



1 NGC 10-08

2 STATE OF NEVADA

3 BEFORE THE NEVADA GAMING COMMISSION

4 STATE GAMING CONTROL BOARD,)
 5 Complainant,)
 6 vs.)
 7 CAPADO GAMING CORPORATION,)
 8 Respondent.)
 9

COMPLAINT

10 The State of Nevada, on relation of its STATE GAMING CONTROL BOARD
 11 (BOARD), Complainant herein, by and through its counsel, CATHERINE CORTEZ MASTO,
 12 Attorney General, by EDWARD L. MAGAW, Deputy Attorney General, hereby files this
 13 Complaint for disciplinary action against CAPADO GAMING CORPORATION (CAPADO),
 14 Respondents herein, pursuant to Nevada Revised Statute (NRS) 463.310(2) and alleges as
 15 follows:

JURISDICTION

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

21 2. Respondent, CAPADO, headquartered at 1541 West Oakey Boulevard, Las Vegas,
 22 Nevada 89102, holds a Nevada distributor's license, and, as such, is charged with the
 23 responsibility of complying with all of the provisions of the Nevada Gaming Control Act and the
 24 Regulations of the Nevada Gaming Commission.

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

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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.

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

17 (d) All establishments where gaming is conducted and
18 where gaming devices are operated, and manufacturers, sellers
19 and distributors of certain gaming devices and equipment, and
20 operators of inter-casino linked systems must therefore be
21 licensed, controlled and assisted to protect the public health,
22 safety, morals, good order and general welfare of the inhabitants of
23 the State, to foster the stability and success of gaming and to
24 preserve the competitive economy and policies of free competition
25 of the State of Nevada.

26 NRS 463.0129(1)(a)-(d).

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

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

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

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

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

1 7. Nevada Gaming Commission Regulation 5.010(2) provides that the "[r]esponsibility
2 for the employment and maintenance of suitable methods of operation rests with the licensee,
3 and willful or persistent use or toleration of methods of operation deemed unsuitable will
4 constitute grounds for license revocation or other disciplinary action." Nev. Gaming Comm'n
5 Reg. 5.010(2).

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

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

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

21 Nev. Gaming Comm'n Reg. 5.011(1) (emphasis added).

22 9. Nevada Gaming Commission Regulation 5.030 provides as follows:

23 **Violation of any provision of the Nevada Gaming
24 Control Act or of these regulations by a licensee, his agent or
25 employee shall be deemed** contrary to the public health, safety,
26 morals, good order and general welfare of the inhabitants of the
27 State of Nevada and **grounds for suspension or revocation of a
28 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.

1 (b) To determine any facts, conditions, practices or matters
2 which it may deem necessary or proper to aid in the enforcement
3 of any such law or regulation.

4

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

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

17 11. Nevada Revised Statute 463.1405(3) provides:

18 3. The Board has full and absolute power and authority to
19 recommend the denial of any application, the limitation,
20 conditioning or restriction of any license, registration, finding of
21 suitability or approval, the suspension or revocation of any license,
22 registration, finding of suitability or approval or the imposition of a
23 fine upon any person licensed, registered, found suitable or
24 approved for any cause deemed reasonable by the Board.

25 NRS 463.1405(3).

26 12. Pursuant to Nevada Revised Statute 463.650(1), (6) and (7):

27 1. Except as otherwise provided..., it is unlawful for any
28 person, either as owner, lessee or employee, whether for hire or not,
to operate, carry on, conduct or maintain **any form of...selling or
distribution of any gaming device**...for use or play in Nevada or
for distribution outside of Nevada **without first procuring and
maintaining all required federal, state, county and municipal
licenses.**

. . . .

6. Any person who the Commission determines is a suitable
person to receive a license under the provisions of this section and
NRS 463.660 may be issued a manufacturer's or distributor's
license. **The burden of proving his qualification to receive or
hold a license under this section and 463.660 is at all times on
the applicant or licensee.**

7. Every person who must be licensed pursuant to this
section is subject to the provisions of NRS 463.482 to 463.645,

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1 inclusive, unless exempted from those provisions by the
2 Commission.

3 NRS 463.650(1), (6), and (7) (emphasis added).

4 13. Pursuant to Nevada Revised Statute 463.0155(1):

5 "Gaming device" means any equipment or mechanical,
6 electromechanical or electronic contrivance, component or machine
7 used remotely or directly in connection with gaming or any game
8 which affects the results of a wager by determining win or loss. The
9 term includes:

10 1. A slot machine.

11 NRS 463.0155 (emphasis added).

12 14. A "Slot Machine" is defined under NRS 463.0191 as:

13 . . . [A]ny mechanical, electrical or other device, contrivance
14 or machine which, upon insertion of a coin, token or similar object, or
15 upon payment of any consideration, is available to play or operate,
16 the play or operation of which, whether by reason of skill of the
17 operator in playing a gambling game which is presented for play by
18 the machine or application of the element of chance, or both, may
19 deliver or entitle the person playing or operating the machine to
20 receive cash, premiums, merchandise, tokens or any thing of value,
21 whether the payoff is made automatically form the machine or in any
22 other manner.

23 NRS 463.0191.

24 15. Nevada Gaming Commission Regulation 14.010(4) defines a "Distributor" as "any
25 person that sells, leases, markets, offers, or otherwise distributes any gaming device...for use
26 or play in Nevada or sells, leases, or otherwise distributes any gaming device...from a location
27 within Nevada." Nev. Gaming Comm'n Reg. 14.010(4).

28 16. Nevada Gaming Commission Regulation 14.020(1) states that "[a] person may act
as a...distributor...only if that person holds a license specifically permitting the person to act
as a...distributor...except as provided for in NRS 463.160(2)." Nev. Gaming Comm'n Reg.
14.020(1) (emphasis added).

17. Nevada Gaming Commission Regulation 14.030(1) states that "[a] manufacturer
or distributor shall not distribute a gaming device in Nevada . . . unless it has been approved
by the commission or is offered for play pursuant to a field test ordered by the chairman."
Nev. Gaming Comm'n Reg. 14.030(1).

1 18. Nevada Gaming Commission Regulation 14.170(1)(a) and (3) reads as follows:

2 1. Except as otherwise provided in subsection 2, a
3 manufacturer or distributor shall not distribute a gaming device in
4 this state or from a location within this state out of state unless the
5 gaming device has:

6 (a) A permanent serial number which must be the same
7 number as given the device pursuant to the provisions of the
8 Gaming Device Act of 1962, 15 U.S.C. 1173, permanently stamped
9 or engraved in lettering no smaller than 5 millimeters on the metal
10 frame or other permanent component of the device and on a
11 removable metal plate attached to the cabinet of the device; and

12
13 3. Each manufacturer or distributor shall keep a written list of
14 the date of each distribution, the serial numbers of the devices, the
15 board approval number, or if the device has been modified since
16 initial approval of the device, the modification approval number, and
17 the name, state of residence, addresses and telephone numbers of
18 the person to whom the gaming devices have been distributed and
19 shall provide such list to the chairman **immediately** upon his
20 request.

21 Nev. Gaming Comm'n Reg. 14.170(1)(a) and (3) (emphasis added).

22 **COUNT I**
23 **VIOLATION OF NEVADA GAMING COMMISSION REGULATION 14.170(3)**
24 **FAILURE TO MAINTAIN REQUIRED RECORDS.**

25 19. The BOARD realleges and incorporates by reference paragraphs 1 through 18
26 above as though set forth in full herein.

27 20. According to sales records obtained by the BOARD, in or around the first half of
28 2008 CAPADO sold five slot machines to Camptown, LTD., dba Crosby's (Crosby's) for use or
play at Crosby's licensed restricted gaming operation located in Incline Village, Nevada.

21 21. During the BOARD's investigation into the above sale, it was discovered that
22 CAPADO had failed to maintain any records documenting the serial numbers of the five slot
23 machines at issue as required under Nevada Gaming Commission Regulation 14.170(3).

24 22. When asked by the BOARD to produce the serial numbers, CAPADO had to
25 contact Crosby's and have Crosby's examine the machines to obtain the numbers.

26 23. By failing to maintain the records documenting the serial numbers of the five
27 machines CAPADO sold to Crosby's, CAPADO violated Nevada Gaming Commission
28 Regulation 14.170(3).

