

I. Party Information

Plaintiff(s) (name/address/phone): Jesse Waits, an Individual;
and Cy Waits, an Individual

Defendant(s) (name/address/phone): Victor Drai, an Individual;
Hollywood & Vine Night Club Owner, LLC dba Drai's
Hollywood, a Delaware limited liability company; Drai's Las
Vegas aka Drai's Afterhours & Restaurant, an unknown business
entity; DOES 1-10 and ROE CORPORATIONS 1-10, Inclusive

Attorney (name/address/phone):

Ismail Amin, Esq.
3960 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169
(702) 990-3583

Attorney (name/address/phone):

Bruce A. Leslie, Esq.
317 S. 6th Street
Las Vegas, NV 89101
(702)678-5070

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

Arbitration Requested

Civil Cases

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence - Auto <input type="checkbox"/> Negligence - Medical/Dental <input type="checkbox"/> Negligence - Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence - Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input checked="" type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input checked="" type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment - Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- | | | |
|---|--|--|
| <input type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input checked="" type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

10/7/10
Date

Signature of initiating party or representative

BUSINESS COURT CIVIL COVER SHEET

Clark County, Nevada

Case No. _____
(Assigned by Clerk's Office)

I. Party Information

Plaintiff(s) (name/address/phone): Jesse Waits, an Individual;
and Cy Waits, an Individual

Attorney (name/address/phone): Ismail Amin, Esq.
3960 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169
(702) 990-3583

Defendant(s) (name/address/phone): Victor Drai, an Individual;
Hollywood & Vine Night Club Owner, LLC dba Drai's
Hollywood, a Delaware limited liability company; Drai's Las
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entity; DOES 1-10 and ROE CORPORATIONS 1-10, Inclusive

Attorney (name/address/phone): Bruce A. Leslie, Esq.
317 S. 6th Street
Las Vegas, NV 89101
(702)678-5070

II: Nature of Controversy

Arbitration Requested

Please check the applicable boxes for both the civil case type and business court case type.

Civil Cases		Business Court
Real Property	Other Civil Types	Business Court Case Type
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters <input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input checked="" type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input checked="" type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input type="checkbox"/> Worker's Compensation Appeal	<p style="text-align: center;">Clark County Business Court</p> <input type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase or Sale of Stock /Assets of Business/ Corporate Real Estate <input type="checkbox"/> Trade-mark/Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Mgmt/Business <input type="checkbox"/> Other Business Court Matters <p style="text-align: center;">Washoe County Business Court</p> <input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trade-mark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Mgmt/Business <input type="checkbox"/> Other Business Court Matters
Negligence Torts		
<input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other		
Torts		
<input type="checkbox"/> Product Liability <input type="checkbox"/> Motor Vehicle-Product Liability <input type="checkbox"/> Other Torts-Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful Termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition		

10/7/10

Date

Signature of initiating party or representative

CLERK OF THE COURT

1 **COMP**
ISMAIL AMIN, ESQ. (State Bar No. 9343)
2 **The Amin Law Group, Ltd.**
3960 Howard Hughes Parkway, Suite 500
3 Las Vegas, NV 89169
Telephone: (702) 990-3583
4 Facsimile: (702) 990-3501

5 Attorneys for Plaintiffs JESSE WAITS and CY WAITS

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 JESSE WAITS, an Individual; and CY WAITS, an
9 Individual;

10 Plaintiffs,

11 v.

12 VICTOR DRAI, an Individual; HOLLYWOOD &
13 VINE NIGHTCLUB OWNER, LLC dba DRAI'S
HOLLYWOOD, a Delaware limited liability
14 company; DRAI'S LAS VEGAS aka DRAI'S
AFTERHOURS & RESTAURANT, an unknown
15 business entity; DOES 1-10 and ROE
CORPORATIONS 1-10, Inclusive,

16 Defendants.

) **Case No.** A-10-626915-B

) **Dept. No.** XI

) **BUSINESS COURT MATTER**

) **COMPLAINT FOR:**

-) (1) BREACH OF CONTRACT
-) (2) BREACH OF ORAL CONTRACT
-) (3) BREACH OF IMPLIED PARTNERSHIP AGREEMENT
-) (4) INTENTIONAL MISREPRESENTATION
-) (5) FRAUDULENT INDUCEMENT
-) (6) BREACH OF FIDUCIARY DUTIES
-) (7) UNJUST ENRICHMENT
-) (8) ACCOUNTING AND CONSTRUCTIVE TRUST
-) (9) DECEPTIVE TRADE PRACTICES [N.R.S. §598.0915]
-) (10) SECURITIES FRAUD [N.R.S. § 90.570]

) **ARBITRATION EXEMPT:**

-) (1) DAMAGES EXCEED \$50,000;
-) (2) EQUITABLE RELIEF REQUESTED

The Amin Law Group, Ltd.
3960 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89109
Phone: (702) 990-3583 / Fax: (702) 990-3501

1 COME NOW Plaintiffs JESSE WAITS and CY WAITS (hereinafter referred to as
2 “Plaintiffs”), by and through their attorney, The Amin Law Group, Ltd., and hereby plead and allege
3 as follows:

4 **PARTIES AND JURISDICTION**

5 1. At all times mentioned herein, Plaintiff JESSE WAITS is an individual residing in the
6 State of Nevada, County of Clark.

7 2. At all times mentioned herein, Plaintiff CY WAITS is an individual residing in the State
8 of Nevada, County of Clark.

9 3. At all times mentioned herein, Defendant VICTOR DRAI (“Drai”) is an individual
10 residing in the State of Nevada, County of Clark.

11 4. At all times mentioned herein, Defendant HOLLYWOOD & VINE NIGHTCLUB
12 OWNER, LLC dba DRAI’S HOLLYWOOD (“Drai’s Hollywood”) is a Delaware limited liability
13 company with its principal place of business in the State of California, County of Los Angeles.

14 5. At all times mentioned herein, Defendant DRAI’S LAS VEGAS aka DRAI’S
15 AFTERHOURS & RESTAURANT (“Drai’s Afterhours”) is an unknown business entity, with its
16 principal place of business in the State of Nevada, County of Clark.

17 6. All of the foregoing Defendants are referenced individually and by their designated names,
18 or collectively as “Defendants.”

19 7. The true names and capacities, whether individual, corporate, associate or otherwise, of
20 Defendants Does 1-10 and Roe Corporations 1-10, inclusive, are unknown to Plaintiffs, and
21 therefore, Plaintiffs sue said Defendants by such fictitious names. Plaintiffs are informed and
22 believe, and on that basis allege, that each of the Defendants designated herein as a fictitiously-
23 named Defendant is, in some manner, responsible for the events and happenings referred to herein.

1 8. Plaintiffs are informed and believe, and on that basis allege, that the Defendants, and each
2 of them, including Does 1-10 and Roe Corporations 1-10, inclusive, were, at all material times, the
3 agents, servants, employees, or partnerships or each of the other Defendants, and in doing things
4 alleged herein, said Defendants, and each of them, were acting within the course and scope of their
5 agency, and with the consent, approval and/or ratification of each of the other Defendants.

6 GENERAL ALLEGATIONS

7 9. Beginning on or about December 2006, Plaintiffs and Defendants entered into multiple
8 agreements with one another, both oral and written, whereby Plaintiffs agreed to provide valuable
9 services and contribute substantial time, effort, and resources into the management and operation of
10 the entertainment venues commonly known as “Tryst”, “XS”, “Drai’s Afterhours”, and “Drai’s
11 Hollywood” (hereinafter collectively referred to as the “Drai Venues”). In exchange, Defendants
12 agreed to compensate Plaintiffs in the form of profit sharing and/or equitable interests with respect to
13 the Drai Venues.

14 10. The agreements between Plaintiffs and Defendants were comprised of a written agreement
15 or series of written agreements, and an oral agreement or series of oral agreements, (hereinafter “the
16 Agreements”).

17 11. In addition to the sharing of profits earned at the Drai’s Venues, and in exchange for
18 Plaintiffs’ services, the Agreements provided for the transfer to Plaintiffs of an equitable interest in
19 the Drai Venues.

20 12. By agreeing to share in the profits of the Drai Venues and provide an equitable interest in
21 the business of the Drai Venues to Plaintiffs, Plaintiffs and Defendants formed a partnership.

22 13. Pursuant to the terms of the Agreements, Plaintiffs were to act as “General Managing
23 Partners” of the Drai Venues. In exchange for Plaintiffs’ performance under the terms of the
24

1 Agreements, Defendants agreed to tender to Plaintiffs a share of the monthly net profits of the Drai
2 Venues, in addition to an equitable interest therein.

3 14. At all times since the inception of the partnership, Defendants have in fact held Plaintiffs
4 out as the “General Managing Partners” of the Drai Venues.

5 15. Under the Agreements, Plaintiffs were to receive Sixteen and Two Thirds Percent
6 (16.66%) of the monthly net profits from Tryst and XS. Plaintiffs – regularly and without exception
7 from the date the Agreements were first entered into – received said monthly distribution of the net
8 profits of Tryst and XS. However, beginning in July 2010 and despite Plaintiffs’ full performance
9 under the Agreements, Defendants failed and refused to tender to Plaintiffs their share of the
10 monthly net profits of Tryst and XS. .

11 16. Also under the Agreements, Plaintiffs were to receive Thirty Three and One Third Percent
12 (33.33%) of the monthly net profits from Drai’s Afterhours. Plaintiffs – regularly and without
13 exception from the date the Agreements were first entered into – received said monthly distribution
14 of the net profits of “Drai’s Afterhours”. However, beginning in July 2010 and despite Plaintiffs’
15 full performance under the Agreements, Defendants failed and refused to tender to Plaintiffs their
16 share of the monthly net profits of Drai’s Afterhours.

17 17. Also under the Agreements, Plaintiffs were to receive a Forty-Nine Percent (49%)
18 membership interest in, and additional employment compensation from, Drai’s Hollywood.
19 Plaintiffs fully performed their obligations under the Agreements by providing valuable services to
20 the management, operation, and promotion of Drai’s Hollywood. Defendants have, however, failed
21 and refused to compensate Plaintiffs for their efforts, as expressly required in the Agreements.

22 18. Plaintiffs have been forced to retain the services of legal counsel to bring an action to
23 enforce the terms of the Agreements and have incurred attorneys’ fees and costs as a result.

24

1 **ALTER EGO ALLEGATIONS**

2 19. Plaintiffs are informed and believe, and thereon allege, that there exists, and at all times
3 material hereto existed, such a unity of interest and ownership between Defendant DRAI, Defendant
4 HOLLYWOOD & VINE NIGHTCLUB OWNER, LLC dba DRAI'S HOLLYWOOD, and
5 Defendant DRAI'S LAS VEGAS dba DRAI'S AFTERHOURS & RESTAURANT (the "Entity
6 Defendants") such that the individuality and separateness between Defendant Drai and the Entity
7 Defendants have ceased; Defendant Drai and the Entity Defendants are merely the alter ego of one
8 another.

9 20. The Entity Defendants are, and all times mentioned were, mere shell instrumentalities and
10 a conduit through which Defendant Drai carried on his personal business in the corporation name(s),
11 exercising complete control and dominance of the business to such extent that any individuality or
12 separateness does not, and at all times herein mentioned, did not exist.

13 21. Adherence to the fiction of the separate existence of the Entity Defendants as entities
14 distinct from Defendant Drai would, under the circumstances, sanction a fraud and promote
15 injustice.

16 22. Under the circumstances detailed above and within this Complaint, Plaintiffs should be
17 entitled to ignore the corporate protections normally afforded members and managers of
18 corporations and be entitled to seek execution against the individual assets of Defendant Drai.

19 **FIRST CAUSE OF ACTION**

20 **(For Breach of Contract Against All Defendants)**

21 23. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1
22 through 22, as though fully set forth herein.

23 //

1 24. On or about December 2006, Plaintiffs and Defendants entered into an agreement or series
2 of written agreements, whereby Plaintiffs agreed to provide valuable services and contribute
3 substantial time, effort and resources into the management and operation of the Drai Venues in
4 exchange for a share of the monthly net profits derived from the operation of said Drai Venues, in
5 addition to an equitable ownership interest therein.

6 25. Plaintiffs have, at all times, fully performed all of the obligations required of them under
7 the agreements. The scope of the profit-sharing agreements for Tryst, XS, and Drai's Afterhours are
8 most recently referenced in a January 8, 2010 "Talking Points Memorandum," ratified by
9 Defendants, drafted by Defendants' agent, and circulated to Plaintiffs. *A true and correct copy of*
10 *the "Talking Points Memorandum" is attached hereto as Ex. A.*

11 26. With respect to Tryst and XS, Defendants initially and fully performed their obligations
12 under the agreements by tendering to Plaintiffs their share of the monthly net profits derived from
13 the operation of Tryst and XS.

14 27. However, in or around July 2010, Defendants breached the agreements by failing and
15 refusing to tender to Plaintiffs their share of the monthly net profits, despite Plaintiffs' continued
16 performance under the agreements with respect to Tryst and XS.

17 28. As a direct and proximate result of Defendants' breach of the agreements by 1) denying
18 Plaintiffs their agreed-upon share of the monthly net profits derived from the operation of Tryst and
19 XS, and 2) Defendants' refusal to recognize Plaintiffs' equity interest(s), Plaintiffs have been
20 damaged in an amount in excess of at least Five Hundred Thousand Dollars (\$500,000.00).

21 29. With respect to Drai's Afterhours, Defendants fully performed their obligations under the
22 agreements by tendering to Plaintiffs their share of the monthly net profits derived from the
23 operation of Drai's Afterhours.

24

1 30. However, in or around July 2010, Defendants breached the agreements by failing and
2 refusing to tender to Plaintiffs their share of the monthly net profits in recognition of their continued
3 performance under the agreements with respect to Drai's Afterhours.

4 31. As a direct and proximate result of Defendants' breach of the agreements by 1) denying
5 Plaintiffs their agreed-upon share of the monthly net profits derived from the operation of Drai's
6 Afterhours and 2) Defendants' refusal to recognize Plaintiffs' equity interest(s), Plaintiffs have been
7 damaged in an amount in excess of at least Five Hundred Thousand Dollars (\$500,000.00).

8 32. With respect to DRAI's Hollywood, Defendants promised Plaintiffs, at minimum, a Forty-
9 Nine Percent (49%) membership interest in the venture, in addition to employment compensation.

10 *Ex. A.*

11 33. Plaintiffs have, at all times mentioned herein, fully performed the duties required of them
12 under the agreements with respect to Drai's Hollywood. However, Defendants have failed and
13 refused to compensate Plaintiffs for their services or distribute any portion of Plaintiffs' pro-rata
14 interests.

15 34. As a direct and proximate result of Defendants' breach of the agreements, Plaintiffs have
16 been damaged in an amount in excess of at least Four Hundred Thousand Dollars (\$400,000.00).

17 35. As a result of Defendants' material breach of the terms of the agreements, Plaintiffs have
18 been damaged in an amount in excess of at least One Million Four Hundred Thousand Dollars
19 (\$1,400,000.00).

20 **SECOND CAUSE OF ACTION**

21 **(For Breach Of Oral Contract Against All Defendants)**

22 36. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1
23 through 35, as though fully set forth herein.

1 37. On or about December 2006, Plaintiffs and Defendants entered into an oral agreement, or
2 series of oral agreements, whereby Plaintiffs agreed to provide valuable services and contribute
3 substantial time, effort, and resources into the management and operation of the Draï Venues in
4 exchange for a share of the monthly net profits derived from the operation of said Draï Venues, in
5 addition to an equitable ownership interest therein.

6 38. At all times, Plaintiffs have fully performed all of the obligations required of them under
7 the oral agreement or agreements.

8 39. At all times, the terms of the oral agreements have been clear, Plaintiffs and Defendants
9 acted with a clear view toward the performance of the agreements, and Plaintiffs have performed all
10 of the essentials of the oral agreements.

11 40. With respect to Tryst and XS, Defendants fully performed their obligations under the oral
12 agreements by tendering to Plaintiffs their share of the monthly net profits derived from the
13 operation of Tryst and XS.

14 41. However, in or around July 2010, Defendants breached the oral agreements by failing and
15 refusing to tender to Plaintiffs their share of the monthly net profits in recognition of their continued
16 performance under the oral agreements with respect to Tryst and XS.

17 42. As a direct and proximate result of Defendants' breach of the oral agreement or
18 agreements with respect to Plaintiffs' entitlement to a share of the monthly net profits derived from
19 the operation of Tryst and XS, Plaintiffs have been damaged in an amount in excess of at least Five
20 Hundred Thousand Dollars (\$500,000.00).

21 43. With respect to Draï's Afterhours, Defendants fully performed their obligations under the
22 oral agreements by tendering to Plaintiffs' their share of the monthly net profits derived from the
23 operation of Draï's Afterhours.

24

1 44. However, in or around July 2010, Defendants breached the oral agreements by failing and
2 refusing to tender to Plaintiffs their share of the monthly net profits in recognition of their continued
3 performance under the oral agreements with respect to Drai's Afterhours.

4 45. As a direct and proximate result of Defendants' breach of the oral agreements with respect
5 to Plaintiffs' entitlement to a share of the monthly net profits derived from the operation of Drai's
6 Afterhours and of Defendants' refusal to recognize Plaintiffs' equity interest(s), Plaintiffs have been
7 damaged in an amount in excess of at least Five Hundred Thousand Dollars (\$500,000.00).

8 46. With respect to DRAI's Hollywood, Defendants promised Plaintiffs, at minimum, a Forty-
9 Nine Percent (49%) membership interest in the venture, in addition to employment compensation.

10 *Ex. A.*

11 47. Plaintiffs have, at all times mentioned herein, fully performed the duties required of them
12 under the agreements with respect to Drai's Hollywood. However, Defendants have failed and
13 refused to compensate Plaintiffs for their services or distribute any portion of Plaintiffs' pro-rata
14 interests.

15 48. In further breach of the oral agreements, Defendants have failed to recognize Plaintiffs'
16 equity interest in the Drai Venues.

17 49. As a result of Defendants' material breach of the terms of the oral agreements, Plaintiffs
18 have been damaged in an amount in excess of at least One Million Four Hundred Thousand Dollars
19 (\$1,400,000.00).

20 **THIRD CAUSE OF ACTION**

21 **(For Breach Of Implied Partnership Agreement Against All Defendants)**

22 50. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1
23 through 49, as though fully set forth herein.

1 51. Since December 2006, Plaintiffs have regularly and without exception performed, on a
2 daily basis, valuable management and operational services to the Drai Venues.

3 52. Defendants, beginning in December 2006, compensated Plaintiffs for their efforts by
4 tendering to Plaintiffs a share of the monthly net profits derived from the Drai Venues.

5 53. By entering into this reciprocal relationship, whereby Defendants benefited from Plaintiffs
6 efforts and Plaintiffs received a share of the net profits of the Drai Venues, the parties evinced a
7 clear intent to enter into a partnership.

8 54. This reciprocal relationship served as the foundation for the formation of a *de facto*
9 partnership between the parties, as Plaintiffs performed valuable services for Defendants and
10 Defendants, in turn, shared with Plaintiffs a portion of the monthly net profits of the Drai Venues.

11 55. With respect to Tryst and XS, Defendants (beginning in December 2006) regularly and
12 without exception performed under the partnership agreement. Defendants tendered to Plaintiffs a
13 share of the monthly net profits derived from the operation of Tryst and XS.

14 56. However, in or around July 2010, Defendants breached the terms of the partnership
15 agreement by failing and refusing to tender to Plaintiffs their share of the monthly net profits in
16 recognition of their continued performance with respect to Tryst and XS.

17 57. As a direct and proximate result of Defendants' breach of the partnership agreement with
18 respect to Plaintiffs' entitlement to a share of the monthly net profits derived from the operation of
19 Tryst and XS, Plaintiffs have been damaged in an amount in excess of at least Five Hundred
20 Thousand Dollars (\$500,000.00).

21 58. With respect to Drai's Afterhours, Defendants regularly and without exception performed
22 under the partnership agreement. Defendants tendered to Plaintiffs a share of the monthly net profits
23 derived from the operation of Drai's Afterhours.

24

1 59. However, in or around July 2010, Defendants breached the terms of the partnership by
2 failing and refusing to tender to Plaintiffs their share of the monthly net profits in recognition of their
3 continued performance with respect to Drai's Afterhours.

4 60. As a direct and proximate result of Defendants' breach of the terms of the partnership
5 agreement with respect to Plaintiffs' entitlement to a share of the monthly net profits derived from
6 the operation of Drai's Afterhours, Plaintiffs have been damaged in an amount in excess of at least
7 Five Hundred Thousand Dollars (\$500,000.00).

8 61. Plaintiffs have, at all times mentioned herein, fully performed the duties required of them
9 with respect to Drai's Hollywood. Defendants have, however, failed and refused to compensate
10 Plaintiffs for their services. As a direct and proximate result of Defendants' breach of the
11 partnership agreement with respect to Plaintiffs' entitlement to an interest in the profits derived from
12 the operation of Drai's Hollywood, Plaintiffs have been damaged in an amount in excess of at least
13 Four Hundred Thousand Dollars (\$400,000.00).

14 62. Also implied in this partnership relationship was the understanding that Plaintiffs would
15 receive equity interests in the business of the Drai Venues. To date, Defendants have refused to
16 recognize Plaintiffs' equity interest.

17 63. As a result of Defendants' material breach of the partnership agreement, Plaintiffs have
18 been damaged in an amount in excess of at least One Million Four Hundred Thousand Dollars
19 (\$1,400,000.00).

20 **FOURTH CAUSE OF ACTION**

21 **(For Intentional Misrepresentation Against All Defendants)**

22 64. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1
23 through 63, as though fully set forth herein.

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1 65. In or around December 2006, Plaintiffs and Defendants entered into the Agreements,
2 whereby Plaintiffs agreed to render valuable services and contribute substantial time, effort, and
3 resources into the management of the Drai Venues in exchange for a set percentage of the monthly
4 net profits derived from the operation of said Drai Venues, in addition to an equity interest in the
5 Drai Venues.

6 66. Plaintiffs are informed and believe, and on that basis allege, that Defendants made
7 intentional and fraudulent misrepresentations – both orally and in written form – or concealed
8 material facts to induce Plaintiffs into entering into both the Agreements. Such representations
9 included, but were not limited to, Defendants’ promise to compensate Plaintiffs pursuant to the
10 profit-sharing arrangement contained in the Agreements and the promise to recognize Plaintiffs’
11 equity interest in the Drai Venues.

12 67. Between October 2009 and January 2010, Defendants expressly reaffirmed these
13 representations to Plaintiffs in a series of written communications and oral representations.

14 68. Plaintiffs are informed and believe, and on that basis allege, that Defendants intended to
15 utilize the skills and abilities of Plaintiffs (who are extremely well-known in the nightclub industry)
16 for the benefit of the Drai Venues, while simultaneously failing to 1) compensate Plaintiffs pursuant
17 to the terms of the Agreements, or 2) recognize Plaintiffs as holders of equity interests in the Drai
18 Venues.

19 69. Plaintiffs are informed and believe, and on that basis allege, that Defendants entered into
20 the Agreements knowing that the representations contained therein and made by Defendants were in
21 fact false, or that Defendants lacked a sufficient basis for making those representations.

22 70. Defendants never intended to honor the Agreements.

23 71. Plaintiffs are informed and believe, and on that basis allege, that Defendants undertook the
24

1 misrepresentations alleged with the intent to deceive Plaintiffs and induce Plaintiffs into entering
2 into the Agreements, whereby Plaintiffs agreed to provide valuable services and contribute
3 substantial time, effort and resources into managing and operating the Drai Venues in exchange for a
4 fixed percentage of the net monthly profits of those venues and an equity interest therein.
5 Defendants made these representations to Plaintiffs knowing the representations were, in fact, false
6 and misleading.

7 72. Plaintiffs relied on the representations made by Defendants, and were ignorant of the
8 falsity of Defendant's representations. Defendants are very established in the nightclub industry;
9 therefore, it was reasonable and justifiable for Plaintiffs to rely on the representations made to them.
10 Had Plaintiffs known the true facts, the Agreements would not have been entered into by Plaintiffs.

11 73. Plaintiffs are further informed and believe, and on that basis allege, that Defendants'
12 aforementioned conduct was undertaken intentionally so as to deprive Plaintiffs of money or cause
13 them financial injury, while Defendants' reaped the benefits of Plaintiffs' substantial participation in,
14 and contribution to, the management and operation of the Drai Venues.

15 74. The conduct of Defendants subjected Plaintiffs to cruel and unjust hardship in conscious
16 disregard of Plaintiffs' rights, therefore justifying an award of exemplary damages.

17 75. As a proximate result of the intentional and fraudulent conduct of Defendants, Plaintiffs
18 have been damaged in an amount to be determined at trial, but which is likely in excess of Two
19 Million Dollars (\$2,000,000.00).

20 //
21 //
22 //
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1 **FIFTH CAUSE OF ACTION**

2 **(For Fraudulent Inducement Against All Defendants)**

3 76. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1
4 through 75, as though fully set forth herein.

5 77. Plaintiffs are informed and believe and thereon allege that Defendants committed a fraud
6 upon them by intentionally misrepresenting a material fact to Plaintiffs – namely, that Plaintiffs
7 would be compensated for the services they provided and recognized as holders of an equity interest
8 of the Drai Venues – in conformity with the Agreements.

9 78. In or around October 2009 and January 2010, Defendants expressly reaffirmed these
10 representations to Plaintiffs in a series of written communications.

11 79. Plaintiffs are informed and believe and thereon allege that Defendants made these
12 misrepresentations with intent to induce Plaintiffs' reliance on those representations, thereby
13 securing Plaintiffs' performance of services with respect to the Drai Venues.

14 80. Plaintiffs are informed and believe, and on that basis allege, that Defendants intended to
15 utilize the skills and abilities of Plaintiffs (who are extremely well-known in the nightclub industry)
16 for the benefit of the Drai Venues, while not compensating Plaintiffs or recognizing their equity
17 interest pursuant to the terms of the Agreements.

18 81. Plaintiffs accepted, and actually relied upon, the intentional misrepresentations of
19 Defendants, as Plaintiffs began to perform services for the Drai Venues with the expectation that
20 they would receive a share of the monthly net profits of the Drai Venues, in addition to being
21 recognized as holders of an equity interest, as represented by Defendants.

22 82. Plaintiffs were justified in relying on the express promises undertaken by the parties in the
23 Agreements, and upon the representations made by Defendants, as Defendants are all well-known
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1 and established in the entertainment industry.

2 83. Plaintiffs are informed and believe, and on that basis allege, that by intentionally
3 misrepresenting to Plaintiffs that they would receive a share of the net monthly profits of the Drai
4 Venues and an equity interest in the Drai Venues, thereby inducing Plaintiffs into performing
5 services for the Drai Venues without receiving the agreed upon compensation or equity interest,
6 Defendants acted in a willful, malicious, outrageous and intentional manner and with reckless
7 disregard for the financial interests of Plaintiffs, warranting the imposition of punitive damages
8 according to proof at trial.

9 84. Defendants' fraudulent inducement of Plaintiffs proximately caused Plaintiffs to suffer
10 damages in an amount in excess of at least Two Million Dollars (\$2,000,000.00).

11 **SIXTH CAUSE OF ACTION**

12 **(For Breach of Fiduciary Duties Against All Defendants)**

13 85. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1
14 through 84, as though fully set forth herein.

15 86. Upon agreeing to share the monthly net profits of the Drai Venues, Plaintiffs and
16 Defendants formed a partnership.

17 87. As partners, Plaintiffs placed trust and confidence in Defendants. This trust was betrayed
18 by Defendants' unjust retention of profits derived from the operation of the business of the
19 partnership (e.g. the operation of the Drai Venues) exclusively for their own benefit and to Plaintiffs'
20 severe detriment.

21 88. As partners, Defendants owed to Plaintiffs the fiduciary duties of loyalty and care.
22 Defendants breached those duties by failing and refusing to tender to Plaintiffs their share of the net
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1 monthly profits of the Drai Venues in exchange for their services in operating and managing the Drai
2 Venues.

3 89. Defendants have failed to account for the whereabouts of these profits, have excluded
4 Plaintiffs from proper inspection of the financials of the Drai Venues, and have improperly
5 attempted to force Plaintiffs out of the partnership without any basis for doing so.

6 90. As a proximate result of Defendants' breach of their fiduciary duties, Plaintiffs have
7 sustained damages in an amount in excess of at least Two Million Dollars (\$2,000,000.00).

8 **SEVENTH CAUSE OF ACTION**

9 **(For Unjust Enrichment Against All Defendants)**

10 91. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1
11 through 90, as though fully set forth herein.

12 92. Pursuant to the terms of the Agreements and the partnership agreement, Plaintiffs, and
13 each of them, fully performed their respective duties by providing valuable services and contributing
14 substantial time, effort, and resources into the management and operation of the Drai Venues. In
15 performing such services, Plaintiffs conferred a clear benefit on Defendants.

16 93. Defendants have retained that benefit for themselves and to the severe detriment of
17 Plaintiffs, as Defendants have failed and refused to share the monthly net profits of the Drai Venues
18 – which were derived in substantial part from Plaintiffs' efforts.

19 94. Defendants have accepted and retained the benefit conferred upon them by Plaintiffs by
20 retaining the profits of the Drai Venues which, under the Agreements, belong to Plaintiffs.

21 95. As a result of Defendants' retention of the financial benefit conferred upon them by
22 Plaintiffs, Defendants have been unjustly enriched at the expense of Plaintiffs.
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1 96. As a proximate result of Defendants' retention of the financial benefits conferred upon
2 them by Plaintiffs, Plaintiffs are entitled to Defendants' disgorgement of profits in an amount in
3 excess of at least Two Million Dollars (\$2,000,000.00).

4 **EIGHTH CAUSE OF ACTION**

5 **(For Accounting And Constructive Trust Against All Defendants)**

6 97. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1
7 through 96, as though fully set forth herein.

8 98. Defendants fraudulently obtained money from Plaintiffs by failing and refusing to tender to
9 Plaintiffs the profits owed to them by virtue of 1) the profit sharing arrangement(s) embodied in the
10 Agreements, and 2) the services Plaintiffs rendered to the Drai Venues. Defendants' actions in this
11 regard were both fraudulent and in breach of the fiduciary duties of loyalty and care existing
12 between and amongst partners in a partnership.

13 99. Plaintiffs are informed and believe, and on that basis allege, that by virtue of Defendants'
14 duplicitous conduct, Defendants hold the net profits of the Drai Venues, and any assets purchased
15 with those profits, in a constructive trust for the benefit of Plaintiffs. A constructive trust must be
16 imposed upon such proceeds and assets for the benefit and protection of Plaintiffs, regardless of
17 whether such proceeds and assets are currently held by Defendants or have been transferred to third
18 parties.

19 100. Plaintiffs are informed and believe, and thereon allege, that a full accounting is required in
20 order to determine the extent of the profits which have been unjustly withheld from Plaintiffs by
21 Defendants.

22 101. Plaintiffs are informed and believe, and thereon allege, that without a full accounting and
23 the imposition of a constructive trust, Defendants as well as their successors, transferees and assigns,
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1 would be unjustly enriched to the detriment of Plaintiffs.

2 **NINTH CAUSE OF ACTION**

3 **(For Deceptive Trade Practices In Violation Of N.R.S. § 598.0915 Against All Defendants)**

4 102. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1
5 through 101, as though fully set forth herein.

6 103. Pursuant to NRS Sections 41.600(e) and 598.0915 through 598.0925, inclusive, and in
7 light of the representations made to Plaintiffs by Defendants, as described in detail both above and
8 below, Plaintiffs assert a claim for deceptive trade practices against Defendants.

9 104. In or around December 2006, in entering into the Agreements and partnership agreement,
10 Defendants represented to Plaintiffs that they would be compensated for their services rendered to
11 the Drai Venues by receiving a percentage of the monthly net profits derived from the operation of
12 said Drai Venues, in addition to an equity interest in each venue.

13 105. Between October 2009 and January 2010, Defendants expressly reaffirmed these
14 representations to Plaintiffs in a series of written communications.

15 106. These representations were false, as Defendants have failed to tender to Plaintiffs their
16 share of the monthly net proceeds, despite Plaintiffs' full performance under the Agreements and
17 partnership agreement. These representations were also false with respect to Plaintiffs' entitlement
18 to an equity interest under the Agreements, as Defendants have failed to recognize Plaintiffs'
19 holding of such an interest.

20 107. Defendants knew that this representation was false at the time it was made, as Defendants
21 never intended to compensate Plaintiffs for their performance as promised under the Agreements and
22 partnership agreement, or recognize their ownership interest in the Drai Venues as expressly
23 promised in the Agreements.

1 108. At the time Defendants made these representations to Plaintiffs, they intended for
2 Plaintiffs to rely on those misrepresentations such that Defendants would thereby secure Plaintiffs'
3 performance of valuable services to the Drai Venues, while avoiding fully compensating Plaintiffs
4 pursuant to the Agreements and partnership agreement.

5 109. Plaintiffs' reliance on the representation was justifiable, as Defendants are well-known
6 and established in the nightclub industry.

7 110. Had Plaintiffs known that they would not later be compensated under the Agreements and
8 partnership agreement, or transferred an equity interest under the Agreements, they would never
9 have assented to its terms and rendered full performance thereunder.

10 111. As a result of Defendants' misrepresentations, Plaintiffs have been damaged by having
11 contributed substantial time and effort into the management and operation of the Drai Venues, while
12 not receiving the benefit of their bargain – *e.g.* the monthly profits distribution and an equity interest
13 in the Drai Venues.

14 112. Defendants' actions were done in conscious disregard or reckless disregard for the rights
15 and well being of Plaintiffs, and therefore were done with either express or implied malice.
16 Accordingly, Plaintiffs are entitled to an award of punitive damages.

17 113. Plaintiffs have been forced to retain the services of legal counsel to bring this action and
18 are entitled to recover reasonable attorneys' fees, expenses, and costs.

19 114. As a direct and proximate result of Defendants' deceptive trade practices, Plaintiffs have
20 been damaged in an amount in excess of at least Two Million Dollars (\$2,000,000.00).

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TENTH CAUSE OF ACTION

(For Securities Fraud In Violation of NRS § 90.570 Against All Defendants)

115. Plaintiffs allege and incorporate by reference the allegations set forth in Paragraphs 1 through 114, as though fully set forth herein.

116. In or around December 2006, Defendants offered to sell to Plaintiffs equity interest(s) in the Draï Venues, in addition to agreeing to a profit sharing scheme whereby Plaintiffs would render valuable services to Defendants and Plaintiffs would, in turn, receive a share of the monthly net profits of the Draï Venues.

117. Between October 2009 and January 2010, Defendants expressly reaffirmed these representations to Plaintiffs in a series of written communications.

118. These representations were false, as Defendants have failed to tender to Plaintiffs their share of the monthly net proceeds since on or about March 2010, despite Plaintiffs' full performance under the profit sharing arrangement contained in the Agreements and partnership agreement. Defendants have further failed to recognize Plaintiffs' equity interest, as expressly promised in the Agreements.

119. Defendants knew that these representations were false at the time they were made, as Defendants never intended to compensate Plaintiffs for their performance under the profit sharing arrangement contained in the Agreements and partnership agreement, or to recognize Plaintiffs' equity interest under the Agreements.

120. At the time Defendants made these misrepresentations to Plaintiffs, they intended for Plaintiffs to rely on those misrepresentations such that Defendants would thereby secure Plaintiffs' performance of valuable services to the Draï Venues, while avoiding fully compensating Plaintiffs

1 pursuant to the profit sharing arrangement contained in the Agreements and partnership agreement,
2 or to recognize Plaintiffs' equity interest under the Agreements.

3 121. Plaintiffs' reliance on the representation was justifiable, as Defendants are well-known
4 and established in the nightclub industry.

5 122. Had Plaintiffs known that they would not later be compensated under the Agreements and
6 partnership agreement, or that they would not receive their equity interest under the Agreements,
7 they would never have assented to its terms and rendered full performance thereunder.

8 123. As a result of Defendants' misrepresentations, Plaintiffs have been damaged by having
9 contributed substantial time and effort into the management and operation of the Drai Venues, while
10 not receiving the benefit of their bargain – *e.g.* the monthly profits distribution and an equity interest
11 in the Drai Venues.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, based on the foregoing, Plaintiffs pray for relief as follows:

- 14 1. For judgment against Defendants for compensatory damages in an amount exceeding One
15 Million Four Hundred Thousand Dollars (\$1,400,000.00);
- 16 2. For actual, consequential, and incidental damages in an amount exceeding Two Million
17 Dollars (\$2,000,000.00);
- 18 3. For an accounting of partnership profits;
- 19 4. For punitive damages in an amount sufficient to punish Defendants for their conduct;
- 20 5. For reasonable attorneys' fees and costs incurred;
- 21 6. For prejudgment interest; and
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1 7. For such other and further relief as the Court may deem just and equitable.

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DATED this 7th day of October, 2010.

By: _____

ISMAIL AMIN, ESQ. (SBN 9343)
The Amin Law Group, Ltd.
3960 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89169
Telephone: (702) 990-3583
Facsimile: (702) 990-3501
Attorneys for Plaintiffs

The Amin Law Group, Ltd.
3960 Howard Hughes Parkway, Suite 500
Las Vegas, NV 89109
Phone: (702) 990-3583 / Fax: (702) 990-3501

EXHIBIT A

TALKING POINTS MEMORANDUM

From: Bruce A. Leslie
Date: January 8, 2010
Subject: Jesse & Cy Waits' Participation in Hollywood and Wynn

Being discussed is Jesse and Cy acquiring a 49% membership interest in Charlotte's Manager (the HEI partner) and Charlie's Operator (the club manager), ("Hollywood"), and a formalization of the sharing of profits from the Wynn operations.

1. Victor, through DCT LLC and the Children's Trust, is the Hollywood project's manager. As manager, among this group, he has the final word on all decisions.
2. It is Cy and Jesse's preference to be members, and participate in Hollywood by membership interest (instead of a bonus based on profits). Victor's required membership minimum initial capital contribution to Charlotte is \$250,000.00. The amount to Charlie's has not been determined. The Charlotte's amount will likely increase from budget overruns. Jesse and Cy have the option to pay their share of contributions. If they decide not to contribute, then Victor's contribution accrues a preferred interest return of 10%. Victor's contribution and accrued interest are paid before any distributions to members of available cash.
3. Hollywood "profits" are the 1/3 amounts distributed from Hollywood & Vine to Charlotte's and the 2.5% management fee paid to Charlie's. Those amounts received are distributed based on % interests, after deducting expenses, reserves, full recovery of Victor's investment (and interest) and the settlement payments to Michael Gruber. Initially there may be no distributions while reserves are accumulated and expense stabilized.
4. Wynn "profits" are distributed when received from Wynn but after recovery of LLC expenses. Those expenses have been minimal, but could increase if there are further contract disputes or litigation. The share of distributions to Jesse and Cy is 16.66%, or 8.33% each. Jesse and Cy's interest in the Wynn project is a profit sharing interest in the net proceeds received after payment of expenses. It is not an interest in the LLCs.
5. At the Wynn project, Cy and Jesse are Wynn employees. They keep that salary and benefits.

6. To continue receiving Wynn profit distributions [and the interest in Hollywood] they agree to not compete for the Wynn project, either currently, or upon any termination of the nightclub arrangements by Wynn or Victor.
7. Jesse and Cy are expected to be physically present on the Hollywood property on an "as needed" basis, to perform tasks identified by Victor, taking into consideration their obligations at Wynn and Draï's on the Strip (again, as directed by Victor).
8. The "Draï" entity projects (which includes Draï's, Hollywood, XS and Tryst) are their full time job. They shall not have other employment, business or investments that interfere with their Draï obligations. They shall take vacation only when it doesn't conflict with their obligations and only as is reasonable for persons at their level of responsibility and compensation.
9. Jesse and Cy's membership interest and employment in Hollywood, and their interest in Wynn "profits," can be terminated "for cause." "Cause" generally is: their nonperformance of their responsibilities (after notice), a breach of the agreement/lease/HEI operating agreement (that they cause), loss of any required license, criminal activity, fraud or embezzlement, intoxication at any of the clubs, any breach of any non-compete. The Hollywood buyout is \$1,000.00.
10. In addition to the above "causes," the right to receive Wynn "profits" also terminates "for cause" if Jesse or Cy's employment with Wynn is terminated, a breach of the Wynn agreement (that they cause), or they voluntarily cease [or materially reduce] their involvement in the Wynn projects. Nothing is paid to Jesse or Cy upon a Wynn profits interest termination "for cause."
11. Regarding Hollywood, Jesse and Cy can withdraw, and Victor can terminate their membership and employment at anytime "without cause." In either event, employment is terminated and the membership interest is sold to the LLCs. During the payout term, they agree not to open a nightclub, bar or restaurant in Southern California. The buyout amount is: distributions of their share of available cash will be made for a time equal to each full year the Hollywood nightclub is open (to a maximum of three (3) years). For example, if the event occurs 2 ½ years after the club opening, then for the next two (2) years Cy and Jesse continue to receive their percentage of available cash funds distributed to members for the next two (2) years. "Available funds" will be calculated and distributions made using the same procedures as before their termination. Everyone agrees that the revenues, expenses and reserves will change from year to year, in good faith. No payments are due if Jesse or Cy are terminated "for cause."

12. To be discussed is Victor's termination "without cause" of the Wynn profits interest. If Cy or Jesse voluntarily terminate their involvement, no payments are due and their interest in profits terminates.
13. If Victor's efforts at Hollywood are greater than Jesse's and Cy's, he gets reasonable compensation from one of the Drai's entities.
14. Initially, there is no charge to Hollywood of a trademark royalty for the use of the Drai's name. However, Victor may charge Charlotte's or Charlie's a royalty not to exceed 1% of sales at anytime after the first year. He remains the owner of the trademark.
15. Any Hollywood "lifestyle" employee benefits are shared based on ownership interest. At the moment, none are planned. For example: automobiles, food, travel, hotels, and airplane expenses. Airplane expenses are deducted from Victor's profits unless it is for a specific direct business use for all member's benefit.
16. This agreement is for Hollywood and Wynn projects only. Victor is free to enter into other agreements for other projects with other people, with or without Jesse and Cy.
17. This agreement does not affect any existing agreement regarding Drai's on the Strip. Jesse and Cy are expected to perform services as directed for that club without additional compensation from this agreement.
18. The HEI Hollywood agreements have non-compete requirements of Jesse and Cy. They agree to comply.
19. They agree that a non-compete, non-solicitation, and confidentiality for Drai's Hollywood will apply during the existence of those projects, and for two years if they are terminated "for cause", or if after Victor's death, the Hollywood business is sold. If Victor terminates them "not for cause," or they voluntarily withdraw/terminate their membership/employment or participation in Hollywood, a different non-compete applies, for a term equal to the payout.
20. For eighteen (18) months from a termination of the Wynn/XS agreement for any reason, or Victor's termination of the Wynn profit sharing arrangement with Cy and Jesse "for cause," or they voluntarily depart, they agree not to operate any nightclub, bar or restaurant at any Wynn owned or operated facility in Clark County, without Victor's consent. This shall not prevent them from remaining

employees of Wynn upon any termination, but only for the same compensation they currently receive as Wynn employees. If they continue with Wynn any additional amounts received by them shall be shared with Victor on the 50/50 basis. Everyone agrees that the purpose of this restriction is that in return for Victor including them in the existing Wynn profit sharing and in the Hollywood projects, that they agree (absent Victor's consent) to give up the ability to run nightclubs at Wynn should Victor or Wynn terminate their relationship regarding XS or Tryst for any reason. This restriction shall last for 18 months from any termination, or if longer, their continued participation in the Hollywood project. If there is a termination of the Wynn relationship, and Victor enforces the non-compete and they continue to be involved in Hollywood in good standing, he shall pay Cy and Jesse 50% of all distributed available cash (to be defined) from the LLCs until Cy and Jesse make what they received in the final twelve (12) months under the Wynn profit sharing agreement. Nothing prevents them from taking jobs with other Las Vegas properties, but they are subject to non-solicitation (customers and employees) and confidentiality restrictions for twelve (12) months and two (2) years respectively.

21. On Victor's death or disability Jesse and Cy become the managers of Charlotte's and Charlie's, subject to HEI consent. Jesse and Cy may not have any competing businesses within the Los Angeles basin without offering the Trust the right to participate. On a sale of the Hollywood nightclub, the Trust's option to participate in new projects continues for three years.
22. On Victor's death there are no restrictions on Cy and Jesse's dealings with Wynn.
23. Cy and Jesse's Hollywood membership interest and the Wynn profit sharing interest can not be transferred, sold or used as collateral for any loans except to Victor.