

**COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS GAMING COMMISSION**

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In the Matter of )  
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Application of Encore Boston Harbor, a Wynn Resort, for a )  
Category 1 Sports Wagering Operator License )  
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**DECISION APPROVING WYNN RESORTS HOLDING, LLC’S REQUEST FOR A  
CATEGORY 1 SPORTS WAGERING OPERATOR LICENSE<sup>1</sup>**

**I. Introduction**

Encore Boston Harbor (“EBH”), a subsidiary of Wynn Resorts Holdings, LLC (“WRH”) and holder of a gaming license under G.L. c. 23K, applied to the Massachusetts Gaming Commission (“MGC” or “Commission”) for a Category 1 Sports Wagering License. Under G.L. c. 23N, the Commission may issue a Category 1 Sports Wagering License (“License”) to any holder of a G.L. c. 23K gaming license that meets the requirements of c. 23N and the rules and regulations of the Commission and requests such a license. For the following reasons, the Commission hereby approves EBH’s request for a license.

**II. Procedural History**

On November 21, 2022, the Commission received EBH’s application (the “Application”) for a license, including the \$200,000 application fee. *See* G.L. c. 23N, § 7(A) and 205 CMR 214.01. On November 28, 2022, the Commission received supplemental information from EBH, as well as additional confidential information. The MGC Division of Licensing reviewed the Sports Wagering License Application for administrative sufficiency and determined that the application was sufficient. *See* 205 CMR 218.03. On December 5, 2022, the Commission held a virtual public meeting to hear public comment on all category 1 Sports Wagering applications. *See* 205 CMR 218.05-.06. On December 8, 2022, the Commission held a virtual public meeting to hear an informal presentation from EBH explaining its Application and receive comments from consultants hired by the Commission to review various elements of the Application. *See* 205 CMR 218.04(1)(a)-(b), 218.05(1)(b), 218.06(1). At that same meeting, the Commission deliberated on the license application and at the meeting’s conclusion, the Commission found EBH durably suitable and approved EBH’s request for a License. *See* 205 CMR 215.01(2)(c)-(d), 218.06(4)-(5), 218.07(1)(a).

**III. Findings and Evaluation**

In evaluating whether to issue the Category 1 Sports Wagering License to EBH, the Commission considered: all information in the application submitted by EBH; the public comments made on

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<sup>1</sup> All facts referenced in this decision were current as of the date of the respective hearings referenced in the Procedural History for this applicant.

December 5, 2022; the presentations made by EBH and the Commission’s external consultants<sup>2</sup> on December 8, 2022; and a written report prepared by the Investigations and Enforcement Bureau (“IEB”) in accordance with 205 CMR 215.01(2)(b).

In accordance with 205 CMR 218.06(5), in determining whether to approve EBH’s request for a Sports Wagering License, the Commission evaluated all materials and information in the record to determine whether a license award would benefit the Commonwealth, and considered the following factors:

- a) EBH’s experience and expertise related to Sports Wagering, including:
  - 1. EBH’s ability to offer Sports Wagering in the Commonwealth;
  - 2. A description of EBH’s proposed Sports Wagering operation;
- b) The economic impact and other benefits to the Commonwealth if EBH is awarded a License, including:
  - 1. Employment opportunities within the Commonwealth;
  - 2. The projected revenue from wagering operations, and tax revenue to the Commonwealth;
  - 3. EBH’s proposed plans for construction and capital investments associated with the License award;
  - 4. Community engagement;
- c) EBH’s proposed measures related to responsible gaming, including:
  - 1. EBH’s responsible gaming policies;
  - 2. EBH’s advertising and promotional plans;
  - 3. EBH’s history of demonstrated commitment to responsible gaming;
- d) A description of EBH’s willingness to foster racial, ethnic, and gender diversity, equity, and inclusion, including:
  - 1. Within EBH’s workforce;
  - 2. Through EBH’s supplier spend;
  - 3. In EBH’s corporate structure;
- e) The technology that EBH intends to use in its operation, including:
  - 1. Geofencing;
  - 2. Know-your-customer (“KYC”) measures;
  - 3. Technological expertise and reliability;
- f) The suitability of EBH and its qualifiers, including:

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<sup>2</sup> The consultants include RSM US LLP (“RSM”), which presented on MGMS’s financial projections; Gaming Laboratories International LLC (“GLI”), which presented on technology considerations; and the Commission’s Investigations and Enforcement Bureau (“IEB”), which presented on MGMS’s suitability.

1. EBH’s corporate integrity;
2. The integrity of EBH’s individual qualifiers;
3. EBH’s financial stability, integrity, and background;
4. EBH’s history of compliance with gaming or Sports Wagering licensing requirements in other jurisdictions; and

g) Any other appropriate factor, in the Commission’s discretion.

Further, the Commission decided whether each section of EBH’s Application addressing these factors failed to meet, met, or exceeded expectations.

Ultimately, the Commission finds there is substantial evidence in the record to conclude that EBH’s proposed sports wagering operation meets the requirements set forth in G.L. c. 23N and in 205 CMR 218. The Commission further finds there is substantial evidence to adopt the following specific findings of fact and conclusions of law related to EBH’s application.

**A. Experience and Expertise Related to Sports Wagering**

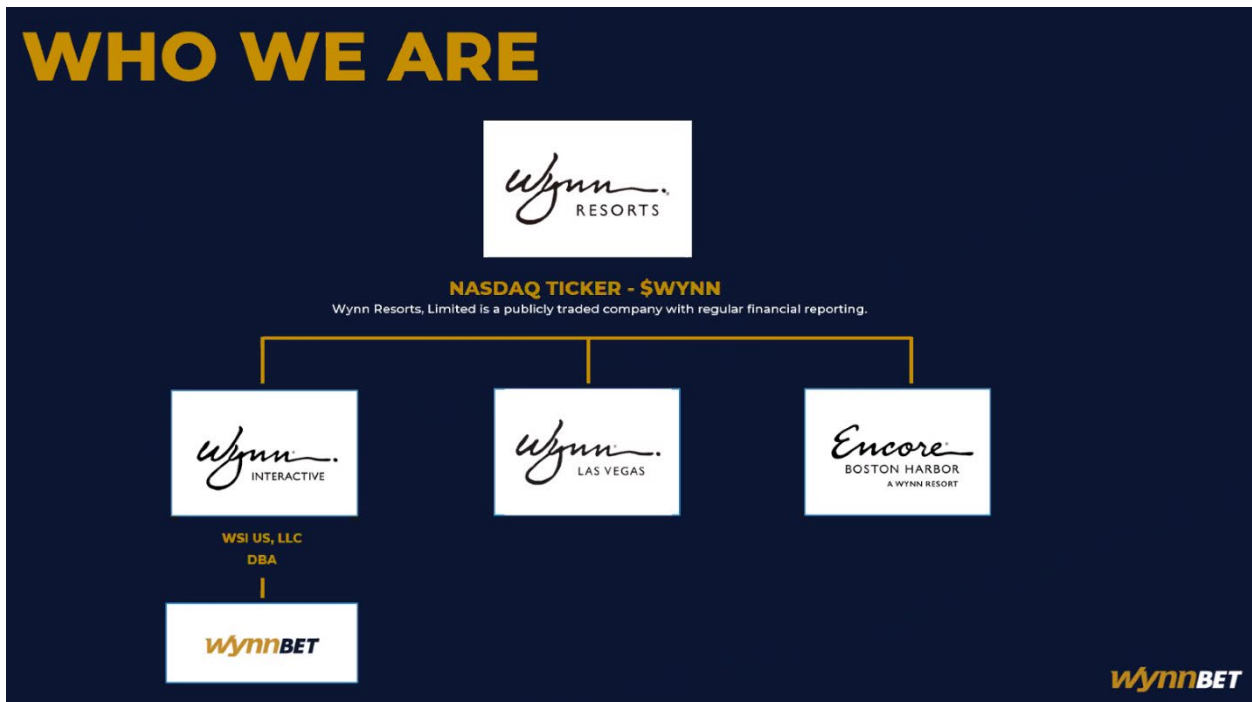


Figure 1. The Wynn corporate structure, as depicted in the EBH presentation to the Commission.

WRH is the main Wynn corporate brand and EBH’s parent entity (see Figure 1 above) and is also an established entity in the casino industry that has earned recognition for its performance and track record from Forbes and other industry evaluators. As of December 2021, WRH is operating four resorts globally, including EBH. WRH generated over \$460 million in revenue from all its operations in 2021 and has nearly \$3 billion in total liquidity. As of the date of the hearing, WRH had a comprehensive sports wagering operation in Nevada that generates \$200

million annually. It also operates sports wagering in nine other states.<sup>3</sup> Accordingly, EBH has demonstrated its experience and expertise both locally and among its corporate affiliates and partnerships.

EBH has already invested significant amounts of capital in its physical sports wagering footprint. Construction included dozens of sports wagering kiosks designed for various bettor styles and capacities, mobile device compatibility, and a new sports bar. In total, EBH added over 3,000 square feet to its footprint, including the ability for patrons to conduct “express” sports wagering in the garage parking area, which it hopes to be a long-term fixture. Commissioners expressed concern about EBH’s ability to secure the express sports wagering area, but EBH reassured the Commission that its security plan, which involved manpower and input from the Massachusetts State Police, was sufficient, and that EBH would appear before the Commission again for any expanded sports wagering in that area.

EBH’s presentation included its relationship to the WRH brand. Although this relationship represents instant name recognition (in and outside of the United States) and added financial stability, it also presents concerns about influence on EBH’s operations by related corporate entities, especially since many of them, including WRH, are not qualifiers for the EBH Category 1 license. The Commission expressed concern about EBH’s autonomy, but EBH was clear that WRH’s impact on EBH would be limited to advisory services, branding, and trading services, and that EBH would be left to run itself. The Commission was ultimately satisfied that the EBH operation would not be unduly influenced by its non-qualifier corporate family members.

EBH has demonstrated that it has the experience and expertise required to develop and operate a successful sports wagering operation. Overall, EBH’s proposal in the experience and expertise category is satisfactory and has therefore met expectations.

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
EBH’s ability to offer Sports Wagering in the Commonwealth	For the reasons described above, the Commission unanimously agreed that EBH has sufficient background in sports wagering and has been fully vetted by the Commission and by nine other states.
Description of EBH’s proposed Sports Wagering operation	The Commission expressed concerns with what it felt was an unclear corporate structure. Specifically, the Commission inquired into the role that WRH (parent company) and Wynn Interactive (applicant for a tethered Category 3 Sports Wagering license in Massachusetts), the latter of which is the immediate corporate owner of WynnBet, EBH’s potential tethered Category 3 license holder, would have in EBH’s governance, marketing, and other business operations.

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<sup>3</sup> As of March 2024, Wynn only offers sports betting in Arizona and Michigan and is exiting Massachusetts and New York.

	<p>EBH assured the Commission that although the WRH corporate brand would continue to provide credibility and name recognition for its operations, WRH would not control EBH’s operations. To the extent Wynn Interactive (parent to WynnBet) would provide price setting for WynnBet, this is not and will not be considered part of operational control. This addressed the Commissioners’ concerns about EBH’s organizational autonomy.</p> <p>The variety of sports wagering locations and machines allows EBH to provide an adaptive and accessible sports wagering experience, with designated areas and machines for new and seasoned bettors. The sports wagering kiosks in the garage, and the “bring your own device” program will allow bettors to enjoy the EBH sports wagering experience without having to fully enter the EBH footprint.</p>
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**B. Economic Impact**

The Commission recognized the employment opportunities that would accompany EBH’s sports wagering operation. According to EBH, an additional 100 jobs will be created at the site, and EBH has an ongoing commitment to the Supplier Diversity & Local Commitments Plan to ensure equitable growth, job creation, and other opportunities. EBH offers a full range of employment benefits, including health insurance (medical, dental, and vision), life and pet insurance, a 401k match,<sup>4</sup> scholarships, and free leadership training. In addition, EBH has committed 26,000 volunteer hours to the community.

EBH expects that its \$20 million investment in its physical and digital wagering footprint will coincide with a decrease in retail traffic over time as customers adapt to online and mobile wagering. If that happens, EBH plans to redeploy some of its new assets to reflect customer demand.

RSM explained that EBH’s sports wagering square footage is “generally larger” than retail locations in other US jurisdictions: New Jersey, Pennsylvania, and Michigan. The Commission sought to ensure that EBH’s size would not present problems if the demand for retail sports wagering declines over time. However, RSM assured the Commission that EBH’s performance is expected to be comparable to its retail locations in other jurisdictions because of its proximity to Boston.

EBH provided a detailed description of the anticipated economic impact to the Commonwealth of receiving a sports wagering license. Overall, EBH’s proposal in the economic impact category is highly satisfactory and met expectations.

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<sup>4</sup> EBH stated that it matched \$7.3 million in contributions in 2021.

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Employment opportunities within the Commonwealth	<p>In addition to the physical and spatial developments, EBH plans to add 100 trained, full-benefit employees at various levels, including management, service, security, and hospitality.</p> <p>The Commission commended EBH for its workforce development program and its overall submission as to Section B.</p>
Projected revenue	<p>The Commission heard a presentation by RSM, the firm hired to conduct financial investigations into sports wagering license applicants.</p> <p>RSM informed the Commission that EBH’s projections as to its retail sports wagering market share were conservative and that its sports wagering throughput could in fact be “quite a bit more” – exceeding stated estimated by up to 10-15%. RSM also found that WRH, as EBH’s parent company, is suitable, in that it maintains adequate capital to support EBH if doing so becomes necessary due to EBH’s performance falling short of its projections.</p> <p>RSM also explained that EBH is likely to capture business from the surrounding areas and neighboring states like New Hampshire and Rhode Island.</p> <p>EBH discussed its projected revenue on pages 154-164 of its Application and the Commission found it satisfactory.</p>
Community engagement	<p>EBH’s presentation included data on its past civic engagement and its future plans. In 2021, EBH employees contributed over 26,000 volunteer hours. EBH told the Commission that it prides itself in helping to keep its community and parks clean.</p> <p>The Commission discussed the importance of EBH’s engagement with the Massachusetts Lottery, EBH has assured the Commission that it has and will continue to foster a relationship with the Lottery and will continue to offer Lottery Products on EBH kiosks throughout the building.</p>

**C. Responsible Gaming**

EBH presented on the function of Responsible Gaming (“RG”) in retail sports wagering, and explained developments in EBH’s RG review process. The Commission was satisfied with EBH’s RG policies and practices and found that EBH’s proposal in the RG category met expectations.

EBH’s presentation highlighted its “measured approach” to marketing – explaining that emphasizing RG at the beginning of a potential customer’s experience with EBH made EBH’s RG efforts more efficient, comprehensive, and effective. Additionally, EBH discussed the relationship between its RG Committee and GameSense, the RG platform adopted by the MGC.<sup>5</sup> EBH’s comprehensive RG plan also includes significant employee training and age and KYC verification tools to ensure that underage and self-excluded persons do not have access to EBH’s retail wagering spaces.

Because GameSense is a third-party RG service provider, the Commission inquired whether the relationship between the EBH RG committee and GameSense was two-way. Because EBH’s RG methods and training are controlled in-house, the Commission asked whether EBH would be sharing its information and insights with GameSense, or just receiving GameSense’s reports without sharing anything in return. EBH assured the Commission that it was sharing with GameSense, and that GameSense would be part of EBH’s quarterly RG meetings. The Commission also expressed concerns as to whether EBH would be promoting its platform on college campuses. EBH responded by committing not to promote gaming on college campuses “in any sense.” When marketing to the public, EBH’s measured approach includes avoiding promotional material that would directly or indirectly influence persons under 21. Finally, EBH explained that although it uses third-party affiliates for marketing, EBH retains control over final products, and over 90% of promotional material is created in house.

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Responsible Gaming Policies	<p>In order to maximize the acceptance of the program by the public and to provide a unified responsible gaming message throughout the Commonwealth, EBH partnered its responsible gaming committee with the GameSense platform.</p> <p>EBH employees receive extensive RG training, and EBH’s RG Committee members include its highest echelon of leadership.</p> <p>EBH has an established RG Committee, which meets quarterly, monitors compliance, continuously evaluates the RG program’s effectiveness, and authorizes changes to the program as necessary.</p>
Advertising and Promotional Plans	<p>EBH’s advertisements and promotional material will contain a responsible gaming message and will comply with federal and state standards. These ads will not appeal to minors or feature those who are under the age of 21, make claims that gambling will guarantee success, be placed in front of an audience where most are expected to be under 21, encourage people to play</p>

<sup>5</sup> More information about GameSense can be found at <https://gamesensema.com/about/>.

	beyond their means, exaggerate chances of winning, or encourage irresponsible play.
History of Dedicated Commitment to Responsible Gaming	See Responsible Gaming Policies, above.

**D. Diversity, Equity, and Inclusion**

The Commission included Diversity, Equity, and Inclusion as a stand-alone consideration to demonstrate the value it places on this category of an applicant’s application. EBH’s application demonstrated an ongoing commitment to DEI. The proposal in the DEI category was highly satisfactory, and the Commission found that it met expectations.

Wynn Resorts, EBH’s parent company, uses three pillars to address and emphasize the need for equitable practices. Those pillars are the workforce, the marketplace, and the community. As part of this diversity equity and inclusion (“DEI”) campaign, Wynn and EBH have partnered with the following local DEI-focused entities:

- Embrace Boston – an organization focused on rehabilitating racial inequities through the arts, culture, community, research and policy;
- The Partnership, Inc. – a professional and educational leadership organization focused on attracting, retaining, and developing professionals of color; and
- The Urban League of Eastern Massachusetts – the local chapter of the National Urban League, which engages all levels of the community to promote skills training and spur economic prosperity.<sup>6</sup>

EBH’s plan for utilizing a diverse vendor network is a comprehensive process that begins with identifying and qualifying diverse firms through community outreach and engagement, solicitation of the identified firms through its Request for Proposal process, and the award of contracts to the entities which have had proposals selected.

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Workforce	EBH’s workforce has the following demographics as of September 30, 2022: 55% ethnic minority, 46% women, and 2% veteran.

<sup>6</sup> More information about all three of these organizations can be found at: <https://www.embraceboston.org/> (Embrace), <https://www.thepartnershipinc.org/> (The Partnership), and <https://www.ulem.org/> (Urban League of Eastern Massachusetts).



	<p>EBH provides multifaceted training for its employees, with curricula in DEI, leadership, regulatory compliance, and responsible gaming. Wynn’s Vice President of DEI, Glenda Swain, will be a resource for EBH’s continued efforts to conduct diverse hiring measures at all levels of EBH’s workforce. These efforts include a diversity talent management program, a leadership pipeline program, Historically Black College/University recruiting, and a \$3 million commitment to any other measure that EBH may employ. As discussed in a previous section, EBH plans to add roughly 100 jobs at its Massachusetts facility. As of December 2021, EBH has exceeded its goals for hiring veterans and members of historically underrepresented communities and is approaching its goals for hiring women.</p> <p>In addition to its hiring initiatives aimed at communities that have been historically underrepresented or underserved, EBH is committed to local hiring preferences to ensure that its host and surrounding communities receives most of the economic benefit of the added jobs. EBH plans to prioritize hiring employees from Everett, Malden, and Medford.</p>
Supplier spend	<p>Before EBH opened its Gaming Establishment, it adopted the Supplier Diversity &amp; Local Commitments plan – a program designed to emphasize an equitable relationship between EBH and its surrounding communities. EBH’s shares of discretionary spending are as follows: 14% women, 8% ethnic minorities, and 3% veterans.</p>
Corporate structure	<p>EBH’s stated goals for DEI hiring are 50% women, 40% minorities, and 3% veterans. EBH will endeavor to hire candidates from its host and surrounding communities and counties: Essex, Middlesex, Suffolk, Norfolk, Plymouth, and Bristol.</p>

**E. Technology**

Overall, the Commission was satisfied with the technological portion of EBH’s application and found that it met expectations.

EBH’s technological and security measures include loss, theft, and unauthorized use protection, as well as customer-facing policies and warnings that add transparency to EBH’s role in its customers’ transactions. To further secure financial transactions, EBH does not allow for Wynn Rewards members to add money to their Wynn wallet or account prior to wagering.

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<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Geofencing	N/A
Know your customer	Please refer to Section F.2 of WynnBet, LLC Category 3 – Tethered Application for further details.
Technological expertise and reliability	Please refer to section F.3 of WynnBet, LLC, Category 3 – Tethered Application for further details.

**F. Suitability of EBH and Its Qualifiers**

The Commission is generally satisfied with EBH’s suitability, but had questions about its organizational and operational integrity, given the insular nature of its corporate structure and regulatory footprint in Massachusetts. The Commission’s primary concern was, as addressed above, the influence that Wynn Resorts or the ultimate ownership of the Wynn brand – who are not qualifiers for the EBH Category 1 Sports Wagering license – would have on EBH. The Commission’s related concern was the influence of Wynn Interactive – sister entity to EBH and parent entity of WynnBet, the Category 3 Sports Wagering license applicant tethered to EBH – would have on EBH. WynnBet is an EBH qualifier, but Wynn Interactive is not, and the Commission had similar questions as to Wynn Interactive that it had about WRH.

Based on EBH and its qualifiers’ certifications, the IEB’s investigative report, information obtained through previous investigations into EBH and its qualifiers as described above, and despite the comments related to WynnBet and Wynn Interactive, the Commission determined that EBH and its qualifiers met the clear and convincing standard to be deemed durably suitable to hold a Sports Wagering license. *See* 205 CMR 215.01(1).

<b>SUMMARY OF EVALUATION BY CRITERIA</b>	
<b>Criteria</b>	<b>Finding</b>
Corporate integrity	EBH is suitable to hold a Sports Wagering license.
Individual qualifier integrity	The IEB’s investigative report prepared for the purposes of this license decision has not revealed any disqualifying information concerning EBH or its qualifiers’ integrity, honesty, good character, or reputation.
Financial stability, integrity, and background	EBH benefits from the corporate relationship it has with Wynn Resorts, a known entity and premier player in the retail casino and sports wagering space, with a high degree of stability and liquidity. Capital funding, where necessary, comes from Wynn Resorts.

	<p>The Commission has not been made aware of any disqualifying information concerning EBH’s business practices.</p> <p>As described in Experience and Expertise Related to Sports Wagering, above, EBH has the business ability to establish and maintain a successful sports wagering operation.</p>
<p>Compliance</p>	<p>Wynn Resorts Holdings, LLC, the ultimate parent company of EBH, is currently licensed, or has subsidiaries that are licensed, in Arizona, Colorado, Indiana, Louisiana, Massachusetts, Michigan, Nevada, New Jersey, New York, Tennessee, and Virginia.</p> <p>EBH and the Commission discussed some of Wynn’s historical compliance issues, each of which Wynn self-reported. The two most significant were (1) an error with a previously used self-exclusion platform that acted as an intermediary between the state and Wynn; and (2) another exclusion-related fine Wynn received in New Jersey. The Commission and the IEB commended EBH for self-reporting these issues.</p> <p>The Commission also asked EBH about two compliance-related issues: (1) allegations of money laundering in Turkey, and (2) another New Jersey case concerning a hostile working environment. The defendant in the Turkish money laundering allegations spoke to the Commission and explained that the allegations were politically motivated and have since been dropped. EBH and the Commission moved into executive session to discuss the ongoing litigation in New Jersey, in which a former employee alleged that a second former employee used racial slurs against the first. Although the case was ongoing, the Commission was satisfied with EBH’s commitment to keep the Commission updated as to the case’s status and outcome.</p>

**IV. Award**

**THE COMMISSION FINDS THAT THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD THAT EBH’S APPLICATION MEETS EXPECTATIONS IN ALL CATEGORIES AND APPROVES EBH’S REQUEST FOR A CATEGORY 1 SPORTS WAGERING LICENSE**

On December 8, 2022, the Commission approved EBH’s (the “Licensee’s”) request for a Category 1 Sports Wagering Operator License (“License”) pursuant to the terms and conditions of this Agreement (“Agreement”). On November 21, 2022, the Commission received EBH’s request for such license, and a licensing fee of \$5,000,000 payable to the Commission. *See* 205

CMR 219.02(1). On December 8, 2022, the Commission voted to issue the requested license. *See* 205 CMR 219.02(3).

This License is subject to the following conditions:

1. Compliance with all the requirements of G.L. c. 23N, as now in effect and as hereafter amended and 205 CMR, as now in effect and as hereafter amended.
2. Compliance with all applicable federal, state and local laws, rules and regulations, now in effect or as hereafter amended or promulgated.
3. Compliance with all terms and conditions of the Gaming License for the Gaming Establishment at EBH dated September 17, 2014.
4. Compliance with the license conditions required to be inserted into all Sports Wagering licenses by 205 CMR 220, namely:
  - a. That the Licensee obtain an Operations Certificate before conducting any Sports Wagering in the Commonwealth.
  - b. That the Licensee comply with all terms and conditions of its license and Operation Certificate;
  - c. That the Licensee comply with G.L. c. 23N and all rules and regulations of the Commission;
  - d. That the Licensee make all required payments to the Commission in a timely manner;
  - e. That the Licensee maintain its suitability to hold a Sports Wagering license;
  - f. That the Licensee conduct Sports Wagering in accordance with its approved system of internal controls, and in accordance with its approved house rules, in accordance with G.L. c. 23N, § 10(a) and with 205 CMR; and
  - g. That the License, in the form prescribed by the Commission, shall be posted in a location continuously conspicuous to the public within the Sports Wagering Facility at all times.
5. Payment of assessments made pursuant 205 CMR 221.00 in accordance with that regulation.
6. Compliance with any requirements to obtain federal, state and local permits and approvals required to construct and operate the Sports Wagering facility, and any conditions or requirements set forth therein.
7. The Sports Wagering Operation shall substantially conform to the information included in the application filed by the Licensee.

8. Compliance with any free play standards set by the Commission.
9. Other specific conditions:
  - a. Fully cooperate with IEB in any suitability investigation, including, without limitation, the IEB's investigation into Wynn Interactive and its relationship with Licensee.
  - b. Obtain prior approval of any Sports Wagering equipment in the EBH garage.
10. The term of the license awarded to Licensee commences upon December 8, 2022, and shall be subject to renewal as set out in G.L. c. 23N, § 6(f).

**SO ORDERED**

**MASSACHUSETTS GAMING COMMISSION**



Cathy Judd-Stein, Chair



Eileen M. O'Brien, Commissioner



Bradford R. Hill, Commissioner



Nakisha L. Skinner, Commissioner



Jordan M. Maynard, Commissioner