

# Bloomberg

## Steve Wynn's Settlement With Worker Haunts Him in Ex-Wife's Suit

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*By Edvard Pettersson and Christopher Palmeri*

Steve Wynn's settlement with a former employee in 2005 was done privately, but the secret refuses to go away.

The casino mogul and his ex-wife, Elaine Wynn, have been battling over documents related to the employee's allegations and a related settlement, which Elaine said was in the millions of dollars. Elaine's attorneys are now placing that deal in the context of the larger debate over sexual harassment and corporate responsibility, which has emerged following allegations against film producer Harvey Weinstein. A spokesman for Steve called the efforts a "smear campaign" that is "not supported by the facts."

Steve and Elaine, both 75, have been fighting for five years over Elaine's ability to control her \$1.6 billion stake in Wynn Resorts Ltd., the operator of casinos in Las Vegas and Macau. An agreement Elaine signed with Steve gives him the right to vote her nearly 9 percent stake in the Las Vegas-based company and limits her ability to sell her shares. Steve, who lost his earlier casino empire, Mirage Resorts, to an unsolicited offer from Kirk Kerkorian in 2000, has sought to control as much Wynn Resorts stock as he can.

### **Scant Details**

Elaine is arguing that her deal with Steve is no longer valid after the company took back the stock of Kazuo Okada, a Wynn Resorts co-founder also party to their shareholder agreement. Elaine escalated her efforts last year after losing

her seat on the Wynn Resorts board in 2015, saying she was punished for raising questions about Steve's "reckless" conduct running the company, including the handling of the 2005 settlement. She accused her ex-husband of using company personnel and resources to conceal the allegations.

Details of what prompted the settlement are only hinted at in the heavily redacted court filings in state court in Las Vegas. "At the end of the day this was simply a report of sexual harassment," Mark Ferrario, one of Elaine's attorneys, said at an August hearing. That same month Elaine asked Steve for all documents "regarding any allegations of sexual misconduct made against you by a current or former Wynn Resorts employee."

"Recent events in the media serve to highlight" that the incident was "not, as Wynn Resorts and Mr. Wynn have contended, a 'personal' issue," Elaine's attorneys said in an Oct. 19 court filing. "Such misconduct is a matter central to appropriate corporate governance."

Among the materials Elaine and Steve have been battling over recently are notes about what occurred in 2005, taken by the former head of hotel operations at Wynn Las Vegas, Doreen Whennen. The Nevada Supreme Court this month denied Wynn's bid to keep those notes out of Elaine's hands. Days later, Wynn sued Whennen for breach of contract for taking the notes with her when she retired in 2014.

### **Confidentiality Order**

Wynn Resorts' outside lawyers reviewed the settlement and determined it didn't need to be shared with the board, according to comments made by Elaine's lawyer at a Dec. 18 hearing. Elaine's lawyers are trying -- so far unsuccessfully -- to gain access to communications between Wynn and its outside lawyers about the settlement.

Michael Weaver, a spokesman for Steve, said "any allegations that Mr. Wynn committed an alleged assault or harassment of any kind are completely false. There is substantial evidence that discredits such allegations." The company declined to provide the evidence, citing a confidentiality order by the court.

"It is noteworthy that although Ms. Wynn says she knew about these false allegations in 2009, she did not make them known to the board of directors

(of which she was then a member) and she did not raise them until after Mr. Wynn remarried and the shareholders of Wynn Resorts voted not to elect her to the board,” Weaver said.

The Wynns’ lawsuit is scheduled to go to trial in April. Steve’s lawyers may try to keep details of the agreement with the former employee from being brought before the jury. The size of the settlement alone could help Elaine influence jurors’ opinion of her ex-husband, according to Jamie Dokovna, a litigator with Becker & Poliakoff in West Palm Beach, Florida, who specializes in employment law but isn’t involved in the Wynn case.

“Generally speaking you’re not throwing millions of dollars at a claim that has no merit,” Dokovna said. “Millions is still a lot, even if you’re a billionaire.”

The case is Wynn Resorts Ltd. v. Okada, A-12-656710-B, Clark County, Nevada, District Court (Las Vegas).