



## NOTICE OF MEETING AND AGENDA

Pursuant to the Massachusetts Open Meeting Law (G.L. c. 30A, §§ 18-25), St. 2022, c. 107, and St. 2023, c. 2, notice is hereby given of a public meeting of the **Massachusetts Gaming Commission**. The meeting will take place:

**Monday | May 8, 2023 | 10:00 a.m.**  
**VIA REMOTE ACCESS: 1-646-741-5292**  
**MEETING ID/ PARTICIPANT CODE: 112 749 7655**  
**All meetings are streamed live at [www.massgaming.com](http://www.massgaming.com).**

Please note that the Commission will conduct this public meeting remotely utilizing collaboration technology. Use of this technology is intended to ensure an adequate, alternative means of public access to the Commission's deliberations for any interested member of the public. If there is any technical problem with the Commission's remote connection, an alternative conference line will be noticed immediately on [www.massgaming.com](http://www.massgaming.com).

All documents and presentations related to this agenda will be available for your review on the morning of the meeting date by visiting our website and clicking on the News header, under the Meeting Archives drop-down.

### **PUBLIC MEETING - #451**

1. Call to Order – Cathy Judd-Stein, Chair
2. Administrative Update – Karen Wells, Executive Director
3. Independent Monitor Report – Chair Cathy Judd-Stein; Commissioner Eileen O'Brien  
Presented by Miller & Chevalier Chartered: Alejandra Montenegro Almonte
4. Legal – Todd Grossman, General Counsel

- a. SEIU Local 888 Collective Bargaining Discussion

- I. Executive Session

**VOTE**

The Commission anticipates that it will meet in executive session in accordance with G.L. c.30A, §21(a)(3) to discuss strategy with respect to collective bargaining with SEIU Local 888 as discussion at an open meeting may have a detrimental effect on the bargaining position of the Commission. The public session of the Commission meeting will not reconvene at the conclusion of the executive session.



Massachusetts Gaming Commission

5. Sports Wagering, Bruce Band, Director of Sports Wagering; Sterl Carpenter, Operations Manager, Division of Sports Wagering
  - a. Review of Request for Six (6) Events from U.S. Integrity – Sterl Carpenter, Sports Wagering Operations Manager **VOTE**
  - b. Review of Petition Form – Sterl Carpenter, Sports Wagering Operations Manager
  - c. Review of compliance by sports wagering operators with 205 CMR 243.01(x) relative to technical security control audits by a qualified independent technical experts **VOTE**
  
6. Research and Responsible Gaming – Mark Vander Linder, Director of Research and Responsible Gaming
  - a. FY24 Research Agenda **VOTE**
  
7. Commissioner Updates
  - a. Succession of Officers and Positions – Commissioner Eileen O’Brien **VOTE**
  
8. Investigations and Enforcement Bureau – Loretta Lillios, Director of Investigations and Enforcement Bureau
  - a. Discussion Regarding Sports Wagering Related Suitability Investigation Executive Session **VOTE**  
 The Commission is anticipated to meet in executive session in accordance with G.L. c.30A, §21(a)(7) and G.L. c. 4, §7(26)(f) to discuss investigatory materials related to the issuance of a sports wagering license necessarily compiled out of the public view by the IEB the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest. The public session of the Commission meeting will not reconvene at the conclusion of the executive session.
  
9. Other Business - Reserved for matters the Chair did not reasonably anticipate at the time of posting.



Massachusetts Gaming Commission

I certify that this Notice was posted as “Massachusetts Gaming Commission Meeting” at [www.massgaming.com](http://www.massgaming.com) and emailed to [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us). Posted to Website: May 4, 2023 | 10:00 a.m. EST

May 4, 2023

*Cathy Judd-Stein*

*Cathy Judd-Stein, Chair*

*If there are any questions pertaining to accessibility and/or further assistance is needed,  
please email [Grace.Robinson@massgaming.gov](mailto:Grace.Robinson@massgaming.gov).*



Massachusetts Gaming Commission

# WYNN RESORTS, LIMITED AND WYNN MA, LLC INDEPENDENT COMPLIANCE MONITOR PHASE IV REPORT

May 8, 2023

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## **I. INTRODUCTION**

This report, including the PowerPoint presentation at Section III (together, the “Phase IV Report”), covers the review period from May 2022 through May 2023. The Phase IV Report responds to the ongoing obligation of the Independent Compliance Monitor to Wynn MA, LLC (“EBH”) and its parent, Wynn Resorts, Limited (“Wynn Resorts” or “WRL”) (collectively, the “Company” or “Wynn”) to periodically report to the Massachusetts Gaming Commission (the “MGC”) following the submission of the Independent Compliance Monitor Baseline Report (May 8, 2020) (the “Baseline Assessment”). Decision and Order at 51, *In the Matter of Wynn MA, LLC* (Apr. 30, 2019) (the “Decision and Order”). The Monitor Team<sup>1</sup> has issued three prior reports: the Baseline Report, the Independent Compliance Monitor Phase II Report (the “Phase II Report”) (Jan. 29, 2021), and the Independent Compliance Monitor Phase III Report (the “Phase III Report”) (Apr. 22, 2022). This Phase IV Report discusses the Monitor Team’s assessment of the current state of the Company’s Human Resources Compliance Program (“HRCP”), with a specific focus on the areas of the HRCP that remain under development and, as a result, will be the primary focus for the next phase of our review.

During Phase IV, the Monitor Team’s analysis and testing focused on evaluating the Company’s continuing implementation of prior recommendations and assessing the overall sustainability of the Company’s HRCP. Consistent with monitoring activities from prior phases of review, this analysis and testing included review of documents and other relevant information received from the Company; interviews with Board members, senior leaders at the Company, managers and supervisors across departments at both properties, and interviews of exiting employees in key HRCP-facing roles; as well as observations of relevant parts of a Compliance Committee meeting and standing cross-functional team meetings related to internal investigations. Importantly, during this phase the Monitor presented an update on the Monitorship to the Audit Committee and met in Executive Session with the full Board.

## **II. EXECUTIVE SUMMARY**

Through each phase of this Monitorship, we have continued to observe and assess each element of the Company’s HRCP: Culture of Compliance and Tone at the Top; Proper Authority, Oversight, and Independence; Policies and Procedures; Third Party Relationships; Training and Guidance; Internal Reporting and Investigation; Incentives and Discipline; Risk-Based Review; Monitoring and Testing; and Controls Environment. Since this Monitorship commenced, and through this Phase IV, we have observed meaningful enhancements in all elements of the HRCP and an ongoing commitment across all levels of the Company to the development and implementation of an HRCP designed to mitigate risks associated with sexual harassment and discrimination. The Company’s efforts include intentional messaging to employees on strengthening the Company’s speak-up culture and its expectation that all employees report any incident of harassment or discrimination. In many areas, we have even begun to see evidence of maturation of the HRCP – meaning that the Company, often by its own initiative, has improved upon the Monitor Team’s baseline and follow-up recommendations in ways that demonstrate ownership and investment of the kind needed to ensure the program is sustained and does not grow stale. As is

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<sup>1</sup> Alejandra Montenegro Almonte of Miller & Chevalier Chartered and other Miller & Chevalier attorneys with responsibility for the Monitorship include Ann K. Sultan, Katherine E. Pappas, Nicole D. Gökçebay, and Alexandra E. Beaulieu (collectively, the “Monitor Team”). Preston L. Pugh joined another law firm in 2020 but continues to work with the Monitor Team as a consultant on Internal Reporting and Investigation.

expected at this juncture in any Monitorship, other areas of the program remain under development and are evolving towards maturity.

As we hope is evident from the first 27 pages of Section III, the Company continues to have a lot to be proud of as it progresses its HRCP. The Company has made significant investment in developing an HRCP that not only responds to the Monitor's recommendations, but also addresses many of the issues underlying the MGC's Decision and Order. In the rest of this Section II, we discuss only the Monitor's assessment of the specific issues that we consider to be developing still. It is important to emphasize that this Executive Summary is **not** intended to provide the totality of our observations and assessment, but rather to be a narrowly tailored discussion on the few issues that we consider require the Monitor's ongoing focus. To help put our observations in context, for each element, we first include the principles that have guided our assessment of the HRCP at Wynn. We then summarize noteworthy observations of progress and provide feedback on where we continue to see opportunities for enhancement. As noted, a more detailed discussion of our assessment, including of the areas that we consider to be maturing, is contained in Section III.

## **A. Culture of Compliance and Conduct at the Top**

### **1. Assessment Framework**

A company's top leaders – its board of directors and senior executives – set the culture and tone of an organization. To assess leadership's efforts in that regard, regulators like the U.S. Department of Justice ("DOJ") and the Equal Employment Opportunity Commission ("EEOC"), look not only for *proactive communication* of commitment to "create and foster a culture of ethics and compliance" compliance but, more importantly, for *conduct* consistent with that commitment. This is particularly true in situations where leaders are working to rebuild culture after an incident of noncompliance. As the MGC notes in the Decision and Order, "reform is 'a state of mind' that must be manifested by some external evidence." Decision and Order at 42. With regard to the Company in 2018, the MGC stated that "[w]hile there is evidence of such reform, more is required... to ensure that there always remains clear and convincing evidence that the gaming licensee and all qualifiers demonstrate the requisite integrity, honesty, good character and reputation." *Id.* The MGC's guidance is consistent with that of the DOJ and EEOC:

- ▶ Assessing commitment requires looking at how senior management has "clearly articulated the company's ethical standards, conveyed and disseminated them in clear and unambiguous terms, and demonstrated rigorous adherence by example". Specifically, "[w]hat concrete actions have they taken to demonstrate leadership in the company's compliance and remediation efforts?" (DOJ)
- ▶ With respect to boards of directors, the DOJ asks: "What compliance expertise has been available on the board of directors? Have the board of directors ... held executive or private sessions with the compliance and control functions? What types of information have the board of directors and senior management examined in their exercise of oversight in the area in which the misconduct occurred?" (DOJ)
- ▶ The EEOC echoes this guidance specifically with respect to harassment and workplace culture noting that "[t]he importance of leadership cannot be overstated – effective harassment and prevention efforts, and workplace culture in which harassment is not

tolerated, must start with and involve the highest level of management of the company.” (EEOC)

## 2. Assessment

Throughout the Monitorship, senior executives and Board members have expressed individual commitments to ensuring the welfare, safety, and security of Wynn employees, specifically through the enforcement of its Preventing Harassment and Discrimination Policy. In that regard, the Monitor Team has seen evidence of the Company’s commitment to promoting a speak-up culture across both properties and to ensuring that employees know the seriousness with which Wynn takes sexual harassment and discrimination.

As set forth in greater detail in Section III, the Company has developed a communications plan focused on incorporating HRCP messaging into existing communications channels. This plan includes messaging from leaders across the organization, including, most recently, adding an introduction by the Chairman of the Company’s Board of Directors to the Company’s mandatory Annual Compliance Training. We have also seen evidence of Company leaders finding organic ways to communicate their personal commitment, even outside of the formal plan. For instance, the EBH President and the now-former EVP Operations conducted quarterly townhalls with employees during which they discussed Company values and expectations and provided a direct line of communication for employees to raise questions and concerns about issues impacting them. Employees also report seeing the Company’s CEO walk through the property and interact with employees in a way that demonstrates care and respect. Though not directly related to sexual harassment and discrimination, these individual efforts by leadership are already indirectly furthering the Company’s efforts to reform the Wynn culture consistent with the MGC’s expectations.

However, during the Monitorship, the Company has missed opportunities to demonstrate the full extent of its understanding of the broader principles underlying HRCP policies focusing instead on demonstrating to the Monitor its adherence to the literal requirements of its written policies. Compliance with policies is crucial, but as we stated in our Phase II Report, “[a]n investigation policy cannot contemplate every scenario.” Therefore, it is important for senior leaders to understand the compliance principles – or the “why” underlying each policy. Internalizing those compliance principles into the cadence of the Company’s decisions will provide effective guideposts while protecting the Company’s agility and discretion to act, specifically regarding sensitive issues.

A principal mandate of the Monitor has been to focus on how the Company manages investigations, particularly those investigations that implicate ██████████. Specifically, the Monitor observed two principal issues with investigations into ██████████ during this Phase IV review: (1) a ██████████ was notified of the allegations against them outside of the investigations process; and (2) an investigation was assigned to the ██████████. We discuss each in turn.

*Implicated ██████████ notified of allegations outside of the investigations process:* As noted in Section II.D below, during Phase IV, the Company received two separate allegations against ██████████. In both instances, the implicated ██████████ was made aware of the allegations outside of the formal investigative process. In at least one instance, the ██████████ also appears to have been consulted on how one of the allegations should be investigated. The implicated ██████████ removed themselves from the investigation process entirely. However, the timing and manner in which the implicated ██████████ was informed of the investigations are inconsistent with generally accepted



compliance principles and with the Company’s allegation management procedures, both designed to protect the integrity of internal investigations by removing the risk of bias or conflicts of interests.

*Investigation led by [REDACTED]*: In one of the investigations the Company assigned the investigation [REDACTED].<sup>2</sup> This assignment raised concerns to the Monitor that the [REDACTED] could compromise – or could be *perceived* as compromising – the objectivity and impartiality required in the investigative process. The Company has since amended the policy to remove the discretion afforded to assigning the investigation lead under these circumstances. But when questioned about the decision regarding who should lead the investigation, interviewees stated that they consulted the Company’s then-applicable Investigations Policy and determined that the Policy did not prohibit the assignment because, in their judgment, the allegation did not involve a complaint that “might jeopardize the reputation of the company, including but not limited to any allegations of sexual, financial or other misconduct.” The Company’s interpretation of the Investigations Policy in place at the time is plausible, but overly narrow, especially in light of the “including but not limited to” language, which gave the Company discretion to broaden the scope of the investigations subject to the procedures set forth in the policy.

While the then-applicable Investigations Policy did not prohibit the Company from assigning the investigation to the implicated [REDACTED], it did provide that where a complaint might “jeopardize the reputation of the company,” [REDACTED]

[REDACTED] Therefore, even though the Company considered that this matter did not involve the type of allegation requiring investigation by [REDACTED], a principles-based approach should have prompted the Company to assess more critically how the decision to assign the implicated [REDACTED] might impact the Investigations Policy’s objective of “ensuring that all complaints regarding misconduct... are investigated in a fair, impartial, thoughtful manner...”

In addition, interviewees during Phase IV reported hearing a [REDACTED]. The Company is aware of the alleged statements and has commenced an independent review. Regardless of whether the reported statements were made, these reports provide an opportunity for the CEO and property Presidents to explicitly communicate to their direct reports their personal commitment to the reforms the Company has undertaken and the expectations they have of their teams on these important issues. Indeed, the Monitor has seen consistent and sincere dedication to HRCP efforts from key leaders, including the CEO and property Presidents and it is important that all employees, especially those in leadership and management roles who are responsible for implementing the HRCP receive direct messages reinforcing that commitment.

As we move into Phase V of the Monitorship, it will be increasingly important for the Board and Executive Leadership to ensure and demonstrate evidence of reform in all aspects of its culture at all levels of the organization. Written policies and procedures are important, but they are not enough to drive reform. It takes a deep understanding and unwavering commitment to ensuring that the principles and values espoused through the policies guide the conduct and decisions of the organization, beginning

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<sup>2</sup> Based on interviews, we understand that [REDACTED] was not involved in the decision.

with the Board and Senior Executives, who should actively communicate and cascade those expectations to the organization.

## **B. Proper Authority, Oversight, and Independence**

### **1. Assessment Framework**

Throughout the Decision and Order, the MGC emphasized that the misconduct underlying the suitability review was not limited to the acts of one individual, but was instead the result of behavior by multiple others, both within and outside of the Company, who knew of the alleged misconduct and failed to stop it, report it, or investigate it. The Decision and Order notes that those failures were driven by "...loyalty over the best interests of the Company and, in the eyes of some Commissioners, over integrity." Decision and Order at 26-27. That loyalty stems from corporate governance gaps that may form within a founder-led company model where "concentration of power, as there were here" often leads to the reticence of those in positions of authority to push back against the founder..." Decision and Order at 23.

To avoid concentration of power and to empower positions of authority, the EEOC and DOJ advise that those charged with responsibility over a company's compliance program should have sufficient and appropriate authority, oversight, and independence to fulfill their responsibilities under the program. Specifically:

- ▶ "Leadership [shall] ensure that any team or coalition leading the effort to create a workplace free of harassment is vested with enough power and authority to make such change happen." (EEOC)
- ▶ An effective compliance structure requires "those charged with a compliance program's day-to-day oversight to act with adequate authority and stature." (DOJ)
- ▶ On the topic of oversight, the DOJ asks: "What compliance expertise has been available on the board of directors? Have the board of directors and/or external auditors held executive or private sessions with the compliance and control functions? What types of information has the board of directors and senior management examined in their exercise of oversight in the area in which the misconduct occurred?" (DOJ)

### **2. Assessment**

The Company's Compliance Plan (in effect since at least September 2019) authorizes the Compliance Committee to act as an independent "advisory body" to the Company, "to oversee procedures to enhance the likelihood that no activities of the Company... would impugn the reputation and integrity of the Company, any of the specific jurisdictions in which the Company maintains gaming operations, or the gaming industry in general." The Compliance Plan generally tasks the Compliance Committee with ensuring compliance with applicable laws, performing background investigations, and protecting against unethical or unlawful behavior by employees. Even prior to the Monitorship the Compliance Committee has served as the primary oversight body for reviewing incidents and ongoing investigations and, and more recently, has received updates on other elements of the HRCF more generally. An ex officio member of the Compliance Committee reports on Compliance Committee meetings to the Board on a regular basis.

On August 3, 2022, the Board passed a resolution memorializing Compliance Committee oversight responsibility with respect to the HRCP, including specific responsibility for review of Human Resources Complaints, periodic review of HRCP policies and procedures and “the appropriateness of Company resources to fulfill HRCP responsibilities,” and updating and making recommendations to the full Board “on issues requiring the attention of the full Board.” Executives and Board members have explained this formal memorialization as the codification of attention already paid by the Compliance Committee to these matters on behalf of the Board. However, through interviews, we understand that at least some Compliance Committee members were surprised by the Board’s August resolution and uncertain about whether they were appropriately positioned to carry out certain of the responsibilities set forth. To address the confusion, the General Counsel and members of the Board met with the Compliance Committee and the Board issued a new resolution in February 2023 that clarified that although responsibility to “review and analyze issues as they arise related to the Company’s HRCP” is delegated to the Compliance Committee, the Board retains overall responsibility for the Company’s risk oversight. The revised resolution also codified that an ex officio member of the Compliance Committee shall report to the Board on a quarterly basis and clarified that the referenced delegation does not alter the responsibilities of key HRCP gatekeepers, such as executive management, from having to report issues to the Audit Committee or Board, as appropriate.

Revising governance documents to clarify roles and responsibility demonstrates responsiveness and provides a foundation for sustainability of these important changes. However, the effectiveness of these changes will turn on how the Board and Compliance Committee carry out their specific roles, including the Board’s stated intent for the Compliance Committee to be authorized to oversee implementation of the Company’s HRCP “subject to the [Board’s] ultimate responsibility for risk oversight” and to “review and analyze issues as they arise related to the Company’s HRCP and, upon completion thereof, [to] report such issues to the full Board.” As the Compliance Committee continues its oversight function as now formally delegated, the Board must ensure the delegation is supported by clear communication and guidance on what is expected. The Board must also retain sufficient oversight to ensure it receives the information it needs to confirm HR-related risk is mitigated and the HRCP is working as it should. The Monitor Team will continue to test the implementation of the delegation in the next phase.

In assessing whether the HRCP has been properly resourced and empowered, the Monitor Team has focused, among other places, on the reporting structure of the CGCO. Multiple interviewees with visibility told the Monitor Team that the CGCO reports substantively and directly to the Compliance Committee and only administratively to WRL’s General Counsel (e.g., for the approval of expense reports and other similar administrative duties). During this Phase IV review (and previously), the Monitor Team observed first-hand the CGCO engaging substantively and directly with the Compliance Committee, and we have seen this interaction develop in a positive direction. We commend the Company and all involved for this engagement. However, the CGCO has had, and continues to have, more than administrative-only reporting to the General Counsel, despite assurances to the contrary from interviewees. For example, the Monitor Team previously and during this phase observed that the Compliance Committee had no visibility or input into compensation decisions (including bonuses or stock awards) related to the CGCO. While it is not uncommon for CGCOs to report into General Counsels, in order to cement and convey the role of the CGCO as an independent resource for HRCP matters, it is important for a CGCO to have meaningful separation from the General Counsel as well.

In response to observations from the Monitor Team regarding the Compliance Committee’s lack of visibility into the CGCO’s compensation and evaluation, in February 2023, the Company revised the

Wynn Resorts Limited Compliance Plan to add the following language: “The General Counsel will, on an annual basis, review any bonus or stock award to be provided to the Compliance Officer with the Compliance Committee. In addition, the Compliance Committee shall review the Compliance Officer’s annual performance evaluation, as prepared by the General Counsel, and provide consultation to the General Counsel with respect thereto.” This language provides the Compliance Committee with the foundation to provide input on the evaluation of the CGCO. Notably, it appears at odds with assertions that the General Counsel is providing administrative-only oversight of the CGCO. Going forward, it will be important for both the CGCO and the General Counsel to continue to identify ways to ensure the independence and autonomy of the Compliance function. One such measure, for example, is the Company’s recent revision to its Investigations Policy that, as discussed in Section II.D., now requires the engagement of outside counsel to address any complaint received as to a [REDACTED].

Memorializing governance changes is an important step in ensuring good governance. The Monitor Team is eager to see the implementation of these changes in practice and will continue to monitor the Compliance Committee’s oversight of the CGCO, the division of responsibilities between the Compliance Committee and the General Counsel, and the independence of the CGCO.

## **C. Training and Guidance**

### **1. Assessment Framework**

The Decision and Order notes in multiple locations that at the time of the misconduct at issue, the Company had in place an investigations policy that required investigations of all sexual harassment allegations. Notwithstanding that, the Company did not conduct appropriate investigations into any of the allegations against Mr. Wynn. As the Decision and Order notes, “[r]egardless of how well-written a policy or protocol is, it is only meaningful if it is properly implemented and communicated by management.” Decision and Order at 28. Training is the most effective means for communicating policy and management’s expectations with respect to the implementation of and adherence to the same. Indeed, training is important throughout all levels of an organization and the MGC tasked the Monitor with specifically assessing training programs for new and current members of the Board of Directors. Decision and Order at 51.

The EEOC and DOJ similarly remark on the importance of training and setting the tone for trainings from the highest levels of a company. For example:

- ▶ DOJ guidance focuses on assessing whether a company has relayed information in a manner tailored to its audience’s size, sophistication, and subject matter expertise, and how the company measures the effectiveness of its training curriculum. (DOJ)
- ▶ Similarly, according to the EEOC, trainings should be supported at the highest levels, conducted, and reinforced on a regular basis for all employees, conducted by qualified, live, and interactive trainers, and routinely evaluated. (EEOC)

### **2. Assessment**

In response to Monitor Recommendations that the Company develop trainings tailored to its specific risk profile and protocols to test the effectiveness of training, since the start of the Monitorship the Company has meaningfully enhanced its already strong training program (please see Section III for some examples). In addition, the Company recently developed a schedule for 2023 and 2024 that

includes testing of HRCP trainings through annual surveys. While this is the type of testing that will help evaluate the effectiveness of the Company's training program, the Company should continue to develop varied procedures to periodically test the effectiveness of trainings and incorporate feedback into future trainings. Overall, opportunities remain for the Company to take a systematic approach towards the maturity and long-term sustainability of its training program. In addition to implementing periodic testing activities, the Company should look to use the data collected to generate action plans for the continuous improvement of the HRCP.

The Monitor and MGC have emphasized that training for managers and supervisors needs to be tailored to their positions of authority and responsibility. We understand that the Company has now incorporated certain HRCP-related topics for managers and supervisors into a training called Performance Management 102. The Monitor Team expects to review this training and focus on the Company's own measure of the effectiveness of this training in the next phase of review.

## **D. Internal Reporting and Investigation**

### **1. Assessment Framework**

In its Decision and Order, the MGC documented five occasions where Company executives failed to report allegations of misconduct to Employee Relations and therefore no investigation into the allegations was conducted, in violation of multiple corporate policies. Decision and Order at 46. The MGC concluded that "these violations of corporate policy served as a leading cause in the overall corporate systemic failures established by the evidence." Decision and Order at 47. The MGC then tasked the Monitor with reviewing the "[i]mplementation of and compliance with all human resource or 'HR' policies that reflect current best practices" and the "[a]dequacy of internal reporting and communication channels through the Company and their alignment with up-to-date organizational charts and reporting structures." Decision and Order at 50-51. In light of the systemic failures identified by the MGC, the Monitor has particularly focused on the development and implementation of policies governing the reporting and investigation of complaints.

As we have discussed in our prior reports, through its Decision and Order, the MGC joins other regulators in emphasizing the importance of well-designed reporting and investigation systems and processes. In particular, the EEOC has explained that:

- ▶ Employees who receive harassment complaints must take the complaints seriously.
- ▶ The reporting system must provide timely responses and investigations.
- ▶ The system must provide a supportive environment where employees feel safe to express views and do not experience retribution.
- ▶ The system must ensure that investigators are well-trained, objective, and neutral, especially where investigators are internal company employees.
- ▶ The privacy of both the accuser and the accused should be protected to the greatest extent possible consistent with legal obligations and conducting a thorough, effective investigation
- ▶ Investigators should document all steps taken from the point of the first contact, prepare a written report using guidelines to weigh credibility, and communicate the determination to all relevant parties.

The DOJ has explained that:

- ▶ Another hallmark of a well-designed compliance program is the existence of an efficient and trusted mechanism by which employees can anonymously or confidentially report allegations of a breach of the company's code of conduct, company policies, or suspected or actual misconduct. The DOJ assess:
  - Whether the company's complaint-handling process includes proactive measures to create a workplace atmosphere without fear of retaliation, appropriate processes for the submission of complaints, and processes to protect whistleblowers.
  - The company's process for handling investigations of such complaints, including the routing of complaints to proper personnel, timely completion of thorough investigations, and appropriate follow-up and discipline.

## 2. *Assessment*

The Monitor, guided by the Decision and Order, has been particularly focused on ensuring that the Company has cultivated a true speak-up culture in which employees understand not only how to raise concerns, but also that the Company expects them to raise concerns and will effectively investigate allegations, regardless of the seniority of the individual subject of the complaint.

The Company has made significant progress in ensuring appropriate processes are in place. For example, the Company launched a new reporting platform in March 2021, which gave the Company enhanced tracking and reporting capabilities. In addition, the Company has promoted the platform to employees through communication campaigns designed to bolster the speak-up culture. The Company also enhanced its investigation procedures, including by providing guidance on the intake and routing of complaints and on investigative steps, and provided training regarding the same.

While the Monitor has seen consistent application of these processes to line employees and mid-level managers, as discussed in Section II.A above, the Monitor has observed that in applying these processes to allegations that implicate ██████████, the Company has missed opportunities to demonstrate its full understanding of the principles underlying the applicable policy. In highlighting the handling of these recent allegations, the Monitor's intent is to provide examples of where there is room for improvement in the Company's decision-making surrounding how complaints against ██████████ should be handled. Importantly, the Company has recently revised its Investigations Policy to require the engagement of outside counsel to address any complaint received as to ██████████. Although the Monitor does not object to the opportunity for some discretion in the decision of whether or not to engage outside counsel, this revised policy does address past Monitor observations designed to mitigate the risk of actual or perceived conflicts of interest when in-house resources are involved.

Notably, the Monitor recently learned that the Company has engaged outside counsel to investigate conduct by ██████████. Although the investigation is in its early stages, the Monitor views the use of outside counsel as a helpful tool to ensure independence in the investigative process.

To the extent the Company receives any additional allegations against ██████████, each investigation provides an opportunity to demonstrate to the Monitor that the Company has internalized the root causes that led to this Monitorship and is able to appropriately exercise oversight over investigations. To move beyond past missteps, the Company must approach any future allegations

against [REDACTED] with a level of care that recognizes potential conflicts of interest and inspires trust in the process. The Monitor will be focused on the Company's response to such allegations in the coming phase.

## **E. Incentives and Discipline**

### **1. Assessment Framework**

The Decision and Order tasks the Monitor with reviewing the “[i]mplementation of and compliance with all human resource or ‘HR’ policies that reflect current best practices.” Decision and Order at 50-51. Policies must be designed, on one hand, to incentivize compliance and, on the other hand, to empower the Company to take appropriate disciplinary actions. These two goals help ensure the integrity and effectiveness of the compliance program. The EEOC and DOJ have both provided guidance on this point:

- ▶ Employer should make clear that it will undertake immediate and appropriate corrective action, including discipline, whenever it determines that harassment has occurred in violation of the employer's policy. (EEOC)
- ▶ Assessment of whether the company has considered the implications of its incentives and rewards on compliance, how it incentivizes ethical and compliant behavior, and whether there have been specific examples taken as a result of compliance and ethics considerations? (DOJ)
- ▶ Assessment of who determines compensation, including bonuses, as well as discipline and promotion of compliance personnel. (DOJ)

### **2. Assessment**

As the Monitor has observed since the Baseline Assessment, the Company has not historically operated a performance management program or annual evaluation system. Such systems should be central tools to incentivizing compliance and the Company has only recently started to roll out such a program.

At the end of 2022, the Company began to pilot a performance management program for high-level management and the Monitor understands that a performance management system for the rest of the salaried employee base will be launched in 2023. However, because the performance management system is only entering its first cycle this year, the Monitor Team has not yet been able to test its effectiveness in incentivizing compliance. That said, the Monitor understands that one of the goals employees will be evaluated on is the ability to exhibit the Company's culture and values. The Monitor will test the application of this goal in the evaluation process in the upcoming phase of review.

The Company has also sought to incentivize compliant behavior through its Employee Recognition Program, known as STARS. The policy governing the program states that it is “about recognizing those who consistently show up with a great attitude, work ethic and demonstrate excellence in their role, including but not limited to extraordinary guest service and teamwork and consistency excelling in the standards of behavior associated with our compliance policies.” The Monitor will be testing the program to determine what types of behaviors are being rewarded in practice.

### III. FINDINGS

[Please see next pages.]



Miller & Chevalier

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**Section III: Findings**  
**Independent Compliance Monitor Phase IV Report**

Alejandra Montenegro Almonte  
May 8, 2023

# Agenda

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- Decision and Order
- Company enhancements to HRCP prior to commencement of Monitorship
- Goals of the Monitorship
- Overview Timeline
- Monitorship process
- Key themes
- Maturing areas of Wynn's HRCP
- Developing areas of Wynn's HRCP

# Decision and Order: Scope

## **B. CONDITIONS IMPOSED ON THE COMPANY AND THE BOARD OF DIRECTORS<sup>30</sup>**

1. Wynn Resorts shall maintain the separation of Chair and CEO for at least the term of the license (15 years).
2. At the Company's expense and with the Company's full cooperation, the Commission shall select an independent monitor: (i) to conduct a baseline assessment that will include, *without limitation*, a full review and evaluation of all policies and organizational changes adopted by the Company as described by the Company to the Commission as part of the Adjudicatory Record and the following business practices:
  - (a) Implementation of and compliance with all human resource or "HR" policies that reflect current best practices;
  - (b) Use of retractions, mandatory arbitration provisions, gag orders, confidentiality clauses, and non-disparagement provisions of all employees, with particular attention to the use of such measures and their impact on non-executive employees;

- (c) Adequacy of internal reporting and communication channels throughout the Company and their alignment with up-to-date organizational charts and reporting structures; and
- (d) Use of outside counsel and maintenance of and adherence to de-conflicting policies and procedures;

and (ii) to recommend to the Company such measures and other changes necessary to correct any deficiencies identified through such baseline assessment, such recommendations of the monitor may be adopted as license conditions at the Commission's discretion. The Company shall comply with the recommendations of the independent monitor, unless relief is otherwise petitioned for by the Company and granted by the Commission. The independent monitor shall present the baseline assessment and any initial recommendations to the Commission within six months of its selection and shall report to the Commission no less than annually in accord with a mutually agreed upon schedule between the independent monitor and the Commission. The independent monitor shall make such additional recommendations to the Company that the monitor deems appropriate on an ongoing basis over the course of its engagement.

As to the Board of Directors, the independent monitor shall assess the structure and effectiveness of the Compliance Committee (and related Compliance Program and Plan), the Audit Committee, and training programs for new and current members.

The independent monitor will be responsible for evaluating and reporting to the Commission on the effectiveness of the Company's policies, practices and programs under the purview of the independent monitor.

# Decision and Order: Key Findings

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- The Decision and Order found that:
  - People in the organization knew about misconduct and collectively deferred to authority, acted in concert with an inner circle, or otherwise failed to act in the Company’s best interests (p. 38)
    - On five occasions, company leaders did not report allegations to ER personnel and no investigations were conducted, in violation of multiple existing policies (p. 46)
  - That these individuals were driven by “...loyalty over the best interests of the Company and, in the eyes of some Commissioners, over integrity” (p. 26-27)
  - There were significant conflicts of interest present, including in attorneys representing both the Company and Mr. Wynn and corporate funds being used in conjunction with settlements of employee claims made against Mr. Wynn (p. 39)

*“When distilled, it becomes clear that these violations of corporate policy served as a leading cause in the **overall corporate systemic failures** established by the evidence.” (D&O p. 47)*

# Company Enhancements to HRCP Prior to Commencement of Monitorship

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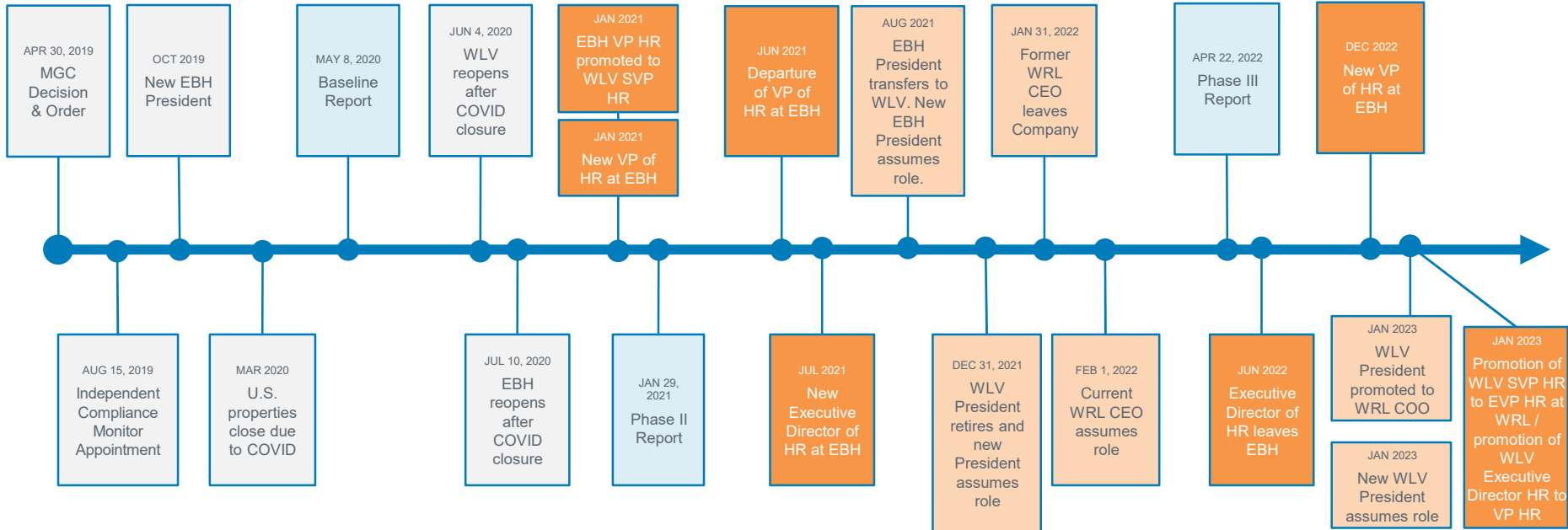
- The Decision and Order notes that Wynn made changes designed to bolster its HRCP prior to the commencement of the Monitorship by:
  - Splitting the Chairman and CEO roles such that no one person may hold both positions
  - Refreshing the Board of Directors by increasing gender diversity, replacing six members, and naming a new Chair
  - Implementing a mandatory retirement age of 75 on independent directors
  - Appointing new senior management
  - Creating a Compliance Committee of independent individuals
  - Implementing policy and organizational changes to address employee safety and training
  - Increasing community engagement and volunteerism

# Goals of the Monitorship (August 2019)

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- Ensure that the Company has Human Resources policies, procedures, and corporate governance structures designed to prevent, detect, and respond to violations (Human Resources compliance program or HRCP)
  - Under the Decision and Order, “[t]he independent monitor will be responsible for evaluating and reporting to the Commission on the effectiveness of the Company’s policies, practices, and programs under the purview of the independent monitor”
- Ensure that the Company’s HRCP effectively mitigates the risk of sexual harassment and other misconduct that could compromise the welfare, safety, and security of employees
- Ensure that the Company maintains internal controls with respect to engagement of and payment to third parties
- Ensure that the Company has an ethical business culture that:
  - Encourages speaking up and transparency across all levels of the organization
  - Ensures the uncompromised implementation of the HRCP
- Ensure that the HRCP and business culture endure beyond the term of the Monitorship
- Safeguard the public trust

# Overview Timeline



# Monitorship Process (1/2)

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- Phase I/Baseline
  - Review facts underlying the Commission's Decision and Order
  - Through review of documentation, interviews, and focus groups, assess the design and effectiveness of the Company's changes to its governance structure and to its then-current harassment and discrimination policies and procedures
  - Preparation and submission of Baseline Assessment and Recommendations
- Phases II and III
  - Continued review of documents, data, and other information relevant to the HRCP to determine the current status of the Company's HR risk profile, specifically with respect to harassment and discrimination
  - Review and evaluation of the Company's implementation of the Monitor's recommendations from the Baseline Assessment, Phase III, and Phase III Report
  - Review and assessment of new or updated materials related to all other aspects of the HRCP, including areas reviewed in the Baseline Assessment or Phase II Report and areas not fully reviewed in that phase
  - Use review and testing activities, including interviews, to evaluate whether the Monitor's recommendations and other elements of the HRCP as implemented addressed the HRCP and governance issues identified by the MGC and through the Baseline Assessment or Phase II Report (as appropriate)
  - Develop any additional necessary recommendations regarding the Company's HRCP
- Phase IV
  - Evaluate the development and maturity of the Company's HRCP, with particular attention to the Company's efforts to sustain and build upon the Baseline elements as designed through the prior phases
  - Use review and testing activities to assess sustainability of the Company's HRCP beyond the term of the Monitorship and beyond the tenure of individual personnel responsible for driving change



## Monitorship Process (2/2)

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- A goal of the Monitorship has been to help the Company develop a program that is fit for purpose and is embedded in the cadence of the operations
- To that end, the Monitor Team has provided the Company the opportunity to:
  - Review draft recommendations in advance of submission to the MGC and provide feedback on practicability
  - Review draft reports in advance of submission to the MGC and provide feedback on factual issues
- In addition, the Company attended interviews of current EBH, WLW, and WRL personnel and Board and Compliance Committee members
- The Monitor and the Company maintained open communication regarding questions regarding recommendations, progress on implementation of recommendations, or concerns related to issues within the scope of the Monitorship

## Key Themes (1/2)

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- Since the Monitorship commenced, the Company has made meaningful improvements in key areas of its HRCP, including:
  - Strengthening its Compliance Committee through the addition of a new member with relevant HR expertise
  - Enhancing its Policies and Procedures to address particularized risks and to reflect the Monitor's recommended enhancements, including as to investigations of harassment and discrimination allegations
  - Expanding upon employee trainings by developing additional focused trainings that address certain updated policies and specific risk areas
  - Increasing its communication on HRCP issues through a programmatic approach that leverages existing communication channels with employees
  - Developing and executing on an annual HRCP risk assessment process using both qualitative and quantitative information to classify the Company's employees by risk

## Key Themes (2/2)

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- Certain areas remain in development and will be the focus of the next phase of the Monitorship
  - Among these areas are culture of conduct and compliance at the top, proper authority, oversight, and independence, training and guidance, internal reporting and investigations, and incentives and discipline
- For example, certain senior leaders have not yet demonstrated a full understanding of and ownership over the certain core issues underlying the MGC's concerns and the compliance principles underlying some the Monitor's recommendations
- Following Monitor observations on this point, Company leadership has recently expressed a desire to engage more directly on this dimension in order to demonstrate growth
- The Monitor Team is eager to observe the Company's progress in this area

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# MATURING AREAS OF WYNN'S HRCP



# Culture of Compliance and Conduct at the Top (1/3)

*“Reform is ‘a state of mind’ that must be manifested by some external evidence”.... “While there is evidence of such reform, more is required... to ensure that there always remains clear and convincing evidence that the gaming licensee and all qualifiers demonstrate the requisite integrity, honesty, good character and reputation.” (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>An effective compliance program requires a high-level commitment by company leadership to implement a culture of compliance from the middle and the top.</p> <ul style="list-style-type: none"><li>• Senior management have clearly articulated the company’s ethical standards, conveyed and disseminated them in a clear and unambiguous terms, and demonstrated rigorous adherence by example (DOJ)</li><li>• Middle management have reinforced those standards and encouraged employees to abide by them (DOJ)</li></ul>	<p><b>Senior leaders</b></p> <ul style="list-style-type: none"><li>• In the Baseline Report, the Monitor Team observed that “the Company’s commitment needs to be more visible to employees...” and recommended that the Company develop a corporate communications plan designed to increase the frequency of messaging around HRCP issues. The Company has developed such a communications plan and the Monitor Team has seen evidence of its implementation, for example:<ul style="list-style-type: none"><li>– In late 2022, the Company updated its mandatory Annual Compliance Training, which covers harassment and discrimination and speak-up culture. The Chairman of the Company’s Board of Directors introduces the training in a pre-recorded video that acknowledges the Company’s history and affirms his commitment to ensure a workplace “defined by honesty, integrity, and excellence.” Importantly, he also emphasizes employees’ responsibility “to speak up and report noncompliance.”</li><li>– EBH’s President and (now former) EVP Operations conducted quarterly townhalls with employees</li><li>– WLV’s former President (and now WRL’s COO) reinforced the Company’s culture through daily messages to WLV employees; EBH employees also receive daily messages from Company leadership.</li><li>– In a March 2023 WeShift, the WRL EVP Human Resources published a statement on the Company’s Personal Relationships Policy.</li><li>– The Company’s CGCO provides introductory remarks emphasizing the importance of compliance during New Hire Orientation.</li><li>– Several Senior Executives, including the Company’s CEO and General Counsel, shared introductory messages during Diversity Week.</li></ul></li></ul> <p><b>Middle management</b></p> <ul style="list-style-type: none"><li>• Interviewees reported that middle management continues pre-shifts across departments, some of which contain standards and expectations with respect to HRCP.</li></ul>

# Culture of Compliance and Conduct at the Top (2/3)

*“Reform is ‘a state of mind’ that must be manifested by some external evidence”.... “While there is evidence of such reform, more is required... to ensure that there always remains clear and convincing evidence that the gaming licensee and all qualifiers demonstrate the requisite integrity, honesty, good character and reputation. (D&O)”*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p><i>Continued from previous slide</i></p>	<p><b>Compliance Committee:</b></p> <ul style="list-style-type: none"><li>• In the Baseline Report, the Monitor Team reported concerns regarding the independence of the Compliance Committee, noting specifically, that “factors that could jeopardize the Committee’s independence as [then] constituted” and recommended that the Company review the selection process for future members and add to the Committee a member with expertise in implementing and overseeing a human resources program. Since that report, the Monitor Team has observed at least five Compliance Committee meetings and interviewed the individual members of the Compliance Committee multiple times. Through that work, the Monitor considers that the Compliance Committee now operates with the degree of independence necessary to fulfill its oversight and advisory responsibility, including with respect the HRCP. The Monitor considers the addition of a fourth independent Compliance Committee member a significant enhancement to the Compliance Committee’s independence and to the Compliance Committee’s ability to advise and guide the Company on issues relevant to the HRCP.<ul style="list-style-type: none"><li>– Since the first meeting observed by the Monitor, the Compliance Committee has progressed its oversight by:<ul style="list-style-type: none"><li>• Asking more probing questions related to ongoing and settled investigations;</li><li>• Focusing more intensely on trends analyses; and</li><li>• Demonstrating increased direct engagement with the CGCO and EVP of HR.</li></ul></li></ul></li><li>• In the Baseline report, the Monitor Team reported on the need for ongoing trainings for the Compliance Committee on matters related to HRCP, including on harassment and discrimination and on Massachusetts-specific issues.<ul style="list-style-type: none"><li>– Since the Baseline report, the Company has conducted two trainings of the Compliance Committee, including with a focus on harassment and discrimination and Massachusetts-specific issues.</li></ul></li><li>• Compliance Committee’s oversight has also been enhanced through improvements in the Company’s reporting on HRCP-related allegations and investigations and through the HR-related expertise of the newest member of the Committee.</li><li>• The Compliance Committee also receive a report of Internal Audit’s HRCP Risk Assessment.</li><li>• In August 2022, the Board passed a resolution memorializing the Compliance Committee HRCP oversight responsibilities.</li></ul>

# Culture of Compliance and Conduct at the Top (3/3)

*“Reform is ‘a state of mind’ that must be manifested by some external evidence”.... “While there is evidence of such reform, more is required... to ensure that there always remains clear and convincing evidence that the gaming licensee and all qualifiers demonstrate the requisite integrity, honesty, good character and reputation.” (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>Leadership has (1) allocated sufficient resources for harassment prevention effort; (2) allocated sufficient staff time for harassment prevention effort; and (3) assessed harassment risk factors and has taken steps to minimize those risks (EEOC)</p>	<p><b>Appropriate Allocation of Resources:</b></p> <ul style="list-style-type: none"><li>• Throughout the Monitorship, EBH has experienced significant turnover in key roles, including in ER</li><li>• Over the last few months, EBH has made great strides in filling current vacancies in the HR function. Three Employee Relations Counselors and one Director were hired between February and May 2022. In December 2022, EBH hired a new VP Human Resources who brings both ER and labor relations experience in the gaming industry. One of these employees recently resigned and the Company is in the process of refilling the role.</li><li>• In 2021, Company onboarded a new VP of Diversity &amp; Inclusion tasked with developing a D&amp;I strategy for all North American Operations.</li></ul> <p><b>Appropriate Allocation of Time:</b></p> <ul style="list-style-type: none"><li>• The Company has created various standing meetings – at both EBH and WLV – focused on aspects of the HRCP critical to the Company’s harassment prevention efforts, for example:<ul style="list-style-type: none"><li>– ER personnel at EBH meet weekly to review ongoing investigations and leave and accommodation requests; ER personnel at WLV meet monthly to provide the Monitor Team with an overview of selected investigations</li><li>– HR, Legal, and Compliance personnel review investigations on a quarterly basis with the Compliance Committee</li><li>– The Company holds monthly Policy Review Committee meetings to review, assess, and enhance HRCP policies</li></ul></li></ul> <p><b>Assessment of Risk Factors:</b></p> <ul style="list-style-type: none"><li>• Since the Baseline Report, WRL Internal Audit has carried out HRCP risk assessment designed “to determine whether the policies and procedures Management has implemented provide an effective environment for the Company’s Human Resources Compliance Program.”</li><li>• Internal Audit reports its results annually to the Audit Committee and the Compliance Committee.</li></ul>

# Proper Authority, Oversight, and Independence

*“Wynn Resorts was a founder-led company... There are often complications implicit in that operating model, notably the concentration of power, as there were here. The reticence of those in positions of authority to push back against the founder is one such example...” (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>“Leadership must ensure that any team or coalition leading the effort to create a workplace free of harassment is vested with enough power and authority to make such change happen.” (EEOC)</p> <p>An effective compliance structure requires “those charged with a compliance program’s day-to-day oversight to act with adequate authority and stature.” (DOJ)</p>	<ul style="list-style-type: none"><li>• During the Monitorship, the Company has resourced HRCP-relevant functions, including, for example:<ul style="list-style-type: none"><li>– In January 2021, the Company onboarded a new Chief Global Compliance Officer tasked, in part, with reviewing all HR complaints and investigation results related to reports of harassment and discrimination and reporting on said investigations to the Compliance Committee.</li><li>– In June 2021, the Company appointed a new member of the Compliance Committee with substantive and substantial HR expertise.</li></ul></li><li>• In March 2021, the Company conducted an evaluation of resourcing of relevant HRCP-facing functions at EBH between March 2021 and the date of the Monitor’s Phase III Report.</li><li>• In December 2022, the Company completed review of HRCP-facing roles and responsibilities and updated relevant job descriptions.<ul style="list-style-type: none"><li>– As discussed on slide 15, the Company has made changes in staffing of the HR department at EBH.</li></ul></li></ul>



# Policies & Procedures (1/2)

*The Monitor shall assess implementation of and compliance with all HR policies that reflect current best practices. (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>DOJ guidance provides that an effective compliance program but include written policies and procedures that are clear and accessible. Specifically, the DOJ asks:</p> <ul style="list-style-type: none"><li>• What is the company's process for designing and implementing new policies and procedures and updating existing policies and procedures?</li><li>• What efforts has the company made to monitor and implement policies and procedures that reflect and deal with the spectrum of risks it faces, including changes to the legal and regulatory landscape?</li><li>• How has the company communicated its policies and procedures to all employees and relevant third parties? (DOJ)</li></ul> <p>Similarly, the EEOC advises that employers should adopt a robust anti-harassment policy, regularly train each employee on its contents, and vigorously follow and enforce the policy. (EEOC)</p> <p>An employer's policy should be written in clear, simple words, in all languages used in the workplace. (EEOC)</p>	<p><b>Design of Policies</b></p> <ul style="list-style-type: none"><li>• The Company has made significant enhancements to HRCP compliance policy landscape, including but not limited to:<ul style="list-style-type: none"><li>– Preventing Harassment and Discrimination Policy</li><li>– Code of Business Ethics</li><li>– Personal Relationships and Conflict of Interest Policy</li><li>– Employee Interaction with Guests and Third Parties Policy</li></ul></li><li>• The Company holds monthly Policy Review Committee meetings attended by stakeholders in gatekeeper functions, including Compliance, HR, and Legal to ensure that policies are periodically reviewed and enhanced.</li><li>• HRCP policies are also reviewed as part of Internal Audit's annual HRCP Risk Assessment.</li></ul> <p><b>Accessibility of Policies</b></p> <ul style="list-style-type: none"><li>• Policies remain accessible to employees via the Company's online portal, the Wire. The Wire is accessible to all employees via back of house kiosks.</li><li>• Printed versions of policies are also accessible to employees via their department managers.</li><li>• The Company intends to translate its Anti-Human Trafficking, Code of Business Conduct and Ethics, Employee Interaction with Guests and Third Parties, Personal Conduct Policy, Personal Relationships and Potential Conflicts of Interest, and Preventing Harassment and Discrimination policies and procedures into at least some of the languages spoken at its properties.</li><li>• The Company holds English as a Second Language (ESL) Courses to support employees whose first language is not English.</li></ul>

# Policies & Procedures (2/2)

*The Monitor shall assess implementation of and compliance with all HR policies that reflect current best practices. (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>The policy must be communicated on a regular basis to employees, particularly information on about how to file a complaint or how to report harassment that one observes, and how an employee who files a complaint or how to report harassment that one observes, and how an employee who files a complaint or an employee who reports harassment or participates in an investigation of alleged harassment will be protected from retaliation. (EEOC)</p>	<p><b>Communication of Policies</b></p> <ul style="list-style-type: none"><li>• The Company has taken a programmatic approach towards increasing awareness of key HRCP policies through year-long communication campaigns designed to reinforce themes from core policies:<ul style="list-style-type: none"><li>- Company leverages its employee engagement function to ensure ongoing communication of HRCP policies using creative channels in back of house, such as QR codes on napkin holders, posters, banners.</li><li>- The Company also highlights policies through “training corners” on daily WeShift newsletters.</li><li>- In 2021, the Company initiated Compliance Pop-up Events to showcase and incentivize awareness of core policies. These events include short quizzes and prizes to attract participation. The WRL General Counsel and former CEO attended events.</li></ul></li><li>• Policies featured include: Personal Relationships, Preventing Harassment and Discrimination, Code of Business Ethics.</li><li>• We have also seen examples of ER Counselors speaking to specific policies at Department WeShifts following specific incidents. For example, the Monitor Team learned that following an investigation into guest misconduct towards a table games employee, she reminded table games employees during a pre-shift to escalate guest misconduct. She also contacted the host responsible for the guest to ask that the host address the incident with the guest and set expectations for their behavior.</li></ul>

# Training & Guidance (1/3)

*“Regardless of how well-written a policy or protocol is, it is only meaningful if it is properly implemented and communicated by management.”  
(D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>The DOJ assesses the steps taken by a company to ensure that policies and procedures are integrated into the organization, including through periodic training and certification for all directors, officers, relevant employees, and agents and business partners. The DOJ assesses whether a company has tailored information to the audience’s size, sophistication, or subject matter expertise.</p> <ul style="list-style-type: none"><li>• Have supervisory employees received different or supplementary training?</li><li>• How is the company measuring the effectiveness of its training? (DOJ)</li></ul> <p>Compliance training should explain the consequences of engaging in conduct that is unacceptable in the workplace, including that corrective action will be proportionate to the severity of the conduct. (EEOC)</p> <p>Effective compliance trainings are those that are tailored to the specific realities of different workplaces. (EEOC)</p>	<p><b>Form and Content of Training</b></p> <ul style="list-style-type: none"><li>• The Company continues its annual compliance trainings on HRCP topics including harassment and discrimination, personal relationships and conflicts of interests, and employee interactions with guests and other third parties.</li><li>• New employees receive in-person compliance training conducted by the Executive Director, HR for WLV and Executive Director, Labor and Employment for EBH.</li><li>• The Company’s CGCO also provides an introductory in-person message at WLV and via video at EBH reinforcing the importance of compliance for onboarding employees at WLV.</li></ul> <p><b>Risk-Based and Supervisor/Manager Specific Training</b></p> <ul style="list-style-type: none"><li>• Wynn has also developed trainings tailored to its specific risk profile:<ul style="list-style-type: none"><li>– Employee Interaction with Guests and Other Third Parties policy and trainings targeting at-risk employees in the food and beverage department</li><li>– Diversity and inclusion training, which covers issues like implicit bias</li><li>– Human trafficking training addressing risks associated with the gaming and hospitality industry</li><li>– Training for security personnel on investigations of harassment and discrimination issues</li><li>– For employees with less proficiency in English, ESL classes are now being offered at both properties</li><li>– In 2022, WLV began a series of 90-minute leadership trainings conducted by the then-president of WLV. At EBH, the trainings are taught by the WRL COO.<ul style="list-style-type: none"><li>• Trainings address leader responsibility to set the right tone for employees and promote a respectful work environment.</li></ul></li></ul></li><li>• The Company conducts management training for newly promoted supervisors and above.<ul style="list-style-type: none"><li>– Training focuses on general management skills, but also addresses how to escalate potential policy violations or behavioral issues to ER, including conducting investigations for reports of non-harassment or discrimination allegations.</li></ul></li><li>• We understand that, in response to recommendations that training incorporate certain topics for managers and supervisors, the Company developed Performance Management 102.</li></ul>

# Training & Guidance (2/3)

*Regardless of how well-written a policy or protocol is, it is only meaningful if it is properly implemented and communicated by management. (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>Managers and supervisors need additional training if the employer wants to address conduct before it rises to the level of illegal harassment and wants to ensure compliance with employment non-discrimination laws. (EEOC)</p>	<p><b>Effectiveness of training</b></p> <ul style="list-style-type: none"><li>Starting in late 2022, the Company began providing employees iPads and other devices to facilitate the timely completion of trainings. The Company has also incentivized employees to prioritize the timely completion of training through raffles and prizes.</li><li>The Company has scheduled surveys in March 2023 and March 2024 to identify new training opportunities and conduct surveys to understand the effectiveness of training as part of its 2023 and 2024 HRCP Calendar.</li><li>As a newer initiative, the harassment and discrimination training is now followed by a knowledge check to inform training reinforcement decisions.</li></ul> <p><b>Board and Compliance Committee Training</b></p> <ul style="list-style-type: none"><li>The Decision and Order specifically mandates that the Monitor Team assess training programs for new and current members of the Board of Directors.</li><li>The Board of Directors and Compliance Committee receive annual anti-harassment and anti-discrimination training.</li><li>In August 2022, the Company provided HRCP and preventing harassment training to the Board of Directors. The training covers a variety of substantive topics including the Board's roles and responsibilities vis a vis the HRCP.</li></ul>

# Training & Guidance (3/3)

*Regardless of how well-written a policy or protocol is, it is only meaningful if it is properly implemented and communicated by management.  
(D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>Managers and supervisors need additional training if the employer wants to address conduct before it rises to the level of illegal harassment and wants to ensure compliance with employment non-discrimination laws. (EEOC)</p>	<p><b>ER Engagement and Outreach</b></p> <ul style="list-style-type: none"><li>• In the Baseline Report, the Monitor Team reported that employees at EBH and WLV considered ER at times to be inaccessible or slow to respond. The Company has not provided a data-based analysis of the use of the ER window but since the Baseline report, ER at both properties has made an increased effort to be more visible and accessible to employees with the goal of demonstrating that they are a resource to employees with questions and concerns.<ul style="list-style-type: none"><li>- ER counselors are assigned to support specific departments and routinely attend pre-shifts.</li><li>- ER employees participates in pop-up compliance events.</li></ul></li></ul>

# Third Party Relationships

*The Monitor is tasked with reviewing implementation of and compliance with all human resource or "HR" policies that reflect current best practices (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<ul style="list-style-type: none"><li>• Employer should provide a harassment-free environment for employees regardless of who the perpetrators of harassment may be (EEOC)</li><li>• Third party risks should be managed through a risk-based approach, including through policies and procedures that address the risks presented (DOJ)</li></ul>	<ul style="list-style-type: none"><li>• Since the Baseline, the Company has made significant progress in addressing risks presented by third parties, particularly patrons. For example, the Company:<ul style="list-style-type: none"><li>– Revised and rolled out an updated Employee Interaction with Guests and Other Third Parties Policy</li><li>– Developed a speak-up campaign focused on speaking up about patron misconduct</li><li>– Implemented training on management responsibilities with respect to patron misconduct</li><li>– Started communicating behavioral standards to patrons</li></ul></li><li>• The Company updated the Policy for Avoiding Conflicts of Interest with the Retention of Outside Counsel and Settlement Agreements, which addresses the potential for conflicts of interest with external counsel.</li><li>• Security trespass guidance was also further revised to align with the Employee Interaction with Guests and Other Third Parties Policy.</li><li>• The Company's Internal Audit department developed and implements an annual HRCP risk assessment.</li></ul>

# Internal Reporting and Investigation (1/2)

*The Monitor is tasked with reviewing the adequacy of internal reporting and communication channels through the Company and their alignment with up-to-date organizational charts and reporting structures and the implementation of and compliance with all human resource or "HR" policies that reflect current best practices (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>Employees who receive harassment complaints must take the complaints seriously.</p> <p>The reporting system must provide timely responses and investigations.</p> <p>The system must provide a supportive environment where employees feel safe to express views and do not experience retribution.</p> <p>The system must ensure that investigators are well-trained, objective, and neutral, especially where investigators are internal company employees.</p> <p>The privacy of both the accuser and the accused should be protected to the greatest extent possible consistent with legal obligations and conducting a thorough, effective investigation</p> <p>Investigators should document all steps taken from the point of the first contact, prepare a written report using guidelines to weigh credibility, and communicate the determination to all relevant parties. (EEOC)</p>	<p><b>Investigation process</b></p> <ul style="list-style-type: none"><li>• The Company has enhanced its Investigation Policy to include clearer guidance and structure for investigators, specifically on intake and routing of reports, conflicts of interest, and substantive guidance on investigative steps, including credibility assessments.<ul style="list-style-type: none"><li>– The Monitor has observed application of these investigation principles through case review meetings, held weekly as part of the regular course of business in Boston and held monthly in Las Vegas to allow the Monitor team to observe the new procedures in practice.</li></ul></li><li>• Corporate Security defined and standardized the classification of incidents related to harassment and discrimination to ensure consistency of tracking and reporting.</li></ul> <p><b>Effectiveness of reporting mechanism</b></p> <ul style="list-style-type: none"><li>• In March 2021, the Company rolled out a new reporting platform giving the Company enhanced capabilities to track and run reports.</li><li>• At the same time, the Company implemented communication campaigns to promote the new reporting channel, including the ability to make anonymous reports, and to reinforce a speak-up culture<ul style="list-style-type: none"><li>– The Company has also developed a communications calendar for 2023 and 2024 that reflects plans for continuing messaging</li></ul></li><li>• Surveys and focus groups conducted by the Monitor Team in 2021 and by the Company in 2022 reflect that most employees are comfortable speaking up and trust the anonymous reporting channel.</li><li>• The Monitor Team has observed ongoing use of the Company's reporting mechanism across both properties, including anonymous reporting.</li></ul>

# Internal Reporting and Investigation (2/2)

*The Monitor is tasked with reviewing the adequacy of internal reporting and communication channels through the Company and their alignment with up-to-date organizational charts and reporting structures and the implementation of and compliance with all human resource or "HR" policies that reflect current best practices (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>Another hallmark of a well-designed compliance program is the existence of an efficient and trusted mechanism by which employees can anonymously or confidentially report allegations of a breach of the company's code of conduct, company policies, or suspected or actual misconduct. The DOJ assess:</p> <ul style="list-style-type: none"><li>• Whether the company's complaint-handling process includes proactive measures to create a workplace atmosphere without fear of retaliation, appropriate processes for the submission of complaints, and processes to protect whistleblowers.</li><li>• The company's process for handling investigations of such complaints, including the routing of complaints to proper personnel, timely completion of thorough investigations, and appropriate follow-up and discipline. (DOJ)</li></ul>	<p><b>Investigator qualifications</b></p> <ul style="list-style-type: none"><li>• The Company has demonstrated increased focus on developing investigations skills of ER personnel.<ul style="list-style-type: none"><li>– For example, in February 2022, developed and rolled out training for investigators based on the new Investigations Policy.</li></ul></li></ul>



# Risk-Based Review

*While there is evidence of the reformed and improved business practices, more is required, and close monitoring will be necessary to ensure that there always remains clear and convincing evidence that sound business practices are in place to help ensure the Company workforce is provided with a safe environment. (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>The starting point for evaluation of whether a company has a well-designed compliance program is to understand the company's business from a commercial perspective, how the company has identified, assessed, and defined its risk profile, and the degree to which the program devotes scrutiny and resources to the spectrum of risks.</p> <ul style="list-style-type: none"><li>• What methodology has the company used to identify the particular risks it faces?</li><li>• What information or metrics has the company collected and used to help detect the type of misconduct in question?</li><li>• How have the information or metrics informed the company's compliance program? (DOJ)</li></ul> <p>Workplace conditions that may indicate harassment is more likely to occur include workplaces where there is alcohol consumption, significant power disparities, cultural and language differences, a reliance on customer service or client satisfaction, and isolated areas (EEOC)</p>	<ul style="list-style-type: none"><li>• In September 2022, Internal Audit completed its third annual HRCR Risk Assessment, which is submitted to the Compliance Committee and the Audit Committee for review.<ul style="list-style-type: none"><li>– The HRCR Risk Assessment continues to analyze program elements and utilize qualitative and quantitative principles to classify employee groups into high, medium, and low risk categories.</li><li>– Following the initial risk assessment, subsequent assessments have incorporated comments on changes to the risk environment and a trending analysis that tracks changes in employee group risk rankings. For 2022, the trending analysis shows the percentage of employees classified as high risk is trending down.</li></ul></li><li>• Since the Phase III Report, the Security Department has formalized its physical security risk assessment procedures, including the analysis of incident reports and the inspection of new venues, in policy language.</li></ul>

# Monitoring & Testing

*While there is evidence of the reformed and improved business practices, more is required, and close monitoring will be necessary to ensure that there always remains clear and convincing evidence that sound business practices are in place to help ensure the Company workforce is provided with a safe environment. (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>A company's business changes over time, as do the environments in which it operates, the nature of its customers, the laws that govern its actions, and the applicable industry standards. Accordingly, the DOJ should consider whether the company has engaged in meaningful efforts to review its compliance program and ensure that it is not stale.</p> <ul style="list-style-type: none"><li>• Has the company reviewed and audited its compliance program in the area relating to the misconduct?</li><li>• How often has the company updated its risk assessments and reviewed its compliance policies, procedures, and practices?</li><li>• Has the company undertaken a gap analysis to determine if particular areas of risk are not sufficiently addressed in its policies, controls, or training? (DOJ)</li><li>• Systems must be periodically tested to ensure that they are effective. (EEOC)</li><li>• Employers should conduct climate surveys to assess to which harassment is a problem in their organization (EEOC)</li><li>• Employers should periodically 'test' their reporting system to determine how well the system is working (EEOC)</li></ul>	<ul style="list-style-type: none"><li>• The Compliance Committee engages in a quarterly review of all harassment and discrimination investigations.</li><li>• The WRL General Counsel and EVP of HR have begun to report data related to harassment and discrimination reports received by the Company, allowing the Committee to analyze trends.</li><li>• The Company has also begun to design and implement annual focus groups to test the effectiveness of the program.</li><li>• However, the Company has not developed a plan to identify – on an ongoing basis – the type of data necessary to test the effectiveness of its HRCP and to facilitate continuous improvement of the same.</li></ul>

# Controls Environment

*The Monitor is tasked with review of use of retractions, mandatory arbitration provisions, gag orders, confidentiality clauses, and non-disparagement provisions of all employees, with particular attention to the use of such measures and their impact on non-executive employees. (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>An effective compliance program includes a controls environment “designed to assure management’s control, authority, and responsibility” over the Company’s assets. (DOJ)</p> <p>“An effective compliance program contains a number of components that may overlap with a critical component of” a company’s controls environment. (DOJ)</p>	<ul style="list-style-type: none"><li>• The Company has made several enhancements to its controls environment to mitigate the risk of recurrence of the circumstances that enabled settlement agreements for payments to alleged victims with structures designed to conceal the source of and reason for the payment. Such enhancements include adoption of policies related to the retention of outside counsel and review and approval of settlement agreements.</li><li>• As matter of policy, the Company’s separation agreements must exclude harassment, discrimination, retaliation claims from mandatory arbitration provisions.</li><li>• Based on interviews, the Company appears to be implementing a cross-functional review of separation agreements and settlements.</li><li>• The Company has also enhanced its Personal Relationships Policy to require disclosure of personal relationships between employees and third parties and has defined a process for the review and evaluation of disclosures by HR, Legal, and Compliance.</li><li>• Based on interviews and documentation provided by the Company, the Monitor has seen evidence that the Company is reviewing and addressing conflicts of interests disclosed at both EBH and WLV, including in at least one-instance by a senior leader at EBH.</li></ul>

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# DEVELOPING AREAS OF WYNN'S HRCP



# Culture of Compliance and Conduct at the Top

*“Reform is ‘a state of mind’ that must be manifested by some external evidence”.... “While there is evidence of such reform, more is required... to ensure that there always remains clear and convincing evidence that the gaming licensee and all qualifiers demonstrate the requisite integrity, honesty, good character and reputation.” (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<ul style="list-style-type: none"><li>• An effective compliance program requires a high-level commitment by company leadership to implement a culture of compliance from the middle and the top. The company’s top leaders – the board of directors and executives – set the tone for the rest of the company. (DOJ)</li><li>• “The importance of leadership cannot be overstated – effective harassment and prevention efforts, and workplace culture in which harassment is not tolerated, must start with and involve the highest level of management of the company.” (EEOC)</li><li>• As to the Board of Directors, the independent monitor shall assess the structure and effectiveness of the Compliance Committee (and related Compliance Program and Plan), the Audit Committee, and training programs for new and current members. (Decision and Order)</li></ul>	<ul style="list-style-type: none"><li>• All Senior Executives and Board members have expressed individual commitments to ensuring the welfare, safety, and security of Wynn employees.<ul style="list-style-type: none"><li>– Senior Executives at both properties have made public statements and acted in support of Wynn’s anti-harassment and discrimination policies.</li><li>– In August 2022, the Board formally acknowledged “the importance of a [sic] maintaining a robust human resources compliance program...” in meeting minutes as part of a resolution regarding oversight of Wynn’s HRCP.</li></ul></li><li>• However, the handling of two recent investigations into allegations implicating [REDACTED] and subsequent comments made to the Monitor reflect a narrow interpretation of certain key policies, and the opportunity for the Company to continue to expand its understanding of the compliance principles that underlie the HRCP.</li><li>• Interviewees have reported hearing [REDACTED] at the Company make comments that call into question their individual commitment to the program. The Company is aware of these alleged statements and is investigating them.</li><li>• Going forward it will be important for all leaders to demonstrate that they have internalized the compliance principles on which the HRCP is based.</li></ul>

# Proper Authority, Oversight, and Independence (1/2)

*“Wynn Resorts was a founder-led company... There are often complications implicit in that operating model, notably the concentration of power, as there were here. The reticence of those in positions of authority to push back against the founder is one such example...” (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<ul style="list-style-type: none"><li>• “Leadership [shall] ensure that any team or coalition leading the effort to create a workplace free of harassment is vested with enough power and authority to make such change happen.” (EEOC)</li><li>• An effective compliance structure requires “those charged with a compliance program’s day-to-day oversight to act with adequate authority and stature.”(DOJ)</li><li>• On the topic of oversight, the DOJ asks: “What compliance expertise has been available on the board of directors? Have the board of directors and/or external auditors held executive or private sessions with the compliance and control functions? What types of information has the board of directors and senior management examined in their exercise of oversight in the area in which the misconduct occurred?” (DOJ)</li></ul>	<p><b>Compliance Committee Responsibilities</b></p> <ul style="list-style-type: none"><li>• Wynn’s Compliance Plan establishes the Compliance Committee “to oversee procedures to enhance the likelihood that no activities of the Company... would impugn the reputation and integrity of the Company, any of the specific jurisdictions in which the Company maintains gaming operations, or the gaming industry in general.”</li><li>• The Compliance Plan generally tasks the Compliance Committee with:<ul style="list-style-type: none"><li>– Ensuring compliance with applicable laws;</li><li>– “Performing background investigations with respect to employees, directors, vendors, and others providing services to the Company;</li><li>– Performing background investigations with respect to proposed transactions and associations; and</li><li>– Protecting against unethical or unlawful behavior by employees.”</li><li>– The Compliance Plan does not contemplate specific responsibilities related to HRCP, though the Compliance Committee undertook those responsibilities as part of the Company’s efforts to strengthen its HRCP.</li></ul></li><li>• The Compliance Committee responsibilities have now been memorialized by Board resolution:<ul style="list-style-type: none"><li>– The August 2022 Board Resolution tasks the Compliance Committee with oversight of HRCP, including assessment of HRCP resources, which Compliance Committee members view as an additional oversight role.</li><li>– Interviewees expressed surprise regarding the Board’s August resolution and uncertainty about whether they were appropriately positioned to carry out certain of the responsibilities set forth in the resolution.</li></ul></li><li>• In February 2023, the Board issued a new Resolution further clarifying Compliance Committee authority and confirm the Board’s ongoing oversight roles, noting that the delegation does not alter the responsibilities of key HRCP gatekeepers from their own obligations to report HRCP issues to the Audit Committee or Board.</li><li>• Also in February 2023, the Board adopted amended Corporate Governance Guidelines developed by the Nominating and Corporate Governance Committee. The Guidelines “reflect the Board’s commitment to monitor the effectiveness of policy and decision-making both at the Board and management level...”</li></ul>

# Proper Authority, Oversight, and Independence (2/2)

*“Wynn Resorts was a founder-led company... There are often complications implicit in that operating model, notably the concentration of power, as there were here. The reticence of those in positions of authority to push back against the founder is one such example...” (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p><i>Continued from previous slide</i></p>	<ul style="list-style-type: none"><li>- The amended Guidelines now explicitly reflect that Board meetings will include “reports from each of the Board committee and the Compliance Committee” and, specify that “a board [sic] member serving as ex officio member of the compliance committee [sic] will review matters considered by that committee.”<ul style="list-style-type: none"><li>• Formalizing reports of the Compliance Committee to the Board increases the likelihood that the current practice will continue beyond the current Board and beyond the Monitorship.</li></ul></li></ul> <p><b>Chief Global Compliance Officer</b></p> <ul style="list-style-type: none"><li>• The CGCO is tasked with the administration and management of the Company’s Compliance program.</li><li>• During this phase, the Monitor has observed an increase in the CGCO’s engagement with the Compliance Committee and certain Board members.</li><li>• In April 2022, the Compliance Committee discussed the independence of the Company’s compliance organization and CGCO role structurally and functionally with the current CGCO.</li><li>• To provide for the Compliance Committee’s greater oversight of the CGCO, the Company has since updated its Compliance Plan to reflect that the CGCO continues to have reporting lines to the WRL General Counsel, who will conduct the CGCO’s annual evaluation and share the evaluation with the Compliance Committee for its consultation. The General Counsel will also review any bonus or stock award designated for the CGCO with the Compliance Committee.</li><li>• Additional changes to the Compliance Plan include:<ul style="list-style-type: none"><li>- Requirement that the CGCO meet with the CEO “on a periodic basis, but not less than quarterly ... to apprise the CEO of matters arising under the Plan...”</li><li>- Requirement that the GC present a quarterly report to the CGCO summarizing all material settlements made by the Company in the prior quarter. Importantly, the report will include settlements of any material litigation or HR complaint as well as any employment agreement in excess of Company policies and procedures.</li></ul></li></ul>

# Training & Guidance

*Regardless of how well-written a policy or protocol is, it is only meaningful if properly implemented and communicated by management. (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>Assessment of whether the company has relayed information in a manner tailored to the audience's size, sophistication, or subject matter expertise, and how the company measures the effectiveness of its training curriculum. (DOJ)</p> <p>Trainings should be supported at the highest levels, conducted, and reinforced on a regular basis for all employees, conducted by qualified, live, and interactive trainers, and routinely evaluated (EEOC)</p> <p>Assessment of training programs for new and current members of the Board of Directors. (Decision and Order)</p>	<ul style="list-style-type: none"><li>• The Company recently developed a 2023 and 2024 HRCP Calendar that includes testing of training through annual surveys.</li><li>• While this is the type testing that will help evaluate the effectiveness of the Company's training program, the Company should continue to develop procedures to periodically test and effectiveness of trainings and incorporate feedback into future trainings.</li><li>• Opportunities remain for the Company to take a systematic approach towards the maturity and long-term sustainability of its training program.</li></ul>



# Internal Reporting & Investigations

*The Monitor is tasked with reviewing the adequacy of internal reporting and communication channels through the Company and their alignment with up-to-date organizational charts and reporting structures and the implementation of and compliance with all human resource or "HR" policies that reflect current best practices (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<p>Another hallmark of a well-designed compliance program is the existence of an efficient and trusted mechanism by which employees can anonymously or confidentially report allegations of a breach of the company's code of conduct, company policies, or suspected or actual misconduct. The DOJ assesses:</p> <ul style="list-style-type: none"><li>• Whether the company's complaint-handling process includes proactive measures to create a workplace atmosphere without fear of retaliation, appropriate processes for the submission of complaints, and processes to protect whistleblowers.</li><li>• The company's process for handling investigations of such complaints, including the routing of complaints to proper personnel, timely completion of thorough investigations, and appropriate follow-up and discipline.(DOJ)</li></ul> <p>The Monitor shall assess the:</p> <ul style="list-style-type: none"><li>• Adequacy of internal reporting and communication channels through the Company and their alignment with up-to-date organizational charts and reporting structures. (D&amp;O)</li></ul>	<ul style="list-style-type: none"><li>• In November 2021, the Company enacted an enhanced Investigations Policy, including guidance on routing complaints. The Monitor has observed consistent application of the Policy to line employees and mid-level managers.</li><li>• At the same time, the Monitor has observed missteps in the investigation process followed for two sets of allegations [REDACTED]:<ul style="list-style-type: none"><li>– The implicated [REDACTED] was notified of allegations outside of the investigations process.</li><li>– The investigations were conducted in-house, which a narrow interpretation of the Investigations Policy allows. However, in one case, the investigation was conducted solely by an individual that [REDACTED].</li></ul></li><li>• The Company has recently updated the Investigations Policy to remove the discretion to decide whether to engage outside counsel to investigate certain allegations against [REDACTED].</li></ul>

# Incentives & Discipline

*The Monitor is tasked with reviewing implementation of and compliance with all human resource or "HR" policies that reflect current best practices (D&O)*

COMPLIANCE GUIDANCE	OBSERVATIONS AND ASSESSMENT OF WORK COMPLETED
<ul style="list-style-type: none"><li>• Employer should make clear that it will undertake immediate and appropriate corrective action, including discipline, whenever it determines that harassment has occurred in violation of the employer's policy. (EEOC)</li><li>• Assessment of whether company has considered the implications of its incentives and rewards on compliance, how it incentivizes ethical and compliant behavior, and whether there have been specific examples taken as a result of compliance and ethics considerations? (DOJ)</li><li>• Assessment of who determines compensation, including bonuses, as well as discipline and promotion of compliance personnel (DOJ)</li></ul>	<ul style="list-style-type: none"><li>• As observed in the Baseline Assessment, the Company has not historically operated a performance management program or annual evaluation system, making it difficult to institutionally incentivize behaviors. At the end of 2022, the Company began to pilot a performance management program for high-level management. The Monitor understands the performance management system will be rolled out to the rest of the employee base this year.<ul style="list-style-type: none"><li>– Employees will be evaluated based on five goals, including the ability to exhibit the Company's culture and values.</li></ul></li><li>• The Company has made enhancements to its Employee Recognition Program Policy, known as STARS, by including recognition for compliant behavior. Based on interviews with relevant personnel, the Company has set forth minimum quotas across departments for all employee nominations to drive recognition.</li></ul>

# Next Steps

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- Overall, the Company has made meaningful progress in the design and implementation of key aspects of its HRCP
  - Many of these elements are maturing and the Company should be commended for its efforts
- Recent engagement by the CEO with the Monitor's feedback reflects the level of leadership and engagement that has been expected and provides an opportunity for the Company to deliver on its commitment and on the MGC's expectations
- The Company's success will turn on the Company internalizing and living by the values and the principles that underlie the elements of the HRCP

# Questions?

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May 7, 2023

Massachusetts Gaming Commission  
101 Federal Street, 12th Floor  
Boston, MA 02110

Re: Wynn Resorts, Limited and Wynn MA, LLC's Response to WYNN RESORTS, LIMITED AND WYNN MA, LLC INDEPENDENT COMPLIANCE MONITOR PHASE IV REPORT dated May 8, 2023 ("the "Monitor's Report" or the "Report")

Dear Chair and Commissioners:

Wynn Resorts, Limited and Wynn MA, LLC (collectively, the "Company" or "we") provide the following limited comments regarding the Monitor's Report.

We are pleased that the Monitor recognizes the Company's "significant investment in developing an HRCP that not only responds to the Monitor's recommendations, but also addresses many of the issues underlying the MGC's Decision and Order." The Company always seeks improvement and genuinely appreciates the Monitor's observations that enhance that improvement. However, the Company disagrees with the characterization of certain observations in the Report and with the broad generalizations and inferences drawn that the Company lacks a full understanding of the principals underlying the HRCP. The Company's significant investment since 2018 in developing its HRCP, and its approach to adopting recommendations and taking to heart the Monitor's observations in real time, is evidence that the Company not only has best in class policies and procedures but that the principals behind the HRCP are embedded in the Company's culture.

We will continue to work collaboratively with the Monitor team along with our outside counsel to address developing areas collaboratively. Thank you for the opportunity to provide these brief comments and maintaining an open dialogue regarding our shared goals.

Sincerely,

A handwritten signature in black ink that reads "Ellen J. Whitemore".

Ellen Whitemore  
EVP, General Counsel and Secretary  
Wynn Resorts, Limited

A handwritten signature in black ink that reads "Jacqui Krum".

Jacqui Krum  
SVP, General Counsel and Secretary  
Wynn MA, LLC

Massachusetts Gaming Commission

May 8, 2023

Page 2

Cc: Kim West, Esq.  
Ashcroft Sullivan, LLC

Jed Nosal, Esq.  
Womble Bond Dickinson (US) LLP



TO: Chair Cathy Judd-Stein  
Commissioner Bradford R. Hill  
Commissioner Jordan Maynard  
Commissioner Eileen M. O'Brien  
Commissioner Nakisha L. Skinner

FROM: Sterl Carpenter – Sports Wagering Operations Manager

CC: Karen Wells – Executive Director  
Bruce Band – Sports Wagering Division Director

DATE: May 3, 2023

RE: Petition to add NRX to the event catalog

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Under 205 CMR 247.03 the Commission reviews all petitions for a new Sporting Event or Wager Category. US Integrity has provided a petition requesting that NRX (Nitro Rallycross) be added as a sporting event in the event catalog. A summary of the petition is below, followed by the petition submitted by US Integrity in Appendix A.

Nitro Rallycross (Nitro RX, abbreviated to NRX) is an American rallycross racing series. Created by rallycross driver Travis Pastrana and the Nitro Circus production in 2018, its inaugural season began in 2021. The championship is sanctioned by the United States Auto Club (Wikipedia).

**United States Auto Club (USAC)** is the third-party sanctioning body that oversees all Nitro Rallycross races. Nitro Rallycross attests that it has worked closely with **USAC** to ensure all rules, regulations, and race sanctioning is best in class to not only ensure a seamless introduction for sports betting, but also set the standards of a top tier professional motorsports series.

USAC is not aware of the status of this specific request but knows that sports wagering has been offered on Nitro Rallycross over the past year and that the series continues to seek additional state approvals.

US Integrity was asked if any current operators in the Commonwealth were interested in offering this event in Massachusetts. US Integrity stated that **DraftKings**, Betfred, Bet365 and several other operators have offered wagering on Nitro Rallycross over the past 8 months since the series formally launched sports betting.



*Sports Wagering Division*

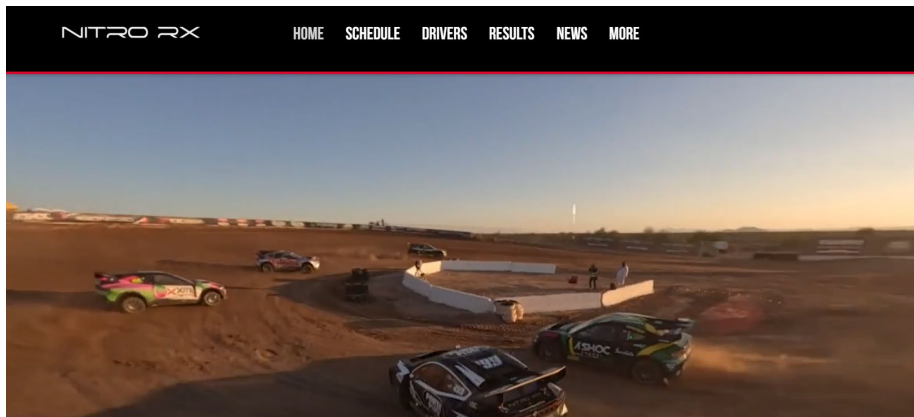
There is no player's association for Nitro Rallycross, but all teams, drivers, and staff have been notified that sports wagering is offered on Nitro Rallycross. The series has implemented integrity policies into the rules and regulations, have engaged US Integrity as an integrity monitoring partner, and put all teams through an education course for everyone to understand the league's no gambling policies and the negative consequences that could come with violating them.

Nitro Rallycross has worked closely with US Integrity and its data partner, Alt Sports Data, to introduce sports betting to the series. Together they have approached state regulatory bodies for approval, as well as operators that are interested in offering the markets. USAC is also aware of the sports betting initiatives and is aligned with the series on implementing the necessary checks and balances to ensure no foul play or that any issues arise from wagering.

During the review of the petition the Sports Wagering Division found the petitioner answered and met the requirements of 247.03. There are no concerns with this request as presented at this time. This event is similar to others found in the *Motorsports* tab of the event catalog. USAC is an approved governing body in this section. If approved this would be added to the other eight (8) approved leagues.

**Link:**

<https://www.nitrorallycross.com/> - Nitro Rally Cross



**Appendix A:**

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**Full submissions from US Integrity (below):**





*Sports Wagering Division*

247.03: Petition for a Sporting Event or Wager Category - NRX

(1) Any Person may petition the Commission for approval of a new Sporting Event or Wager Category. [U.S. Integrity](#)

(2) A proposed new Sporting Event or Wager Category may be a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category. [New Sporting Event](#)

(3) A petition for a proposed new Sporting Event or Wager Category shall be in writing and must include, at a minimum, the following information:

(a) The name(s) and address(es) of petitioner(s);

[2470 St. Rose Pkwy, #214](#)

[Las Vegas, NV 89074.](#)

[702-522-9545](#)

[USIntegrity.com](#)

(b) The name of the Sporting Event or Wager Category;

[Nitro Rallycross "NRX"](#)

(c) Whether the Sporting Event or Wager Category is a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category;

[New Sporting Event](#)

(c) The name of any Sports Wagering Operator sponsoring the petition;

[None at this time](#)

(e) A complete and detailed description of the Sporting Event or Wager Category for which approval is sought, including:

1. A summary of the Sporting Event or Wager Category and the



*Sports Wagering Division*

manner in which Sports Wagers would be placed and winning Sports Wagers would be determined;

Founded in 2021, Nitro Rallycross (“Nitro RX”) is looking to revolutionize motorsports with cars that fly across 100 foot gap jumps, featuring the biggest personalities on purpose-built tracks. It’s the most entertaining and innovative series on four wheels. Season 1 was broadcasted on NBC’s family of networks along with 150+ countries internationally. “Rallycross” is a form of sprint style automobile racing using modified street cars. It’s held on a closed circuit and raced on a variety of surfaces (dirt, gravel, snow, sand, etc.). The sport has been around for 55 years after being founded in Great Britain in 1967.

Wager Types:

Moneyline:

- Race winner
- Top 3 finish
- Top 5 finish
- Podium trifecta
- Final position head-to-head driver matchups
- Margin of victory
- Driver with the fastest main route lap time
- Driver with the fastest joker lap time – The joker lap is a traditional feature on rallycross circuits.

Each course is equipped with two routes: the main route, and the joker lap route, with each driver forced to take the joker lap once (and only once) per race. The joker lap route either shortens or lengthens the lap distance depending on the track. This forces drivers to make strategic decisions about when to take it throughout the course of the race.

- Finals heat pole position
- Qualifying day results
- Qualifying day head-to-head driver matchups



*Sports Wagering Division*

Futures on end of season results:

- Series champion
- Top 3 finish
- Top 5 finish

Over/Unders –

- Number of lead changes in Finals

2. A draft of the proposed House Rules, including a description of any technology that would be utilized to offer Sports Wagering on the Sporting Event or Wager Category;

N/A

3. Any rules or voting procedures related to the Sporting Event or Wager Category;

There is an in-depth rulebook that governs the series, teams and drivers (sporting regulations, technical regulations, commercial regulations), with the rules ultimately being governed by an independent third-party. (USAC)

From a competitive standpoint, the driver lineup includes some of the most successful athletes in motorsports & action sports.

- Travis Pastrana – action sports icon
- Chase Elliot – 2020 NASCAR Cup Series Champion
- Kyle Busch – 2015 & 2019 NASCAR Cup Series Champion
- Jensen Button – former F1 World Champion

End-to-end production is handled by Thrill One’s event operation team, which has countless years of experience producing and managing best-in-class action sports and motorsports events (e.g., Street League Skateboarding, X Games, Dew Tour, many more).

4. Assurance that the Sporting Event or Wager Category meets the requirements of 205 CMR 247.03(4);



*Sports Wagering Division*

The Nitro Rallycross website and social media channels are the primary source of this information. We have

paid media outlets (out-of-home, radio, TV, etc.), organic editorial coverage, and email communication that also shares this information.

5. Whether and to what extent the outcome of the Sporting Event or Wager Category is determined solely by chance;

Nitro Rallycross is run under the auspices of a third-party sanctioning body – the United States Auto Club

(“USAC”) – which provides a Race Director Secretary, Chairman of the Stewards and two Stewards. The Race

Director and/or Clerk of the Course are responsible for the application of the series competitive regulations.

(f) If the proposed Sporting Event or Wager Category is based on eSports activities, complete information about: **Not Applicable**

1. The proposed location(s) of the eSports event(s);
2. The video game used for the eSports event, including, without limitation, the publisher of the video game;
3. The eSports event operator, whether the eSports event operator is approved to host events by the video game publisher, and whether the eSports event operator has any affiliation with the video game publisher;
4. The manner in which the eSports event is conducted by the eSports event operator, including, without limitation, eSports event rules and certification from a third party, such as an eSports event operator or the game publisher, that the eSports event meets the Commission’s event integrity requirements;

(g) The name of any Sports Governing Body or equivalent organization, as



*Sports Wagering Division*

authorized by the Commission;

The Championship and each of its Events are governed by USAC in accordance with the series regulations.

Any breach of the rules may be penalized, and penalties are determined by the gravity of the violation and its

effect on the fairness of competition, the orderly conduct of the event, and the interest of rallycross racing.

Penalties include (but are not limited to) a fine, disqualification, loss of points, and/or loss of finishing position.

All vehicles must be presented to scrutineering checks prior to competition.

(h) To the extent known by the petitioner(s), a description of policies and procedures regarding event integrity;

U.S. Integrity has been contracted to handle Monitoring of both wagering and event activity.

Implemented policies whereby Nitro Rallycross teams and athletes are not allowed to wager on Nitro Rallycross in any way.

Implemented policies whereby Thrill One/Nitro Rallycross employees are not allowed to wager on Nitro Rallycross in any way.

Any other information or material requested by the Bureau or Commission.

None at this time

(4) The Commission shall not grant the petition and authorize the Sporting Event or

Wager Category unless the following minimum criteria are met:

(a) The outcome can be verified;

Nitro Rallycross is broadcast in over 150 countries while also having 24/7 social media coverage (primarily on Instagram and YouTube). We ensure that all of our fans, whether viewers at home or ticket buyers on-site, have the latest information and can properly tune in.

(b) The Sporting Event generating the outcome is conducted in a manner that ensures sufficient integrity controls exist so the outcome can be trusted;

Described in Section (h) above as well as in section (g)



*Sports Wagering Division*

(c) The outcome is not likely to be affected by any Sports Wager placed; and All athletes are professional so they are less incentivized to be influenced to perform poorly due to the fact they are compensated more based on their performance. As well all athletes complete a E-learning module provided by U.S. Integrity to educate them to not bet on their events.

(d) The Sporting Event is conducted in conformity with all applicable laws.

The athletes sign contracts with strict Code of Conduct language. With anti-gambling language included in the documentation they sign.

(5) The Commission will consider the request, all provided materials, and any relevant input from the Sports Governing Body or the conductor of the Sporting Event prior to authorizing a Sporting Event or Wager Category.

***Currently in application phase.***

(6) In its sole discretion, the Commission may require an appropriate test or experimental period, under such terms and conditions as the Commission may reasonably require, before granting final approval to a Sporting Event or Wager Category.

***Undetermined at this time.***

(7) In its sole discretion, the Commission may subject any technology that would be used to offer a Sporting Event or Wager Category to testing, investigation, and approval.

***Undetermined at this time.***

(8) The Commission may grant, deny, limit, restrict, or condition a request made pursuant to this rule, and may revoke, suspend, or modify any approval granted under this rule.

***Undetermined at this time.***

(9) The Commission shall notify all Sports Wagering Operators of any changes to authorized Sporting Events and Wager Categories.

***Not approved yet***



*Sports Wagering Division*

(10) The Commission may prohibit the acceptance of any Sports Wagers, and may order the cancellation of Sports Wagers and require refunds on any Sporting Event or Wager Category, for which wagering would be contrary to the interests of the Commonwealth.

***Not approved yet***

(11) If a Sports Wagering Operator offers an unauthorized or prohibited Sporting Event or Wager Category, the Sports Wagering Operator must immediately cancel and refund all Sports Wagers associated with the unauthorized or prohibited Sporting Event or Wager Category. The Sports Wagering Operator must notify the Commission promptly after cancelling and refunding the Sports Wagers.

**Not applicable during review**

(12) The Commission may use any information it considers appropriate, including, but not limited to, information received from a Sports Governing Body, in determining whether to authorize or prohibit wagering on a particular Sporting Event or Wager Category.

**Initial phase currently**



*Sports Wagering Division*

TO: Chair Cathy Judd-Stein  
Commissioner Bradford R. Hill  
Commissioner Jordan Maynard  
Commissioner Eileen M. O'Brien  
Commissioner Nakisha L. Skinner

FROM: Sterl Carpenter – Sports Wagering Operations Manager

CC: Karen Wells – Executive Director  
Bruce Band – Sports Wagering Division Director

DATE: May 3, 2023

RE: Petition to add Magic City Jai-Alai to the event catalog

---

Under 205 CMR 247.03 the Commission reviews all petitions for a new Sporting Event or Wager Category. US Integrity has provided a petition requesting that **Magic City Jai-Alai** be added as a sporting event in the event catalog. A summary of the petition is below, followed by the petition submitted by US Integrity in Appendix A.

**Jai alai** (/ˈhaɪ.əlaɪ/; [ˈxai aˈlai]) is a sport involving bouncing a ball off a walled-in space by accelerating it to high speeds with a hand-held wicker cesta. It is a variation of Basque pelota. The term jai alai, coined by Serafin Baroja in 1875, is also often loosely applied to the fronton (the open-walled playing area) where matches take place. The game, whose name means "merry festival" in Basque, is called cesta-punta ("basket tip") in the Basque Country. The sport is played worldwide, but especially in Spain, France, and in various Latin American countries (Wikipedia).

The petitioner attests that the licensing of personnel and FBI background checks are overseen by the State of Florida. Their league play is overseen by The **World Jai Alai League**. They have placed their league rules in their petition. As the governing body, they have been informed of this request.

The petitioner has stated that several operators have expressed interest in offering this event if approved in the Commonwealth. There is no player's association, but each player signs a contract with strict Code of Conduct language.

During the review of the petition the Sports Wagering Division found the petitioner answered (in great detail) and met the requirements of 247.03. There are no concerns with this request as presented at this time. Recently BetRivers has offered this exclusively, but Magic City Casino has negotiated out of that deal. Jai-Alai has been offered as a pari-mutuel event in the





*Sports Wagering Division*

past throughout the United States. If approved this would be a new event added to the event catalog.

**Link:**

<https://www.facebook.com/watch/?v=885035718858094> Jai-Alai



**Appendix A:**

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**Full submissions from US Integrity (below):**

247.03: Petition for a Sporting Event or Wager Category - Magic City Jai-Alai

(1) Any Person may petition the Commission for approval of a new Sporting Event or Wager Category. [U.S. Integrity](#)

(2) A proposed new Sporting Event or Wager Category may be a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category. [New Sporting Event](#)



*Sports Wagering Division*

(3) A petition for a proposed new Sporting Event or Wager Category shall be in writing and must include, at a minimum, the following information:

- (a) The name(s) and address(es) of petitioner(s);  
2470 St. Rose Pkwy, #214  
Las Vegas, NV 89074.  
702-522-9545  
USIntegrity.com
- (b) The name of the Sporting Event or Wager Category;  
Magic City Jai-Alai
- (c) Whether the Sporting Event or Wager Category is a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category;

**New Sporting Event**

- (c) The name of any Sports Wagering Operator sponsoring the petition;  
None at this time
- (e) A complete and detailed description of the Sporting Event or Wager Category for which approval is sought, including:

- 1. A summary of the Sporting Event or Wager Category and the manner in which Sports Wagers would be placed and winning Sports Wagers would be determined;

Rush Street Interactive, a licensed operator in eight states is requested that wagering be allowed on 2021 Jai-Alai on a fixed odds basis. Rush Street Interactive had partnered with U.S. Integrity for monitoring and integrity services, and Kambi for odds making and distribution during this time. Rush Street Interactive requested the following wager types be permitted.

- Full Match Winner odds
- Set X – Winner
- Point X – Winner
- Over/Under points in Set X
- Set betting, i.e. 2-0, 2-1, 1-2 or 0-2



- Set handicap
- Race to 3 points in Set X

It is the understanding of the Massachusetts Gaming Commission that these would be offered to the Commonwealth's licensees as their options.

2. A draft of the proposed House Rules, including a description of any technology that would be utilized to offer Sports Wagering on the Sporting Event or Wager Category;

## **BATTLE COURT RULES**

**WORLD JAI ALAI LEAGUE reserves the right to change these and any other applicable rules, bylaws, or governing documents at any time without notice.**

### **THE LEAGUE.**

BATTLE COURT (the "League") is a professional jai alai league operated in Miami, Florida under the governance of the World Jai Alai League. The League offers "head-to-head" jai alai action with a team concept, a different kind of play than the parimutuel jai alai activity that had traditionally been operated.

The League shall be comprised of five (5) teams, known as the Cesta Cyclones, Dejada Devils, Lifestyle Miami Chargers, Rebote Renegades, and Wall Warriors. Each of the teams shall be comprised of six (6) players. The League may expand the number of teams from time to time.

The teams are owned by the World Jai Alai League, and all players, coaches, referees, and other Battle Court staff are employees of the League. The League is operated and regulated by those with authority in the League Office and is subject to and governed by the Battle Court rules, bylaws, and any other governing documents created, amended, and/or promulgated by the League Office. All sponsorships, deals, seasonal ownership agreements, or other contractual relationships with third parties as between the League, teams, players, or any other employees of the League are subject to and in the sole discretion of the League Office.



## **SCHEDULE.**

Battle Court is a seasonal jai alai league that plays in various 9-13-week seasons throughout the calendar year. The League Office determines the dates and times of play, as well as the duration of each season.

Each live play day for Battle Court will feature six (6) total matches with up to three (3) Singles matches and up to four (4) Doubles matches between the same two (2) teams.

## **TEAM MAKEUP.**

Players in each team shall be ranked in Singles and Doubles play by the League Office in the League Office's sole discretion.

Each team will thus have five (5) Singles players ranked S-1 through S-5 and one additional player designated for Doubles play only. Players on each respective team shall compete against one another according to rank. Players only compete in Singles matches against equally ranked players. For example, the player ranked S-1 on the Cesta Cyclones would play the player ranked S-1 on the Dejada Devils, and so forth.

Each team shall form a total of six (6) Doubles pairings. As each team shall be made up of six (6) players, each player must be on two Doubles pairings. No player can be on more than two (2) Doubles pairings except due to an injury.

The team may designate the Doubles pairings as D-1, D-2, D-3, D-4, D-5, and D-6 subject to approval of such designations by the League Office.



*Sports Wagering Division*

Pairings designated as D-3 and D-4 on each team may compete against one another, and pairings designated as D-5 and D-6 may compete against each other. No Doubles pairing may be made of the S-5 designated player and the designated Doubles player.

Each team will be designated as the “home” or “visiting” team in an equal number of matches. The “visiting” team will serve first in all matches.

In the event of a match day “scratch” of a player in Singles or Doubles, only a lower ranked player (by Singles designation) or the designated Doubles player may be substituted. Substitutions can be done pre-match and in-match based on injury occurring during play. If no lower ranked player is available, that match will be declared a forfeit.

In the event of a long-term injury (more than 3 calendar days), a list of “Taxi Squad” players will be made available by the League Office, and a team can select from that list or elect to play under the “scratch” policy. If the injured player is the designated Doubles player, the substitution must come from the League-provided list of “Taxi Squad” players. If the injured player is designated as S-5 in Singles, the team must choose to substitute the Doubles only designated player or choose from the League-provided list of “Taxi Squad” players. Lineups can be adjusted after the addition of the “Taxi Squad” player if requested by the team and approved by the League Office. “Taxi Squad” players will be given an “S” level designation by the League and cannot play at a level lower than this designation. For example, a “Taxi Squad” player designated as S-3 can only play at the S-1, S-2, or S-3 level of play. The same holds true for a “Taxi Squad” player competing in Doubles as he can only replace a player of equal or higher “S” level designation.

## **DRAFT.**

A player draft will be held approximately 15 to 45 days prior to the ensuing season of Battle Court.

The teams finishing last and 2<sup>nd</sup> to last in the prior season will “freeze” two (2) players, the teams finishing 2<sup>nd</sup> and 3<sup>rd</sup> in the prior season will freeze up to three (3) players and the prior season’s championship team shall have the right to freeze up to four (4) players on their current roster prior to the draft. A “frozen” player will remain at their same Singles ranking for the upcoming season of Battle Court. The decision of who to freeze will be made by the team owner or, in the event no team owner exists, by the League Office. “Frozen” players must be submitted to the League Office no less than seven (7) days prior to the draft.



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The drafting order will be determined by the reverse order of finish in the previous season. Each round starts with the team that finished with the least amount of total points and ends with the Battle Court Champions. In the event an expansion team is added to the League, they will draft in the middle position when they are increasing the number of teams in the League to an odd number and directly after the middle position when they will constitute an even number of teams in the League.

In rounds where teams have protected players, they will “forfeit” their pick in that round, and the other teams will automatically “move up” in the draft selection order.

Any players not drafted within two (2) subsequent rounds of their prior season’s Singles ranking level will automatically be placed on the “Taxi Squad” and not be eligible for draft selection until the following season. At that time, they will be open to selection in any round of the draft.

A player can only be “frozen” at his Singles ranking for three full Battle Court seasons exclusive of a number “1” ranked player. Going into the next season, if the team wants to “freeze” that same player again, the team must move the player up to a higher Singles rank. If they do not choose to move the player up in ranking, he will become eligible for selection in the ensuing draft.

Upon conclusion of the “drafting” portion of Draft Day, the owner, General Manager, and players will have approximately 75 minutes to compose their six (6) Doubles pairings and submit them for approval and announcement by the League Office. A Doubles pairing may not consist of the number five (5) and number six (6) ranked players on any team.

## **LEADERSHIP.**

A Team Captain for each of the teams shall be appointed by the team owner, or in the event no owner exists, by the League Office at the sole discretion of the League Office. The Team Captain is the only non-player allowed in the player seating cage during a Battle Court match. When the Captain is competing in a match, one player, designated by the Captain, may take his place in the player cage.

## **PLAY.**

Battle Court is played between two Singles players or two Doubles pairings. The Magic City Jai Alai Court, also known as the “cancha,” is a three-sided playing court, made of three walls – front, side (left) and back – and the floor between them. The court is 120 feet long, the length noted by parallel lines on the side wall every 10 feet, numbered from 1 through 13. Line one (1) is at the



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front wall side, and numbers continue to line thirteen (13) at the back wall. The service line, underserve and overserve lines are marked in red on the floor and the side wall. The out of bounds boundary line is also marked in red on the floor on the “open” side of the court, and out of bounds at the front and back walls are also designated in red. Players are required to wear a basket or “cesta” on their right hand.

Battle Court matches are composed of sets played to six points. The first player or team to win two sets is declared the winner of the match. The server is allowed two serves, specifically allowing for a second serve only if the first serve is either an underserve or an overserve. The player or team winning the point retains the serve within a set. The player or team losing the prior set is designated to serve first in the next set.

Each serve requires the player serving to bounce the ball behind the service line, then in one continuous motion, serve the ball off the front wall (the ball must strike the front wall before it comes in contact with the side wall), and the ball must land in the service box on its first bounce. The service box is designated as the space between the 4 line and the 7 line.

The object of the game is to place the ball where the opponent cannot return the ball, when caught on the fly or after one bounce, to the field of play. The ball must be caught and returned in one fluid motion. “Holding” the ball, “juggling” the ball, or anything that breaks the continuous motion, as well as failing to return the ball caught in the air or after one bounce, results in a loss of point. Interference may be ruled if, in the judge’s opinion, the location or action of a player prevented the receiving player from returning the ball and the receiving player requests interference and does not make an attempt to play the ball.

A player or team scores a point if the opposing player or team:

1. Fails on two consecutive attempts to serve the ball so that it lands between the underserve and overserve lines
2. Fails to catch the ball on the fly or after one bounce
3. Holds or juggles the ball, preventing a return in one continuous motion
4. Throws the ball out of bounds or intentionally interferes with a player trying to catch the ball.
5. Gets hit by the ball they have just thrown



## **POINTS.**

Winners of Singles matches earn one (1) point for their team. Winners of Doubles matches earn one and a half (1.5) points for their team.

The two (2) teams earning the most points during the particular Battle Court seasons will meet in the Battle Court Championship. The League, at its discretion, may determine to have a playoff for the second (2<sup>nd</sup>) spot in the Championship game by holding a match between the teams finishing second (2<sup>nd</sup>) and third (3<sup>rd</sup>) during the regular season. The playoff would follow the rules of the Championship with the team finishing second (2<sup>nd</sup>) during the regular season determining which Doubles pairing does not compete in the playoff round.

In the event of a tie for first (1<sup>st</sup>) or second (2<sup>nd</sup>) place during the regular season, the Team versus Team match record will determine the higher ranking of the two.

Players will earn prize money for each match won, and there will be Championship prize money for the teams finishing first (1<sup>st</sup>) and second (2<sup>nd</sup>).

## **CHAMPIONSHIP.**

The Championship will consist of five (5) Doubles matches.

The team that accumulated the most points or, in the event of a tie, has the higher Team versus Team ranking, during the regular Battle Court season shall determine which Doubles pairing does not compete in the Championship Finals.

The first team to win three (3) matches will win the overall Championship.





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In the event of a tie for first (1<sup>st</sup>) or second (2<sup>nd</sup>) place during the regular season, the Team versus Team match record will determine the higher ranking of the two.

## **SCORING SYSTEM.**

In addition to the on-court judges verifying each winning point, a dual point scoring system is utilized to ensure accuracy. A dedicated scorekeeper assigns the winning point into the scoring system, and an announcer also independently assigns the point into the system. When in agreement, the point is awarded and the scoreboard updates. When there is a discrepancy, the point is not awarded until it is verified that the judges, scorekeeper and announcer are in agreement.

3. Any rules or voting procedures related to the Sporting Event or Wager Category;

Not Applicable

4. Assurance that the Sporting Event or Wager Category meets the requirements of 205 CMR 247.03(4);

See (4) below

5. Whether and to what extent the outcome of the Sporting Event or Wager Category is determined solely by chance;

This is 100% a skill-based outcome

(f) If the proposed Sporting Event or Wager Category is based on eSports activities, complete information about: **NOT APPLICABLE**

1. The proposed location(s) of the eSports event(s);
2. The video game used for the eSports event, including, without limitation, the publisher of the video game;
3. The eSports event operator, whether the eSports event operator is approved to host events by the video game publisher, and whether the eSports event operator has any affiliation with the video game publisher;



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4. The manner in which the eSports event is conducted by the eSports event operator, including, without limitation, eSports event rules and certification from a third party, such as an eSports event operator or the game publisher, that the eSports event meets the Commission's event integrity requirements;

(g) The name of any Sports Governing Body or equivalent organization, as authorized by the Commission;

Magic City Jai-Alai is governed by the World Jai Alai League with licensing of all personnel by the Florida Department of Business and Professional Regulation. All players are required to pass an FBI background check and drug test in order to obtain a license from the State of Florida and employment from the World Jai Alai League.

(h) To the extent known by the petitioner(s), a description of policies and procedures regarding event integrity;

Each jai alai performance has 2 judges [play can occur with 1 judge if necessary] - Judges are generally former professional players with detailed knowledge of the game and the rules. Judges are overseen by the "player-manager" who has oversight for the player roster and the hiring of judges.

U.S. Integrity has been contracted to handle Monitoring of both wagering and event activity. Before competition, pursuant to Florida Statute 550.105 and 550.24055, all players are required to obtain a pari-mutuel license which includes a federal criminal background check as well as preliminary and randomized drug testing. In addition, each Magic City player is subject to legal ramifications for engaging in match-fixing or any other action that threatens the integrity of the sport per Florida Statute 550.235.

(i) Any other information or material requested by the Bureau or Commission.  
None at this time

(4) The Commission shall not grant the petition and authorize the Sporting Event or Wager Category unless the following minimum criteria are met:

(a) The outcome can be verified;

The scoring system automatically updates the World Jai Alai League website. The outcome of every point, set and match can be verified at



*Sports Wagering Division*

<https://jaialaiworld.com/battlecourt#Matches&Results> or by watching the playback from the video archives found here <https://www.watchjaialai.com>

(b) The Sporting Event generating the outcome is conducted in a manner that ensures sufficient integrity controls exist so the outcome can be trusted;

Section (h) above

(c) The outcome is not likely to be affected by any Sports Wager placed; and Magic City has taken the extra steps as to contract U.S. Integrity to ensure that the league is implementing the highest standard of integrity policies and procedures as well as monitoring for any suspicious or abnormal wagering or event activity. In addition, each Magic City player is subject to legal ramifications for engaging in match-fixing or any other action that threatens the integrity of the sport per Florida Statute 550.235. The oversight agency is headquartered in Tallahassee, Florida, but the DBPR maintains an on-site office at the Magic City fronton. All games are recorded and archived for a 2-year period and are available live via the Jai-Alai Channel on YouTube.

(d) The Sporting Event is conducted in conformity with all applicable laws.

The athletes sign contracts with strict Code of Conduct language. Below is just one small excerpt included in all player contracts. \_ Player will comply with and obey all valid rules, regulations, ordinances, statutes, and laws of the Company, the Division of Pari-Mutuel Wagering, the State of Florida, and the United States. As a professional athlete subject to close public scrutiny, Player will conduct his professional and his personal affairs in an exemplary manner.

(5) The Commission will consider the request, all provided materials, and any relevant input from the Sports Governing Body or the conductor of the Sporting Event prior to authorizing a Sporting Event or Wager Category.

***Currently in application phase. Reviewed and approved for voting.***

(6) In its sole discretion, the Commission may require an appropriate test or experimental period, under such terms and conditions as the Commission may reasonably require, before granting final approval to a Sporting Event or Wager Category.

***Undetermined at this time.***

(7) In its sole discretion, the Commission may subject any technology that would be used to offer a Sporting Event or Wager Category to testing, investigation, and



*Sports Wagering Division*

approval.

***Undetermined at this time.***

(8) The Commission may grant, deny, limit, restrict, or condition a request made pursuant to this rule, and may revoke, suspend, or modify any approval granted under this rule.

***Undetermined at this time.***

(9) The Commission shall notify all Sports Wagering Operators of any changes to authorized Sporting Events and Wager Categories.

***Not approved yet. Will be addressed if needed during voting period.***

(10) The Commission may prohibit the acceptance of any Sports Wagers, and may order the cancellation of Sports Wagers and require refunds on any Sporting Event or Wager Category, for which wagering would be contrary to the interests of the Commonwealth.

***Not approved yet***

(11) If a Sports Wagering Operator offers an unauthorized or prohibited Sporting Event or Wager Category, the Sports Wagering Operator must immediately cancel and refund all Sports Wagers associated with the unauthorized or prohibited Sporting Event or Wager Category. The Sports Wagering Operator must notify the Commission promptly after cancelling and refunding the Sports Wagers.

***Not applicable during review. Will be a qualifier if offered by an operator.***

(12) The Commission may use any information it considers appropriate, including, but not limited to, information received from a Sports Governing Body, in determining whether to authorize or prohibit wagering on a particular Sporting Event or Wager Category.

***Initial phase currently***



*Sports Wagering Division*



TO: Chair Cathy Judd-Stein  
Commissioner Bradford R. Hill  
Commissioner Jordan Maynard  
Commissioner Eileen M. O'Brien  
Commissioner Nakisha L. Skinner

FROM: Sterl Carpenter – Sports Wagering Operations Manager

CC: Karen Wells – Executive Director  
Bruce Band – Sports Wagering Division Director

DATE: May 3, 2023

RE: Petition to add USPMGA to the event catalog

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Under 205 CMR 247.03 the Commission reviews all petitions for a new Sporting Event or Wager Category. US Integrity has provided a petition requesting that USPMGA be added as a sporting event in the event catalog. A summary of the petition is below, followed by the petition submitted by US Integrity in Appendix A.

Miniature golf (also known as minigolf, putt-putt, crazy golf, and by several other names) is an offshoot of the sport of golf focusing solely on the putting aspect of its parent game. The aim of the game is to score the lowest number of points. It is played on courses consisting of a series of holes (usually a multiple of 9) similar to those of its parent, but the courses are characterized by their short length (usually within 10 yards from tee to cup) (Wikipedia).

The petitioner has attested that **US Pro Mini Golf Association** is the governing body of the event. The WPL (World Putting League) is the league associated with this request. They have been informed of this petition going in front of the Massachusetts Gaming Commission.

US Integrity was asked if any current operators in the Commonwealth were interested in offering this event in Massachusetts. US Integrity stated that Draftkings and Betfred currently take wagers in other markets. Betr will also be offering wagering for the next event.

There is no player's association for this league. Detailed integrity and scoring policies are given in the petitioner's request. They have provided their integrity controls, Anti-Gambling Policy, and that US Integrity will provide monitoring of both wagering and event activity.

During the review of the petition the Sports Wagering Division found the petitioner answered and met the requirements of 247.03. There are no concerns with this request as presented at this time. If approved this would be a new event added to the event catalog.

**Link:**



*Sports Wagering Division*

<https://www.prominigolf.com/> US PRO mini-golf



## **Appendix A:**

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### **Full submissions from US Integrity (below):**

#### 247.03: Petition for a Sporting Event or Wager Category - USPMGA

- (1) Any Person may petition the Commission for approval of a new Sporting Event or Wager Category. [U.S. Integrity](#)
  
- (2) A proposed new Sporting Event or Wager Category may be a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category. [New Sporting Event](#)
  
- (3) A petition for a proposed new Sporting Event or Wager Category shall be in writing and must include, at a minimum, the following information:
  - (a) The name(s) and address(es) of petitioner(s);  
[2470 St. Rose Pkwy, #214](#)  
[Las Vegas, NV 89074.](#)  
[702-522-9545](#)  
[USIntegrity.com](#)



*Sports Wagering Division*

- (b) The name of the Sporting Event or Wager Category;  
USPMGA (governance oversight body for World Putting League)
- (c) Whether the Sporting Event or Wager Category is a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category;

#### **New Sporting Event**

- (c) The name of any Sports Wagering Operator sponsoring the petition;  
None at this time
- (e) A complete and detailed description of the Sporting Event or Wager Category for which approval is sought, including:

1. A summary of the Sporting Event or Wager Category and the manner in which Sports Wagers would be placed and winning Sports Wagers would be determined;

The US Pro Minigolf Association (USPMGA) was founded in 1997 by serial entrepreneur and sports executive Bob Detwiler. Since it's founding the sport has flourished, growing from one event (the Masters, held at Myrtle Beach) to two major championships (the Masters and the US Open) and four satellite events held throughout the U.S. The sport now has over 100 active professionals competing in these events. The USPMGA has been featured on CBS, ABC, NBC, VICE Magazine and the New York Times. Current sponsors include Coca-Cola, Subway, Krispy Kreme and Sandhills Bank. The USPMGA is the official US affiliate of the World Minigolf Sport Federation (WMF).

Wager Types:

-Over/Under score on each player (what will they finish with at the end of their round)





*Sports Wagering Division*

- Over/Under aggregate number of Birdie's, Par's, and Bogey's for each player for the tournament and per round
- Over/Under number of holes in 1 each player will register and total number of holes in 1 throughout the tournament
- Over/Under number of holes in 1 scored on each specific hole
- Top 10, Top 5, and outright winner. Where will the golfer place at the end of the tournament

2. A draft of the proposed House Rules, including a description of any technology that would be utilized to offer Sports Wagering on the Sporting Event or Wager Category;

N/A

3. Any rules or voting procedures related to the Sporting Event or Wager Category;

Scorekeeping by players:

1. Changes to the score can only be made within the bounds of the expressly permitted possibilities.
2. A player's score is kept by his playing partner, the hole judge (volunteer marshal), or a scorekeeper appointed by the head referee or the tournament organizers. In groups of 2 (two) or more players the last player keeps score for the first and the first for the second.
3. Before the score is entered in the scorecard it should be announced.
4. Entries in the scorecard should be carefully carried out immediately after being announced. Great care should be taken that the correct score is entered in the correct place.
5. Unless it has been otherwise determined, it is forbidden for a group of players to have their own scorekeeper.



*Sports Wagering Division*

6. Each player should make sure on submission of his scorecard that the entries have been correctly made,

even when a special scorekeeper has done the scorekeeping.

7. Incorrect entries should be corrected under the observance of 9 (nine) and 10 (ten).

8. Incorrect entries should be crossed out in such a way that they remain legible, and the correct score

should be written next to it and initialed.

9. In groups of 2 (two) players corrections should be made and initiated by a referee, and in larger groups

only when there is a disagreement within the group. If there is agreement, the correction is made by the

scorekeeper and initiated by all players of that group. When a referee and the whole group makes a change

and where applicable the scorekeeper should be consulted as to whether the change is justified.

10. Each player is responsible for the correct keeping of their score.

11. A change can no longer be made if a subsequent score has already been entered for the player

concerned.

12. At the end of a round each player is obliged to work out or check their score along with their partner(s).

The player should initial their own upon completion of each round.

13. The scorecards are issued as a complete set (ordered 1-2-3) to the entire group of players. In a group of

3 (three), player 3 (three) gives the scorecard to player 1 (one). Player 1 (one) can check the entry. Player 1 (one) notes the score for player 2 (two) then gives the scorecards to player 2 (two) who will then check their own score before noting the score for player 3 (three). Player 3 (three) takes the cards and checks their score.

The group can then go to the next hole. The scorecards should always be given from 1 (one) player to another as a complete set and in such a way that the score of the player receiving them is visible to him.



*Sports Wagering Division*

4. Assurance that the Sporting Event or Wager Category meets the requirements of 205 CMR 247.03(4);

Resulting is available on the website. See website: [www.prominigolf.com](http://www.prominigolf.com)

Additionally all events are live streamed on Instagram and Facebook

5. Whether and to what extent the outcome of the Sporting Event or Wager Category is determined solely by chance;

There are a minimum of two head referees that oversee each event. One of these referees is on the front

nine holes of the course while the other will oversees the back nine holes. If the tournament runs on more

than one course, there are additional referees to maintain that structure. For example, the Masters is played

on three different courses, so there is six head referees. In addition to the head referee's there are volunteer

marshals on each hole.

Players' scores are generally kept and verified by the other players in their group (four total players in a

group) but the marshal is there to double check and ensure there is no foul play occurring within the group.

(f) If the proposed Sporting Event or Wager Category is based on eSports activities, complete information about: **Not Applicable**

1. The proposed location(s) of the eSports event(s);
2. The video game used for the eSports event, including, without limitation, the publisher of the video game;
3. The eSports event operator, whether the eSports event operator is approved to host events by the video game publisher, and whether the eSports event operator has any



*Sports Wagering Division*

affiliation with the video game publisher;

4. The manner in which the eSports event is conducted by the eSports event operator, including, without limitation, eSports event rules and certification from a third party, such as an eSports event operator or the game publisher, that the eSports event meets the Commission's event integrity requirements;

(g) The name of any Sports Governing Body or equivalent organization, as authorized by the Commission;

USMPGA is an Oversight Commission

(h) To the extent known by the petitioner(s), a description of policies and procedures regarding event integrity;

U.S. Integrity has been contracted to handle Monitoring of both wagering and event activity.

USPMGA has a number of policies in place to ensure the health and safety of its competitors and fair competition,

further detail of which can be found here: [Members-Rulebook1.pdf \(prominigolf.com\)](#).

Highlights include;

- Procedures for approving courses and holes
- All golfers must use USPMGA approved balls
- Only one golf ball allowed per hole
- Practice strokes or rolling of balls on runs strictly prohibited
- Minimum of 4 foot must be kept from a ball in play, with the exception of the player
- No objects may be put on the playing surface during the tournament
- No markings on or near the runs permitted by players
- Playing aids (aiming devices or spirit levels) are forbidden
- Consuming alcohol or drugs before and during a tournament is forbidden



*Sports Wagering Division*

- Mobile phones or other electrical devices/receivers are not to be carried along in an operational state

Any other information or material requested by the Bureau or Commission.

None at this time

(4) The Commission shall not grant the petition and authorize the Sporting Event or Wager Category unless the following minimum criteria are met:

- (a) The outcome can be verified;

Outcome can be verified via live stream, and via the website [www.prominigolf.com](http://www.prominigolf.com)

- (b) The Sporting Event generating the outcome is conducted in a manner that ensures sufficient integrity controls exist so the outcome can be trusted;

Described in Section (h) above

- (c) The outcome is not likely to be affected by any Sports Wager placed; and Here is the Anti Gambling Policy:

A player shall not have any financial interest, either direct or indirect, in the performance or the winnings of another player or themselves in any tournament cosponsored, coordinated, approved or otherwise sanctioned by the USPMGA TOUR, whether through purse-splitting, prize money “insurance,” financial assistance, bets or otherwise.

Any player who violates these provisions shall be subject to a suspension from tournament play for a minimum period of two (2) years.

A player shall not do any of the following:

1. Fail to give his best efforts in competition.
2. Gamble on anything relating to the USPMGA TOUR
3. Associate with or have dealings with persons whose activities, including gambling, might reflect adversely upon the integrity of the game of Mini Golf.
4. Bet money or anything of value on a Mini Golf tournament or similar event, whether or not the player is a competitor in such a competition.



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5. Offer or give a bribe, gift, payment, reward or anything of value to any player with the intention of influencing his efforts in a competition.
6. Solicit, agree to accept or accept a bribe, gift, payment, reward or anything of value offered or given with the intention of influencing the player's efforts in a competition.
7. Fail to report promptly to the Commissioner any known or suspected offer, bribe, gift, payment, reward or anything of value, or any agreement or acceptance or bet described in the foregoing.

(d) The Sporting Event is conducted in conformity with all applicable laws.

The athletes sign contracts with strict Code of Conduct language. With anti-gambling language included in the documentation they sign.

(5) The Commission will consider the request, all provided materials, and any relevant input from the Sports Governing Body or the conductor of the Sporting Event prior to authorizing a Sporting Event or Wager Category.

***Currently in application phase.***

(6) In its sole discretion, the Commission may require an appropriate test or experimental period, under such terms and conditions as the Commission may reasonably require, before granting final approval to a Sporting Event or Wager Category.

***Undetermined at this time.***

(7) In its sole discretion, the Commission may subject any technology that would be used to offer a Sporting Event or Wager Category to testing, investigation, and approval.

***Undetermined at this time.***

(8) The Commission may grant, deny, limit, restrict, or condition a request made



*Sports Wagering Division*

pursuant to this rule, and may revoke, suspend, or modify any approval granted under this rule.

***Undetermined at this time.***

(9) The Commission shall notify all Sports Wagering Operators of any changes to authorized Sporting Events and Wager Categories.

***Not approved yet***

(10) The Commission may prohibit the acceptance of any Sports Wagers, and may order the cancellation of Sports Wagers and require refunds on any Sporting Event or Wager Category, for which wagering would be contrary to the interests of the Commonwealth.

***Not approved yet***

(11) If a Sports Wagering Operator offers an unauthorized or prohibited Sporting Event or Wager Category, the Sports Wagering Operator must immediately cancel and refund all Sports Wagers associated with the unauthorized or prohibited Sporting Event or Wager Category. The Sports Wagering Operator must notify the Commission promptly after cancelling and refunding the Sports Wagers.

***Not applicable during review***

(12) The Commission may use any information it considers appropriate, including, but not limited to, information received from a Sports Governing Body, in determining whether to authorize or prohibit wagering on a particular Sporting Event or Wager Category.

***Initial phase currently***



*Sports Wagering Division*

TO: Chair Cathy Judd-Stein  
Commissioner Bradford R. Hill  
Commissioner Jordan Maynard  
Commissioner Eileen M. O'Brien  
Commissioner Nakisha L. Skinner

FROM: Sterl Carpenter – Sports Wagering Operations Manager

CC: Karen Wells – Executive Director  
Bruce Band – Sports Wagering Division Director

DATE: May 3, 2023

RE: Petition to add Power Slap to the event catalog

---

Under 205 CMR 247.03 the Commission reviews all petitions for a new Sporting Event or Wager Category. US Integrity has provided a petition requesting that Power Slap be added as a sporting event in the event catalog. A summary of the petition is below, followed by the petition submitted by US Integrity in Appendix A.

Power Slap, which has been licensed by the Nevada State Athletic Commission, uses rules similar to those established by other slap fighting leagues. After a coin toss to decide who goes first, the first striker has a time limit of 60 seconds to deliver an open-handed slap to the opponent. Slaps must be below the eye but above the chin, without leading with the palm such that all hand to face contact takes place at the same time (Wikipedia).

US Integrity attests that Power Slap has no governing body, but the league Power Slap is licensed by the Nevada State Athletic Commission. They have no player's association. Their matches are determined by the Nevada State Athletic Commission. They have also placed their integrity and gambling policy in their petition. U.S. Integrity has been contracted to handle monitoring of both wagering and event activity.

US Integrity was asked if any current operators in the Commonwealth were interested in offering this event in Massachusetts. US Integrity stated that Draftkings is interested in offering if approved.

During the review of the petition the Sports Wagering Division found the petitioner answered and met the requirements of 247.03. There are no concerns with this request as presented at this time. This event is similar to the approved Boxing and MMA leagues. If approved this would be a new event added to the event catalog under the MMA tab unless directed otherwise.

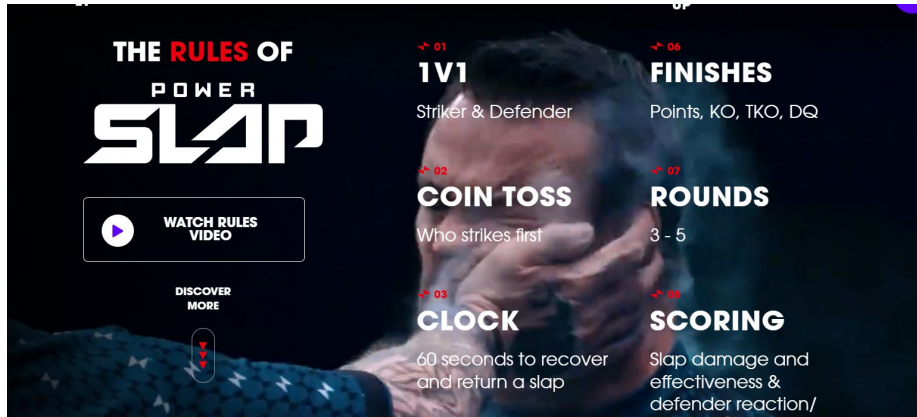




*Sports Wagering Division*

**Link:**

<https://www.powerslap.com/rules/> - Power Slap..



**Appendix A:**

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**Full submissions from US Integrity (below):**

247.03: Petition for a Sporting Event or Wager Category-PowerSlap

(1) Any Person may petition the Commission for approval of a new Sporting Event or Wager Category. [U.S. Integrity](#)

(2) A proposed new Sporting Event or Wager Category may be a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category. [New Sporting Event](#)

(3) A petition for a proposed new Sporting Event or Wager Category shall be in writing and must include, at a minimum, the following information:

- (a) The name(s) and address(es) of petitioner(s);  
[2470 St. Rose Pkwy, #214](#)  
[Las Vegas, NV 89074.](#)



*Sports Wagering Division*

702-522-9545

[USIntegrity.com](http://USIntegrity.com)

(b) The name of the Sporting Event or Wager Category;

[Power Slap](#)

(c) Whether the Sporting Event or Wager Category is a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category;

[New Sporting Event](#)

(c) The name of any Sports Wagering Operator sponsoring the petition;

[None at this time](#)

(e) A complete and detailed description of the Sporting Event or Wager Category for which approval is sought, including:

1. A summary of the Sporting Event or Wager Category and the manner in which Sports Wagers would be placed and winning Sports Wagers would be determined;

[Power Slap is a new fighting league backed by, among others, Lorenzo Fertitta \(former owner of UFC\), Dana White \(current President of UFC\), Craig Piligian \(leading non-scripted television producer\) and Ultimate Fighting Championship \(the world's leading combat sports promotion\).](#)

[Per fight:](#)

- [Moneyline on each fighter to win the fight](#)
- [Over/Under number of rounds](#)
- [Will or will not KO occur](#)



*Sports Wagering Division*

2. A draft of the proposed House Rules, including a description of any technology that would be utilized to offer Sports Wagering on the Sporting Event or Wager Category;

N/A

3. Any rules or voting procedures related to the Sporting Event or Wager Category;

NSAC oversees each Power Slap match. All officials, judges, referees, inspectors & physicians are provided by NSAC. Power Slap does not have any authority over determining the winner or loser of any Power Slap match.

4. Assurance that the Sporting Event or Wager Category meets the requirements of 205 CMR 247.03(4);

Resulting is distributed via 3027 an internal data company live resulting is available on Powerslap.com as well as it being live streamed on Rumble.

5. Whether and to what extent the outcome of the Sporting Event or Wager Category is determined solely by chance;

Fights results are determined by NSAC sanctioned judges for each fight.

(f) If the proposed Sporting Event or Wager Category is based on eSports activities, complete information about: **Not Applicable**

1. The proposed location(s) of the eSports event(s);
2. The video game used for the eSports event, including, without limitation, the publisher of the video game;
3. The eSports event operator, whether the eSports event operator is approved to host events by the video game publisher, and whether the eSports event operator has any affiliation with the video game publisher;



*Sports Wagering Division*

4. The manner in which the eSports event is conducted by the eSports event operator, including, without limitation, eSports event rules and certification from a third party, such as an eSports event operator or the game publisher, that the eSports event meets the Commission's event integrity requirements;

(g) The name of any Sports Governing Body or equivalent organization, as authorized by the Commission;

Nevada State Athletic Commission (NSAC)

(h) To the extent known by the petitioner(s), a description of policies and procedures regarding event integrity;

U.S. Integrity has been contracted to handle Monitoring of both wagering and event activity.

Power Slap participants are prohibited from placing any wagers (directly or through a third party) on any Power Slap match, whether they are participating in such Power Slap match or not, including placing any wagers on themselves. In most states with legalized sports betting, wagering by a Power Slap participant (directly or through a third party) on any Power Slap match is illegal and may result in criminal sanction. Power Slap participants should also be aware that in most states these same prohibitions apply to some or all of (i) relatives living in the same household as a participant, (ii) a participant's coaches, managers, handlers, athletic trainers, medical professionals and staff, and (iii) any other person with access to non-public information regarding participants in any Power Slap match. A participant that becomes aware or has knowledge of any wagering in violation of these restrictions must immediately notify Power Slap of such incident.

Additionally, as further set forth in the Power Slap participants' Promotion Agreements, Power Slap participants are prohibited from fixing or colluding on any Power Slap match, and from offering, agreeing, conspiring, aiding, or attempting to cause a Power Slap match result to be based on anything other than its merits, including, but not limited to, influencing, or in any way attempting to fix, any Power Slap match.

Wagering on Power Slap matches by employees of Power Slap (or contractors with any access to non-public information) is also prohibited.

Violations of this policy may result in disciplinary action, including termination.



*Sports Wagering Division*

Any other information or material requested by the Bureau or Commission.

Power Slap matches are determined in the same manner as combat sports generally – a participant may win via finish (knockout, technical knockout, disqualification, technical decision or no contest), or by points (three judges, scoring the match on a 10-9 must system, evaluation the damage and effectiveness of the slap, and the reaction and recovery of the defender). Power Slap matches are regulated by the Nevada State Athletic Commission – all referees, inspectors, replay officials and judges are experienced combat sports personnel and are independent from Power Slap. The Commission has adopted the Power Slap rules set, which can be found here: <https://www.powerslap.com/rules/>

(4) The Commission shall not grant the petition and authorize the Sporting Event or Wager Category unless the following minimum criteria are met:

(a) The outcome can be verified;

Outcome can be verified via live stream, [powerslap.com](https://www.powerslap.com), and 3027 internal data distribution company.

(b) The Sporting Event generating the outcome is conducted in a manner that ensures sufficient integrity controls exist so the outcome can be trusted;

Described in Section (h) above

(c) The outcome is not likely to be affected by any Sports Wager placed; and

Described in Section (h) above

(d) The Sporting Event is conducted in conformity with all applicable laws.

The athletes sign contracts with strict Code of Conduct language. With anti-gambling language included in the documentation they sign.

(5) The Commission will consider the request, all provided materials, and any relevant input from the Sports Governing Body or the conductor of the Sporting Event prior to authorizing a Sporting Event or Wager Category.

***Currently in application phase.***

(6) In its sole discretion, the Commission may require an appropriate test or experimental period, under such terms and conditions as the Commission may reasonably require, before granting final approval to a Sporting Event or Wager



Category.

***Undetermined at this time.***

(7) In its sole discretion, the Commission may subject any technology that would be used to offer a Sporting Event or Wager Category to testing, investigation, and approval.

***Undetermined at this time.***

(8) The Commission may grant, deny, limit, restrict, or condition a request made pursuant to this rule, and may revoke, suspend, or modify any approval granted under this rule.

***Undetermined at this time.***

(9) The Commission shall notify all Sports Wagering Operators of any changes to authorized Sporting Events and Wager Categories.

***Not approved yet***

(10) The Commission may prohibit the acceptance of any Sports Wagers, and may order the cancellation of Sports Wagers and require refunds on any Sporting Event or Wager Category, for which wagering would be contrary to the interests of the Commonwealth.

***Not approved yet***

(11) If a Sports Wagering Operator offers an unauthorized or prohibited Sporting Event or Wager Category, the Sports Wagering Operator must immediately cancel and refund all Sports Wagers associated with the unauthorized or prohibited Sporting Event or Wager Category. The Sports Wagering Operator must notify the Commission promptly after cancelling and refunding the Sports Wagers.

***Not applicable during review***

(12) The Commission may use any information it considers appropriate, including, but not limited to, information received from a Sports Governing Body, in determining



*Sports Wagering Division*

whether to authorize or prohibit wagering on a particular Sporting Event or Wager Category.

Initial phase currently



TO: Chair Cathy Judd-Stein  
Commissioner Bradford R. Hill  
Commissioner Jordan Maynard  
Commissioner Eileen M. O'Brien  
Commissioner Nakisha L. Skinner

FROM: Sterl Carpenter – Sports Wagering Operations Manager

CC: Karen Wells – Executive Director  
Bruce Band – Sports Wagering Division Director

DATE: May 3, 2023

RE: Petition to add SlapFIGHT to the event catalog

---

Under 205 CMR 247.03 the Commission reviews all petitions for a new Sporting Event or Wager Category. US Integrity has provided a petition requesting that SlapFIGHT be added as a sporting event in the event catalog. A summary of the petition is below, followed by the petition submitted by US Integrity in Appendix A.

Slap fighting is a rapidly growing sport where two robust fighters take turns slapping each other in the face, and seeing who can survive the longest! ([slapfight.com](http://slapfight.com))

The petitioner US Integrity attests that **Sport Slap USA** is the governing body overseeing SlapFIGHT Championship. Sport Slap USA has been made aware of this request to the Massachusetts Gaming Commission. The league has no player's association.

US Integrity was asked if any current operators in the Commonwealth were interested in offering this event in Massachusetts. US Integrity stated that Betfred and **Draftkings** currently take wagering in other markets. **Betr** was stated as interested in offering the next event.

During the review of the petition the Sports Wagering Division found the petitioner answered and met the requirements of 247.03. They provide documentation of an Anti-Gambling Policy, Code of Conduct, and that the event is live streamed on YouTube. They **did not** provide how the winner is determined. The petition provided in (e) 1. that wagers available would be Moneyline on each fighter to win the fight, Over/Under number of rounds, and Will or will not KO occur. The Division's only concern with this request as presented at this time would be *how the winner is determined* and *whether it is a point scoring system*, and if so how the points are awarded. This event is similar to the approved Boxing and MMA leagues. If approved this would be a new event added to the event catalog under the MMA tab unless directed otherwise.

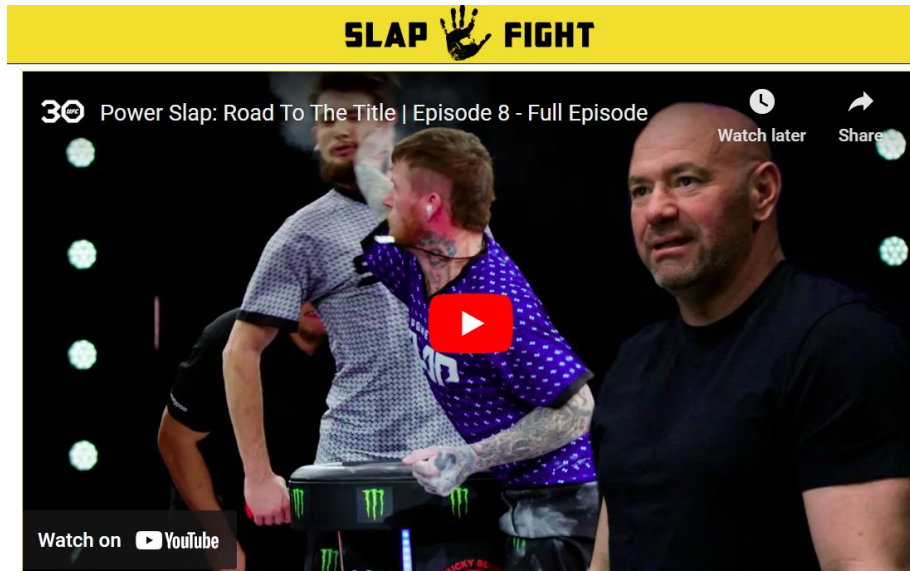




*Sports Wagering Division*

**Link:**

<https://slapfight.com/>



**Appendix A:**

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**Full submissions from US Integrity (below):**

247.03: Petition for a Sporting Event or Wager Category - Slapfighting

(1) Any Person may petition the Commission for approval of a new Sporting Event or Wager Category. [U.S. Integrity](#)

(2) A proposed new Sporting Event or Wager Category may be a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category. [New Sporting Event](#)

(3) A petition for a proposed new Sporting Event or Wager Category shall be in writing



*Sports Wagering Division*

and must include, at a minimum, the following information:

- (a) The name(s) and address(es) of petitioner(s);  
2470 St. Rose Pkwy, #214  
Las Vegas, NV 89074.  
702-522-9545  
USIntegrity.com
- (b) The name of the Sporting Event or Wager Category;  
Slapfight Championship
- (c) Whether the Sporting Event or Wager Category is a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category;  
New Sporting Event
- (d) The name of any Sports Wagering Operator sponsoring the petition;  
None at this time
- (e) A complete and detailed description of the Sporting Event or Wager Category for which approval is sought, including:

1. A summary of the Sporting Event or Wager Category and the manner in which Sports Wagers would be placed and winning Sports Wagers would be determined;

SlapFIGHT Championship was founded in 2017 to codify American Slap Fighting. Since that time, the league has conducted over 18 SlapFIGHT Championships events in the United States, featuring over 80 bouts and 60 athletes participating. SlapFIGHT Championship bouts have amassed in excess of 3M views on their Youtube channel and have been featured on sites such as ESPN, iHeart Radio and many more combat sports media sites. Slapfight Championship has signed multi-year sponsorship agreements with brands such as Impact Mouthguards, Davy Jones hair products and House of Gains gyms. For the past 12 months SlapFIGHT Championship fights have been available for PPV purchase through Fite TV. SlapFIGHT Championship has multiple deals to license its fights for viewing internationally in India, Western Europe (Germany, Switzerland, Austria) and the Middle East.



*Sports Wagering Division*

Per fight:

- Moneyline on each fighter to win the fight
- Over/Under number of rounds
- Will or will not KO occur

2. A draft of the proposed House Rules, including a description of any technology that would be utilized to offer Sports Wagering on the Sporting Event or Wager Category;

N/A

3. Any rules or voting procedures related to the Sporting Event or Wager Category;

SlapFIGHT Championship is regulated by Sport Slap USA, an independent regulatory commission for slap fighting in the United States. For the forthcoming events, SFC will be over seen by Becky Brown of Sport Slap USA. Becky is a veteran combat sports Sanctioning representative, certified by ISCF, USA boxing, Kick International, Combat Sports Commission and Bout Management Federation. Sport Slap USA has safely regulated over 100 mixed martial arts, slap fighting, kickboxing, jujitsu and boxing events over the past 15 years. Sport Slap USA regulates each SlapFIGHT Championship safely and communicates with state athletic officials, in the states where competitions are held.

4. Assurance that the Sporting Event or Wager Category meets the requirements of 205 CMR 247.03(4);

The events will be livestreamed on SlapFIGHT Championship's YouTube channel: SlapFIGHT Championship -YouTube Live Resulting also available on website: [www.slapfight.live](http://www.slapfight.live)

5. Whether and to what extent the outcome of the Sporting Event or Wager Category is determined solely by chance;

There are three referees at each bout, one behind the barrel, watching closely for illegal strikes and/or flinches. Another kneeling in front of the barrel, closely watching the feet of the competitors, maintaining that there are no steps or pivots. The third official watch is the action as a whole and monitors replay, when necessary. Also at each event is a



*Sports Wagering Division*

Sanctioning representative, who acts as a liaison between the promotion and the competitors, and handles any complaints and maintains fairness. Sport Slap USA is in charge of hiring judges and overseeing the safety aspect of the bouts. All referees have an MMA background and are trained MMA referees. New referees are always backup referees for their first fight.

(f) If the proposed Sporting Event or Wager Category is based on eSports activities, complete information about: **Not Applicable**

1. The proposed location(s) of the eSports event(s);
2. The video game used for the eSports event, including, without limitation, the publisher of the video game;
3. The eSports event operator, whether the eSports event operator is approved to host events by the video game publisher, and whether the eSports event operator has any affiliation with the video game publisher;
4. The manner in which the eSports event is conducted by the eSports event operator, including, without limitation, eSports event rules and certification from a third party, such as an eSports event operator or the game publisher, that the eSports event meets the Commission's event integrity requirements;

(g) The name of any Sports Governing Body or equivalent organization, as authorized by the Commission;

**Sport Slap USA**

(h) To the extent known by the petitioner(s), a description of policies and procedures regarding event integrity;

U.S. Integrity has been contracted to handle Monitoring of both wagering and event activity.

SlapFIGHT has a number of policies in place to ensure the health and safety of its competitors and fair competition. These include;



*Sports Wagering Division*

- All athletes must certify that they are not under the influence of any illegal drug or alcohol prior to their fight.
- All athletes must certify that they have not been exposed to COVID-19 in the prior 10 days before the competition.
- Random steroid tests are imposed at each event.
- Regulations relating to dress to enhance safety, (e.g., no metal piercings or gauges, are permitted)
- Each competitor is given a physical by the EMT/Doc before and after competing.
- Each competitor receives a hearing test before and after competing.
- No competitor is allowed to compete within 60 days of his/her last competition.
- Weight classes are maintained, to ensure that all competitors are fairly matched, and fall within the same weight requirements.
- All competitions take place on 2.5 inches of padded foam flooring, to maintain safety in case of knockout.
- Cotton is inserted in the ears of the competitor to defuse the pressure from the slab, protecting the eardrum from rupture.

Any other information or material requested by the Bureau or Commission.

None at this time

(4) The Commission shall not grant the petition and authorize the Sporting Event or Wager Category unless the following minimum criteria are met:

(a) The outcome can be verified;

Outcome can be verified via website [www.slapfight.live](http://www.slapfight.live) as well as via live stream on Youtube

(b) The Sporting Event generating the outcome is conducted in a manner that ensures sufficient integrity controls exist so the outcome can be trusted;

Described under #5

The outcome is not likely to be affected by any Sports Wager placed;



*Sports Wagering Division*

#### Anti-Gambling Policy:

Slap Fighting is committed to maintaining a high level of integrity for its competitions, players, and additional personnel. We owe it to our fans and everyone associated with the league to take the necessary precautions to promote safe and regulated gambling. These policies are intended to set the standards for appropriate conduct and to be a guide for promoting compliance within the context of wagering.

A Slap Fighter must always give their best effort. Any player who agrees to, or attempts to lose, or fails to put forth their best effort towards winning the competition, shall be deemed permanently ineligible. In addition, no additional services or gifts may be awarded to anyone associated with the league to demean the quality of the competition. Any player, referee, or league official or employee, are prohibited from placing, soliciting, or facilitating any bet, whether directly or indirectly through a third-party, on any event in the Slap Fighting league. Any bet from a previously mentioned party related to the Slap Fighting league will be permanently removed from the league. No personnel in the Slap Fighting league shall throw or fix any game or in any way influence its outcome, statistics, or score; or otherwise manipulate or attempt to manipulate any other aspect of any match for a gambling-related purpose. This includes accepting a bribe or otherwise agreeing to throw, fix or influence a game, as well as failing to report any bribe, offer or attempt to do so.

Inside Information and Tipping: Unless duly authorized, Slap Fighting personnel are prohibited from using, disclosing or providing access to confidential, non-public information regarding: (a) any Slap Fighting match or event; (b) any participating individual's availability for or performance in any game; or (c) any other conditions material to any Slap Fighting game for a gambling-related purpose, whether directly or through another person. This includes failing to report any request for, disclosure of, or possible disclosure of such information



*Sports Wagering Division*

Duty to Cooperate: All Slap Fighting Personnel are required to fully cooperate with any investigation conducted by or on behalf of the Slap Fighting committee with respect to this Policy.

(d) The Sporting Event is conducted in conformity with all applicable laws.

The athletes sign contracts with strict Code of Conduct language. With anti-gambling language included in the documentation they sign.

(5) The Commission will consider the request, all provided materials, and any relevant input from the Sports Governing Body or the conductor of the Sporting Event prior to authorizing a Sporting Event or Wager Category.

*Currently in application phase.*

(6) In its sole discretion, the Commission may require an appropriate test or experimental period, under such terms and conditions as the Commission may reasonably require, before granting final approval to a Sporting Event or Wager Category.

*Undetermined at this time.*

(7) In its sole discretion, the Commission may subject any technology that would be used to offer a Sporting Event or Wager Category to testing, investigation, and approval.

*Undetermined at this time.*

(8) The Commission may grant, deny, limit, restrict, or condition a request made pursuant to this rule, and may revoke, suspend, or modify any approval granted under this rule.

*Undetermined at this time.*

(9) The Commission shall notify all Sports Wagering Operators of any changes to



*Sports Wagering Division*

authorized Sporting Events and Wager Categories.

***Not approved yet***

(10) The Commission may prohibit the acceptance of any Sports Wagers, and may order the cancellation of Sports Wagers and require refunds on any Sporting Event or Wager Category, for which wagering would be contrary to the interests of the Commonwealth.

***Not approved yet***

(11) If a Sports Wagering Operator offers an unauthorized or prohibited Sporting Event or Wager Category, the Sports Wagering Operator must immediately cancel and refund all Sports Wagers associated with the unauthorized or prohibited Sporting Event or Wager Category. The Sports Wagering Operator must notify the Commission promptly after cancelling and refunding the Sports Wagers.

***Not applicable during review***

(12) The Commission may use any information it considers appropriate, including, but not limited to, information received from a Sports Governing Body, in determining whether to authorize or prohibit wagering on a particular Sporting Event or Wager Category.

***Initial phase currently***





*Sports Wagering Division*

TO: Chair Cathy Judd-Stein  
Commissioner Bradford R. Hill  
Commissioner Jordan Maynard  
Commissioner Eileen M. O'Brien  
Commissioner Nakisha L. Skinner

FROM: Sterl Carpenter – Sports Wagering Operations Manager

CC: Karen Wells – Executive Director  
Bruce Band – Sports Wagering Division Director

DATE: May 3, 2023

RE: Petition to add SLS to the event catalog

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Under 205 CMR 247.03 the Commission reviews all petitions for a new Sporting Event or Wager Category. US Integrity has provided a petition requesting that SLS be added as a sporting event in the event catalog. A summary of the petition is below, followed by the petition submitted by US Integrity in Appendix A.

The Sports Wagering Division would like to point out that SLS (Street League Skateboarding) is an event where the winner's placement is decided by a panel of three (3) judges. I have placed section 7 of their terms and conditions below.

*7. Judging Panel & Criteria: Each eligible Submission will be judged by a panel of three (3) decorated and experienced skate experts, with a minimum of ten (10) years in the professional skate community (the "Judging Panel"). The Judging Panel will be selected and designated by SLS. The Judging Panel will use the Judging Criteria to select winners of the Prize from the Submissions.*

*The Judging Panel will evaluate each eligible Submission based on its merits and the Judging Panel's assessment of the Contestant's meeting the following criteria:*

- 1. Degree of Difficulty and/or Originality of Trick: (50%)*
- 2. Performance and Style: (25%)*
- 3. Spot and/or Obstacle: (25%)*

*The Judging Panel will decide the winners at their sole discretion.*

**THE DECISIONS OF THE JUDGING PANEL ARE FINAL AND BINDING AS TO ALL CONTESTANTS.**



*Sports Wagering Division*

Street League Skateboarding (SLS) is an international skateboarding tournament series. The league features professional street skateboarders competing for the largest monetary prize in the history of skateboarding, and was founded by professional skateboarder and entrepreneur Rob Dyrdek (Wikipedia).

The governing body of this event is Street League Skateboarding (SLS) that the petitioner has stated is aware of this request. US Integrity was asked if any current operators in the Commonwealth were interested in offering this event in Massachusetts. US Integrity stated that **DraftKings** and Betfred have indicated that they will offer lines. Given this is the first event where sports wagering will be offered on SLS, we expect more operators to come to the table as well.

There is no player's association for SLS, but all skaters, athlete managers, and all staff have been notified that sports wagering will be introduced for the SLS Chicago event on April 29th. SLS has implemented integrity policies into the rulebook and waivers, have engaged US Integrity as an integrity monitoring partner, and taken steps to educate all SLS stakeholders (athletes, staff, etc.) on the league's no gambling policies and the negative consequences that could come with violating them.

US Integrity has attested that SLS has worked closely with US Integrity and its data partner, Alt Sports Data, to introduce sports betting to SLS. Together we have approached state regulatory bodies for approval, as well as operators that are interested in offering the markets. DraftKings has been very interested and indicated they will be offering markets for the SLS Chicago event on April 29th and has also been assisting with state approvals in parallel.

States that offered wagering during the April 29<sup>th</sup> event were Colorado, Connecticut, Tennessee, and Wyoming confirmed by DraftKings.

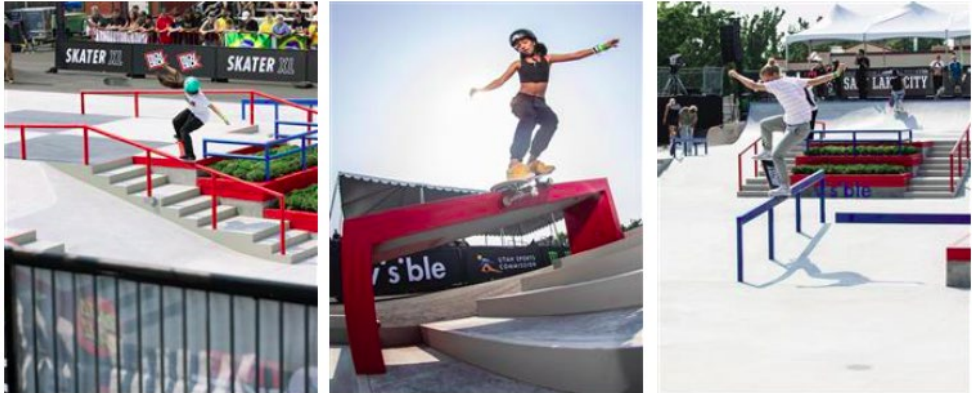
During the review of the petition the Sports Wagering Division found the petitioner answered and met the requirements of 247.03. As stated above, this event's winners are determined by a panel of three (3) judges. Currently there is language in our catalog that prohibits this type of event. In section 12 it states '*...in which the final outcome of the event is primarily based on the evaluation or assessment of a judge or panel of judges are not allowed.*' It is for this reason that the Division cautions the approval of this event at this time. The Division would suggest anyone who has information or experience that would like to share or knowledge they feel could be relevant on the subject of judging events to determine a winner to please come forward within a stipulated timeframe. If approved this would be a new event added to the event catalog.

**Link:**



*Sports Wagering Division*

<https://www.boardriding.com/associations/street-league-skateboarding> - Street League Skate Boarding



## Appendix A:

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### Full submissions from US Integrity (below):

#### 247.03: Petition for a Sporting Event or Wager Category -SLS

- (1) Any Person may petition the Commission for approval of a new Sporting Event or Wager Category. [U.S. Integrity](#)
  
- (2) A proposed new Sporting Event or Wager Category may be a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category. [New Sporting Event](#)
  
- (3) A petition for a proposed new Sporting Event or Wager Category shall be in writing and must include, at a minimum, the following information:
  - (a) The name(s) and address(es) of petitioner(s);  
[2470 St. Rose Pkwy, #214](#)  
[Las Vegas, NV 89074.](#)  
[702-522-9545](#)  
[USIntegrity.com](#)



*Sports Wagering Division*

(b) The name of the Sporting Event or Wager Category;

*Street League Skateboarding “SLS”*

(c) Whether the Sporting Event or Wager Category is a variation of an authorized Sporting Event or Wager Category, a composite of authorized Sporting Events or Wager Categories, or a new Sporting Event or Wager Category;

*New Sporting Event*

(c) The name of any Sports Wagering Operator sponsoring the petition;

*None at this time*

(e) A complete and detailed description of the Sporting Event or Wager Category for which approval is sought, including:

1. A summary of the Sporting Event or Wager Category and the manner in which Sports Wagers would be placed and winning Sports Wagers would be determined;

Founded in 2010, Street League Skateboarding (“SLS”) is the home of professional skateboarding and has been a pioneer in progressing and growing skateboarding over the past 10+ years. The SLS Championship Tour typically holds 4 to 6 events per year in indoor arenas around the world, and all 6 medalists across men’s and women’s street skate from the Tokyo 2020 Olympic Games compete on our tour. With over 6.3 million followers across social media, SLS has the largest fanbase amongst professional skate properties. ESPN was their domestic media partner in 2022, with our final event drawing over 300k+ live viewers on ESPN main.

“Street Skateboarding” is a skateboarding discipline that revolves around flat-ground tricks and features that can be found in urban/public environments (handrails, stairs, benches, etc.). SLS builds a custom and temporary skatepark in the arena for each event.

Wager Types:

- Moneyline
- o Outright winner



*Sports Wagering Division*

- o Top 3 finish
- o Top 8 finish
- o Podium trifecta
- Over/Under
- o Outright winner final score
- o Number of “9 Clubs” (any run or single trick attempt scored 9.0+)
- o Highest Single Trick Score
- o Highest Run Score
- Props
- o Final position head-to-head matchups
- o Margin of Victory
- o Skater with the highest Single Trick Score
- o Skater with the highest Run Score
- o Nationality of Outright winner

2. A draft of the proposed House Rules, including a description of any technology that would be utilized to offer Sports Wagering on the Sporting Event or Wager Category;

N/A

3. Any rules or voting procedures related to the Sporting Event or Wager Category;

Start Order for Heats: the start order is set by random draw for the initial heats. When moving forward onto each subsequent section, the start order is determined by reversing the order of the leaderboard.

Computation of Scores: for each run and trick attempt, each judge immediately assigns a value of between 0.0-10.0. Of the five judge scores, the highest and lowest scores are disregarded, and the run/trick score is determined by the average of the middle three scores. The result is rounded up to one decimal place (e.g. 8.6).



*Sports Wagering Division*

Judging Criteria: scoring is based on the judges overall impression of the following criteria – Execution

(subjective), Degree of Difficulty (objective), Variety (objective), Continuity of Run (objective) (for the run

section), Originality (objective), and Style (subjective).

Oversight: SLS GM, Matt Rodriguez, oversees all judging and scoring.

4. Assurance that the Sporting Event or Wager Category meets the requirements of 205 CMR 247.03(4);

Streamed on ESPN + all events have live resulting available at the SLS website (<https://www.streetleague.com>) and social media channels

5. Whether and to what extent the outcome of the Sporting Event or Wager Category is determined solely by chance;

SLS events are scored by a panel of 5 judges that are closely monitored by the SLS General Manager, Matt Rodriguez. Our scoring and judging format was adopted by the IOC for the Tokyo 2020 Olympic Games.

(f) If the proposed Sporting Event or Wager Category is based on eSports activities, complete information about: **Not Applicable**

1. The proposed location(s) of the eSports event(s);

2. The video game used for the eSports event, including, without limitation, the publisher of the video game;

3. The eSports event operator, whether the eSports event operator is approved to host events by the video game publisher, and whether the eSports event operator has any affiliation with the video game publisher;

4. The manner in which the eSports event is conducted by the eSports event operator, including, without limitation,



*Sports Wagering Division*

eSports event rules and certification from a third party, such as an eSports event operator or the game publisher, that the eSports event meets the Commission's event integrity requirements;

(g) The name of any Sports Governing Body or equivalent organization, as authorized by the Commission;

SLS oversees their own events.

(h) To the extent known by the petitioner(s), a description of policies and procedures regarding event integrity;

U.S. Integrity has been contracted to handle Monitoring of both wagering and event activity.

Implemented policies whereby SLS athletes are not allowed to wager on SLS in any way.

Implemented policies whereby SLS staff and employees are not allowed to wager on SLS in any way.

Any other information or material requested by the Bureau or Commission.

None at this time

(4) The Commission shall not grant the petition and authorize the Sporting Event or Wager Category unless the following minimum criteria are met:

(a) The outcome can be verified;

As well as being live streamed on ESPN + all events have live resulting available at the SLS website (<https://www.streetleague.com>) and social media channels

(b) The Sporting Event generating the outcome is conducted in a manner that ensures sufficient integrity controls exist so the outcome can be trusted;

Described in Section (h) above

(c) The outcome is not likely to be affected by any Sports Wager placed; and In addition to aforementioned policies. Each SLS competitor is paid a minimum show fee of \$3000 with the winner receiving \$50,000 per event further deterring undue influence on athletes.

(d) The Sporting Event is conducted in conformity with all applicable laws.



*Sports Wagering Division*

The athletes sign contracts with strict Code of Conduct language. With anti-gambling language included in the documentation they sign.

(5) The Commission will consider the request, all provided materials, and any relevant input from the Sports Governing Body or the conductor of the Sporting Event prior to authorizing a Sporting Event or Wager Category.

***Currently in application phase.***

(6) In its sole discretion, the Commission may require an appropriate test or experimental period, under such terms and conditions as the Commission may reasonably require, before granting final approval to a Sporting Event or Wager Category.

***Undetermined at this time.***

(7) In its sole discretion, the Commission may subject any technology that would be used to offer a Sporting Event or Wager Category to testing, investigation, and approval.

***Undetermined at this time.***

(8) The Commission may grant, deny, limit, restrict, or condition a request made pursuant to this rule, and may revoke, suspend, or modify any approval granted under this rule.

***Undetermined at this time.***

(9) The Commission shall notify all Sports Wagering Operators of any changes to authorized Sporting Events and Wager Categories.

***Not approved yet***

(10) The Commission may prohibit the acceptance of any Sports Wagers, and may order the cancellation of Sports Wagers and require refunds on any Sporting Event or Wager Category, for which wagering would be contrary to the interests of the Commonwealth.





*Sports Wagering Division*

***Not approved yet***

(11) If a Sports Wagering Operator offers an unauthorized or prohibited Sporting Event or Wager Category, the Sports Wagering Operator must immediately cancel and refund all Sports Wagers associated with the unauthorized or prohibited Sporting Event or Wager Category. The Sports Wagering Operator must notify the Commission promptly after cancelling and refunding the Sports Wagers.

**Not applicable during review**

(12) The Commission may use any information it considers appropriate, including, but not limited to, information received from a Sports Governing Body, in determining whether to authorize or prohibit wagering on a particular Sporting Event or Wager Category.

**Initial phase currently**



## MASSACHUSETTS GAMING COMMISSION

# PETITION FOR A SPORTING EVENT OR WAGER CATEGORY

*In accordance with 205 CMR 247.03*

### **Directions:**

Please fill out and address all areas of the form. If an area does not apply to the request, please place 'NA' in the section. Each section will extend to accommodate large answers. If needed, one may attach additional documents. Please make sure any attachments reference the relevant section and number in their title.

### **BACKGROUND**

NAME OR ENTITY PETITIONING:

ADDRESS OF PETITIONER(S):

REQUESTING A SPORTS WAGERING EVENT OR WAGERING CATEGORY: Choose an item.

NAME OF EVENT OR WAGERING CATEGORY:

IS THIS A VARIATION OF AN AUTHORIZED SPORTING EVENT OR WAGER CATEGORY? Choose an item.

IS THIS A COMPOSITE OF AUTHORIZED SPORTING EVENTS OR WAGER CATEGORIES? Choose an item.

IS THIS A NEW SPORTING EVENT OR WAGER CATEGORY?: Choose an item.

IF THE PETITION IS FROM AN ENTITY OTHER THAN A LICENSED SPORTS WAGERING OPERATOR, IS THERE AN OPERATOR WHO IS INTERESTED IN OFFERING THIS EVENT OR WAGER CATEGORY? IF SO, WHICH OPERATOR(S)?

WEBSITE LINK FOR THE EVENT AND/OR GOVERNING BODY:

### **A COMPLETE AND DETAILED DESCRIPTION OF THE SPORTING EVENT OR WAGER CATEGORY FOR WHICH APPROVAL IS SOUGHT**

1. A summary of the Sporting Event or Wager Category and the manner in which Sports Wagers would be placed and winning Sports Wagers would be determined.
2. A draft of the proposed House Rules, including a description of any technology that would be utilized to offer Sports Wagering on the Sporting Event or Wager Category.
3. Any rules or voting procedures related to the Sporting Event or Wager Category.



4. Assurance that the Sporting Event or Wager Category meets the requirements of 205 CMR 247.03(4).
5. Whether and to what extent the outcome of the Sporting Event or Wager Category is determined solely by chance.

**IF THE PROPOSED SPORTING EVENT OR WAGER CATEGORY IS BASED ON ESPORTS ACTIVITIES, PLEASE ANSWER THE FOLLOWING QUESTIONS**

1. The proposed location(s) of the eSports event(s).
2. The video game used for the eSports event, including, without limitation, the publisher of the video game.
3. The eSports event operator, whether the eSports event operator is approved to host events by the video game publisher, and whether the eSports event operator has any affiliation with the video game publisher.
4. The manner in which the eSports event is conducted by the eSports event operator, including, without limitation, eSports event rules and certification from a third party, such as an eSports event operator or the game publisher, that the eSports event meets the Commission's event integrity requirements.

**POLICIES AND PROCEDURES REGARDING EVENT INTEGRITY**

To the extent known by the petitioner(s), please provide a description of policies and procedures regarding event integrity.



### MINIMUM CRITERIA

1. Can the outcome of the Sporting Event or Wager Category be verified? If yes, explain the verification process.
2. Is the Sporting Event generating the outcome conducted in a manner that ensures sufficient integrity controls exist so the outcome can be trusted? Please explain.
3. Is the outcome likely to be affected by any Sports Wager placed? Please explain.
4. Is the Sporting Event conducted in conformity with all applicable laws? Please explain.

THE COMMISSION WILL CONSIDER THE REQUEST, ALL PROVIDED MATERIALS, AND ANY RELEVANT INPUT FROM THE SPORTS GOVERNING BODY OR THE CONDUCTOR OF THE SPORTING EVENT PRIOR TO AUTHORIZING A SPORTING EVENT OR WAGER CATEGORY.

NAME OF SPORTS GOVERNING BODY:

ARE YOU THE SPORTS GOVERNING BODY? Choose an item.

HAS THE SPORTS GOVERNING BODY BEEN INFORMED OF THIS REQUEST? Choose an item.

IF THERE IS NO SPORTS GOVERNING BODY, NAME THE ENTITY THAT CONDUCTS THE SPORTING EVENT:

ARE YOU THE ENTITY THAT CONDUCTS THE SPORTING EVENT?:

HAS THE ENTITY THAT CONDUCTS THE SPORTING EVENT BEEN CONTACTED REGARDING THIS REQUEST?



HAS ANY RELEVANT PLAYER'S ASSOCIATION BEEN INFORMED OF THIS PETITION? Choose an item.

IF ANY OF THE ABOVE ENTITIES HAVE BEEN CONTACTED, PLEASE PROVIDE ADDITIONAL DETAIL BELOW, INCLUDING BUT NOT LIMITED TO WHEN THE ENTITIES WERE INITIALLY CONTACTED ABOUT THE REQUEST ANY COMMENTS OR INPUT PROVIDED BY THE ENTITIES:

### **SIGNATURE AND INFORMATION**

*I swear or attest under the pains and penalties of perjury that the information provided as part of this request for a hearing is true and accurate to the best of my knowledge and understanding.*

\_\_\_\_\_  
Signature of individual requesting new event/wager

\_\_\_\_\_  
Date

[If this request is submitted via email, it may be signed electronically by typing the petitioner's name on the signature line above. In that case, the 'signature' must be preceded by /s/ (e.g.- /s/ John S. Doe). Use of an electronic signature permits the Commission to rely upon the signature as if it were handwritten.]

Please submit this request and any attachments to the Massachusetts Gaming Commission via email at:  
[mgcsportswagering@massgaming.gov](mailto:mgcsportswagering@massgaming.gov)



TO: Chair Judd-Stein and Commissioners Eileen O'Brien, Brad Hill, Nakisha Skinner and Jordan Maynard

FROM: Crystal Beauchemin, Sports Wagering Business Manager

CC: Karen Wells, Executive Director; Bruce Band, Director of Sports Wagering

DATE: May 5, 2023

RE: 243.01 – Technical Security Controls (Appendix B) Audit Update

## **Background**

205 CMR 243.01 incorporates [GLI-33](#) and instructs that sports wagering operators comply with its standards and appendices. In particular, 205 CMR 243.01 (x) prescribes that operators conduct an independent audit of “Appendix B” under GLI-33, which is the operational Audit of Technical Security Controls (under 1.6.2 operational Audit).

*b) Appendix B: Operational Audit of Technical Security Controls. “This includes, but is not limited to, an information security system (ISS) assessment, review of the operational processes that are critical to compliance, penetration testing focused on the external and internal infrastructure as well as the applications transferring, storing and/or processing of player data and/or sensitive information, and any other objectives established by the regulatory body.” – GLI-33 – Standards for Event Wagering Systems*

The regulation, 205 CMR 243.01 (x), indicated that operators must complete this Technical Security Controls (Appendix B) audit within 90 days of commencing operations. That date was May 1, 2023.

## **Overview**

There are several steps under the regulation, 205 CMR 243.01 (x), that each operator must take prior to the submission of the audit report. The steps include ensuring the auditor/independent technical expert is deemed to qualify for performing the review of the Technical Security Controls, then that auditor/expert must become licensed by the Massachusetts Gaming Commission (MGC), and finally a scope of work (SOW) must be submitted and approved prior to proceeding with the audit. The submission of the Appendix B audit report is the final component.

### **205 CMR 243.01 (x) a) - The scope of the technical security control audit is subject to approval of the Commission ...**

This section requires a Scope of Work (SOW) to be submitted and approved, and indicates the minimum criteria and standards which the scope must include.

This portion of the process (the SOW) will be reviewed and approved by Cristian Tavares, Gaming Technical Compliance Manager of MGC's Gaming Technical Compliance Unit (GTCU), and Kevin Gauvreau, Information and Network Security Manager of MGC's Information Technical Services (ITS) Division.

**205 CMR 243.01 (x) b) - To qualify as an independent technical expert, the independent technical expert shall ...**

This section delineates the background, education, certifications, and other qualifications required for the technical expert to be approved to complete the audit.

This portion of the process will also be reviewed and approved by Cristian Tavares (GTCU) and Kevin Gauvreau (ITS).

**205 CMR 243.01 (x) c) - The full independent technical expert's report on the assessment must be submitted to the Commission no later than thirty (30) days after the assessment is completed and must include ...**

This section of the regulation provides that after the approval of the independent expert's qualifications and the SOW, the final Appendix B report must be submitted to MGC within 30 days. (That date would be June 1, 2023.)

Additionally, after qualification under **205 CMR 243.01 (x) b** , the technical expert must register as a Sports Wagering Registrant with MGC's licensing division under **205 CMR 234.01(2)(a)**. The two registrants under review by the division of licensing at this time are Cyderes (MGM Springfield) and Bulletproof (for Plainridge Park Casino and Encore Boston Harbor.)

**Status Update**

A formal update on the process and each operator's status will be provided by Bruce Band, Director of Sports Wagering; Todd Grossman, General Counsel; Kara O'Brien, Chief of Licensing and Cristian Tavares, Gaming Technical Compliance Manager.

**Request**

Encore Boston Harbor and MGM Springfield have each requested 30-day extensions for the submission of their Appendix B reports.

205 CMR 243.00: SPORTS WAGERING EQUIPMENT

243.01: Standards for Sports Wagering Equipment

- (1) Sports Wagering Operators and Sports Wagering Vendors shall comply with, and the Commission adopts and incorporates by reference, *Gaming Laboratories International, LLC Standard GLI-33: Event Wagering Systems* and its appendices, version 1.1, released May 14, 2019, subject to the following amendments:
- (a) Delete section 1.1.1 and replace with the following: "The following sets forth the technical standards for Sports Wagering Equipment as identified in 205 CMR 244.01."
  - (b) Delete section 1.1.2.
  - (c) Delete section 1.2.1.
  - (d) Delete section 1.3.3 and replace with the following: "This GLI technical standard is adopted in whole, subject to the modifications described in 205 CMR 243.01. To create a cohesive regulatory framework, the standard and modifications should always be read in conjunction with 205 CMR and the standards referenced in section 1.4.1."
  - (e) Add the following after section 2.1.1 "and the modifications described in 205 CMR 243.01."
  - (f) Delete the second sentence of section 2.5.1 and replace with the following: "In addition to the requirements contained within this section, and 205 CMR, the "Player Account Controls" section of this document shall also be met."
  - (g) Delete section 2.5.6(b) and replace with the following: "A deposit into a player account shall not be made using a credit card and must be made by methods which can produce a sufficient audit trail."
  - (h) Delete from section 2.7.1 the words "Where required by the regulatory body".
  - (i) Add the following at the end of section 2.7.4: "All wagers must be initiated and received or otherwise made by an individual located in the Commonwealth. Consistent with the intent of the federal Unlawful Internet Gambling Enforcement Act of 2006, 31 U.S.C. section 5361 to 5367, inclusive, the intermediate routing of electronic data related to a lawful intrastate wager authorized pursuant to M.G.L. c. 23N shall not determine the location or locations in which the wager is initiated, received, or otherwise made."
  - (j) Replace in section 2.7.4(a):
    - (1) the number "30" with the number "20"; and
    - (2) the words "or as otherwise specified by the regulatory body" with "after a period of 5 minutes since the previous location check if within one mile of the border, and prior to placement of the next wager after detection of a change to the player's IP Address"
  - (k) Add the following as section 2.7.4(e): "The location detection service or application used by the Event Wagering System shall be certified by the approved Independent Testing Laboratory, including applicable field testing, before its deployment."
  - (l) Delete section 2.8.2(o) and replace with the following: "(o) The personally identifiable information of a player who places a wager that exceeds \$10,000 or wins a wager exceeding \$600 and worth at least 300 times the amount wagered including, the legal name, residential address, date of birth, and encrypted government identification number (full or partial social security number, taxpayer identification number, passport number, or equivalent)."
  - (m) Delete from section 2.8.5(j)(ix) the words "or credit".



205 CMR: MASSACHUSETTS GAMING COMMISSION

- (n) Replace in section 2.8.8(d) the words "a value specified by the regulatory body" with "\$10,000, or \$600 and worth at least 300 times the amount wagered"
- (o) Replace in section 2.8.8(e) the words "a value specified by the regulatory body" with "\$10,000"
- (p) Replace in section 2.8.8(n)(iv).the words "a value specified by the regulatory body" with "\$10,000"
- (q) Add the following as section 2.9.1(c): "The Operator shall timely file with the Commission the reports required by this section in accordance with M.G.L. c. 23N, § 12(a)(ix) and 205 CMR."
- (r) Replace in section 3.3.1 the words "other applicable jurisdictional requirements observed by the regulatory body" with "the modifications described in 205 CMR 143.07"
- (s) Add the following as section A.1.2: "A.1.2 Independent Audit. Each Operator shall have their procedures and practices for wagering operations independently audited at least once every two (2) years with the results documented in a written report. Reports shall be maintained and available to the Commission upon request. An Operator's audit practices shall include, but not be limited to, the following:
  - a) Independent audits may be conducted by the Commission, or a Commission-approved third-party auditor. The Commission may, in its discretion, allow for an internal audit department within the Operator or parent company of the Operator, which is independent of the wagering operation, to serve as a third-party auditor for use in completing this audit.
  - b) The Commission, or third-party auditor shall be responsible for auditing the Operator's compliance with M.G.L. c. 23N, 205 CMR, this appendix, the internal control system, and any other applicable rules and regulations.
  - c) Documentation, including checklist, programs, reports, corrective actions, and other items, shall be prepared to evidence all independent audit work performed as it relates to the requirements of 205 CMR 243.01 and this appendix, including all instances of noncompliance.
  - d) Independent audit reports shall include objectives, procedures and scope, findings and conclusions, and recommendations.
  - e) Independent audit findings shall be reported to management. Management shall be required to respond to the independent audit findings and the stated corrective measures to be taken to avoid recurrence of the audit exception. Such management responses shall be included in the final independent audit report.
  - f) Follow-up observation and examinations shall be performed to verify that corrective action has been taken regarding all instances of noncompliance cited by the independent audits, or by the Commission. The verification shall be performed within six (6) months following the date of notification.
  - g) It is acceptable to leverage the results of prior audits conducted within the audit period by the same third-party auditor in another jurisdiction. Such leveraging shall be noted in the audit report. This leveraging does not include any procedures and practices unique to the Commonwealth, which will require new audits."
- (t) Make the following changes to section A.2:
  - (1) Add the following at the end of section A.2.1: "The internal control procedures shall meet the requirements of this appendix and 205 CMR."
  - (2) Replace section A.2.4(a) with: "Players identified as employees, subcontractors,

directors, owners, officers, or Qualifiers of an operator, as well as those within the same household, shall not place wagers through the operator, or through any other Operator tethered to the Operator, on any event, except in private pools where their association with the Operator is clearly disclosed.”

- (u) Replace in section A.4.5 the word “credit card” with “financial.”
- (v) Delete section A.7.4(d) and replace with the following: "(d)Is kept for at least one year after a sporting event occurs."
- (w) Delete from section A.8.3 the words "where required by the regulatory body".
- (x) Add the following as section B.1.2: "B.1.2 Independent Audit. The Operator shall, within ninety (90) days after commencing operations in the Commonwealth, and annually thereafter, have a technical security control audit conducted by a qualified independent technical expert selected by the Operator and subject to approval of the Commission. The Commission will establish minimum qualifications for technical experts, to be published on its website, which must be reviewed and updated annually, and which shall include the requirements of B.1.2(b).
  - a) The scope of the technical security control audit is subject to approval of the Commission or its designee and must include, at a minimum, all of the following:
    - i. A vulnerability assessment of all digital platforms, mobile applications, internal, external, and wireless networks with the intent of identifying vulnerabilities of all devices, the servers, and applications transferring, storing, and/or processing personally identifiable information and/or other sensitive information connected to or present on the networks.
    - ii. A penetration test of all digital platforms, mobile applications, internal, external, and wireless networks to confirm if identified vulnerabilities of all devices, the servers, and applications are susceptible to compromise.
    - iii. A review of the firewall rules to verify the operating condition of the firewall and the effectiveness of its security configuration and rule sets performed on all the perimeter firewalls and the internal firewalls;
    - iv. An information security assessment against the provisions adopted in M.G.L. c. 23N, 205 CMR, this appendix with generally accepted professional standards, and as approved by the Commission;
    - v. If a cloud service provider is in use, an assessment performed on the access controls, account management, logging and monitoring, and over security configurations of their cloud tenant;
    - vi. An evaluation of information security services, payment services (financial institutions, payment processors, etc.), location services, and any other wagering services which may be offered directly by the Operator or involve the use of third parties against the provisions adopted in these rules; and
    - vii. Any other specific criteria or standards for the technical security control audit as prescribed by the Commission or its designee.
  - b) To qualify as an independent technical expert, the independent technical expert shall:
    - i. Have relevant education background or in other ways provide relevant qualifications in assessing Event Wagering Systems;
    - ii. Obtain and maintain certifications sufficient to demonstrate proficiency and expertise as a network penetration tester by recognized certification boards, either nationally or internationally;

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- iii. Have at least five years' experience performing technical security control audits on Event Wagering Systems; and
- iv. Meet any other qualifications as prescribed by the Commission or its designee.
- c) The full independent technical expert's report on the assessment must be submitted to the Commission no later than thirty (30) days after the assessment is completed and must include all the following:
  - i. Scope of review;
  - ii. Name, company affiliation, contact information, and qualifications of the individual(s) who conducted the assessment.
  - iii. Date of assessment;
  - iv. Findings;
  - v. Recommended corrective action, if applicable; and
  - vi. The Operator's response to the findings and recommended corrective action.
- d) It is acceptable to leverage the results of prior assessments within the past year conducted by the same independent technical expert in another jurisdiction or against standards such as ISO/IEC 27001, ISO/IEC 27017, ISO/IEC 27018, the NIST Cybersecurity Framework (CSF), the Payment Card Industry Data Security Standards (PCI-DSS), or equivalent. Such leveraging shall be noted in the independent technical expert's report. This leveraging shall not include critical components unique to the Commonwealth which will require fresh assessments.
- e) If the independent technical expert's report recommends corrective action regarding an item identified as High, or, with respect to any other corrective action, if the Commission so directs the Sports Wagering Operator, the Sports Wagering Operator must provide the Commission with a remediation plan and any risk mitigation plans which detail the Operator's actions and schedule to implement the corrective action. Once the corrective action has been taken, the Sports Wagering Operator shall provide the Commission with documentation evidencing completion."
- (y) Replace the paragraph in B.2.2 with the following: "The Sports Wagering Operator shall provide the Commission with information on the secure locations of all servers and other Sports Wagering Equipment for the Commission's approval. Unless otherwise approved by the Commission, the primary server or other equipment primarily responsible for the acceptance of sports wagers shall be placed in secure locations within the Commonwealth. In addition, secure location(s) shall:"
- (z) Replace section B.4.5 with the following: "B.4.5 Communications in Wagering Venues. If a guest network is offered that provides internet access for players, venue guests, or vendors, the guest network must be physically or logically segregated from the network used to serve the Event Wagering System. Communications on the guest network must be non-routable to the Event Wagering System network."
- (aa) Delete from section B.7.6 the words "If required by the regulatory body"
- (bb) Add the following to the beginning of section B.9.5: "The Commission may approve of the use of internet or cloud-based hosting of duplicate data or data not related to transactional wagering data upon written request of the Operator."
- (cc) In Section A.6.4:
  - (1) Replace "authorized" with "permitted";
  - (2) After "prior approval of the regulatory body," insert "except in accordance with the Operator's approved house rules or internal controls."

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REGULATORY AUTHORITY

M.G.L. c. 23N, §4.



TO: Chairwoman Judd-Stein, Commissioners O'Brien, Hill, Skinner, Maynard

FROM: Mark Vander Linden, Director of Research and Responsible Gaming,  
Bonnie Andrews, Research Manager

CC: Karen Wells, Executive Director

DATE: May 8, 2023

RE: Proposed FY2024 Gaming Research Agenda

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**Background:**

The Expanded Gaming Act enshrines the role of research in understanding the social and economic effects and mitigating the negative consequences of casino gambling in Massachusetts. To this end, with the advice of the Gaming Policy Advisory Committee, the Commission is charged with carrying out an annual research agenda to comprehensively assess the impacts of casino gambling in Massachusetts. Specifically, [M.G.L. Chapter 23K §71](#) directs the research agenda to examine the social and economic effects of expanded gambling and to obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology, and etiology of gambling. [M.G.L. Chapter 23N, §23](#) extends the scope of the research agenda to include an understanding of the effects of sports wagering in the commonwealth.

To support the successful implementation of these statutory mandates, the Commission adopted a strategic research plan that outlines research in seven key focus areas, including:

**Economic Impact Research**

The Economic Impact component of the Social and Economic Impacts of Gambling in Massachusetts (SEIGMA) study, conducted by a team from the UMass Donahue Institute, analyzes the fiscal and economic effects of expanded gaming across the Commonwealth. The economic research is intended to provide 1) neutral information of decision-making, 2) early warning signs of changes connected with casino gambling, and 3) help reducing gambling-related harm. To explore more about the economic impact research including completed reports: <https://massgaming.com/about/research-agenda-search/?cat=economic-impact>

**Social Impact Research**

The Social Impact component of the Social and Economic Impacts of Gambling in Massachusetts

(SEIGMA) study, conducted by a team from UMass Amherst, analyzes the social and health effects of expanded gaming across the Commonwealth. To explore more about the social impact research, including completed reports: <https://massgaming.com/about/research-agenda-search/?cat=social-impact-research>

### **Community-Engaged Research**

The objective of community-engaged research is to understand and address the impact of gambling in Massachusetts communities. The specific research topic or question is developed by the community through a community-driven process. To explore more about the community-engaged research, including completed reports: <https://massgaming.com/about/research-agenda-search/?cat=community-engaged-research>

### **Public Safety Research**

Public safety research examines gaming impacts on public safety, including crime, calls-for-service, collision, and driving under the influence data. This element of the Commission's research agenda has produced a baseline for each casino host and surrounding communities. Annual follow-up studies measure change in activity and highlight possible connections to the casino. To explore more about the public safety research, including completed reports: <https://massgaming.com/about/research-agenda-search/?cat=public-safety>

### **Responsible Gaming Program Evaluation**

The Commission is committed to offering effective, evidence-based responsible gaming programs and initiatives. Currently, these initiatives include statewide Voluntary Self Exclusion, PlayMyWay Play Management System, and the GameSense program. The introduction of mobile sports wagering will usher in additional responsible gaming tools, and measures. Ongoing and independent evaluation informs the overall responsible gaming strategy and future direction of these programs. To explore more about the evaluation research, including completed reports: <https://massgaming.com/about/research-agenda-search/?cat=responsible-gaming-program-evaluations>

### **Massachusetts Gaming Impact Cohort**

The Massachusetts Gambling Impact Cohort (MAGIC), was the first major longitudinal cohort study of gambling behavior in the United States. This study provided insights into demographic groups particularly at risk of experiencing gambling-related harm and provides information on how gambling and problem gambling develop, progress and remit, and will identify demographic groups particularly at risk of experiencing gambling-related harm. To explore more about the Massachusetts Gaming Impact Cohort, including completed reports: <https://massgaming.com/about/research-agenda-search/?cat=massachusetts-gambling-impact-cohort>

### **Data Sharing**

To improve transparency and build upon the existing research body of research, the Commission has a robust research library and data sharing portal. The Massachusetts Open Data Exchange (MODE) invites researchers of all disciplines to use available gaming-related data to advance the empirical evidence and knowledge base about casinos' social and economic effects on individuals and communities. To explore more about the Massachusetts Open Data Exchange: <https://massgaming.com/about/research-agenda/>

## Proposed FY24 Gaming Research Agenda

The proposed FY24 Gaming Research Agenda is estimated to be \$1,865,000. This is a roughly 30% increase from the adopted FY23 budget of \$1,438,000. The increase includes a significant expansion of the annual research agenda to encompass sports wagering as outlined in M.G.L. c. 23N, § 20 and 23, as well as the 2022 Act Regulating Sports Wagering, § 25. If approved, the additional funding would support the following projects:

- Study to examine effects of expansion of gaming in Massachusetts on human trafficking.
- Studies related to sports wagering:
  - An evaluation of the effectiveness of select sports wagering responsible gaming tools.
  - A study on the impact of iGaming on public health, with particular focus on comparison of participants with participants in other forms of gaming, comorbidity with problem gambling, and impacts on youth under the age of 25.
  - A prospective study on the feasibility, and potential impact, of allowing retail locations in the commonwealth to operate sports wagering kiosks.
  - Study on the participation by minority business enterprises, women business enterprises, and veteran business enterprises in the sports wagering industry in the Commonwealth.
  - Study on different existing marketing affiliate payment structures and impact on players.

Below, the proposed FY24 research agenda is shared with you in the following table and includes 1) general description of each project, 2) specific deliverables/activities, 3) a reference to the section of M.G.L. c. 23K or the 2022 Massachusetts Sports Wagering Act, and significance.

Proposed FY2024 Gaming Research Agenda	
<b>Social and Economic Research</b>	
The Expanded Gaming Act (M.G.L. c. 23K § 71) required the MGC to engage research to understand the social and economic effects of casino gambling in Massachusetts. Since 2013 the MGC has contracted the University of Massachusetts Amherst, School of Public Health and Health Sciences to carry out this part of the research agenda.	
Task/deliverable	Statutory and Practical Significance
2024 Integrated Social and Economic Impacts Report	Relates to: M.G.L. c. 23K, § 71 (1) and §71 (2)(iii)(iv)(vii) An integrated report looking at the overall social and economic impacts since Plainridge Park Casino opened in 2015. This report will include a section updating work conducted in 2014 to select communities in the Northeast matched to the MA casino host communities for purposes of counterfactual analysis of the economic impacts of casinos in MA, as well as a section on operations and economic impacts.
Task/deliverable	Statutory and Practical Significance
Online Panel Survey	Relates to: M.G.L. c. 23K, §71 (2)(iii), §71 (3)(ii)

(OPS) 2023 Report	M.G.L. c. 23N, § 23 This report will assess changes in gambling participation from 2022 to 2023, as well as the prevalence of problem gambling. A template for series of brief reports tracking participation and prevalence will also be produced.
Task/deliverable	Statutory and Practical Significance
Out of state visitorship to MA Casinos Report	Relates to: M.G.L. c. 23K, § 71 (1) and §71 (2)(iv) Using a new anonymized dataset (Airsage), this report will use cellphone data to track out of state visitorship to MA casinos. This will provide a comparison to a study by researcher Clyde Barrow about this issue before casinos opened in MA, as well as impacts on the travel and tourism industry.
Task/deliverable	Statutory and Practical Significance
Administer OPS questions	Relates to: M.G.L. c. 23K, § 71 (1) and §71 (2)(iii) M.G.L. c. 23N, § 23 The OPS will be fielded in March 2024 This data will continue to inform trends in gaming and problem gambling, and particularly following the launch of sports wagering.
Task/deliverable	Statutory and Practical Significance
Ad hoc economic report	May Relate to: M.G.L. c. 23K, §71 (2)(iv); M.G.L. c. 23N, § 23 An additional report on the economic impacts of expanded gaming, with topic to be finalized by September 2023.

<b>Public Safety Research</b>	
The MGC is examining changes in crime, calls for service, and collisions following the opening of casinos in Massachusetts. The intention is to demonstrate what changes in crime, disorder, and other public safety harms can be attributed directly or indirectly to the introduction of a casino and what strategies local communities need to implement to mitigate the harm.	
Task/deliverable	Statutory and Practical Significance
Assess the influence of gambling on public safety for <b>Plainville and five surrounding communities.</b> Produce a year-8 report. Provide crime analyst technical assistance as needed.	Relates to: M.G.L. c. § 71 (2)(ii) M.G.L. c. 23N, § 23 <ul style="list-style-type: none"> <li>• Provides ongoing monitoring system of crime, calls for service, and traffic.</li> <li>• Allows for early detection and response to casino related problems that may arise.</li> <li>• Provides an opportunity for greater collaboration with local police chiefs and crime analysts.</li> <li>• This report will explore any changes in public safety which may be related to opening of the PPC sportsbook.</li> </ul>
Task/deliverable	Relates to: M.G.L. c. § 71 (2)(ii)



Assess the influence of expansion of gaming on human trafficking in Massachusetts.	<ul style="list-style-type: none"> <li>• Provides insight into effects of expansion of gaming in Massachusetts on a particular type of crime</li> <li>• Allows for detection and response to problems that may arise.</li> </ul>
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<b>Community-Engaged Research</b>	
Task/deliverable	Statutory and Practical Significance
Support an estimated two new community driven research projects	Relates to: M.G.L. c. 23K, § 71 (3)(ii) M.G.L. c. 23N, § 23 The objective of community-engaged research is to more deeply understand and address the impact of casino gambling in Massachusetts's communities. The specific research topic or question is developed by the community through a community-participatory process.
Task/deliverable	Statutory and Practical Significance
Support an estimated two new community-driven research projects through the Community Mitigation Fund	Relates to: M.G.L. c. 23K, § 71 (3)(ii) M.G.L. c. 23K, § 61 The Commission seeks to study and mitigate gambling related harms through a new pilot program with the Community Mitigation Fund, which will provide funding for a limited number of community-engaged research projects. The funding for this grant is for two levels of assistance. Type 1 is for the development or planning of a study or project and Type 2 is for the implementation of a project.
<b>Data Sharing</b>	
Task/deliverable	Practical significance
Maintain existing datasets in the MODE repository and add additional datasets as they become available, including player card data as required.	Relates to: M.G.L. c. 23K, § 71 (2); Chapter 194, Section 97 The purpose of MODE is to provide access to data generated by research projects funded and overseen by the MGC. Datasets from existing and ongoing research projects and player card data are publicly available with certain parameters.
Develop plan to increase capacity for analysis of MODE data through fellowships, internal resources, and/or partnerships with other agencies	

<b>Responsible Gaming Evaluation</b>	
The MGC is committed to offering effective, evidence-based responsible gaming programs and initiatives. Ongoing and independent evaluation informs the overall responsible gaming strategy and future direction of these programs.	
Task/deliverable	Statutory and Practical significance M.G.L. c. 23K, § 71 (3); M.G.L. c. 23N, § 23
Evaluation of <b>sports wagering</b> Responsible Gaming tools	<p><b>Option 1:</b> This study will evaluate outcomes related to implementation of an initiative that provides resources to patrons who enroll in temporary prohibition from sports wagering.</p> <p><b>Option 2:</b> Evaluation of other sports wagering/responsible gaming tools</p>
GameSense Evaluation	Through a licensing agreement with the British Columbia Lottery Corporation and in cooperation with the National Council on Problem Gambling, the MGC will commence an evaluation to assure alignment with overall program goals.

<b>Sports Wagering Research</b>	
<p>The <a href="#">2022 Massachusetts Sports Wagering Act, §23</a> extends the scope of the research agenda to understand the social and economic effects of sports wagering in the commonwealth and to obtain scientific information relative to the neuroscience, psychology, sociology, epidemiology and etiology of sports wagering. The sports wagering research agenda shall also include, but not be limited to: (i) an assessment of whether problem sports wagering is comorbid with problem gambling; (ii) an assessment as to whether the individuals participating in sports wagering are different than those who participate in other forms of gaming or gambling; (iii) an assessment of the impact of sports wagering on youth under the age of 25; (iv) an assessment of the impacts of sports wagering on college athletics and professional sports; and (v) the costs of implementing this chapter.</p>	
Task/deliverable	Statutory and Practical Significance
iGaming Study	<p>Relates to: M.G.L. c. 23N, § 23</p> <p>A study on the impact of iGaming on public health, with particular focus on comparison of participants with participants in other forms of gaming, comorbidity with problem gambling, and impacts on youth under the age of 25.</p>
Task/deliverable	Statutory and Practical Significance
Kiosk Study	<p>Relates to: M.G.L. c. 23N, § 20</p> <p>A prospective study on the feasibility, and potential impact, of allowing retail locations in the commonwealth to operate sports wagering kiosks.</p>
Task/deliverable	Statutory and Practical Significance
Study on participation of	Relates to: The 2022 Act Regulating Sports Wagering, § 25

minority, women, and veteran business enterprises in sports wagering	Study on the participation by minority business enterprises, women business enterprises, and veteran business enterprises in the sports wagering industry in the Commonwealth.
Task/deliverable	Statutory and Practical Significance
Sports wagering advertising study	Relates to: M.G.L. c. 23K, § 71 (2)(iv); M.G.L. c. 23N, § 23
	Study on different existing marketing affiliate payment structures and impact on players.

<b>Research Review</b>
To ensure the highest quality research, the MGC has assembled a research review committee. This committee is charged with providing the MGC and research teams with advice and feedback on gaming research design, methods, and analysis. Where additional expertise is needed, the MGC seeks advice from experts with specific subject matter expertise to review reports and advise on research matters.
<b>Knowledge Translation and Exchange</b>
To ensure findings from the MGC research program are accessed and used by key stakeholders, MGC engaged an organization with expertise in this area, the Gambling Research Exchange of Ontario (GREO), in FY23 to help develop a strategic plan, provide on-going training, consultation, and support to build in-house capacity to improve current KTE strategies, practices, and skill sets. In FY24, work on this strategic plan will include broadening the MGC’s network of safer gaming stakeholders, tailoring stakeholder engagement and consultation methodologies, and working to gather and mobilize knowledge in ways that align with stakeholder needs and preferences.  In addition, the MGC, in collaboration with UMass Amherst and GREO, plans to hold an inaugural Research Conference in Spring 2024. The goal of this conference is to showcase findings from the 2024 Integrated Social and Economic Impacts Report, bring together a diverse network of stakeholders and researchers to discuss findings from the research agenda to date, collaborate on knowledge mobilization strategies, and develop strategies to broaden and deepen future research.

The process for developing and finalizing the FY24 research agenda has included an initial presentation to the Commission on March 30, 2023, a meeting with the Gaming Research Advisory Committee on April 4, 2023, and a meeting with the Gaming Policy Advisory Committee (GPAC) for advice and discussion as required by [M.G.L. Chapter 23K §71](#) on May 4, 2023. Guidance and feedback received concerning the Research Agenda, as well as steps taken in response to this feedback, was as follows:

Feedback	Steps Taken
<p><b>From Commissioners:</b> Assess knowledge needs concerning money laundering in the context of sports wagering</p>	<p>MGC staff consulted with the Investigations and Enforcement Bureau (IEB) concerning knowledge needs and it was determined that current knowledge needs did not warrant additions to the FY24 research agenda. MGC staff will continue to work with IEB to identify and address emerging knowledge needs.</p>
<p><b>From Commissioners:</b> What is the plan for use of primary patron data from online mobile sports wagering operators (for example, in terms of patron behavior patterns, or in the context of advertising models) to identify risk markers or effects of advertising on customer acquisition and player behavior?</p>	<p>Commission may consider regulatory and policy options to collect sports wagering player data.</p>
<p><b>From Commissioners, GRAC, and GPAC:</b> Obtain information about adequacy of funding to support community-based projects (for example, does amount of funding create barriers to receiving proposals? Would more funding provide more opportunities for deeper research?). It is important to continue to stress the importance of thinking about equity in all aspects of the work because people of color are disproportionately impacted by gambling. Funding for community-led research is appreciated, but this research is not funded at same level at general research—it is important to continue to represent equity principles within larger research.</p> <p>Identify ways to promote community-based research funding opportunities, as well as broaden and deepen community-engaged research initiatives</p>	<p>Beginning in the latest funding cycle, the Community Mitigation Fund now supports gambling harm reduction and community driven research. MGC staff will continue to explore alternative funding structures that may be more accessible to a wider audience. MGC staff has been engaged in knowledge translation and mobilization initiatives to broaden awareness of community-based research funding opportunities, and welcomes the opportunity to present at a future Commission meeting about these initiatives. MGC staff has also added items onto the next GRAC agenda to engage membership in an examination of current procurement processes for community-based research to broaden and deepen future community-engaged research.</p>
<p><b>From GPAC:</b> Have public safety studies incorporated expenditures for public safety workforce related to the casino?</p>	<p>MGC staff will consult with Justice Research Associates, the researchers that MGC has contracted with to conduct public safety research, concerning ways to incorporate this into future reports.</p>