



1 NGC-17-08

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4 STATE OF NEVADA

5 BEFORE THE NEVADA GAMING COMMISSION

6 NEVADA GAMING CONTROL BOARD,)
7 Complainant,
8 vs.
9 BCH GAMING RENO, LLC, dba
10 BOOMTOWN RENO,
Respondent.

COMPLAINT

11 The State of Nevada, on relation of its Nevada Gaming Control Board (BOARD),
12 Complainant herein, by and through its counsel, ADAM PAUL LAXALT, Attorney
13 General, by JOHN S. MICHELA, Senior Deputy Attorney General, hereby files this
14 Complaint for disciplinary action against RESPONDENT pursuant to Nevada Revised
15 Statute (NRS) 463.310(2) and alleges as follows:

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

20 2. BCH GAMING RENO, LLC, dba BOOMTOWN RENO (BOOMTOWN), located
21 at 8425 BOOMTOWN-Garson Road, Reno, Nevada, holds an active nonrestricted gaming
22 license.

23 RELEVANT LAW

- 24 3. The Nevada Legislature has declared under NRS 463.0129(1) that:
- 25 (a) The gaming industry is vitally important to the economy
of the State and the general welfare of the inhabitants.
 - 26 (b) The continued growth and success of gaming is
27 dependent upon public confidence and trust that licensed gaming
and the manufacture, sale and distribution of gaming devices and
28 associated equipment are conducted honestly and competitively,
that establishments which hold restricted and nonrestricted

1 licenses where gaming is conducted and where gambling devices
2 are operated do not unduly impact the quality of life enjoyed by
3 residents of the surrounding neighborhoods, that the rights of the
4 creditors of licensees are protected and that gaming is free from
5 criminal and corruptive elements.

6 (c) Public confidence and trust can only be maintained by
7 strict regulation of all persons, locations, practices, associations
8 and activities related to the operation of licensed gaming
9 establishments, the manufacture, sale or distribution of gaming
10 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
14 limit, condition, restrict, revoke or suspend any license, or fine any person licensed for
15 any cause deemed reasonable. *See* NRS 463.1405(4).

16 5. The Nevada Gaming Commission may also place "such conditions as it may
17 deem necessary in the public interest upon any registration, finding of suitability or
18 approval for which application has been made." *See* NRS 463.220(3).

19 6. The BOARD is authorized to observe the conduct of licensees in order to ensure
20 that the gaming operations are not being conducted in an unsuitable manner. *See* NRS
21 463.1405(1).

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

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

8. Nevada Gaming Commission Regulation 5.010 provides as follows:

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

inhabitants of the State of Nevada.

2. Responsibility 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.

Nev. Gaming Comm'n Reg. 5.010.

9. NRS 463.170 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 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 an applicant's 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

(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

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

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

13 NRS 463.170(1), (2), (3), (4), and (8).

14 10. Nevada Gaming Commission Regulation 5.011 states, in relevant part, as
15 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
18 the public health, safety, morals, good order and general welfare
19 of the people of the State of Nevada, or that would reflect or
20 tend to reflect discredit upon the State of Nevada or the gaming
21 industry, to be an unsuitable method of operation and shall be
22 grounds for disciplinary action by the board and the commission
23 in accordance with the Nevada Gaming Control Act and the
24 regulations of the board and the commission. Without limiting
25 the generality of the foregoing, the following acts or omissions
26 may be determined to be 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.

. . . .

8. Failure to comply with or make provision for
compliance with all federal, state and local laws and regulations
and with all commission approved conditions and limitations
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.

. . . .

1 10. Failure to conduct gaming operations in accordance
2 with proper standards of custom, decorum and decency, or
3 permit any type of conduct in the gaming establishment which
4 reflects or tends to reflect on the repute of the State of Nevada
5 and act as a detriment to the gaming industry.”

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

7 11. NRS 463.160 provides, in relevant part:

8 1. Except as otherwise provided in subsection 4 and NRS
9 463.172 it is unlawful for any person, either as owner, lessee or
10 employee, whether for hire or not, either solely or in conjunction
11 with others:

12 (a) To deal, operate, carry on, conduct, maintain or expose
13 for play in the State of Nevada any gambling game, gaming
14 device, inter-casino linked system, mobile gaming system, slot
15 machine, race book or sports pool;

16 (b) To provide or maintain any information service;

17 (c) To operate a gaming salon;

18 (d) To receive, directly or indirectly, any compensation or
19 reward or any percentage or share of the money or property
20 played, for keeping, running or carrying on any gambling game,
21 slot machine, gaming device, mobile gaming system, race book
22 or sports pool;

23 (e) To operate as a cash access and wagering instrument
24 service provider; or

25 (f) To operate, carry on, conduct, maintain or expose for
26 play in or from the State of Nevada any interactive gaming
27 system,

28 →without having first procured, and thereafter
maintaining in effect, all federal, state, county and municipal
gaming licenses as required by statute, regulation or ordinance
or by the governing board of any unincorporated town.

NRS 463.160(1).

12. NRS 465.093 provides:

1. Except as otherwise provided in NRS 465.094, a
person, alone or with others, shall not knowingly:

(a) From within this state, place, send, transmit or relay
through a medium of communication a wager to another person
or an establishment that is located within or outside of this
state; or

(b) From outside of this state, place, send, transmit or
relay through a medium of communication a wager to another
person or an establishment that is located within this state.

2. A person who violates the provisions of this section is
guilty of a misdemeanor.

NRS 465.093.

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2 13. 18 U.S.C. § 1084 provides, in relevant part:

3 (a) Whoever being engaged in the business of betting or
4 wagering knowingly uses a wire communication facility for the
5 transmission in interstate or foreign commerce of bets or
6 wagers or information assisting in the placing of bets or wagers
7 on any sporting event or contest, or for the transmission of a
8 wire communication which entitles the recipient to receive
9 money or credit as a result of bets or wagers, or for information
10 assisting in the placing of bets or wagers, shall be fined under
11 this title or imprisoned not more than two years, or both.

12 18 U.S.C. § 1084(a).

13 14. Nevada Gaming Commission Regulation 5.030 provides as follows:

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

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

27 BACKGROUND

28 15. BOOMTOWN does not possess a license to operate interactive gaming.

16. On or about September of 2016, BOOMTOWN started exploring offering its patrons the ability to engage in play for free games on its website.

17. After determining this would be too expensive, BOOMTOWN explored offering play for free games through a link to the websites of other companies.

18. On or about October of 2016, BOOMTOWN selected Affiliate Edge and its brands as a method of offering online games to its patrons and placed links on its website directing patrons to the brands of Affiliate Edge.

1 19. Affiliate Edge is located in Curacao and regulated by that country's
2 government.

3 20. On Affiliate Edge's frequently asked questions page is the question: "[d]o you
4 accept players from the USA?" The response given is: "[y]es, all our USD currency
5 casinos accept all players from the USA. Players must also comply with their local laws
6 before playing."

7 21. Sometime prior to July 17, 2017, BOOMTOWN also placed links to Deck
8 Media and its brands on its website.

9 22. Deck Media is located in Curacao and regulated by that country's government.

10 23. Both Affiliate Edge and Deck Media offered commissions to referring partners
11 based on the net losses of any patron referred by the referring partner.

12 24. On or about March 23, 2017, a patron of BOOMTOWN contacted the BOARD
13 and asked whether or not the online gaming offered on BOOMTOWN's website was legal.

14 25. On or about April 28, 2017, a patron of BOOMTOWN contacted BOOMTOWN
15 and asked whether a link from BOOMTOWN's website was correct as the link led to a
16 "Vegas online casino."

17 26. NRS 463.160 prohibits exposing an interactive gaming system in Nevada
18 without the requisite licenses.

19 27. NRS 465.093 prohibits placing wagers over the internet from Nevada except as
20 otherwise permitted by Nevada law. Any wagers placed from Nevada through
21 BOOMTOWN's above-described links would not be permitted by Nevada law.

22 28. The Wire Act, 18 U.S.C. § 1084, prohibits use of the internet by a person to
23 take wagers from persons where the wagers, or information assisting in the placement of
24 a wager, cross the boundaries of the United States or the boundaries of a state within the
25 United States.

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1 COUNT ONE

2 VIOLATION OF NEVADA REVISED STATUTE 463.170 and/or
3 NEVADA GAMING COMMISSION REGULATIONS 5.010 and/or 5.011

4 29. Complainant BOARD realleges and incorporates by reference as though set
5 forth in full herein paragraphs 1 through 28 above.

6 30. From sometime prior to March of 2017 through August 17, 2017, the official
7 website of BOOMTOWN contained links which stated "Play Online" and "Play Even
8 When Away!" When clicked upon, these two links led to a page of BOOMTOWN's website
9 which offered links to fifteen (15) different online gaming options.

10 31. On August 17, 2017, an agent of the BOARD contacted BOOMTOWN with
11 regard to the illegal nature of the links.

12 32. Each of the fifteen (15) links led to a website operated by either Affiliate Edge
13 or Deck Media or an affiliate thereof.

14 33. Of the fifteen (15) websites, eleven (11) had options which allowed visitors to
15 wager real money.

16 34. Of the eleven (11) websites with options allowing visitors to wager real money,
17 3 contained advertisements for BOOMTOWN.

18 35. Three (3) of the eleven (11) websites allowing visitors to wager real money
19 indicated "US Friendly," "US Players Welcome," or "US Friendly Casino." All of these
20 indications were placed on or next to a graphic of the flag of the United States of America.
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22 36. BOOMTOWN, through a company called Evo Advertising, Inc., received a
23 check in the amount of \$1,621.03 from Affiliate Edge.

24 37. BOOMTOWN's account statements with Affiliate Edge show gambling activity
25 by persons BOOMTOWN referred to Affiliate Edge gambling sites through the links.
26 These statements also show commissions due to BOOMTOWN.

27 38. BOOMTOWN's account statements with Deck Media show monetary deposits
28 by persons BOOMTOWN referred to Deck Media gambling sites through the links. These

1 statements also show commissions due to BOOMTOWN.

2 39. BOOMTOWN's acts and failures to act with regard to the links to websites
3 enabling apparent violations of the Wire Act and NRS 465.093 reflect or tend to reflect
4 poorly on the reputation of gaming in the State of Nevada and/or act as a detriment to the
5 development of the gaming industry and/or reflect or tend to reflect discredit upon the
6 State of Nevada or the gaming industry.

7 40. BOOMTOWN's acts and failures to act as set out above are violations of NRS
8 463.170 and/or Nevada Gaming Commission Regulations 5.011 and/or 5.011(1), (8),
9 and/or (10). This constitutes an unsuitable method of operation, and, as such, is grounds
10 for disciplinary action. See NRS 463.170 and Nev. Gaming Comm'n Regs. 5.010(2);
11 5.011(1), (8), and (10); and 5.030.

12 **COUNT TWO**

13 **VIOLATION OF NEVADA REVISED STATUTE 463.170 and/or**

14 **NEVADA GAMING COMMISSION REGULATIONS 5.010 and/or 5.011**

15 41. Complainant BOARD realleges and incorporates by reference as though set
16 forth in full herein paragraphs 1 through 40 above.

17 42. It appears BOOMTOWN ceded complete control concerning links to online
18 gaming on its website to 1 employee of BOOMTOWN: its graphic and web designer. It
19 appears this person had little, if any, understanding of gaming laws. It further appears
20 BOOMTOWN exercised little, if any, oversight concerning this employee's actions with
21 regard to placing links to online gaming on BOOMTOWN's website.

22 43. BOOMTOWN failed to maintain sufficient level of supervision and control over
23 its website and its employee to prevent links on its website leading to other websites
24 which apparently allowed real money wagering in apparent violation of the Wire Act.

25 44. BOOMTOWN further failed to inquire into the nature of the links on its
26 websites when it received payment from the websites and when a patron of BOOMTOWN
27 questioned the legality of the activity on one of the links.

28 45. BOOMTOWN's failure to supervise the activity of its employee and monitor

1 the links placed on its website reflect or tend to reflect poorly on the reputation of gaming
2 in the State of Nevada and/or act as a detriment to the development of the gaming
3 industry and/or reflect or tend to reflect discredit upon the State of Nevada or the gaming
4 industry.

5 46. BOOMTOWN's acts and failures to act as set out above are violations of NRS
6 463.170 and/or Nevada Gaming Commission Regulations 5.011 and/or 5.011(1), (8),
7 and/or (10). This constitutes an unsuitable method of operation, and, as such, is grounds
8 for disciplinary action. See NRS 463.170 and Nev. Gaming Comm'n Regs. 5.010(2);
9 5.011(1), (8), and (10); and 5.030.

10 WHEREFORE, based upon the allegations contained herein which constitute
11 reasonable cause for disciplinary action against RESPONDENT, pursuant to NRS
12 463.310, and Nevada Gaming Commission Regulations 5.010 and 5.030, the NEVADA
13 GAMING CONTROL BOARD prays for the relief as follows:

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

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

20 3. That the Nevada Gaming Commission take action against RESPONDENT'S
21 license or licenses pursuant to the parameters defined in NRS 463.310(4); and,

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

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1 just and proper.

2 DATED this 11th day of May, 2018.

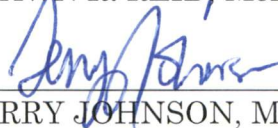
3 NEVADA GAMING CONTROL BOARD

4 

5 BECKY HARRIS, Chairwoman

6 

7 SHAWN R. REID, Member

8 

9 TERRY JOHNSON, Member

10 Submitted by:

11 ADAM PAUL LAXALT
12 Attorney General

13 By: 
14 _____

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