

1 NGC 10-03

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

6 STATE GAMING CONTROL BOARD,)
7 Complainant,)
8 vs.)
9 WORKU Y. BERHANU,)
10 Respondent.)
11

COMPLAINT

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, WORKU Y. BERHANU, owns Dakota Convenience Store, a sole
23 proprietorship, located at 990 Sierra Vista Drive, Suite A & B, Las Vegas, Nevada, which is a
24 restricted location licensed to operate gaming in Nevada.

25 **RELEVANT LAW**

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

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

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

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

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

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

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

17 6. This continuing obligation is repeated in Nevada Gaming Commission Regulation
18 5.040, which provides as follows:

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

24 Nev. Gaming Comm'n Reg. 5.040.

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

1 8. NRS 463.170 provides in relevant part:

2 1. Any person who the Commission determines is qualified
3 to receive a license, to be found suitable or to receive any approval
4 required under the provisions of this chapter, or to be found suitable
5 regarding the operation of a charitable lottery under the provisions
6 of chapter 462 of NRS, having due consideration for the proper
7 protection of the health, safety, morals, good order and general
8 welfare of the inhabitants of the State of Nevada and the declared
9 policy of this State, may be issued a state gaming license, be found
10 suitable or receive any approval required by this chapter, as
11 appropriate. The burden of proving his qualification to receive any
12 license, be found suitable or receive any approval required by this
13 chapter is on the applicant.

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

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

28 (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

1 appropriate. Any written or oral statement made in the course of an
2 official proceeding of the Board or Commission by any member
3 thereof or any witness testifying under oath which is relevant to the
4 purpose of the proceeding is absolutely privileged and does not
5 impose liability for defamation or constitute a ground for recovery in
6 any civil action.

7

8 **8. Any person granted a license or found suitable by the**
9 **Commission shall continue to meet the applicable standards**
10 **and qualifications set forth in this section and any other**
11 **qualifications established by the Commission by regulation.**
12 **The failure to continue to meet such standards and**
13 **qualifications constitutes grounds for disciplinary action.**

14 NRS 463.170 (emphasis added).

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

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

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

. . . .

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 Regs. 5.011, 5.011(1) and (10).

. . . .

1 Nevada Gaming Commission Regulation 5.014 provides the following:

2 The commission may revoke or suspend the gaming license
3 or finding of suitability of a person who is convicted of a crime, even
4 though the convicted person's postconviction rights and remedies
5 have not been exhausted, if the crime or conviction discredits or
6 tends to discredit the State of Nevada or the gaming industry.

6 Nev. Gaming Comm'n Reg. 5.014.

7 10. Nevada Gaming Commission Regulation 5.030 provides as follows:

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

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

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

17 (d) Fine each person or entity or both, who was licensed,
18 registered or found suitable pursuant to this chapter or chapter 464
19 of NRS or who previously obtained approval for any act or
20 transaction for which Commission approval was required or
21 permitted under the provisions of this chapter or chapter 464 of
22 NRS:

21

22 (2) Except as otherwise provided in subparagraph (1) of
23 this paragraph, not more than \$100,000 for each separate violation
24 of the provisions of this chapter or chapter 464 or 465 of NRS or of
25 the regulations of the Commission which is the subject of an initial
26 complaint and not more than \$250,000 for each separate violation
27 of the provisions of this chapter or chapter 464 or 465 of NRS or of
28 the regulations of the Commission which is the subject of any
subsequent complaint.

27

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

BACKGROUND

1
2 12. On May 1, 2008 and on May 13, 2008, Las Vegas Metropolitan Police (Metro)
3 officers conducted surveillance of the Dakota Convenience Store, located at 990 Sierra Vista
4 Drive, Las Vegas, Nevada.

5 13. Surveillance was conducted by Metro based on information that the owner of
6 Dakota Convenience Store, Respondent, was involved in the sale and distribution of "Khat"
7 from the premises of Dakota Convenience Store.

8 14. "Khat" is a schedule 1 controlled substance when fresh.

9 15. "Khat," after a period of decomposition, becomes a schedule 4 controlled
10 substance.

11 16. On May 1, 2008, Metro officers observed two individuals exit the Dakota
12 Convenience Store carrying a black plastic bag. Metro officers subsequently conducted a
13 traffic stop on the vehicle transporting the individuals. The individuals were in possession of
14 "Khat" and admitted that they had just purchased the "Khat" from Respondent at the Dakota
15 Convenience Store.

16 17. On May 13, 2008, Metro officers observed an individual exit the Dakota
17 Convenience Store carrying a black plastic bag. Metro officers subsequently conducted a
18 traffic stop on the vehicle transporting the individual. The individual was in possession of
19 "Khat" and admitted that he had just purchased the "Khat" from Respondent at the Dakota
20 Convenience Store.

21 18. On May 15, 2008, Metro officers executed a search warrant at the Dakota
22 Convenience Store, located at 990 Sierra Vista Drive, A & B, Las Vegas, Nevada.

23 19. Respondent was present during the execution of the search warrant.

24 20. During the execution of the search warrant, Metro officers discovered, in the beer
25 cooler of the Dakota Convenience Store, several bags containing a green, leafy substance
26 suspected to be "Khat."

27 21. Respondent admitted that the green, leafy substance in the bags was "Khat" and
28 represented that it was for his personal use.

1 22. Respondent was arrested and charged with possession of a controlled substance in
2 violation of NRS 453.336, which is a felony.

3 23. On or about May 15, 2009, Respondent entered a plea of guilty to the crime of
4 Possession of Dangerous Drugs not to be Introduced into Interstate Commerce, a
5 misdemeanor.

6 24. On or about November 20, 2009, judgment was entered against Respondent.

7 **COUNT ONE**

8 **VIOLATION OF NRS 463.170, AND VIOLATION OF NEV. GAMING COMM'N**

9 **REGS. 5.011, 5.011(1) AND 5.011(10)**

10 25. Complainant BOARD realleges and incorporates by reference as though set forth
11 in full herein paragraphs 1 through 24 above.

12 26. Respondent engaged in the sale and distribution of "Khat," a controlled substance,
13 from the premises of a restricted gaming establishment.

14 27. Respondent, through his actions, has failed to meet the applicable standards and
15 qualifications necessary to hold a restricted gaming license in violation of NRS 463.170.

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

20 29. Respondent, through his actions, has failed to exercise discretion and sound
21 judgment to prevent incidents which might reflect on the repute of the State of Nevada and act
22 as a detriment to the development of the industry in violation of Nev. Gaming Comm'n Reg.
23 5.011(1).

24 30. Respondent, through his actions, has failed to conduct gaming operations in
25 accordance with proper standards of custom, decorum and decency and/or his actions reflect
26 or tend to reflect on the repute of the State of Nevada and act as a detriment to the gaming
27 industry in violation of Nev. Gaming Comm'n Reg. 5.011(10).

28

1 31. Respondent's failure to comply with NRS 463.170, and/or Nev. Gaming Comm'n
2 Reg. 5.011, 5.011(1), and/or 5.011(10) is an unsuitable method of operation and is grounds
3 for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2) and 5.030.

4 **COUNT TWO**

5 **VIOLATION OF NRS 463.170, AND VIOLATION OF NEV. GAMING COMM'N**

6 **REGS. 5.011, 5.011(1) AND 5.011(10)**

7 32. Complainant BOARD realleges and incorporates by reference as though set forth
8 in full herein paragraphs 1 through 31 above.

9 33. Respondent possessed, on the premises of a restricted gaming establishment, a
10 controlled substance in violation of the law.

11 34. Respondent, through his actions, has failed to meet the applicable standards and
12 qualifications necessary to hold a restricted gaming license in violation of NRS 463.170.

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

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

21 37. Respondent, through his actions, has failed to conduct gaming operations in
22 accordance with proper standards of custom, decorum and decency and/or his actions reflect
23 or tend to reflect on the repute of the State of Nevada and act as a detriment to the gaming
24 industry in violation of Nev. Gaming Comm'n Reg. 5.011(10).

25 38. Respondent's failure to comply with NRS 463.170, and/or Nev. Gaming Comm'n
26 Reg. 5.011, 5.011(1), and/or 5.011(10) is an unsuitable method of operation and is grounds
27 for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2), 5.014, and 5.030.

28

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

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

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

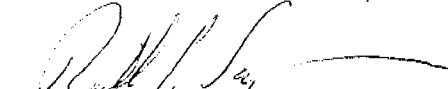
10 3. That the Nevada Gaming Commission take action against Respondent's license or
11 licenses pursuant to the parameters defined in NRS 463.310(4); and

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

14 DATED this 1ST day of JUNE, 2010.

15 STATE GAMING CONTROL BOARD

16 
17 DENNIS K. NEILANDER, Chairman

18 
19 RANDALL E. SAYRE, Member

20 
21 MARK A. LIPPARELLI, Member

22 Submitted by:

23 CATHERINE CORTEZ MASTO
24 Attorney General

25 By: 
26 MICHAEL P. SOMPS
27 Senior Deputy Attorney General
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