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STATE OF NEVADA

6

BEFORE THE NEVADA GAMING COMMISSION

7 NEVADA GAMING CONTROL BOARD,

8 Complainant,

9 vs.

COMPLAINT

10 KOPPER KEG SOUTH, INC.,
11 dba KOPPER KEG SOUTH,

12 Respondent.

13 The State of Nevada, on relation of its NEVADA GAMING CONTROL BOARD
14 (BOARD), Complainant herein, by and through its counsel, AARON D. FORD, Attorney
15 General, and JOHN S. MICHELA, Senior Deputy Attorney General, hereby files this
16 Complaint before the Nevada Gaming Commission (Commission) for disciplinary action
17 against KOPPER KEG SOUTH, INC., dba KOPPER KEG SOUTH, RESPONDENT herein,
18 pursuant to Nevada Revised Statute (NRS) 463.310(2), and alleges as follows:

19 **JURISDICTION**

20 1. Complainant, BOARD, is an administrative agency of the State of Nevada
21 duly organized and existing under and by virtue of Chapter 463 of NRS and is charged with
22 the administration and enforcement of the gaming laws of this State as set forth in Title
23 41 of NRS (Nevada Gaming Control Act) and the Regulations of the Commission.

24 2. RESPONDENT, KOPPER KEG SOUTH, INC., dba KOPPER KEG SOUTH
25 (RESPONDENT), located at 2375 East Torino Avenue, Las Vegas, Nevada, currently holds
26 a restricted gaming license, and, as such, is charged with the responsibility of complying
27 with all of the provisions of the Nevada Gaming Control Act and the Regulations of the
28 Commission.

1 **INTRODUCTION**

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

13 **RELEVANT LAW**

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

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

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

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

(e) To ensure that gaming is conducted honestly,
competitively and free of criminal and corruptive elements, all
gaming establishments in this state must remain open to the
general public and the access of the general public to gaming

1 activities must not be restricted in any manner except as
2 provided by the Legislature.

3 NRS 463.0129(1).

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

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

11 7. Nevada Revised Statute 463.170 provides in relevant part as follows:

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

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

28 (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

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

5 (1) Adequate for the nature of the proposed
6 operation; and

7 (2) From a suitable source.

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

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

22 ...

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

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

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

9. 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."

10. 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."

...

1 11. 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
11 Commission in accordance with the Nevada Gaming Control Act
12 and the regulations of the Commission. The following acts or
13 omissions, without limitation, may be determined to be
14 unsuitable methods of operation:

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

29 ...

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

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

39 12. NRS 414.070 provides in relevant part the following:

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

1 proclaimed by the Governor or by resolution of the Legislature
2 if the Governor in his or her proclamation, or the Legislature in
3 its resolution, finds that an attack upon the United States has
4 occurred or is anticipated in the immediate future, or that a
5 natural, technological or man-made emergency or disaster of
6 major proportions has actually occurred within this State, and
7 that the safety and welfare of the inhabitants of this State
8 require an invocation of the provisions of this section. Any such
9 emergency or disaster, whether proclaimed by the Governor or
10 by the 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:

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

11 ...

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

13 NRS 414.070(4) and (7).

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

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

22 Nev. Gaming Comm'n Reg. 5.030.

23 14. 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
26 of this chapter or chapter 462, 464, 465 or 466 of NRS or any
27 regulations adopted thereunder.
28 (b) To determine any facts, conditions, practices or
matters which it may deem necessary or proper to aid in the
enforcement of any such law or regulation.

28 ...

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,
9 found suitable pursuant to this chapter or chapter 464 of NRS
10 or which previously obtained approval for any act or transaction
11 for which Commission approval was required or permitted
12 under the provisions of this chapter or chapter 464 of NRS
13 should be fined,

14 ↳the Board shall initiate a hearing before the Commission by
15 filing a complaint with the Commission in accordance with NRS
16 463.312 and transmit therewith a summary of evidence in its
17 possession bearing on the matter and the transcript of
18 testimony at any investigative hearing conducted by or on
19 behalf of the Board.

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

21 BACKGROUND

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

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

28 17. On or about March 18, 2020, Governor Sisolak issued Declaration of
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."

 18. On or about April 29, 2020, Governor Sisolak issued Declaration of Emergency
Directive 016 wherein he ordered in relevant part the following:

 Section 13: Gaming operations, not including licensed online
gaming or mobile wagering operations, shall remain closed until
the Gaming Control Board determines that operations may

1 safely resume. The Gaming Control Board shall promulgate
2 guidance for a phased and incremental resumption of gaming
operations, as well as criteria regarding when operations may
resume.

3 19. On or about May 7, 2020, Governor Sisolak issued Declaration of Emergency
4 Directive 018 – Phase One Reopening wherein he ordered in relevant part the following:

5 Section 17: The prohibition on onsite dining at restaurants
6 and food establishments in Section 3 of Directive 003 is hereby
7 amended. All restaurants and food establishments operating
8 during the state of emergency due to the COVID-19 pandemic
9 are strongly encouraged to accommodate vulnerable persons by
providing to-go, curbside, and delivery options for customers.
10 Restaurants and food establishments, including bars and
11 taverns licensed to serve food, may provide onsite dining subject
12 to the following provisions:

- 13 1. The maximum occupancy for onsite dining shall be 50% of
the maximum seating capacity under normal circumstances,
14 excluding bar seating.
- 15 2. Tables or available booths must be spaced, or customers
seated a minimum of 6 feet apart from other customers.
- 16 3. Bar tops and bar areas shall remain closed to customers, but
bar beverages may be served at tables for onsite
17 consumption.
- 18 4. Customers waiting to dine onsite must wait outside the
establishment until they can be seated and must practice
19 social distancing by maintaining a minimum of 6 feet of
separation between customers not residing in the same
20 household.
- 21 5. To the maximum extent practicable, restaurants and food
establishments should require reservations to manage
22 occupancy.

23 Restaurants and food establishments unable to comply with
24 Items 1-4, above, may not open for onsite dining, but may
continue to offer to go, curbside and home delivery to customers.
25 Buffets, cafeterias, and self-serve dining facilities shall remain
closed until further notice. All other provisions of Section 3 of
26 Directive 003 not in conflict with this Section shall remain in
effect.

27 Section 21: Section 13 of Directive 016 is hereby amended.
28 Gaming operations, not including licensed online gaming or
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.

25 ...
26 ...
27 ...
28 ...

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

12 21. On or about July 10, 2020, Governor Sisolak issued Declaration of Emergency
13 Directive 027 wherein he ordered in relevant part the following:

14 Section 5: Directive 021, Section 25 is hereby rescinded.
15 Restaurants and food establishments, and bars, pubs, taverns,
16 breweries, distilleries, and wineries licensed to serve food in a
17 restaurant-type setting, whether or not in a restricted or
18 nonrestricted gaming establishment, shall operate under the
19 Phase One conditions set forth in Section 17 of Directive 018, as
20 amended above, when located in a county with an Elevated
21 Disease Transmission and according to the criteria published by
the Department of Health and Human Services. Bar tops and
bar areas in any establishment in a county with an Elevated
Disease Transmission and according to the criteria published by
the Department of Health and Human Services shall be closed
to customers, but bar beverages may be served at tables for
onsite consumption. Customers must only be served via table
services and may not order from bar top areas.

22 Section 12: This Directive is effective at 11:59 p.m. on Friday,
23 July 10, 2020 and shall remain in effect until terminated by a
24 subsequent Directive promulgated pursuant to the March 12,
2020 Declaration of Emergency to facilitate the State's response
to the COVID-19 pandemic.

25 22. At all times relevant to this Complaint, Clark County, Nevada was designated
26 a county with an Elevated Disease Transmission according to the criteria published by the
27 Department of Health and Human Services.

28 23. RESPONDENT is located in Clark County, Nevada.

1 COUNT I
2 VIOLATION OF NEVADA GAMING COMMISSION REGULATION 5.011

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

5 25. On or about July 31, 2020, at approximately 9:30 p.m., a BOARD agent
6 conducted observations at RESPONDENT.

7 26. While conducting observations, the BOARD agent observed that the bar top
8 slot machines were still in service and available for patron play. The BOARD agent
9 observed six (6) patrons playing bar top slot machines.

10 27. The failure to comply with Nevada Gaming Commission Regulation 5.011 is
11 an unsuitable method of operation and provides grounds for disciplinary action against
12 RESPONDENT. See Nev. Gaming Comm'n Reg. 5.010(2) and 5.030.

13 PRAYER FOR RELIEF

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

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

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

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

24 ...
25 ...
26 ...
27 ...
28 ...

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

3 DATED this 12th day of August, 2020.

4 NEVADA GAMING CONTROL BOARD

5 
6 SANDRA MORGAN, Chairwoman

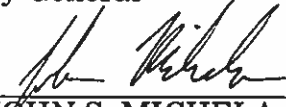
7 
8 TERRY JOHNSON, Member

9 
10 PHILIP KATSAROS, Member

11 Submitted by:

12 AARON D. FORD
13 Attorney General

14 By:


15 JOHN S. MICHELA
16 Senior Deputy Attorney General
17 Gaming Division
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