



1 NGC 14-08

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STATE OF NEVADA

5

BEFORE THE NEVADA GAMING COMMISSION

6

STATE GAMING CONTROL BOARD,

7

Complainant,

8

vs.

STIPULATION FOR SETTLEMENT AND ORDER

9

HERDA'S BAR AND GRILL, INC., dba
FOXYS GIRLS,

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11

JOHN JAMES HERDA,

12

and

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NICHOLAS HERDA,

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Respondents.

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The State of Nevada, on relation of its STATE GAMING CONTROL BOARD (BOARD),
Complainant herein, filed an Amended Complaint, NGC Case No. 14-08 against the above-
captioned RESPONDENTS, HERDA'S BAR AND GRILL, INC., dba FOXYS GIRLS, JOHN
JAMES HERDA, and NICHOLAS HERDA, alleging certain violations of the Nevada Gaming
Control Act and Regulations of the Nevada Gaming Commission.

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IT IS HEREBY STIPULATED AND AGREED to by the BOARD and RESPONDENTS
that the Amended Complaint, NGC Case No. 14-08, filed against RESPONDENTS in the
above-entitled case shall be settled on the following terms and conditions:

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1. RESPONDENTS admit each and every allegation set forth in the Amended
Complaint, NGC Case No. 14-08.

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2. RESPONDENTS fully understand and voluntarily waive the right to a public hearing
on the charges and allegations set forth in the Amended Complaint, the right to present and
cross-examine witnesses, the right to a written decision on the merits of the Amended

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Office of the Attorney General
Gaming Division
5420 Kietzke Lane, Suite 202
Reno, Nevada 89511

1 Complaint, which must contain findings of fact and a determination of the issues presented,
2 and the right to obtain judicial review of the Nevada Gaming Commission's decision.

3 3. RESPONDENTS agree that their gaming licenses shall be deemed surrendered on
4 the date this Stipulation for Settlement is accepted by the Nevada Gaming Commission.

5 4. RESPONDENTS agree to pay a fine in the total amount of TWENTY-FIVE
6 THOUSAND DOLLARS and NO CENTS (\$25,000.00) electronically transferred to the *State of*
7 *Nevada-Nevada Gaming Commission* on or before the date this Stipulation for Settlement is
8 accepted by the Nevada Gaming Commission. Interest on the fine shall accrue at 5.25
9 percent per annum on any unpaid balance computed from the date payment is due until
10 payment is made in full.

11 5. In consideration for the execution of this settlement agreement, RESPONDENTS,
12 for themselves, their heirs, executors, administrators, successors, and assigns, hereby
13 release and forever discharge the State of Nevada, the Nevada Gaming Commission, the
14 Nevada Gaming Control Board, the Nevada Attorney General and each of their members,
15 agents, and employees in their individual and representative capacities, from any and all
16 manner of actions, causes of action, suits, debts, judgments, executions, claims, and
17 demands whatsoever known or unknown, in law and equity, that RESPONDENTS ever had,
18 now have, may have, or claim to have against any and all of the persons or entities named in
19 this paragraph arising out of, or by reason of, the investigation of the allegations in the
20 Amended Complaint and this disciplinary action, NGC Case No. 14-08, or any other matter
21 relating thereto.

22 6. In consideration for the execution of this settlement agreement, RESPONDENTS
23 hereby indemnify and hold harmless the State of Nevada, the Nevada Gaming Commission,
24 the State Gaming Control Board, the Nevada Attorney General, and each of their members,
25 agents, and employees in their individual and representative capacities against any and all
26 claims, suits and actions, brought against the persons named in this paragraph by reason of
27 the investigation of the allegations in the Amended Complaint, filed in this disciplinary action,
28 NGC Case No. 14-08, and all other matters relating thereto, and against any and all expenses,

1 damages, charges and costs, including court costs and attorney fees, which may be sustained
2 by the persons and entities named in this paragraph as a result of said claims, suits and
3 actions.

4 7. RESPONDENTS enter into this Stipulation for Settlement freely and voluntarily and
5 with the assistance of legal counsel. RESPONDENTS further acknowledge that this stipulated
6 settlement is not the product of force, threats, or any other form of coercion or duress, but is
7 the product of discussions between RESPONDENTS and the attorney for the BOARD.

8 8. RESPONDENTS affirmatively represent that if RESPONDENTS, this Stipulation for
9 Settlement and Order, and/or any amounts distributed under this Stipulation for Settlement and
10 Order are subject to, or will become subject to, the jurisdiction of any bankruptcy court, the
11 bankruptcy court's approval is not necessary for this Stipulation for Settlement and Order to
12 become effective, or that the bankruptcy court has already approved this Stipulation for
13 Settlement and Order.

14 9. RESPONDENTS and the BOARD acknowledge that this settlement is made to avoid
15 litigation and economize resources. The parties agree and understand that this Stipulation for
16 Settlement is intended to operate as full and final settlement of the Amended Complaint filed
17 against RESPONDENTS in the above-entitled disciplinary case, NGC Case No. 14-08.

18 10. RESPONDENTS and the BOARD recognize and agree that the Nevada Gaming
19 Commission has the sole and absolute discretion to determine whether to accept this
20 stipulated settlement agreement. RESPONDENTS and the BOARD hereby waive any right
21 they may have to challenge the impartiality of the Nevada Gaming Commission to hear the
22 above-entitled case on the matters embraced in the Amended Complaint if the Nevada
23 Gaming Commission determines not to accept this stipulated settlement agreement. If the
24 Nevada Gaming Commission does not accept the Stipulation for Settlement, it shall be
25 withdrawn as null and void and RESPONDENTS' admissions, if any, that certain violations of
26 the Nevada Gaming Control Act and the Regulations of the Nevada Gaming Commission
27 occurred shall be withdrawn.

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1 11. RESPONDENTS and the BOARD agree and understand that this settlement
2 agreement is intended to operate as full and final settlement of the Amended Complaint filed in
3 NGC Case No. 14-08. The parties further agree and understand that any oral representations
4 are superseded by this settlement agreement and that only those terms memorialized in
5 writing herein shall be effective.

6 12. RESPONDENTS agree and understand that although this settlement, if approved
7 by the Nevada Gaming Commission, will settle the Amended Complaint filed in NGC Case No.
8 14-08, that the allegations contained in the Amended Complaint filed in NGC Case No. 14-08
9 and the terms of this settlement agreement may be considered by the BOARD and/or the
10 Nevada Gaming Commission, with regards to any and all applications by RESPONDENTS
11 that are currently pending before the BOARD or the Nevada Gaming Commission, or that are
12 filed in the future with the BOARD.

13 13. RESPONDENTS and the BOARD shall each bear their own costs incurred in this
14 disciplinary action, NGC Case No. 14-08.

15 14. RESPONDENTS, by executing this Stipulation for Settlement, affirmatively waive all
16 notices required by law for this matter including, but not limited to, notices concerning
17 consideration of the character or misconduct of a person (NRS 241.033), notices concerning
18 consideration of administrative action against a person (NRS 241.034), and notices concerning
19 hearings before the Nevada Gaming Commission (NRS 463.312). Regardless of the waiver of
20 legal notice requirements, the BOARD and Nevada Gaming Commission will attempt to
21 provide reasonable notice of the time and place of the hearing. Further, in negotiating this
22 Stipulation for Settlement, RESPONDENTS acknowledge that the BOARD has provided
23 RESPONDENTS with the date and time of the Nevada Gaming Commission hearing during
24 which the BOARD anticipates the Nevada Gaming Commission will consider approving this
25 settlement.

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1 15. This stipulated settlement agreement shall become effective immediately upon
2 approval by the Nevada Gaming Commission.


3 DATED this 9th day of June, 2015.

4 HERDA'S BAR AND GRILL, INC., dba
5 FOXY GIRLS,

STATE GAMING CONTROL BOARD


6 
7 JOHN JAMES HERDA, President
8 Respondent


A.G. BURNETT, Chairman

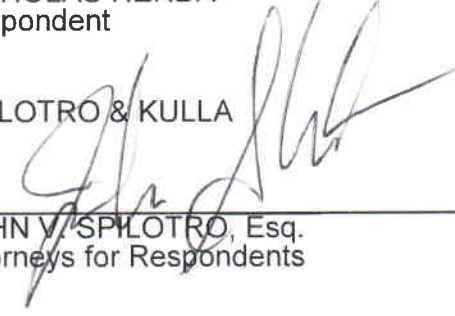
9 
10 JOHN JAMES HERDA
11 Respondent


SHAWN R. REID, Member

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13 NICHOLAS HERDA
14 Respondent


TERRY JOHNSON, Member

15 SPILOTRO & KULLA

16 
17 JOHN V. SPILOTRO, Esq.
18 Attorneys for Respondents

19 Submitted by:

20 ADAM PAUL LAXALT
21 Attorney General

22 By: 
23 MICHAEL P. SOMPS
24 Senior Deputy Attorney General
25 Gaming Division
26 Attorneys for State Gaming Control Board

27 ORDER

28 IT IS SO ORDERED in NGC Case No. 14-08.

DATED this 25th day of June, 2015.

NEVADA GAMING COMMISSION


TONY ALAMO, M.D., Chairman