

1 NGC Case No. 08-17

2 STATE OF NEVADA

3 BEFORE THE NEVADA GAMING COMMISSION

4 STATE GAMING CONTROL BOARD,)
 5 Complainant,)
 6 vs.)
 7 POKER PALACE [a Nevada Domestic)
 8 Corporation], dba THE POKER PALACE;)
 9 THE MARVIN E. COLEMAN SEPARATE)
 PROPERTY TRUST; and MARVIN E.)
 COLEMAN,)
 10 Respondents.)

COMPLAINT

11 Complainant, STATE GAMING CONTROL BOARD (BOARD), by and through its
 12 counsel, CATHERINE CORTEZ MASTO, Attorney General, by EDWARD L. MAGAW, Deputy
 13 Attorney General, hereby files this Complaint for disciplinary action against Respondents,
 14 POKER PALACE [a Nevada Domestic Corporation], dba THE POKER PALACE, THE
 15 MARVIN E. COLEMAN SEPARATE PROPERTY TRUST, and MARVIN E. COLEMAN
 16 (hereinafter collectively referred to as "POKER PALACE"), pursuant to Nevada Revised
 17 Statutes (NRS) 463.310(2) and alleges as follows:

JURISDICTION AND RELEVANT LAW

18
 19 1. The Complainant, BOARD, is an administrative agency of the State of Nevada duly
 20 organized and existing under and by virtue of Chapter 463 of the NRS and is charged with the
 21 administration and enforcement of the gaming laws of this state as set forth in Title 41 of the
 22 NRS (Nevada Gaming Control Act) and the Regulations of the Nevada Gaming Commission
 23 (NGC).

24 2. The Respondents, POKER PALACE, located at 2757 North Las Vegas Boulevard,
 25 North Las Vegas, Nevada 89030-5810, at all times relevant hereto is the holder of a Nevada
 26 nonrestricted gaming license and, as such, is charged with the responsibility of complying with
 27 all of the provisions of the Nevada Gaming Control Act and the Regulations of the Nevada
 28 Gaming Commission.

Attorney General's Office
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1 3. The Nevada Legislature has declared under NRS 463.0129(1) that:

2 (a) The gaming industry is vitally important to the economy
of the State and the general welfare of the inhabitants.

3 (b) The continued growth and success of gaming is
4 dependent upon public confidence and trust that licensed gaming
and the manufacture, sale and distribution of gaming devices and
5 associated equipment are conducted honestly and competitively,
6 that establishments which hold restricted and nonrestricted
licenses where gambling devices are operated do not unduly
7 impact the quality of life enjoyed by residents of the surrounding
neighborhoods, that the rights of the creditors of licensees are
protected and that gaming is free from criminal and corruptive
elements.

8 (c) Public confidence and trust can only be maintained by
9 strict regulation of all persons, locations, practices, associations
and activities related to the operation of licensed gaming
10 establishments, the manufacture, sale or distribution of gaming
devices and associated equipment and the operation of inter-
11 casino linked systems.

12 NRS 463.0129(1)(a), (b) and (c).

13 4. The Nevada Gaming Commission has full and absolute power and authority to limit,
14 condition, restrict, revoke or suspend any license, or fine any person licensed, for any cause
15 deemed reasonable. See NRS 463.1405(4).

16 5. The BOARD is authorized to observe the conduct of licensees in order to ensure
17 that the gaming operations are not being conducted in an unsuitable manner. See NRS
18 463.1405(1).

19 6. This continuing obligation is repeated in Nevada Gaming Commission Regulation
20 5.040, which provides as follows:

21 ***A gaming license is a revocable privilege, and no***
22 ***holder thereof shall be deemed to have acquired any vested***
23 ***rights therein or thereunder.*** The burden of proving his
24 ***The board is charged by law with the duty of observing the***
25 ***conduct of all licensees to the end that licenses shall not be***
held by unqualified or disqualified persons or unsuitable persons
or persons whose operations are conducted in an unsuitable
manner.

26 Nev. Gaming Comm'n Reg. 5.040 (emphasis added).

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1 7. Nevada Gaming Commission Regulation 5.010 provides as follows:

2 1. It is the policy of the commission and the board to
3 require that all establishments wherein gaming is conducted in this
4 state to be operated in a manner suitable to protect the public
5 health, safety, morals, good order and general welfare of the
6 inhabitants of the State of Nevada.

7 **2. Responsibility for the employment and maintenance
8 of suitable methods of operation rests with the licensee, and
9 willful or persistent use or toleration of methods of operation
10 deemed unsuitable will constitute grounds for license
11 revocation or other disciplinary action.**

12 Nev. Gaming Comm'n Reg. 5.010 (emphasis added).

13 8. Nevada Gaming Commission Regulation 5.011 states in relevant part as follows:

14 The board and the commission deem any activity on the
15 part of any licensee, his agents or employees, that is inimical to
16 the public health, safety, morals, good order and general welfare
17 of the people of the State of Nevada, or that would reflect or tend
18 to reflect discredit upon the State of Nevada or the gaming
19 industry, to be an unsuitable method of operation and shall be
20 grounds for disciplinary action by the board and the commission in
21 accordance with the Nevada Gaming Control Act and the
22 regulations of the board and the commission. Without limiting the
23 generality of the foregoing, the following acts or omissions may be
24 determined to be unsuitable methods of operation:

25 1. ***Failure to exercise discretion and sound judgment to
26 prevent incidents which might reflect on the repute of the
27 State of Nevada and act as a detriment to the development of
28 the industry.***

.....

8. Failure to comply with or make provision for compliance
with all federal, state and local laws and regulations pertaining to
the operations of a licensed establishment including, without
limiting the generality of the foregoing, payment of all license fees,
withholding any payroll taxes, liquor and entertainment taxes and
antitrust and monopoly statutes.

The Nevada gaming commission in the exercise of its
sound discretion can make its own determination of whether or not
the licensee has failed to comply with the aforementioned, but any
such determination shall make use of the established precedents
in interpreting the language of the applicable statutes. Nothing in
this section shall be deemed to affect any right to judicial review.

.....

10. Failure to conduct gaming operations in accordance
with proper standards of custom, decorum and decency, or permit
any type of conduct in the gaming establishment which reflects or

tends to reflect on the repute of the State of Nevada and act as a detriment to the gaming industry.

Nev. Gaming Comm'n Reg. 5.011(1), (8), and (10) (emphasis added).

9. Nevada Gaming Commission Regulation 5.030 provides as follows:

Violations of any provision of the Nevada Gaming Control Act or of these regulations by a licensee, his agent or employee **shall be deemed** contrary to the public health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and **grounds for suspension or revocation of a license**. Acceptance of a state gaming license or renewal thereof by a licensee constitutes an agreement on the part of the licensee to be bound by all of the regulations of the commission as the same now are or may hereafter be amended or promulgated. **It is the responsibility of the licensee to keep himself informed of the content of all such regulations, and ignorance thereof will not excuse violations.**

Nev. Gaming Comm'n Reg. 5.030 (emphasis added).

10. Nevada Revised Statutes 463.310 states in relevant part as follows:

1. The Board shall make appropriate investigations:
 - (a) To determine whether there has been any violation of this chapter or chapter 462, 464, 465 or 466 of NRS or any regulations adopted thereunder.
 - (b) To determine any facts, conditions, practices or matters which it may deem necessary or proper to aid in the enforcement of any such law or regulation.

.....

2. If, after any investigation the Board is satisfied that a license, registration, finding of suitability, pari-mutuel license or prior approval by the Commission of any transaction for which the approval was required or permitted under the provisions of this chapter or chapter 462, 464, 465 or 466 of NRS should be limited, conditioned, suspended, or revoked, it shall initiate a hearing before the Commission by filing a complaint with the Commission in accordance with NRS 463.312 and transmit therewith a summary of evidence in its possession bearing on the matter and the transcript of testimony at any investigative hearing conducted by or on behalf of the Board.

NRS 463.310(1)(a) and (b), and (2).

11. Nevada Revised Statute 463.1405(3) provides:

3. The Board has full and absolute power and authority to recommend the denial of any application, the limitation, conditioning or restriction of any license, registration, finding of suitability or approval, the suspension or revocation of any license, registration, finding of suitability or approval or the imposition of a

1 fine upon any person licensed, registered, found suitable or
approved for any cause deemed reasonable by the Board.

2 NRS 463.1405(3).

3 12. According to Nevada Gaming Commission Regulation 26A.010, the provisions of
4 NRS Chapter 463 and all other regulations of the commission apply to off-track pari-mutuel
5 wagering in Nevada when such provisions do not conflict with those of NGC Regulation 26A.
6 Nev. Gaming Comm'n Reg. 26A.010.

7 13. Pursuant to NRS 464.025(2):

8 2. A person or governmental agency must not receive any
9 commission or otherwise share in the revenue from the conduct of
10 off-track pari-mutuel wagering in this state without the approval of
11 the Nevada Gaming Commission. The Commission may approve
any person or governmental agency after such investigation as the
State Gaming Control Board deems proper.

12 NRS 464.025(2).

13 14. Nevada Revised Statute 464.075(1) states in relevant part:

14 1. Except as otherwise provided in subsection 4, a person
15 who is licensed to engage in off-track pari-mutuel wagering shall
not:

16

17 (b) Agree to refund or rebate to a patron any portion or
18 percentage of the full face value of an off-track pari-mutuel wager;

19 NRS 464.075(1)(b).

20 15. According to NRS 464.070:

21 A pari-mutuel wager placed at the enclosure where the
22 wagered race or event is conducted may be made by an agent if
the principal is present on the premises. **All off-track pari-mutuel
23 wagering must be done by a principal.**

24 NRS 464.070 (emphasis added).

25 16. Nevada Gaming Commission Regulation 22.060(5) states that "No book or agent
26 or employee of a book may accept a wager from a person who the book, agent, or employee
27 **knows or reasonably should know** is a messenger bettor or is placing the wager in violation
28 of state or federal law." Nev. Gaming Comm'n Reg. 22.060(5) (emphasis added).

1 17. Nevada Gaming Commission Regulation 22.080(1) states that:

2 1. Except as otherwise provided in this subsection, books
3 shall make payment on a winning wager to the person who
4 presents the patron's copy of the betting ticket representing the
5 wager. A book need not make payment to a person who the book
6 or an agent or employee of the book knows is not the person to
7 whom the patron's copy was issued. **A book shall not make
8 payment on a winning wager to a person who the book or its
9 agent or employee knows or reasonably should know is
10 collecting the payment on behalf of another for monetary
11 consideration or in violation of federal law.**

8 Nev. Gaming Comm'n Reg. 22.080(1) (emphasis added).

9 18. According to NGC Regulation 22.125(1)(b), "[n]o book shall: . . . Agree to refund
10 or rebate to a patron any portion or percentage of the full face value of an off-track pari-
11 mutuel wager. Nev. Gaming Comm'n Reg. 22.125(1)(b).

12 **BACKGROUND FACTS**

13 19. In or around the later half of 2006, the BOARD launched a joint investigation with
14 United States Immigration and Customs Enforcement (ICE) into the activities of a group of
15 alleged unlicensed bookmakers taking place at POKER PALACE's race book.

16 20. The joint investigation revealed that the group of alleged unlicensed bookmakers
17 was laying-off wagers from its gambling activities at POKER PALACE's race book. The
18 investigation further revealed that POKER PALACE had actively sought out the group's
19 business, and was catering to the group in ways that violated State law.

20 21. This Complaint addresses the numerous violations of the Nevada Gaming Control
21 Act, and regulations adopted thereunder, discovered by the BOARD as a result of the above
22 referenced investigation.

23 **COUNT ONE**
24 **VIOLATION OF NRS 464.075(1)(b), AND NGC REGULATION 22.125(1)(b)**
25 **PROVIDING UNLAWFUL REBATES ON PARI-MUTUEL WAGERS**

26 22. The BOARD realleges and incorporates by reference paragraphs 1 through 21
27 above as though set forth in full herein.

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1 23. Pursuant to NRS 464.075(1)(b) and NGC Regulation 22.125(1)(b), it is unlawful
2 for a licensed gaming establishment to agree to rebate to a patron any portion or percentage
3 of the full face value of an off-track pari-mutuel wager.

4 24. Through its investigation, the BOARD discovered that POKER PALACE had
5 purposefully sought out the business of the alleged group of unlicensed bookmakers by
6 offering an off-track pari-mutuel contest that effectively guaranteed the group a rebate on its
7 wagering activity.

8 25. While the off-track pari-mutuel contest at issue appeared to be legitimate on its
9 face, based on the make-up of the cash-prize pool and the manner in which the contest was
10 conducted, the contest was in actuality a front for an unlawful rebate scheme in violation of
11 NRS 464.075(1)(b) and NGC Regulation 22.125(1)(b).

12 26. While the contest was technically open to anyone, the \$2,500 (two thousand five
13 hundred dollar) entry fee was well above the wagering level of the typical race book customer
14 of POKER PALACE, which normally averaged between \$2 (two dollars) and \$5 (five dollars)
15 per race.

16 27. Over the entire time period in which the contest was offered, there were rarely
17 more than four participants. Because of this, and the fact that each contest had four prizes,
18 most of the contests that were held resulted in every participant walking away with a portion of
19 the prize pool.

20 28. With few exceptions, including a BOARD Agent working in an undercover
21 capacity, every person that participated in the contests over the entire time period in which
22 they were offered was associated in some way with the alleged group of unlicensed
23 bookmakers.

24 29. The prize pool for each contest consisted of the total entry fees paid plus a
25 percentage of the off-track pari-mutuel handle for the previous week. The contest was not
26 held unless the prior week's off-track pari-mutuel handle was greater than \$200,000 (two
27 hundred thousand dollars), which was the agreed upon minimum amount of wagering activity

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1 the alleged group of unlicensed bookmakers had to conduct at POKER PALACE in order for
2 the contest to be held.

3 30. The alleged group of unlicensed bookmakers negotiated with POKER PALACE as
4 to what dates and times the contest would be held, as well as what percentage of prior weeks
5 handle would be included in the prize pool.

6 31. Historical data accumulated by the BOARD shows that, prior to the alleged group
7 of unlicensed bookmakers laying-off wagers at POKER PALACE, the monthly handle for its
8 off-track pari-mutuel operation was averaging around \$100,000 (one hundred thousand
9 dollars). This pre-contest monthly average did not come close to the weekly amount of
10 wagers the alleged group of unlicensed bookmakers was required to place.

11 32. It is clear from the above that the handle from which the prize pool drew its
12 percentage was overwhelmingly associated with the wagering activity of the alleged group of
13 unlicensed bookmakers.

14 33. Accordingly, the portion of the prize money that was attributable to the percentage
15 of pari-mutuel handle constituted an unlawful rebate to the alleged group of unlicensed
16 bookmakers in violation of NRS 464.075(1)(b) and NGC Regulation 22.125(1)(b).

17 34. Such violations on the part of POKER PALACE constitute an unsuitable method
18 of operation and provide grounds for disciplinary action. See Nev. Gaming Comm'n Regs.
19 5.010(2) and 5.030.

20 **COUNT TWO**
21 **VIOLATION OF NRS 464.025(2)**
22 **UNLAWFUL SHARING OF PARI-MUTUEL REVENUE**

23 35. The BOARD realleges and incorporates by reference paragraphs 1 through 34
24 above as though set forth in full herein.

25 36. Pursuant to NRS 464.025(2), it is unlawful for a licensed establishment to allow
26 someone to share in revenue from its off-track pari-mutuel operation without the prior
27 approval of the Nevada Gaming Commission (Commission).

28 37. As described in great detail under Count One, POKER PALACE conducted
numerous contests that provided a means by which it could unlawfully provide the alleged

1 group of unlicensed bookmakers a guaranteed rebate on the wagers the group placed at
2 POKER PALACE's pari-mutuel race book.

3 38. At all times relevant to this Complaint, the Commission did not authorize the
4 alleged group of unlicensed bookmakers to receive a percentage of the gaming revenue
5 generated from POKER PALACE's off-track pari-mutuel race book operation.

6 39. Under an off-track pari-mutuel system of wagering, a casino offering such
7 wagering activities bears no risk of loss, but rather receives a commission from the track
8 based on a percentage of wagers the casino generates for each race.

9 40. Accordingly, by providing the alleged group of unlicensed bookmakers a vehicle
10 by which it was guaranteed a percentage of the above commission, POKER PALACE had
11 effectively allowed the alleged group of unlicensed bookmakers to share in its off-track pari-
12 mutuel revenue without prior approval of the Commission in violation of NRS 464.025(2).

13 41. Such a violation on the part of POKER PALACE constitutes an unsuitable method
14 of operation and provides grounds for disciplinary action. See Nev. Gaming Comm'n Regs.
15 5.010(2) and 5.030.

16 **COUNT THREE**
17 **VIOLATION OF NRS 464.070 AND NGC REGULATIONS 22.060(5)**
18 **ACCEPTING WAGERS FROM MESSENGER BETTORS**

19 42. The BOARD realleges and incorporates by reference paragraphs 1 through 41
20 above as though set forth in full herein.

21 43. Pursuant to NRS 464.070, and NGC Regulation 22.060(5), it is unlawful for a
22 licensed gaming establishment to accept a wager from a messenger bettor.

23 44. During the investigation conducted by the BOARD, it was discovered that the
24 alleged group of unlicensed bookmakers used messenger bettors to place wagers at POKER
25 PALACE.

26 45. The investigation further revealed that POKER PALACE was aware that the
27 individuals making the wagers were messenger bettors of the alleged group of unlicensed
28 bookmakers.

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1 46. By accepting wagers from known messenger bettors of the alleged group of
2 unlicensed bookmakers, POKER PALACE violated NRS 464.070, and NGC Regulation
3 22.060(5).

4 47. Such violations on the part of POKER PALACE constitute an unsuitable method
5 of operation and provide grounds for disciplinary action. See Nev. Gaming Comm'n Regs.
6 5.010(2) and 5.030.

7 **COUNT FOUR**
8 **VIOLATION OF NGC REGULATION 22.080(1)**
9 **PAYMENT OF WINING WAGERS TO INDIVIDUALS WHO DID NOT PLACE WAGERS**

10 48. The BOARD realleges and incorporates by reference paragraphs 1 through 47
11 above as though set forth in full herein.

12 49. Pursuant to NGC Regulation 22.080(1), it is unlawful for a licensed gaming
13 establishment to make a payment on a winning wager to a person who it knows, or
14 reasonably should know, is collecting the payment on behalf of another person in exchange
15 for monetary compensation.

16 50. During the BOARD's Investigation of POKER PALACE, it was discovered that
17 associates and/or agents of the alleged group of unlicensed bookmakers would redeem
18 winning off-track pari-mutuel tickets for wagers that they did not place. These associates
19 and/or agents were compensated by the alleged group of unlicensed bookmakers for
20 performing these acts.

21 51. The investigation further revealed that POKER PALACE had knowledge that
22 those individuals were performing such actions in its off-track pari-mutuel race book, yet it
23 went ahead and redeemed the winning tickets.

24 52. By paying the winning tickets presented by individuals who did not make the
25 underlying wager, and who were being compensated for doing so, POKER PALACE violated
26 NGC Regulation 22.080(1).

27 53. Such a violation on the part of POKER PALACE constitutes an unsuitable method
28 of operation and provides grounds for disciplinary action. See Nev. Gaming Comm'n Regs.
5.010(2) and 5.030.

1 **COUNT FIVE**
2 **VIOLATION OF NGC REGULATION 5.010(2)**
3 **FAILURE TO ADEQUATELY MONITOR ACTIVITIES ON LICENSED PREMISES**

4 54. The BOARD realleges and incorporates by reference paragraphs 1 through 53
5 above as though set forth in full herein.

6 55. Under NGC Regulation 5.010(2), the responsibility for ensuring that all operations
7 of a licensed gaming establishment are conducted in a suitable manner falls on the licensee.

8 56. At all times relevant to this Complaint, MARVIN E. COLEMAN was licensed as the
9 sole Trustee-Beneficiary of THE MARVIN E. COLEMAN SEPARATE PROPERTY TRUST,
10 which was the sole shareholder of POKER PALACE, the licensed Nevada domestic
11 corporation doing business as THE POKER PALACE.

12 57. As part of its investigation of POKER PALACE, the BOARD interviewed MARVIN
13 E. COLEMAN. Based on MARVIN E. COLMAN's responses to questions posed by the
14 BOARD during the interview, it is clear that he was not adequately monitoring the operation of
15 the race book at POKER PALACE during the period of time that the alleged group of
16 unlicensed bookmakers was laying-off wagers there.

17 58. By failing to adequately monitor the operation of the race book at POKER
18 PALACE, MARVIN E. COLEMAN neglected his duties as a licensee. Such neglect
19 constitutes a willful or persistent toleration of an unsuitable method of operation in violation of
20 the standard set forth under NGC 5.010(2).

21 59. Such a violation on the part of POKER PALACE constitutes an unsuitable method
22 of operation and provides grounds for disciplinary action. See Nev. Gaming Comm'n Regs.
23 5.010(2) and 5.030.

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PRAYER FOR RELIEF

WHEREFORE, based upon the allegations contained herein, which constitute reasonable cause for disciplinary action against the licensee, pursuant to NRS 463.310 and Nevada Gaming Commission Regulations 5.011 and 5.030, the BOARD prays for relief as follows:

1. That the Nevada Gaming Commission serve a copy of this Complaint on POKER PALACE pursuant to NRS 463.312(2);

2. That POKER PALACE be fined a monetary sum pursuant to the parameters defined at NRS 463.310(4) for each separate violation of the provisions of the Nevada Gaming Control Act or the Regulations of the Nevada Gaming Commission;

3. That the Nevada Gaming Commission take action against POKER PALACE's gaming license pursuant to the parameters defined in NRS 463.310(4); and

4. For such other and further relief as the Nevada Gaming Commission may deem just and proper.

DATED this _____ day of _____, 2009.

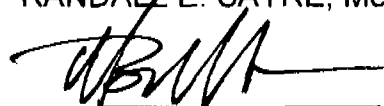
STATE GAMING CONTROL BOARD



DENNIS K. NEILANDER, Chairman



RANDALL E. SAYRE, Member



MARK A. LIPPARELLI, Member

Submitted by:

CATHERINE CORTEZ MASTO
Attorney General

By: 

EDWARD L. MAGAW
Deputy Attorney General
Gaming Division