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STATE OF NEVADA

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BEFORE THE NEVADA GAMING COMMISSION

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NEVADA GAMING CONTROL BOARD,

8

Complainant,

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vs.

COMPLAINT

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HOTEL NEVADA & GAMBLING HALL,
LTD, dba HOTEL NEVADA & GAMBLING
HALL,

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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, and JOHN S. MICHELA, Senior Deputy Attorney General, hereby files this
Complaint before the Nevada Gaming Commission (Commission) for disciplinary action
against HOTEL NEVADA & GAMBLING HALL, LTD, dba HOTEL NEVADA &
GAMBLING HALL, RESPONDENT, herein, 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 (Nevada Gaming Control Act) and the Regulations of the Commission.

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2. RESPONDENT, HOTEL NEVADA & GAMBLING HALL, LTD, dba HOTEL
NEVADA & GAMBLING HALL (RESPONDENT), located at 501 Aultman Street, Ely,
Nevada currently holds a nonrestricted gaming license, and, as such, is charged with the

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1 responsibility of complying with all of the provisions of the Nevada Gaming Control Act
2 and the Regulations of the Commission.

3 **INTRODUCTION**

4 1. On March 12, 2020, Nevada Governor Sisolak declared an emergency due to
5 the COVID-19 pandemic declared by the World Health Organization. COVID-19 is a highly
6 contagious respiratory illness spread through the close proximity of persons and that has
7 been spreading throughout the world, including Nevada. In an effort to contain the
8 COVID-19 pandemic and in an effort to save lives, protect property, and protect the health
9 and safety of the public, Governor Sisolak has imposed restrictions on individuals and
10 businesses as further described herein. The BOARD, tasked with ensuring that all
11 establishments where gaming is conducted and where gaming devices are operated be
12 licensed, controlled and assisted to protect the public health, safety, morals, good order and
13 general welfare of the inhabitants of the State, is therefore making every effort to ensure
14 compliance by Nevada gaming licensees with Governor Sisolak's directives.

15 **RELEVANT LAW**

16 2. The Nevada Legislature set forth the importance of the gaming industry to
17 the State of Nevada and its responsibility to the State's inhabitants in NRS 463.0129(1),
18 which provides as follows:

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

21 (b) The continued growth and success of gaming is
22 dependent upon public confidence and trust . . . that
23 establishments which hold restricted and nonrestricted licenses
24 where gaming is conducted and where gambling devices are
25 operated do not unduly impact the quality of life enjoyed by
26 residents of the surrounding neighborhoods

27 (c) Public confidence and trust can only be maintained
28 by strict regulation of all persons, locations, practices,
associations and activities related to the operation of licensed
gaming establishments

(d) All establishments where gaming is conducted and
where gaming devices are operated . . . must therefore be
licensed, controlled and assisted to protect the public health,
safety, morals, good order and general welfare of the inhabitants
of the State, to foster the stability and success of gaming and to
preserve the competitive economy and policies of free
competition of the State of Nevada.

1 (e) To ensure that gaming is conducted honestly,
2 competitively and free of criminal and corruptive elements, all
3 gaming establishments in this state must remain open to the
4 general public and the access of the general public to gaming
5 activities must not be restricted in any manner except as
6 provided by the Legislature.

7 NRS 463.0129(1).

8 3. To ensure proper oversight and control over the gaming industry, the Nevada
9 Legislature has granted the Commission "full and absolute power and authority to limit,
10 condition, restrict, revoke or suspend any license . . . or fine any person licensed . . . for any
11 cause deemed reasonable by the Commission." NRS 463.1405(4).

12 4. The BOARD is authorized to observe the conduct of licensees in order to
13 ensure that gaming operations are not being operated in an unsuitable manner or by an
14 unqualified or unsuitable person. NRS 463.1405(1) and Nev. Gaming Comm'n Reg. 5.040.

15 5. NRS 463.170 provides in relevant part as follows:

16 1. Any person who the Commission determines is
17 qualified to receive a license, to be found suitable or to receive
18 any approval required under the provisions of this chapter, or to
19 be found suitable regarding the operation of a charitable lottery
20 under the provisions of chapter 462 of NRS, having due
21 consideration for the proper protection of the health, safety,
22 morals, good order and general welfare of the inhabitants of the
23 State of Nevada and the declared policy of this State, may be
24 issued a state gaming license, be found suitable or receive any
25 approval required by this chapter, as appropriate. The burden of
26 proving an applicant's qualification to receive any license, be
27 found suitable or receive any approval required by this chapter
28 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:

1 (a) The applicant has adequate business probity,
2 competence and experience, in gaming or generally; and

(b) The proposed financing of the entire operation is:

3 (1) Adequate for the nature of the proposed operation;
4 and

(2) From a suitable source.

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

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

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19 8. Any person granted a license or found suitable by the
20 Commission shall continue to meet the applicable standards and
21 qualifications set forth in this section and any other
22 qualifications established by the Commission by regulation. The
23 failure to continue to meet such standards and qualifications
24 constitutes grounds for disciplinary action.

25 NRS 463.170(1)-(4) and (8).

26 6. The burden of proving a licensee's qualifications to continue to hold a license
27 rests at all times on the licensee. Nev. Gaming Comm'n Reg. 5.040.

28 7. Nevada Gaming Commission Regulation 5.010(1) states that 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."

8. Nevada Gaming Commission Regulation 5.010(2) states that 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."

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

3 1. The Board and the Commission deem any activity on
4 the part of a licensee, registrant, or person found suitable by the
5 Commission, or an agent or employee thereof, that is inimical to
6 the public health, safety, morals, good order, or general welfare
7 of the people of the State of Nevada, or that would reflect or tend
8 to reflect discredit upon the State of Nevada or the gaming
9 industry, to be an unsuitable method of operation and shall be
10 grounds for disciplinary action by the Board and the Commission
11 in accordance with the Nevada Gaming Control Act and the
12 regulations of the Commission. The following acts or omissions,
13 without limitation, may be determined to be unsuitable methods
14 of operation:

15 (a) Failure to exercise discretion and sound judgment to
16 prevent incidents which might reflect on the repute of the State
17 of Nevada and act as a detriment to the development of the
18 industry.

19 ...

20 (h) Failure to comply with or make provision for
21 compliance with all federal, state, or local laws and regulations
22 and with all conditions and limitations approved by the
23 Commission relating to the operations of a licensed gaming
24 establishment or other gaming business

25 ...

26 (k) Failure to conduct gaming operations in accordance
27 with proper standards of custom, decorum, and decency, or
28 permit a type of conduct in a gaming establishment that reflects
or tends to reflect on the repute of the State of Nevada and act
as a detriment to the gaming industry.

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2. The Commission, in the exercise of its sound
discretion, may make its own determination as to whether or not
a licensed gaming establishment or other gaming business has
failed to comply with a law or regulation described in paragraph
(h) of subsection 1, but any such determination shall make use
of established precedents when interpreting the applicable
statute. Nothing in this section affects the right of a licensee to
judicial review.

Nev. Gaming Comm'n Reg. 5.011(1)(a), (h), and (k), and (2).

10. NRS 414.070 provides in relevant part the following:

The provisions of this section are operative only during the
existence of a state of emergency or declaration of disaster. The
existence of such an emergency or disaster may be proclaimed by

1 the Governor or by resolution of the Legislature if the Governor
2 in his or her proclamation, or the Legislature in its resolution,
3 finds that an attack upon the United States has occurred or is
4 anticipated in the immediate future, or that a natural,
5 technological or man-made emergency or disaster of major
6 proportions has actually occurred within this State, and that the
7 safety and welfare of the inhabitants of this State require an
8 invocation of the provisions of this section. Any such emergency
9 or disaster, whether proclaimed by the Governor or by the
10 Legislature, terminates upon the proclamation of the
11 termination thereof by the Governor, or the passage by the
12 Legislature of a resolution terminating the emergency or
13 disaster. During the period when a state of emergency or
14 declaration of disaster exists or continues, the Governor may
15 exercise the following additional powers:

4. To provide for and compel the evacuation of all or part
of the population from any stricken or threatened area or areas
within the State and to take such steps as are necessary for the
receipt and care of those persons.

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7. To perform and exercise such other functions, powers
and duties as are necessary to promote and secure the safety and
protection of the civilian population.

14 NRS 414.070(4) and (7).

15 11. Nevada Gaming Commission Regulation 5.030 provides as follows:

16 Violation of any provision of the Nevada Gaming Control
17 Act or of these regulations by a licensee, the licensee's agent or
18 employee shall be deemed contrary to the public health, safety,
19 morals, good order and general welfare of the inhabitants of the
20 State of Nevada and grounds for suspension or revocation of a
21 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 informed of the
content of all such regulations, and ignorance thereof will not
excuse violations.

22 Nev. Gaming Comm'n Reg. 5.030.

23 12. Nevada Revised Statute 463.310 states in relevant part as follows:

24 1. The Board shall make appropriate investigations:

25 (a) To determine whether there has been any violation
of this chapter or chapter 462, 464, 465 or 466 of NRS or any
26 regulations adopted thereunder.

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

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1 2. If, after any investigation the Board is satisfied that:
2 (a) A license, registration, finding of suitability,
3 preliminary finding of suitability, pari-mutuel license or prior
4 approval by the Commission of any transaction for which the
5 approval was required or permitted under the provisions of this
6 chapter or chapter 462, 464 or 466 of NRS should be limited,
7 conditioned, suspended or revoked; or

8 (b) A person or entity which is licensed, registered, found
9 suitable pursuant to this chapter or chapter 464 of NRS or which
10 previously obtained approval for any act or transaction for which
11 Commission approval was required or permitted under the
12 provisions of this chapter or chapter 464 of NRS should be fined,
13 the Board shall initiate a hearing before the Commission by
14 filing a complaint with the Commission in accordance with NRS
15 463.312 and transmit therewith a summary of evidence in its
16 possession bearing on the matter and the transcript of testimony
17 at any investigative hearing conducted by or on behalf of the
18 Board.

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

20 BACKGROUND

21 13. On or about March 12, 2020, Steve Sisolak, Governor of the State of Nevada,
22 issued a Declaration of Emergency for COVID-19 to facilitate the State's response to the
23 COVID-19 pandemic declared by the World Health Organization.

24 14. On or about March 17, 2020, in furtherance of his Declaration of Emergency,
25 Governor Sisolak verbally mandated that all gaming machines, devices, table, games, and
26 any equipment related to gaming activity be shut down effective at midnight.

27 15. On or about March 18, 2020, Governor Sisolak issued Declaration of
28 Emergency Directive 002, reaffirming his March 17, 2020 verbal order wherein he ordered
that "the Nevada general public shall cease gathering at gaming establishments, and all
gaming devices, machines, tables, games, and any equipment related to gaming activity
shall cease operations effective March 17, 2020, at 11:59 p.m., for the duration that this
Directive shall be in effect."

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1 16. On or about April 29, 2020, Governor Sisolak issued Declaration of Emergency
2 Directive 016 wherein he ordered the following:

3 Section 13: Gaming operations, not including licensed online
4 gaming or mobile wagering operations, shall remain closed until
5 the Gaming Control Board determines that operations may
6 safely resume. The Gaming Control Board shall promulgate
guidance for a phased and incremental resumption of gaming
operations, as well as criteria regarding when operations may
resume.

7 17. On or about May 1, 2020, the BOARD issued Health and Safety Policies for
8 Reopening after Temporary Closure pursuant to section 13 of Governor Sisolak's
9 Declaration of Emergency Directive 016 in order to effectuate a safe, measured, and
10 incremental resumption of gaming operations.

11 18. On or about May 7, 2020, Governor Sisolak issued Declaration of Emergency
12 Directive 018 – Phase One Reopening wherein he ordered the following:

13 Section 9: All employers must take proactive measures to ensure
14 compliance with the social distancing and sanitation guidelines.
15 All employers shall require employees who interact with the
16 public to wear face coverings to the maximum extent possible,
and shall abide by all other guidelines promulgated by the
Nevada State Occupational Safety and Health Administration
(NV OSHA).

17 Section 21: Section 13 of Directive 016 is hereby amended.
18 Gaming operations, not including licensed online gaming or
19 mobile wagering operations, shall remain closed through Phase
One. The Gaming Control Board shall promulgate guidance for
a phased and incremental resumption of gaming operations.

20 19. On or about May 27, 2020, the BOARD issued Updated Health and Safety
21 Policies for Reopening after Temporary Closure. The May 27, 2020 updated and amended
22 health and safety policies impose operational requirements on licensees to mitigate and
23 reduce the risk of exposure to COVID-19 for all employees, patrons, and other guests and
24 states, in relevant part, the following: "When required or recommended, licensees must
25 ensure that PPE is available to employees and provide training on how to properly use and
26 dispose of all PPE."

27 . . .

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1 20. On or about May 28, 2020, Governor Sisolak issued Declaration of Emergency
2 Directive 021 – Phase Two Reopening Plan wherein he ordered in relevant part the
3 following:

4 Section 12: All employers shall continue to require employees
5 who interact with the public to wear face coverings to the
6 maximum extent possible

7 Section 35: Directive 002 and Section 021 of Directive 018 are
8 hereby terminated. The Nevada Gaming Control Board shall
9 promulgate requirements for a phased and incremental
10 resumption of gaming operations, with openings commencing no
11 sooner than 12:01 am June 4, 2020. Failure of a gaming licensee
12 to comply with any such requirements shall be considered
13 injurious to the public health, safety, morals, good order and
14 general welfare of the inhabitants of the State, and constitute a
15 failure to comply with this Directive. The Nevada Gaming
16 Control Board is hereby authorized to enforce this Directive as
17 necessary, including, but without limitation, pursuing
18 disciplinary action to limit, condition, suspend, and/or revoke a
19 license, and/or impose a monetary fine against a licensee in
20 accordance with the Gaming Control Act.

21 21. On or about June 17, 2020 the BOARD issued Updated Health and Safety
22 Policies for Reopening after Temporary Closure, which state for nonrestricted licensees, in
23 relevant part, the following: “When required or recommended, licensees must ensure that
24 PPE is utilized and properly worn by employees, and provide training on how to properly
25 use, wear, and dispose of all PPE.”

26 22. As of June 24, 2020, 1) Nevada was experiencing an increase in both its
27 cumulative test positivity rate and its seven-day moving average of daily new COVID-19
28 cases; 2) Nevada was experiencing an increasing trend of hospitalizations for confirmed
COVID-19 cases since May 31, 2020; 3) infectious disease scientists and experts advised
that “masks indisputably protect individuals against airborne transmission of respiratory
diseases;” 4) infectious disease scientists and experts advised that “universal masking at
80% adoption flattens the curve significantly more than maintaining a strict lock-down,”
and “masking at only 50% adoption is not sufficient to prevent continued spread” of
COVID-19; and 5) the Governor’s COVID-19 Medical Advisory Team advised that “a
mouth-and-nose lockdown is far more sustainable than a full-body lockdown.” Therefore,

1 on or about June 24, 2020, Governor Sisolak issued Declaration of Emergency Directive
2 024 wherein he ordered in relevant part, and with limited exceptions, the following:

3 Section 5: Individuals . . . shall be required to cover their nose
4 and mouth with a mask or face covering when in a public space.

5 Section 6: Businesses operating during Phase Two of the Nevada
6 Roadmap to Recovery shall ensure that all patrons, customers,
patients, or clients utilize face coverings . . . including prohibiting
persons without face coverings from entering the premises.

7 23. On or about June 25, 2020, the BOARD issued Updated Health and Safety
8 Policies for Reopening after Temporary Closure, which states for nonrestricted licensees,
9 in relevant part, the following: "Pursuant to Governor Sisolak's Emergency Directive 024,
10 licensees shall ensure that all patrons and guests properly utilize face coverings, subject to
11 the guidelines in the Directive."

12 **COUNT I**
13 **VIOLATION OF NEVADA GAMING COMMISSION REGULATION 5.011**

14 24. The BOARD realleges and incorporates the above paragraphs by reference as
15 though set forth in full herein.

16 25. On or about July 17, 2020, a BOARD agent conducted an inspection of
17 RESPONDENT.

18 26. On or about July 17, 2020, the BOARD agent observed a total of three (3)
19 employees of RESPONDENT not wearing face coverings or improperly wearing face
20 coverings.

21 27. On or about July 17, 2020, the BOARD agent discussed the above with the
22 manager and general manager present at RESPONDENT.

23 28. RESPONDENT failed to comply with Governor Sisolak's May 7, 2020
24 Directive 018, May 28, 2020, Directive 021, and June 24, 2020 Directive 024, and/or the
25 BOARD'S Updated Health and Safety Policies for Reopening after Temporary Closure,
26 which constitutes a violation of Nevada Gaming Commission Regulations 5.011, 5.011(a),
27 5.011(h), and/or 5.011(k).

28 . . .

1 29. The failure to comply with Nevada Gaming Commission Regulations 5.011,
2 5.011(a), 5.011(h), and/or 5.011(k) is an unsuitable method of operation and provides
3 grounds for disciplinary action against RESPONDENT. See Nev. Gaming Comm'n Reg.
4 5.010(2) and 5.030.

5 COUNT II
6 VIOLATION OF NEVADA GAMING COMMISSION REGULATION 5.011

7 30. The BOARD realleges and incorporates the above paragraphs by reference as
8 though set forth in full herein.

9 31. On or about July 17, 2020, a BOARD agent conducted an inspection of
10 RESPONDENT.

11 32. On or about July 17, 2020, the BOARD agent observed a total of three (3)
12 patrons of RESPONDENT not wearing face coverings or improperly wearing face
13 coverings. While the BOARD agent was present, he did not witness employees of
14 RESPONDENT take any action to correct the patrons who were not in compliance with the
15 face covering requirements.

16 33. On or about July 17, 2020, the BOARD agent discussed the above with the
17 manager and general manager present at RESPONDENT.

18 34. RESPONDENT failed to comply with Governor Sisolak's May 7, 2020
19 Directive 018, May 28, 2020, Directive 021, and June 24, 2020 Directive 024, and/or the
20 BOARD'S Updated Health and Safety Policies for Reopening after Temporary Closure,
21 which constitutes a violation of Nevada Gaming Commission Regulations 5.011, 5.011(a),
22 5.011(h), and/or 5.011(k).

23 35. The failure to comply with Nevada Gaming Commission Regulations 5.011,
24 5.011(a), 5.011(h), and/or 5.011(k) is an unsuitable method of operation and provides
25 grounds for disciplinary action against RESPONDENT. See Nev. Gaming Comm'n Reg.
26 5.010(2) and 5.030.

27 ...

28 ...

1 **COUNT III**
2 **VIOLATION OF NEVADA GAMING COMMISSION REGULATION 5.011**

3 36. The BOARD realleges and incorporates the above paragraphs by reference as
4 though set forth in full herein.

5 37. On or about July 22, 2020, a BOARD agent conducted a follow-up inspection
6 of RESPONDENT.

7 38. On or about July 22, 2020, the BOARD agent observed at least four (4) patrons
8 of RESPONDENT not wearing face coverings or improperly wearing face coverings.

9 39. During the Board agent's observation on or about July 22, 2020, the agent
10 took photographs of patrons not wearing face coverings or improperly wearing face
11 coverings. As the BOARD agent was taking photographs of these patrons, the BOARD
12 agent witnessed employees of RESPONDENT making contact with these patrons,
13 appearing to instruct them to wear face coverings or wear face coverings properly.

14 40. RESPONDENT failed to comply with Governor Sisolak's May 7, 2020
15 Directive 018, May 28, 2020, Directive 021, and June 24, 2020 Directive 024, and/or the
16 BOARD'S Updated Health and Safety Policies for Reopening after Temporary Closure,
17 which constitutes a violation of Nevada Gaming Commission Regulations 5.011, 5.011(a),
18 5.011(h), and/or 5.011(k).

19 41. The failure to comply with Nevada Gaming Commission Regulations 5.011,
20 5.011(a), 5.011(h), and/or 5.011(k) is an unsuitable method of operation and provides
21 grounds for disciplinary action against RESPONDENT. See Nev. Gaming Comm'n Reg.
22 5.010(2) and 5.030.

23 **PRAYER FOR RELIEF**

24 WHEREFORE, based upon the allegations contained herein, which constitute
25 reasonable cause for disciplinary action against RESPONDENT, pursuant to NRS 463.310
26 and/or NGC Regulations 5.010, 5.011, and/or 5.030, the Board prays for relief as follows:

27 1. That the Commission serve a copy of this Complaint on RESPONDENT
28 pursuant to NRS 463.312(2);

