



1 NGC 09-04

2 STATE OF NEVADA

3 BEFORE THE NEVADA GAMING COMMISSION

4 STATE GAMING CONTROL BOARD,)
 5)
 6 Complainant,)
 7 vs.)
 8 SAM ELIAS HAMIKA, a Sole Proprietorship,)
 dba KWIKY MINI MART, 790 North Eastern)
 Avenue, and)
 9 SAM ELIAS HAMIKA, a Sole Proprietorship,)
 dba KWIKY MINI MART, 1955 East)
 10 Tropicana Avenue,)
 11 Respondents)

COMPLAINT

12 The State of Nevada, on relation of its State Gaming Control Board (BOARD),
 13 Complainant herein, by and through its counsel, CATHERINE CORTEZ MASTO, Attorney
 14 General, by JOHN S. MICHELA, Deputy Attorney General, hereby files this Complaint for
 15 disciplinary action against RESPONDENTS pursuant to Nevada Revised Statute (NRS)
 16 463.310(2) and alleges as follows:

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

21 2. SAM ELIAS HAMIKA, a Sole Proprietorship, holds restricted gaming licenses at two
 22 locations: KWIKI MINI MART, 790 North Eastern Avenue, Las Vegas, Nevada (NORTH
 23 EASTERN) and KWIKI MINI MART, 1955 East Tropicana Avenue, Las Vegas, Nevada (EAST
 24 TROPICANA).

RELEVANT LAW

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

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

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1 (b) The continued growth and success of gaming is
2 dependent upon public confidence and trust that licensed gaming
3 and the manufacture, sale and distribution of gaming devices and
4 associated equipment are conducted honestly and competitively,
5 that establishments which hold restricted and nonrestricted licenses
6 where gaming is conducted and where gambling devices are
7 operated do not unduly impact the quality of life enjoyed by
8 residents of the surrounding neighborhoods, that the rights of the
9 creditors of licensees are protected and that gaming is free from
10 criminal and corruptive elements.

11 (c) Public confidence and trust can only be maintained by
12 strict regulation of all persons, locations, practices, associations
13 and activities related to the operation of licensed gaming
14 establishments, the manufacture, sale or distribution of gaming
15 devices and associated equipment and the operation of inter-casino
16 linked systems.

17 NRS 463.0129(1)(a), (b) and (c).

18 4. The Nevada Gaming Commission has full and absolute power and authority to limit,
19 condition, restrict, revoke or suspend any license, or fine any person licensed, for any cause
20 deemed reasonable. See NRS 463.1405(4).

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

24 6. The BOARD is authorized to observe the conduct of licensees in order to ensure
25 that the gaming operations are not being conducted in an unsuitable manner. See NRS
26 463.1405(1).

27 7. This continuing obligation is repeated in Nevada Gaming Commission Regulation
28 5.040, which provides as follows:

29 A gaming license is a revocable privilege, and no holder
30 thereof shall be deemed to have acquired any vested rights therein
31 or thereunder. The burden of proving his qualifications to hold any
32 license rests at all times on the licensee. The board is charged by
33 law with the duty of observing the conduct of all licensees to the
34 end that licenses shall not be held by unqualified or disqualified
35 persons or unsuitable persons or persons whose operations are
36 conducted in an unsuitable manner.

37 Nev. Gaming Comm'n Reg. 5.040.

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1 8. Nevada Gaming Commission Regulation 5.010 provides as follows:

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

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

12 Nev. Gaming Comm'n Reg. 5.010.

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

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

25

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

28 Nev. Gaming Comm'n Reg. 5.011 (8).

29 10. NRS 463.161 states:

30 A license to operate 15 or fewer slot machines at an
31 establishment in which the operation of slot machines is incidental
32 to the primary business conducted at the establishment may only
33 be granted to the operator of the primary business or to a licensed
34 operator of a slot machine route.

35 NRS 463.161.

36

1 11. NRS 463.160 states:

2 1. Except as otherwise provided in subsection 4 and NRS
3 463.172, it is unlawful for any person, either as owner, lessee or
4 employee, whether for hire or not, either solely or in conjunction
5 with others:

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

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

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16 3. Except as otherwise provided in subsection 4, it is
17 unlawful for any person knowingly to permit any gambling game,
18 slot machine, gaming device, inter-casino linked system, mobile
19 gaming system, race book or sports pool to be conducted,
20 operated, dealt or carried on in any house or building or other
21 premises owned by him, in whole or in part, by a person who is not
22 licensed pursuant to this chapter, or his employee.

23

24 NRS 463.160 (1) and (3).

25 12. Nevada Gaming Commission Regulation 3.020 states in relevant part:

26 4. Every licensee shall furnish to the board complete
27 information pertaining to any change of ownership of the premises
or of any change of any interest in the premises wherein or
whereon the licensed gaming is operated at least 30 days before
the date of such change; or, if the licensee is not a party to the
transaction effecting such change of ownership, immediately upon
acquiring knowledge of such change of ownership or any
contemplated change of ownership.

28 Nev. Gaming Comm'n Reg. 3.020(4).

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

2 ***Violation of any provision of the Nevada Gaming Control***
3 ***Act or of these regulations by a licensee***, his agent or employee
4 ***shall be deemed*** contrary to the public health, safety, morals, good
5 order and general welfare of the inhabitants of the State of Nevada
6 and ***grounds for suspension or revocation of a license***.
7 Acceptance of a state gaming license or renewal thereof by a
8 licensee constitutes an agreement on the part of the licensee to be
9 bound by all of the regulations of the commission as the same now
10 are or may hereafter be amended or promulgated. ***It is the***
11 ***responsibility of the licensee to keep himself informed of the***
12 ***content of all such regulations, and ignorance thereof will not***
13 ***excuse violations.***

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

15 **COUNT ONE**

16 **VIOLATION OF NEVADA REVISED STATUTE 463.160 and/or NEVADA REVISED**

17 **STATUTE 463.161**

18 14. Complainant BOARD realleges and incorporates by reference as though set forth
19 in full herein paragraphs 1 through 13 above.

20 15. Prior to May of 2009, SAM ELIAS HAMIKA transferred all right, title, and interest in
21 his business operations NORTH EASTERN and EAST TROPICANA to the Hamika Family
22 Trust (Trust).

23 16. The apparent trustees and beneficiaries of the Trust are SAM ELIAS HAMIKA and
24 his wife, Soondis Hamika.

25 17. SAM ELIAS HAMIKA did not notify the BOARD that he was no longer the operator
26 of NORTH EASTERN and EAST TROPICANA.

27 18. Subsequent to this transfer, the Trust exposed games for play without procuring a
license, a violation of 463.160.

19. In not notifying the BOARD of this transfer and in not causing the Trust to obtain
restricted gaming licenses, SAM ELIAS HAMIKA facilitated the Trust's violation of NRS
463.160.

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1 20. Due to the aforementioned transfer, SAM ELIAS HAMIKA is no longer the operator
2 of the primary business NORTH EASTERN and EAST TROPICANA and is not one of the
3 permitted holders of a restricted gaming license under NRS 463.161.

4 21. SAM ELIAS HAMIKA'S actions as set out above are a violation of NRS 463.160
5 and/or NRS 463.161. This constitutes an unsuitable method of operation, and, as such, is
6 grounds for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2), 5.011(8) and
7 5.030.

8 **COUNT TWO**

9 **VIOLATION OF NEVADA GAMING COMMISSION REGULATION 3.020(4)**

10 22. Complainant BOARD realleges and incorporates by reference as though set forth
11 in full herein paragraphs 1 through 21 above.

12 23. When the Nevada Gaming Commission approved SAM ELIAS HAMIKA to expose
13 games for play as the operator of NORTH EASTERN in 1995, Burgundy Company was the
14 owner of the land on which NORTH EASTERN's premises is located.

15 24. In 1997, the land on which NORTH EASTERN's premises is located was
16 transferred to SAM ELIAS HAMIKA and Soondis Hamika as joint tenants.

17 25. In 2006, the land on which NORTH EASTERN's premises is located was
18 transferred to the Trust.

19 26. SAM ELIAS HAMIKA failed to notify the BOARD of the foregoing transfers of the
20 land on which NORTH EASTERN's premises is located.

21 27. SAM ELIAS HAMIKA'S actions as set out above are a violation of Nevada Gaming
22 Commission Regulation 3.020(4). This constitutes an unsuitable method of operation, and, as
23 such, is grounds for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2), 5.011(8)
24 and 5.030.

25 WHEREFORE, based upon the allegations contained herein which constitute
26 reasonable cause for disciplinary action against RESPONDENTS, pursuant to NRS 463.310,
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1 and Nevada Gaming Commission Regulations 5.010 and 5.030 the STATE GAMING
2 CONTROL BOARD prays for the relief as follows:

3 1. That the Nevada Gaming Commission serve a copy of this Complaint on the
4 RESPONDENTS pursuant to NRS 463.312(2);

5 2. That the Nevada Gaming Commission fine RESPONDENTS a monetary sum
6 pursuant to the parameters defined at NRS 463.310(4) for each separate violation of the
7 provisions of the Nevada Gaming Control Act or the Regulations of the Nevada Gaming
8 Commission;

9 3. That the Nevada Gaming Commission take action against RESPONDENTS' license
10 or licenses pursuant to the parameters defined in NRS 463.310(4); and

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

13 DATED this 23 day of November, 2009.

14 STATE GAMING CONTROL BOARD


15 
16 DENNIS K. NEILANDER, Chairman

17 
18 RANDALL E. SAYRE, Member

19 
20 MARK A. LIPPARELLI, Member

21 Submitted by:

22 CATHERINE CORTEZ MASTO
23 Attorney General

24 By: 
25 JOHN S. MICHELA
26 Deputy Attorney General
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