**A statement of Catherine Blue, General Counsel at the Massachusetts Gaming Commission**

The legal department has reviewed chapter 23K and the Commission’s regulations relating to the Commission’s and the IEB’s authority to conduct a regulatory review of the type described by IEB Director Wells. The statute and regulations provide the Commission with broad authority to address matters regarding the suitability of qualifiers and licensees.

Section 4 of chapter 23K in subsection 15 provides the commission with the authority to “limit, condition, restrict, revoke or suspend a license, registration, finding of suitability or approval” or to “fine a person licensed, registered, found suitable or approved for any cause that the commission deems reasonable”

Section 12 of chapter 23K outlines the areas that the commission shall consider when evaluating suitability; those areas include, but are not limited to, the integrity, honesty, good character and reputation of the suitability applicant, the financial stability, integrity and background of the applicant, the business practices and the business ability of the applicant to establish and maintain a successful gaming establishment, and whether the applicant, at the time of application, is a defendant in litigation involving its business practices.

Section 35 of chapter 23K grants to the IEB the authority issue orders to cease and desist in activities which violate any provision of chapter 23K, or any provision of the Commission’s regulations or any law relating to gaming in the Commonwealth. Upon the recommendation of the IEB, the Commission may condition, suspend or revoke a license issued under chapter 23K.

Section 36 of chapter 23K grants to the IEB the authority to assess a civil administrative penalty on any licensee who fails to comply with any provision of chapter 23K or any of the Commission’s regulations.

The Commission’s regulations outline in more detail the obligations of licensees and qualifiers. 205 CMR 112 imposes upon licensees and qualifiers the obligation to provide all information and documents requested by the Commission, the IEB or commission staff. This regulation further requires the licensee or qualifier to be truthful with the Commission and to not knowingly provide false or misleading information. A determination by the Commission that a qualifier or licensee knowingly provided false or misleading information shall result in the conditioning, suspension or revocation of the license or qualification.

205 CMR115 places a continuing duty on gaming licensee and qualifiers to maintain suitability and requires both licensees and qualifiers to notify the Commission of a whole host of matters that impact the suitability of the licensee or qualifier.

Finally 205 CMR 116 provides that an unsuitable qualifier may not hold an interest in a gaming license and that a gaming licensee must have a mechanism in place by which the gaming licensee may effectuate divestiture or redemption of securities or a like process in the event of a negative determination of suitability.

Wynn MA LLC is the Region A category 1 gaming licensee; qualifiers in the Wynn MA LLC license application included Steve Wynn and others; a list of the original qualifiers in the Wynn MA LLC application is found in the December 16, 2013 suitability report posted on the Commission’s website. The Commission’s review of those qualifiers is also available on the Commission’s website in its meeting archives.

It is very important to note that notwithstanding the broad authority granted to the Commission in regulating gaming licensees and qualifiers, gaming licensees and qualifiers are entitled to due process as codified in the state administrative procedure act contained in Mass General Laws chapter 30A and associated jurisprudence. This means that after the regulatory review is complete and the facts of this matter are determined, the gaming licensee and the qualifiers are entitled to notice and a hearing before the Commission before any final action is taken by the Commission. The process and procedures for that process is described in 205 CMR 101 of the Commission’s regulations.