperscript{85} Id.
In applying the Foreign Gaming Act to insure the reputation of Nevada gaming was not disparaged by this partnership, the Commission successfully laid the groundwork for future applications of the Act. The Commission analyzed three main factors in making the decision to approve the partnership. The Commission looked at the reputation of the partner, the structure of the partnership, and whether there was or would be actual damage to Nevada’s image as a result of the partnership.86

Pansy Ho’s reputation as a business woman was analyzed by looking at her dealings as the CEO of Shun Tak Holdings, Ltd. The Commission found that her business dealings with the publicly traded company were beyond reproach.87

In looking at the structure of the partnership, the Commission accepted assurances from MGM Mirage representatives that the agreement was structured to avoid any influence from third parties.88 MGM Mirage would be involved in any decisions regarding the property. The structure of the partnership allowed the Commission to find that Stanley Ho would not be able to influence the MGM Mirage gaming operation in Macau.89

Finally, the Commission found that no actual damage to Nevada’s image occurred or was likely to occur as a result of the partnership.90 Attorneys for MGM Mirage successfully argued that bad publicity or reputation was not enough. There had to have been actual damage in the form of decreased revenue or fewer visitors attributable to the partnership.91

86 Benston, supra note 61.
87 Id.
88 Id.
89 Id.
90 Id.
91 Id.
VIII. International Expansion of Gaming—What Does the Future Hold?

Perhaps one of the most important questions to arise during the hearings about the MGM Mirage/Pansy Ho partnership was whether the decision would hold any importance beyond that particular situation. What precedent was being established? Members of the Commission asked lawyers involved with the approval whether they thought the hearing was an important one.92 One of the Commissioners asked an MGM Mirage attorney if the Pansy Ho decision would go down alongside the licensing hearing of Frank “Lefty” Rosenthal and the approval of private equity firms as casino owners in terms of importance for the industry.93 The attorney responded by saying that it would be one of the most important decisions ever made by the Gaming Commission because it would help spread Nevada’s regulatory scheme around the world.94

The decision was undoubtedly significant because it was the first time that the Commission had invoked its powers under the Foreign Gaming Act. Regulators wanted to create a record so that Nevada licensees who expand their operations into other countries and foreign operators interested in setting up shop in Nevada would have an idea of what to expect in future suitability finding under the law.95 The Commission was able to clearly state what parts of the law it was applying and what factors it looked at in reaching its conclusions.

The Commission strengthened the precedential value of the decision by using the same rationale that it had used in the earlier Imperial Palace hearings. Future entities that go before the Gaming Commission will know that “discredit and disrepute” means the

92 Benston, supra note 61.
93 Id.
94 Id.
95 Stutz, supra note 80.
same thing when considering actions by licensees in the state as it does when the Foreign Gaming Act is involved. The Commission used the same reasoning for hearings in both cases and that consistency will likely make outcomes of future hearings more predictable and less arbitrary.

Perhaps as important as the determination about the MGM Mirage/Pansy Ho partnership and how the Commission reached its decision was the unspoken approval of Nevada gaming licensees setting up shop in Macau. The gaming industry in Macau has traditionally been linked to organized crime. Historically, the governmental controls on the gaming industry in Macau have been much different then the controls imposed on Nevada operators. By approving the partnership in this instance, the Commission approved Macau as a suitable jurisdiction for its licensees to establish operations. The Commission has determined it accepts that the standards of operation used by Nevada licensees- even when they are operating in a country with a more lax form of gaming regulation- will protect the interests of the Nevada gaming industry overall.

The international expansion by Nevada licensees will unquestionably be impacted by this decision of the Nevada Gaming Commission. Operators now have a roadmap showing the process involved for developing foreign gaming operations in markets, or with partners, that may raise questions from Nevada regulators. There is no question that future growth will result in partnerships that Nevada regulators may deem unfit to operate within the state, but may be approvable for Nevada licensees operating in foreign jurisdictions. The Ho/MGM Mirage decision lets operators know what standard will be used to decide if the associations are suitable. Operators will also have an idea of what

96 See Chong, supra note 12.
level of operational controls are expected from them by the Nevada Gaming Commission for their international ventures.

The decision by the Commission likely signals a time of increased international expansion by Nevada licensees. This was a decision that brought together questionable sources of funds, rumored links to organized crime, and a regulatory environment much different than what is used in Nevada. In spite of this, the Commission still found the partnership suitable. Most Nevada operators will probably now have a more clear path for asking for findings of suitability in foreign partnerships. The large casino operators like MGM Mirage Inc., Las Vegas Sands Corp, and Wynn Resorts will already be held to a high standard of financial reporting due to their being publicly traded companies in the United States. Securities regulators have been arguably more voracious than gaming regulators in their scrutiny of financial reporting. So the fact that Nevada operators looking to expand into international markets will be expected to operate in the same way they are expected to operate in the state of Nevada is not necessarily a substantial additional burden. Nevada operators will likely feel more confident going forward with their international expansion plans.

Is Las Vegas going to feel a pinch on the bottom line with all of the gaming opportunities now available for international gamblers? It doesn’t appear likely. Even though Las Vegas is no longer the largest market for gaming in the world, it is still growing at a staggering rate. Several casinos are currently under new-construction or expansion and profit-margins have remained positive in general. Every time a “new Las Vegas” pops up somewhere in the world, the actual Las Vegas appears to grow a little
stronger. The more that gaming is growing and accepted throughout the world, the more
potential customers. Indeed, the pie is getting larger.

IX. Conclusion

Clearly, the gaming industry is entering a stage of expansion into international
jurisdictions. It was only a matter of time before the Nevada Foreign Gaming Act would
come into play in regulating the expansion by Las Vegas casino operators. With the
finding of suitability for the partnership between MGM Mirage Inc. and Pansy Ho, the
Nevada Gaming Commission was able to define both how the law would be applied, and
how the Commission would view expansion into international markets by Nevada
licensees. The Commission had been able to forego investigations into the operations of
its licensees during the expansion of casino gaming throughout the United States thanks
to the adoption of regulatory standards similar to those used in Nevada. With expansion
into foreign markets having checkered gaming pasts, the Commission had to stake out its
position on how strictly it would scrutinize expansion into those areas. With its decision
in this case, the Commission likely laid the regulatory groundwork for many years of
international expansion by Nevada casino operators.