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STATE OF NEVADA

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BEFORE THE NEVADA GAMING COMMISSION

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NEVADA GAMING CONTROL BOARD,)

7

Complainant,

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vs.

COMPLAINT

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SMUGGLE INN, dba SMUGGLE INN,

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Respondent.

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The State of Nevada, on relation of its NEVADA GAMING CONTROL BOARD (BOARD), Complainant herein, by and through its counsel, AARON D. FORD, Attorney General, by JOHN S. MICHELA, Senior Deputy Attorney General, hereby files this Complaint for disciplinary action against SMUGGLE INN, dba SMUGGLE INN (RESPONDENT), pursuant to Nevada Revised Statute (NRS) 463.310(2), and alleges as follows:

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JURISDICTION

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

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2. RESPONDENT, located at 1305A Vegas Valley Drive, Las Vegas, Nevada, is organized under the laws of Nevada and holds a restricted gaming license.

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RELEVANT LAW

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

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

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(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

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1 and associated equipment are conducted honestly and
2 competitively, that establishments which hold restricted and
3 nonrestricted licenses where gaming is conducted and where
4 gambling devices are operated do not unduly impact the quality
5 of life enjoyed by residents of the surrounding neighborhoods,
6 that the rights of the creditors of licensees are protected and that
7 gaming is free from 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
16 limit, condition, restrict, revoke or suspend any license, or fine any person licensed, for
17 any cause deemed reasonable. *See* NRS 463.1405(4).

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

21 6. The BOARD is authorized to observe the conduct of licensees in order to ensure
22 that the gaming operations are not being conducted in an unsuitable manner. *See* NRS
23 463.1405(1).

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

26 A gaming license is a revocable privilege, and no holder
27 thereof shall be deemed to have acquired any vested rights
28 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.

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

1 this state be operated in a manner suitable to protect the public
2 health, safety, morals, good order and general welfare of the
3 inhabitants of the State of Nevada.

4 2. Responsibility for the employment and maintenance of
5 suitable methods of operation rests with the licensee, and willful
6 or persistent use or toleration of methods of operation deemed
7 unsuitable will constitute grounds for license revocation or other
8 disciplinary action.

9 Nev. Gaming Comm'n Reg. 5.010.

10 9. Nevada Revised Statute 463.170 provides as follows:

11 1. Any person who the Commission determines is
12 qualified to receive a license, to be found suitable or to receive
13 any approval required under the provisions of this chapter, or to
14 be found suitable regarding the operation of a charitable lottery
15 under the provisions of chapter 462 of NRS, having due
16 consideration for the proper protection of the health, safety,
17 morals, good order and general welfare of the inhabitants of the
18 State of Nevada and the declared policy of this State, may be
19 issued a state gaming license, be found suitable or receive any
20 approval required by this chapter, as appropriate. The burden of
21 proving an applicant's qualification to receive any license, be
22 found suitable or receive any approval required by this chapter
23 is on the applicant.

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

27 (a) A person of good character, honesty and integrity;
28 (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.

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

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

14 5. The Commission may in its discretion grant a license
15 to:

16 (a) A publicly traded corporation which has
17 complied with the provisions of NRS 463.625 to 463.643,
18 inclusive;

19 (b) Any other corporation which has complied with
20 the provisions of NRS 463.490 to 463.530, inclusive;

21 (c) A limited partnership which has complied with
22 the provisions of NRS 463.564 to 463.571, inclusive; and

23 (d) A limited-liability company which has complied
24 with the provisions of NRS 463.5731 to 463.5737,
25 inclusive.

26 6. No limited partnership, except one whose sole limited
27 partner is a publicly traded corporation which has registered
28 with the Commission, or a limited-liability company, or business
trust or organization or other association of a quasi-corporate
character is eligible to receive or hold any license under this
chapter unless all persons having any direct or indirect interest
therein of any nature whatever, whether financial,
administrative, policymaking or supervisory, are individually
qualified to be licensed under the provisions of this chapter.

7. The Commission may, by regulation:

(a) Limit the number of persons who may be
financially interested and the nature of their interest in
any corporation, other than a publicly traded corporation,
limited partnership, limited-liability company or other
organization or association licensed under this chapter;
and

(b) Establish such other qualifications for licenses
as it may, in its discretion, deem to be in the public
interest and consistent with the declared policy of the
State.

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

7 NRS 463.170.

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

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

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

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26 8. Failure to comply with or make provision for
27 compliance with all federal, state and local laws and regulations
28 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.

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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

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1 reflects or tends to reflect on the repute of the State of Nevada
2 and act as a detriment to the gaming industry.

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

4 11. Nevada Revised Statute 453.321 provides in relevant part:

5 1. Except as authorized by the provisions of NRS 453.011
6 to 453.552, inclusive, it is unlawful for a person to:

7 (a) Import, transport, sell, exchange, barter, supply,
8 prescribe, dispense, give away or administer a controlled or
9 counterfeit substance . . .

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11 2. Unless a greater penalty is provided in NRS 453.333 or
12 453.334, if a person violates subsection 1 and the controlled
13 substance is classified in schedule I or II, the person is guilty of a
14 category B felony . . .

15 NRS 453.321 (1)(a) and (2).

16 12. Nevada Revised Statute 453.031 provides: "Board' means the State Board of
17 Pharmacy."

18 13. Nevada Revised Statute 453.146 provides in relevant part: "1. The Board shall
19 administer the provisions of NRS 453.011 to 453.552, inclusive, and may add substances
20 to or delete or reschedule all substances enumerated in schedules I, II, III, IV and V by
21 regulation."

22 14. Nevada Administrative Code 453.510 provides in relevant part:

23 1. Schedule I consists of the drugs and other substances
24 listed in this section by whatever official, common, usual,
25 chemical or trade name designated.

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27 7. Unless specifically excepted or unless listed in another
28 schedule, any material, compound, mixture or preparation which
contains any quantity of the following substances having a
stimulant effect on the central nervous system, including,
without limitation, their salts, isomers and salts of isomers:

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Methamphetamine . . .

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8. Unless specifically listed in another schedule, coca leaves, cocaine base or free base, or a salt, compound, derivative, isomer or preparation thereof which is chemically equivalent or identical to such substances, and any quantity of material, compound, mixture or preparation which contains coca leaves, cocaine base or cocaine free base or its isomers or any of the salts of cocaine, except decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

NAC 453.510 (1), (7) and (8).

15. Clark County Code 8.20.465 states in relevant part as follows:

It is the affirmative duty of each holder of an alcoholic liquor license to strictly enforce all the provisions of this code and state statutes in the licensed establishment, and without limiting the generality of the foregoing, each holder of a liquor license must:

(a) Maintain and conduct all activities upon the premises in a decent, orderly and respectful manner and shall not knowingly permit within or upon the licensed premises any lewd activity, nudity, or topless activity (except in those limited circumstances which are enumerated in Section 8.20.570), disorder, disturbances, or other activities which endanger the health or safety of the patrons or disrupt the peace or order of the neighborhood.

Clark County Code 8.20.465(a).

16. Clark County Code 8.20.570 states in relevant part as follows:

The board may deem that any activity on the part of the licensee, his agents, servants or employees, or a person previously found suitable, which is inimical to the public health, safety, morals, good order, or general welfare of the people of the county or which would reflect or tend to reflect discredit upon the county or the liquor industry or which violates any ordinance or regulation of the board or any other violation of federal law or regulation, state statute or the Clark County Code is grounds for disciplinary action in accordance with Chapter 8.08 of this code. Without limiting the generality of the foregoing, all licensees are declared to be subject to disciplinary action for any of the following violations done either personally or through an agent, servant, or employee:

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1 (f) Each licensee who knowingly allows his licensed
2 premises to be frequented by or to become the meeting place,
3 hangout or rendezvous for prostitutes, known hoodlums, persons
4 described as undesirables in liquor operations or those who are
5 known to engage in the use or distribution of illegal narcotics or in
6 any other illegal occupation or business. Any licensee knowingly
7 permitting such conditions on the licensed premises may be subject
8 to all forms of disciplinary action, including but not limited to,
9 provisional suspension of his license, pending elimination of the
10 indicated violation. Disciplinary action for permitting any such
11 violation may be initiated against the licensee for failure to
12 eliminate the same by affirmative corrective action for a period of
13 ten days from the date of written notice of the existence of any such
14 condition or violation.

15 Clark County Code 8.20.570(f).

16 17. Nevada Gaming Commission Regulation 5.030 provides as follows:

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

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

COUNT ONE

VIOLATION OF NRS 463.170 and/or NEVADA GAMING COMMISSION
REGULATIONS 5.010 and/or 5.011

18. Complainant BOARD realleges and incorporates by reference as though set
forth in full herein paragraphs 1 through 17 above.

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1 19. On or about December 9, 2018, Las Vegas Metropolitan Police Department
2 (Metro) Detectives became aware of several employees of RESPONDENT selling cocaine to
3 patrons.

4 20. On or about December 9, 2018, Metro undercover detectives purchased cocaine
5 from an employee working as a bartender (Bartender #1) for RESPONDENT. Bartender
6 #1 sold the cocaine to the undercover detectives from behind the bar at RESPONDENT's
7 establishment and while on shift for RESPONDENT.

8 21. As of May 1, 2019, there is an active warrant for Bartender #1's arrest based on
9 the above.

10 22. RESPONDENT failed to take action to prevent the above from occurring.

11 23. By itself and/or in conjunction with the actions contained in the other counts of
12 this Complaint, this failure to prevent the above reflects or tends to reflect poorly on the
13 reputation of gaming in the State of Nevada and/or acts as a detriment to the development
14 of the gaming industry and/or reflects or tends to reflect discredit upon the State of
15 Nevada or the gaming industry.

16 **COUNT TWO**

17 **VIOLATION OF NRS 463.170 and/or NEVADA GAMING COMMISSION**

18 **REGULATIONS 5.010 and/or 5.011**

19 24. RESPONDENT's actions as set out above are a violation of NRS 463.170(8)
20 and/or Nev. Gaming Comm'n Regs. 5.010 and/or 5.011. This constitutes an unsuitable
21 method of operation, and, as such, is grounds for disciplinary action. See Nev. Gaming
22 Comm'n Regs. 5.010(2), 5.011 and 5.030.

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

25 26. On or about December 17, 2018, Metro undercover detectives purchased cocaine
26 from an employee working as a bartender (Bartender #2) for RESPONDENT. Bartender
27 #2 sold the cocaine to the undercover detectives from behind the bar at RESPONDENT's
28 establishment and while on shift for RESPONDENT.

1 27. RESPONDENT failed to take action to prevent the above from occurring.

2 28. By itself and/or in conjunction with the actions contained in the other counts of
3 this Complaint, this failure to prevent the above reflects or tends to reflect poorly on the
4 reputation of gaming in the State of Nevada and/or acts as a detriment to the development
5 of the gaming industry and/or reflects or tends to reflect discredit upon the State of
6 Nevada or the gaming industry.

7 29. RESPONDENT's actions as set out above are a violation of NRS 463.170(8)
8 and/or Nev. Gaming Comm'n Regs. 5.010 and/or 5.011. This constitutes an unsuitable
9 method of operation, and, as such, is grounds for disciplinary action. See Nev. Gaming
10 Comm'n Regs. 5.010(2), 5.011 and 5.030.

11 **COUNT THREE**

12 **VIOLATION OF NRS 463.170 and/or NEVADA GAMING COMMISSION**

13 **REGULATIONS 5.010 and/or 5.011**

14 30. Complainant BOARD realleges and incorporates by reference as though set
15 forth in full herein paragraphs 1 through 29 above.

16 31. On or about December 26, 2018, Metro executed a search warrant of
17 RESPONDENT's establishment.

18 32. When Metro executed the search warrant, only one bartender was working
19 (Bartender #3).

20 33. During the execution of the search warrant, Metro discovered Bartender #3 to
21 be in possession of 69.3 grams of cocaine, 5.7 grams of methamphetamine, and \$6,222.00
22 in U.S. Currency.

23 34. Bartender #3 was arrested, and Bartender #3 pled guilty on January 22, 2019,
24 to Possession of a Controlled Substance with Intent to Sell, a Category D Felony.
25 Bartender #3 is scheduled for sentencing on or about May 30, 2019.

26 35. Based on the above, Metro cited RESPONDENT for allowing narcotic sales
27 inside its business and served RESPONDENT with an emergency suspension.

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1 36. RESPONDENT failed to take action to prevent the above from occurring.

2 37. By itself and/or in conjunction with the actions contained in the other counts of
3 this Complaint, this failure to prevent the above reflects or tends to reflect poorly on the
4 reputation of gaming in the State of Nevada and/or acts as a detriment to the development
5 of the gaming industry and/or reflects or tends to reflect discredit upon the State of
6 Nevada or the gaming industry.

7 38. RESPONDENT's actions as set out above are a violation of NRS 463.170(8)
8 and/or Nev. Gaming Comm'n Regs. 5.010 and/or 5.011. This constitutes an unsuitable
9 method of operation, and, as such, is grounds for disciplinary action. See Nev. Gaming
10 Comm'n Regs. 5.010(2), 5.011 and 5.030.

11 **PRAYER FOR RELIEF**

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

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

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

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

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

3 DATED this 9th day of August, 2019.

4 NEVADA GAMING CONTROL BOARD

5 
6 SANDRA D. MORGAN, Chairwoman

7 
8 TERRY JOHNSON, Member

9 
PHIL KATSAROS, Member

10 Submitted by:

11 AARON D. FORD
12 Attorney General

13 By:

14 
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