

September 17, 2018

VIA FEDERAL EXPRESS & EMAIL

Mr. Stephen Crosby
Chairman, Massachusetts Gaming Commission
101 Federal Street, 13th Floor
Boston, MA 02110
Stephen.crosby@state.ma.us

Re: *Demand for Retraction of False and Defamatory Statements
Regarding Steve Wynn*

Mr. Crosby:

I represent Steve Wynn. This letter is directed to you in your individual capacity and in your capacity as the Chairman of the Massachusetts Gaming Commission (“MGC”). While I am copying this letter to Ed Bedrosian, MGC Executive Director, Catherine Blue, MGC General Counsel, and Karen Wells, MGC Chief Investigator, you are specifically requested to also provide a copy of this letter to each member of the MGC.

I have reviewed the September 13, 2018 MassLive article headlined, “Massachusetts Gaming Commission in final stages of Steve Wynn investigation” published on the Internet at https://www.masslive.com/news/index.ssf/2018/09/massachusetts_gaming_commissio_45.html (the “Article”). The Article leads with a reference to the MGC being in the final stages of its investigation of Mr. Wynn. In connection with the reporting of MassLive, you granted reporters an interview in which you made the following statements of and concerning Mr. Wynn:

“There clearly [was] by all accounts at least one terrible predator,” Crosby said. “But the culture of the company that we’ve seen through other devices, they were recognized by the Human Rights Committee of the United Nations as a singularly impressive company in terms of, you know, LGBT rights and so forth and so on.”

Crosby added, “So clearly, as with the rest of the world, this whole #MeToo thing and all the **horrible transgressions** that have come about by powerful men has changed everybody’s sensibility. And I’m sure Wynn’s sensibilities, Wynn Resorts’ sensibilities, have changed, too.”

[emphasis supplied]

Your statements clearly convey that Mr. Wynn is a sexual predator and that the MGC has made that finding in its investigation. Your statements convey that “all” accounts clearly support

the finding that Mr. Wynn is a sexual predator. Your statements of and concerning Mr. Wynn are false and defamatory. Your statements were published to third parties without privilege. Your false and defamatory statements were published with actual knowledge of falsity or with a reckless disregard for truth or falsity.

It was my understanding that the Investigation and Enforcement Bureau's ("IEB's") investigation of Wynn Resorts is not yet complete and that both you and the other Commissioners will be informed of the investigation's results only when the IEB's work has concluded. Your comments, however, make clear that you, as Chairman of the Commission, have already made your conclusions. The fact that you have concluded Mr. Wynn is a "terrible predator" while the investigation is ongoing suggests that the investigation lacks objectivity and that it was designed and executed not as an independent fact-finding exercise, but to make findings consistent with your preconceived false notions of Mr. Wynn.

In addition to fatally undermining the credibility of the MGC's forthcoming report, your comment that Mr. Wynn is a "terrible predator" is also false, defamatory, and actionable as slander under Massachusetts law. As Mr. Wynn has stated time and again, he denies all allegations of non-consensual sex. **All allegations of non-consensual sex are false and defamatory, because Mr. Wynn has never engaged in non-consensual sex.**

Moreover, I am at a loss to understand how you and the MGC could possibly reach such findings about Mr. Wynn (which you voluntarily and freely conveyed to the public in your media interview) when any such investigation and finding would be outside the scope of the MGC investigation. In a January 31, 2018 article published by MassLive¹ discussing the Twitter post of the same date by MGC (@MassGamingComm), Karen Wells, MGC's chief investigator, defined the scope of the investigation as follows:

Wells told the commission that her bureau plans to be "mindful that our role is not to conduct a criminal investigation into sexual assault."

Her bureau's regulatory review will focus on the suitability of Steve Wynn and a look at any corporate action or lack thereof. "The questions - who knew what, when, and what if anything did he or she do about it?" Wells said in her statement to the commission.

Wells said she'll also be looking at how Wynn Resorts handles the allegations and how the allegations impact the financial stability of the company.

Mr. Wynn resigned his positions at Wynn Resorts on February 6, 2018. Before the end of March, 2018, Mr. Wynn sold all of his stock in Wynn Resorts. By order dated May 7, 2018, the MGC found that Mr. Wynn was no longer a "qualifier" of the MGC's licensee, Wynn MA LLC.

¹ The January 31, 2018 MassLive Article is found online at https://www.masslive.com/news/index.ssf/2018/01/heres_what_massachusetts_inves.html

Not only does an investigation of Mr. Wynn exceed the scope of the MGC investigation, it is totally unnecessary and irrelevant given the lack of any connection between Mr. Wynn and Wynn Resorts since March. These undisputed facts evidence the recklessness of the accusations made against Mr. Wynn by you and MGC.

You claim in the interview that the finding that Mr. Wynn is a terrible sexual predator was based on “all” accounts. This statement is undeniably false. Mr. Wynn is aware of numerous witnesses who have been interviewed by MGC who have denied that Mr. Wynn engaged in sexual misconduct. There are pending defamation lawsuits filed by Mr. Wynn which have established publicly that accusations of sexual misconduct made against him were not credible. Your accusations are also actionable as they imply the existence of knowledge of facts supporting the defamatory finding which were not disclosed by you in the interview.

Your decision to publicly convey at this time that the MGC investigation has found that Mr. Wynn is a sexual predator confirms the worst fears of Mr. Wynn that the MGC would not conduct an unbiased investigation of Mr. Wynn and would simply go through the motions of an investigation to reach a pre-determined finding about Mr. Wynn. Your public statements reveal that MGC has reached a conclusion before the investigation has been concluded – as well as a finding of serious misconduct which was not within your jurisdiction and which was reached without even the semblance of due process to Mr. Wynn. Your public pronouncement of the accusations against Mr. Wynn seriously and permanently taint the entire process and any formal finding ultimately reached by MGC. The public accusations further result in a waiver of any claims of privilege that might otherwise have been applicable to the MGC investigation.

To afford you and the MGC an opportunity to avoid litigation, Mr. Wynn demands that: (a) any and all investigations conducted by MGC into his personal life cease immediately; (b) you and MGC agree to refrain from making any further public statements suggesting that any finding has been made against Mr. Wynn as to any allegation of sexual misconduct; (c) you and MGC agree that it will not publicly release in any manner any further details about unproven allegations of sexual misconduct against Mr. Wynn; and (d) you and MGC promptly publish a full and fair retraction of the false accusations in as conspicuous a manner as you originally published the false and defamatory statements. Please provide me a copy of your retraction upon its publication. While Mr. Wynn would prefer to avoid costly and extensive litigation with you and MGC, he is fully prepared to aggressively pursue all of his legal remedies in a Nevada lawsuit and, if necessary, by litigation in Massachusetts.

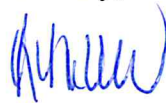
Finally, this letter also serves as notice to you, the MGC, and each of your affiliated entities, employees, agents, assignees, and other persons acting on your behalf (collectively, “you”) to preserve any and all evidence related in any way to the Article and any other accusations that you have made against Mr. Wynn to any third party. By this letter, you are hereby directed not to destroy, conceal, or alter any paper or electronic files, physical evidence, and/or other data relating in any way, no matter how remote, to the Article, other accusations against Mr. Wynn, and/or the circumstances leading to their dissemination, including, but not limited to: (1) all sources for the accusations in the Article or other accusations you have made against Mr. Wynn; (2) any and all

documents and data referring to, reflecting, or relating to communications between you and any such sources; (3) any and all documents and data referring to, reflecting, or relating to internal communications regarding the accusations made in the Article or other accusations you have made against Mr. Wynn; and (4) any and all documents and data referring to, reflecting, or relating to communications between you and any third party regarding the accusations made in the Article and any other accusations you have made against Mr. Wynn.

I understand that many records and files are maintained electronically. However, this letter specifically requests that all paper and hard copy originals be maintained and preserved in their original format. By the same token, electronic documents and the storage media on which they reside may contain relevant, discoverable information beyond that which may be found in printed documents. Therefore, even where a paper copy exists and has been preserved, please preserve and maintain all electronically stored documents in their original native format. This preservation demand specifically encompasses any and all electronic documents, including but not limited to, all word-processed files, e-mails, spreadsheets, all databases, and any other electronically stored and/or generated documents or files.

Govern yourself accordingly.

Sincerely,



L. Lin Wood

cc: Mr. Steve Wynn
Mr. Edward R. Bedrosian, Jr., MGC Executive Director
Ms. Catherine Blue, MGC General Counsel
Ms. Karen Wells, MGC Chief Investigator
Brian T. Kelly, Esq.