



1 NGC 09-14

2
3
4 **STATE OF NEVADA**
5 **BEFORE THE NEVADA GAMING COMMISSION**

6
7 STATE GAMING CONTROL BOARD,)

8 Complainant,

9 vs.

COMPLAINT

10 JUSTIN SETH MOSCOVE,

11 Respondent.
12

13 The State of Nevada, on relation of its State Gaming Control Board (BOARD),
14 Complainant herein, by and through its counsel, CATHERINE CORTEZ MASTO, Attorney
15 General, and MICHAEL P. SOMPS, Senior Deputy Attorney General, hereby files this
16 Complaint for disciplinary action against Respondent pursuant to Nevada Revised Statute
17 (NRS) 463.310(2) and alleges as follows:

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

22 2. Respondent, JUSTIN SETH MOSCOVE, is licensed as a member of FT Pub II, LLC,
23 dba Flowing Tide Pub & Grill, which holds two restricted gaming licenses.

24 **RELEVANT LAW**

25 3. The Nevada Legislature has declared under NRS 463.0129(1) that:

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

28 (b) The continued growth and success of gaming is
dependent upon public confidence and trust that licensed gaming
and the manufacture, sale and distribution of gaming devices and

1 associated equipment are conducted honestly and competitively,
2 that establishments which hold restricted and nonrestricted
3 licenses where gaming is conducted and where gambling devices
4 are operated do not unduly impact the quality of life enjoyed by
5 residents of the surrounding neighborhoods, that the rights of the
6 creditors of licensees are protected and that gaming is free from
7 criminal and corruptive elements.

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

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

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

18 5. The BOARD is authorized to observe the conduct of licensees in order to ensure
19 that the gaming operations are not being conducted in an unsuitable manner. See NRS
20 463.1405(1).

21 6. This continuing obligation is repeated in Nevada Gaming Commission Regulation
22 5.040, which provides as follows:

23 A gaming license is a revocable privilege, and no holder
24 thereof shall be deemed to have acquired any vested rights therein
25 or thereunder. The burden of proving his qualifications to hold any
26 license rests at all times on the licensee. The board is charged by
27 law with the duty of observing the conduct of all licensees to the
28 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.

Nev. Gaming Comm'n Reg. 5.040.

7. NRS 463.170 was amended by the Nevada Legislature in 2009 during its 75th
Session and now provides in relevant part:

1. Any person who the Commission determines is qualified
to receive a license, to be found suitable or to receive any approval
required under the provisions of this chapter, or to be found suitable
regarding the operation of a charitable lottery under the provisions

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

of chapter 462 of NRS, having due consideration for the proper protection of the health, safety, morals, good order and general welfare of the inhabitants of the State of Nevada and the declared policy of this State, may be issued a state gaming license, be found suitable or receive any approval required by this chapter, as appropriate. The burden of proving his qualification to receive any license, be found suitable or receive any approval required by this chapter is on the applicant.

2. An application to receive a license or be found suitable must not be granted unless the Commission is satisfied that the applicant is:

- (a) A person of good character, honesty and integrity;
- (b) A person whose prior activities, criminal record, if any, reputation, habits and associations do not pose a threat to the public interest of this State or to the effective regulation and control of gaming or charitable lotteries, or create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto; and methods and activities in the conduct of gaming or charitable lotteries or in the carrying on of the business and financial arrangements incidental thereto; and

(c) In all other respects qualified to be licensed or found suitable consistently with the declared policy of the State.

3. A license to operate a gaming establishment or an inter-casino linked system must not be granted unless the applicant has satisfied the Commission that:

- (a) The applicant has adequate business probity, competence and experience, in gaming or generally; and
- (b) The proposed financing of the entire operation is:
 - (1) Adequate for the nature of the proposed operation; and
 - (2) From a suitable source.

Any lender or other source of money or credit which the Commission finds does not meet the standards set forth in subsection 2 may be deemed unsuitable.

4. An application to receive a license or be found suitable constitutes a request for a determination of the applicant's general character, integrity, and ability to participate or engage in, or be associated with gaming or the operation of a charitable lottery, as appropriate. Any written or oral statement made in the course of an official proceeding of the Board or Commission by any member thereof or any witness testifying under oath which is relevant to the purpose of the proceeding is absolutely privileged and does not impose liability for defamation or constitute a ground for recovery in any civil action.

1 **8. Any person granted a license or found suitable by the**
2 **Commission shall continue to meet the applicable standards**
3 **and qualifications set forth in this section and any other**
4 **qualifications established by the Commission by regulation.**
5 **The failure to continue to meet such standards and**
6 **qualifications constitutes grounds for disciplinary action.**

2009 Nev. Stat. 279 – 281 (emphasis added).

8. Nevada Gaming Commission Regulation 5.010(2) further provides that
“[r]esponsibility for the employment and maintenance of suitable methods of operation rests
with the licensee, and willful or persistent use or toleration of methods of operation deemed
unsuitable will constitute grounds for license revocation or other disciplinary action.”

9. Nevada Gaming Commission Regulation 5.011 states, in relevant part, as follows:

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

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

.....

Nev. Gaming Comm’n Regs. 5.011(1).

10. Nevada Gaming Commission Regulation 5.030 provides as follows:

**Violation 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**

.....

1 ***the content of all such regulations, and ignorance thereof will***
2 ***not excuse violations.***

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

4 11. NRS 463.310(4)(d)(2) states in relevant part that the Commission may:

5 (d) Fine each person or entity or both, who was licensed,
6 registered or found suitable pursuant to this chapter or chapter 464
7 of NRS or who previously obtained approval for any act or
8 transaction for which Commission approval was required or
9 permitted under the provisions of this chapter or chapter 464 of
10 NRS:

11 (2) Except as otherwise provided in subparagraph (1) of
12 this paragraph, not more than \$100,000 for each separate violation
13 of the provisions of this chapter or chapter 464 or 465 of NRS or of
14 the regulations of the Commission which is the subject of an initial
15 complaint and not more than \$250,000 for each separate violation
16 of the provisions of this chapter or chapter 464 or 465 of NRS or of
17 the regulations of the Commission which is the subject of any
18 subsequent complaint.

19 NRS 463.310(4)(d)(2).

20 **BACKGROUND**

21 12. On or about November 15, 2008, at approximately 1900 hours, Respondent, while
22 at Archie's Giant Hamburgers in Reno, Nevada, walked up to a man, later identified as Jens
23 Morrison, and struck Mr. Morrison in the head with a closed fist.

24 13. As a result of the attack, Mr. Morrison fell, hitting his head on the rim of a car, and
25 then falling to the ground. Mr. Morrison sustained substantial bodily injuries.

26 14. While Mr. Morrison lay unconscious on the ground as a result of the attack,
27 Respondent left the location and proceeded to the Patio Bar located in Reno, without
28 attempting to render aid to Mr. Morrison.

15. Mr. Morrison's injuries required immediate medical attention and he was taken by
ambulance to Renown Medical Center. During the course of his treatment, Mr. Morrison
reportedly stopped breathing and had to be resuscitated and put on a ventilator.

1 16. During their investigation of the incident, Reno Police Officers located Respondent
2 at the Patio Bar. However, when Respondent was questioned by the officers about the
3 battery, Respondent denied any involvement and indicated that he had not been at Archie's
4 Giant Hamburgers.

5 17. Based on a Reno Police Department investigation, Respondent was arrested on or
6 about November 16, 2008.

7 18. On or about November 24, 2008, a criminal complaint was filed charging
8 Respondent with the felony of Battery Causing Substantial Bodily Harm.

9 19. On or about June 17, 2009, Respondent entered a Nolo Contendere Plea to the
10 offenses of 1) Battery Causing Substantial Bodily Harm, a felony; and 2) Conspiracy to
11 Commit the Crime of Battery Causing Substantial Bodily Harm, a gross misdemeanor.

12 20. On or about October 2, 2009, Judgment was entered against Respondent whereby
13 Respondent was found guilty of the crime of Conspiracy to Commit the Crime of Battery
14 Causing Substantial Bodily Harm, a gross misdemeanor.

15 21. On or about October 2, 2009, Respondent was sentenced to twelve months
16 imprisonment and payment of restitution in the amount of \$276,106.25. Respondent's
17 sentence was suspended and he was placed on probation for a period of time not to exceed
18 thirty-six months, with conditions imposed including the monthly payment of restitution.

19 22. Judgment was not entered against Respondent on the felony, Battery Causing
20 Substantial Bodily Harm, on the condition that Respondent successfully complete probation.

21 23. On or about December 23, 2009, a Civil Complaint based on Respondent's actions
22 on November 15, 2008 was filed by Mr. Morrison against Respondent as well as against
23 others.

24 **COUNT ONE**

25 **VIOLATION OF NRS 463.170 (as amended) and NEV. GAMING COMM'N REGS. 5.011**

26 **and 5.011(1)**

27 24. Complainant BOARD realleges and incorporates by reference as though set forth
28 in full herein paragraphs 1 through 23 above.

1 25. Respondent's actions, in striking Mr. Morrison in the head, evidence a lack of
2 character, honesty, integrity, and/or ability to participate or be engaged in, or be associated
3 with gaming.

4 26. Respondent's actions, in failing to render assistance to Mr. Morrison after striking
5 him and then departing the scene, evidence a lack of character, honesty, integrity, and/or
6 ability to participate or be engaged in, or be associated with gaming.

7 27. Respondent's actions, in lying to police officers when questioned about the
8 incident, evidence a lack of character, honesty, integrity, and/or ability to participate or be
9 engaged in, or be associated with gaming.

10 28. Respondent, through his actions, has failed to meet the applicable standards and
11 qualifications necessary to be licensed by the Nevada Gaming Commission as a member of
12 FT Pub II, LLC, dba Flowing Tide Pub & Grill, in violation of NRS 463.170 as amended in
13 2009 Nev. Stat. 279 – 281.

14 29. Respondent's actions are inimical to the public health, safety, morals, good order
15 and/or general welfare of the people of the State of Nevada, and/or reflect or tend to reflect
16 discredit upon the State of Nevada and/or the gaming industry in violation of Nev. Gaming
17 Comm'n Reg. 5.011.

18 30. Respondent, through his actions, has failed to exercise discretion and sound
19 judgment to prevent incidents which might reflect on the repute of the State of Nevada and act
20 as a detriment to the development of the industry in violation of Nev. Gaming Comm'n Reg.
21 5.011(1).

22 31. Respondent's failure to comply with NRS 463.170, as amended in 2009 Nev. Stat.
23 279 – 281, and Nev. Gaming Comm'n Regs. 5.011(1) is an unsuitable method of operation
24 and is grounds for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2) and 5.030.

25 WHEREFORE, based upon the allegations contained herein which constitute
26 reasonable cause for disciplinary action against Respondent, pursuant to NRS 463.310, NRS
27 463.170 and Nevada Gaming Commission Regulations 5.010, 5.011 and 5.030 the STATE
28 GAMING CONTROL BOARD prays for the relief as follows:

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

3 2. That the Nevada Gaming Commission fine Respondent a monetary sum pursuant to
4 the parameters defined at NRS 463.310(4) for each separate violation of the provisions of the
5 Nevada Gaming Control Act or the Regulations of the Nevada Gaming Commission;

6 3. That the Nevada Gaming Commission take action against Respondent's license or
7 licenses pursuant to the parameters defined in NRS 463.310(4); and

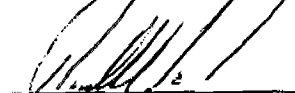
8 4. For such other and further relief as the Nevada Gaming Commission may deem just
9 and proper.

10 DATED this 11th day of March, 2010.

11 STATE GAMING CONTROL BOARD

12 

13 DENNIS K. NEILANDER, Chairman

14 

15 RANDALL E. SAYRE, Member


16 

17 MARK A. LIPPARELLI, Member

18 Submitted by:

19 CATHERINE CORTEZ MASTO
Attorney General

20 By:

21 
MICHAEL P. SOMPS
Senior Deputy Attorney General
Gaming Division
(775) 850-4152