

A look at where things now stand with the new Wynn casino

Written by Administrator
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Encore Boston Harbor, the monolith on the Mystic, is already a landmark off Interstate 93. Gleaming by day, glowing by night, the Everett casino looks ready to throw open its doors.

But just 15 weeks before the resort is slated to open, there is still some chance it won't.

Standing between the \$2.6 billion casino and its planned June ribbon-cutting is a reckoning more than a year in the making, the culmination of a painstaking reexamination of the company's qualifications for a gambling license.

Investigators for the Massachusetts Gaming Commission have been scouring company documents and interviewing employees to learn who at Encore's owner, Wynn Resorts, knew about allegations of sexual misconduct against former chief executive Steve Wynn, and what, if anything, they did about it.

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This slow-moving scandal is unfolding in chapters, the most recent set in Las Vegas. Last week, Nevada regulators [fined Wynn Resorts \\$20 million](#) for the failure of company executives to investigate the allegations against Steve Wynn. It was by far the largest fine ever levied by the Nevada Gaming Commission and served as a black mark on the luxury casino company. Wynn Resorts was allowed to keep its Nevada license.

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[Wynn Resorts fined \\$20m over sex allegations](#)

The action now moves to Massachusetts, where the gambling commission is [preparing to hold hearings](#) in the coming weeks to review what its own investigators have found over the past year.

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These hearings will be high-profile and high-stakes, with billions of dollars and thousands of jobs on the line. The commission can strip the casino of its Massachusetts license if it concludes the company is not fit to hold it.

In a way, the public hearings will be Wynn Resorts' show: The burden of proof is on the company to demonstrate its fitness. The legal terminology on this point is explicit: The company must present "clear and convincing evidence of suitability."

Suitability is a catch-all term for requirements that casino companies and their top leaders conduct themselves ethically. (A company's financial health and its ability to run a successful casino also play into suitability, but that's not why we're here.)

When the scandal broke in January 2018, it was hard to imagine Wynn Resorts surviving a suitability review without significant changes. A year later, Wynn Resorts is presenting itself as a company reborn, with revamped policies enforced by new people — including Ed Davis, former commissioner of the Boston police, who sits on a new compliance committee.

"In short, the Wynn Resorts of today is a new company," the casino giant said in a statement.

So, what do we know so far about the hearings? Let's take a look.

How did we get here?

In early 2018, the [Wall Street Journal](#) published blockbuster stories that detailed allegations of sexual misconduct by Steve Wynn. Regulators in Nevada and Massachusetts immediately launched investigations. At the time, the Massachusetts Gaming Commission signaled it would closely watch how the company responded.

Once formal hearings begin, the commission will make public the report from its investigators into the allegations against Steve Wynn.

What's in the Massachusetts report?

The local report will track closely with the results of the Nevada investigation, as well as with the Wall Street Journal stories that triggered the inquiries, according to people familiar with the report. The Massachusetts report is far longer than the 22-page public summary released by Nevada authorities and will contain more details about Steve Wynn's alleged behavior as well as greater explanation about how the investigators uncovered the information.

It covers settlements Steve Wynn signed with former employees who made accusations against him. A question in the proceedings will be whether the company should have disclosed those settlements years ago to Massachusetts investigators. Steve Wynn has denied abusing any women.

Though lawyerly and light on detail, the public complaint from the Nevada regulators is a road map for what will be in the Massachusetts report.

In 2005, the Nevada complaint says, a woman who worked in the Wynn Las Vegas salon claimed she had been raped by Steve Wynn and became pregnant. Salon management reported the allegations to human resources, but at least four company executives who learned about the allegations failed to initiate an investigation, in violation of the company's existing policies. (None of the executives cited in the Nevada report still works at Wynn Resorts, the company says.)

Steve Wynn reached a "private, confidential settlement" with the woman, paying her \$7.5 million, the report says. The Wall Street Journal revealed the nature of the settlement in January 2018.

The Nevada report references a second settlement, in 2006, with a cocktail server who claimed Steve Wynn pressured her into sex. That settlement was for \$975,000, and, again, executives who learned about it failed to investigate, the report says.

The ugliness continues with allegations of harassment or misconduct made by another cocktail

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server, by a flight attendant, and by spa employees. There is a claim that an unnamed employee “had facilitated sexual relationships between cocktail servers” and Steve Wynn and that a former company lawyer in 2007 did not follow up on a tip claiming that a former executive, unidentified in the report, “loves sleeping with cocktail servers.”

The Nevada report criticizes the company, more generally, for not following its own procedures for investigating complaints and for not applying its normal policies to Steve Wynn. In all, it cites 10 counts against the company.

In November, Steve Wynn sued his former company and the Massachusetts Gaming Commission over its coming report, alleging that certain documents the company gave investigators were protected by attorney-client privilege and should not have been turned over. The lawsuit is being settled; commissioners have spent hours in closed session discussing the details.

Cathy Judd-Stein, the commission’s chair, said last week that the settlement will provide the five gaming commissioners access to enough of the disputed material to make a “fully informed decision.” That does not mean all of those documents are available. But there are enough of them, in the judgment of commission lawyers and investigators, who have seen all the documents, for commissioners to understand what they are about. They refer to one incident in the 10-count Nevada report, according to a person familiar with it.

Time is ticking. If ultimately permitted to go forward, Encore must begin mass hiring by approximately the end of this month for the casino to open on schedule. Otherwise there’s probably not time to hire and train some 5,000 employees.

Nobody is publicly promising a decision by any certain date. The commission’s philosophy has always been “better to do it right than fast.”

What is Wynn Resorts’ strategy?

When it gets to a hearing, the company will make the case that it has “undergone a corporate

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transformation” over the past 12 months. It acknowledges that “certain former executives” did not take proper action when they learned of allegations against Steve Wynn. “Consequently, we have made major changes at every level of key decision-making in the company.”

Wynn Resorts’ purification efforts began with its separation from Steve Wynn, the developer of famous Vegas landmarks such as The Mirage, Bellagio, and the Wynn and Encore resorts. Wynn resigned in February 2018, sold his Wynn Resorts stock, and no longer lives on company property in Las Vegas.

The company says it no longer employs any of the people named in the Nevada report as having failed to take action on the allegations. Some of these people left years ago. Others have left since the scandal broke last year. Did they resign? Were they fired? Wynn Resorts is vague on the verbs. They “have all been removed.”

The casino giant replaced most of its board, and it recognized it had concentrated too much power in one person — Steve Wynn was the founder, chief executive, and chairman. The company separated the chairman and CEO positions. Matt Maddox, formerly company president, was elevated to chief executive. The new chairman is Philip Satre, former CEO of Harrah’s Entertainment.

Wynn Resorts will point to dozens more actions it has taken. A few highlights:

- It created the position of senior vice president of human resources for North America, filling the job with an experienced human resources manager from the Marriott chain.

- New policies were designed to give employees additional ways to make a complaint. And the company said it now requires any complaint to be referred to a cross-section of lawyers and high-ranking people, to ensure complaints are investigated. The Corporate Investigations Department will also receive any allegation that could be considered criminal and will refer it to law enforcement.

- The company retained an outside expert to provide sexual harassment training, which is

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mandatory for all employees in Las Vegas and in Massachusetts.

□ Davis, the former head of the Boston police, joins a new compliance committee to review business transactions as well as all claims of sexual harassment reported by employees. (The Globe has used Davis as a security consultant.)

□ In a symbolic break from the past, the company noted, it dropped the Wynn name from its Everett project.

“We are making clear, in both policy and action: Every employee is entitled to a safe and respectful workplace and no employee, at any level of our company, is above the rules,” Wynn Resorts stated.

How are commissioners to make this decision?

Let's use precedent as a guide.

The commission has a reputation as tough on company ethics. Much of that rep comes from the red flags Massachusetts investigators raised in 2013 about Caesars Entertainment, then a partner in a casino plan at Suffolk Downs. Caesars is a gigantic name in the industry, and the notion that Massachusetts had several serious questions about its suitability took the industry by surprise.

Caesars left the project rather than proceed to a hearing. We don't know what the commission might have done had Caesars taken whatever corrective action was possible and then made a case for itself.

There may be more to learn from the one entity to flunk the Massachusetts suitability test. That dubious distinction goes to Ourway Realty, the original group behind a slot parlor proposal at the former Plainridge Racecourse. Ourway was deemed unsuitable in 2013 because of “deeply

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troubling” financial practices.

Ourway made some last-minute changes to try to save its application. But — and this is the key — the commission concluded Ourway’s remedial actions lacked “the substance or commitment to ensure the dramatic operational and cultural changes that are required.”

Substantive commitment to dramatic operational and cultural change.

If history is prologue, that’s the standard by which the commission will judge the changes Wynn Resorts made over the last year, and what the company will have to prove.

Mark Arsenault can be reached at mark.arsenault@globe.com . Follow him on Twitter [@bostonglobemark](https://twitter.com/bostonglobemark).

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