



1 NGC 09-13

2 STATE OF NEVADA
3 BEFORE THE NEVADA GAMING COMMISSION

4 STATE GAMING CONTROL BOARD,)

5 Complainant,)

6 vs.)

COMPLAINT

7 BRANDYWINE BOOKMAKING LLC, dbas)
8 LUCKY'S, dbat WHISKEY PETE'S HOTEL &)
9 CASINO – RACE AND SPORTS BOOK, and)
-SPORTS POOL,)

10 Respondents.)

11
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 EDWARD L. MAGAW, Deputy Attorney General, hereby files this Complaint for
15 disciplinary action against BRANDYWINE BOOKMAKING LLC, dbas LUCKY'S, dbat WHISKEY
16 PETE'S HOTEL & CASINO – RACE AND SPORTS BOOK, and dbat PIONEER HOTEL AND
17 GAMBLING HALL –SPORTS POOL (hereinafter collectively referred to as BRANDYWINE),
18 Respondents herein, pursuant to Nevada Revised Statute (NRS) 463.310(2) and alleges as
19 follows:

20 JURISDICTION

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

25 2. Respondents, BRANDYWINE, headquartered at 6230 West Desert Inn Road, Las
26 Vegas, Nevada 89146, are the holders of nonrestricted gaming licenses, and, as such, are
27 charged with the responsibility of complying with all of the provisions of the Nevada Gaming
28 Control Act and the Regulations of the Nevada Gaming Commission.

Attorney General's Office
Gaming Division
555 E. Washington Ave., Ste. 3900
Las Vegas, Nevada 89101

RELEVANT LAW

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

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

(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 and associated equipment are conducted honestly and competitively, that establishments which hold restricted and nonrestricted licenses where gaming is conducted and where gambling devices are operated do not unduly impact the quality of life enjoyed by residents of the surrounding neighborhoods, that the rights of the creditors of licensees are protected and that gaming is free from criminal and corruptive elements.

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

(d) All establishments where gaming is conducted and where gaming devices are operated, and manufacturers, sellers and distributors of certain gaming devices and equipment, and operators of inter-casino linked systems 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.

NRS 463.0129(1)(a)-(d).

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

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

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

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

1 **licensees to the end that licenses shall not be held by**
2 **unqualified or disqualified persons or unsuitable persons or**
3 **persons whose operations are conducted in an unsuitable**
4 **manner.**

5 Nev. Gaming Comm'n Reg. 5.040 (emphasis added).

6 7. Nevada Gaming Commission Regulation 5.010(2) provides that the "[r]esponsibility
7 for the employment and maintenance of suitable methods of operation rests with the licensee,
8 and willful or persistent use or toleration of methods of operation deemed unsuitable will
9 constitute grounds for license revocation or other disciplinary action." Nev. Gaming Comm'n
10 Reg. 5.010(2).

11 8. Nevada Gaming Commission Regulation 5.011 states in relevant part as follows:

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

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

26 Nev. Gaming Comm'n Reg. 5.011(1) (emphasis added).

27 9. Nevada Gaming Commission Regulation 5.030 provides as follows:

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

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

///

1 10. Nevada Revised Statutes 463.310 states in relevant part as follows:

2 1. The Board shall make appropriate investigations:

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

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

9

10 2. If, after any investigation the Board is satisfied that a
11 license, registration, finding of suitability, pari-mutuel license or
12 prior approval by the Commission of any transaction for which the
13 approval was required or permitted under the provisions of this
14 chapter or chapter 462, 464 or 466 of NRS should be limited,
15 conditioned, suspended or revoked, it shall initiate a hearing before
16 the Commission by filing a complaint with the Commission in
17 accordance with NRS 463.312 and transmit therewith a summary
18 of evidence in its possession bearing on the matter and the
19 transcript of testimony at any investigative hearing conducted by or
20 on behalf of the Board.

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

22 11. Nevada Revised Statute 463.1405(3) provides:

23 3. The Board has full and absolute power and authority to
24 recommend the denial of any application, the limitation,
25 conditioning or restriction of any license, registration, finding of
26 suitability or approval, the suspension or revocation of any license,
27 registration, finding of suitability or approval or the imposition of a
28 fine upon any person licensed, registered, found suitable or
approved for any cause deemed reasonable by the Board.

NRS 463.1405(3).

20 12. Nevada Revised Statute 463.245(2) states that "[a] person who has been issued a
21 license to operate a sports pool or race book at an establishment may be issued a license to
22 operate a sports pool or race book at another establishment if the second establishment is
23 operated by a person who has been issued a nonrestricted license." NRS 463.245(2).

24 13. Nevada Revised Statute 463.160(1) states in relevant part that it is unlawful for
25 any person "[t]o deal, operate, carry on, conduct, maintain or expose for play in the State of
26 Nevada any . . . race book or sports pool . . . without having first procured and thereafter
27 maintaining in effect, all . . . state . . . gaming licenses as required by statute [or]
28 regulation" NRS 463.160(1).

1 14. According to Nevada Gaming Commission Regulation 22.020(1), "[n]o person
2 may operate or own any interest in a race book or sports pool in Nevada unless that person
3 holds a nonrestricted gaming license specifically permitting the person to do so." Nev.
4 Gaming Comm'n Reg. 22.020(1).

5 15. Under NRS 463.0152, the definition of "game" and "gambling game" includes "any
6 banking game" NRS 463.0152.

7 16. "Banking game" is defined under NRS 463.01365 as "any gambling game in
8 which players compete against the licensed gaming establishment rather than against one
9 another." NRS 463.01365.

10 17. Nevada Revised Statute 463.380(1) provides for an annual license fee based on
11 the number of games operated at an establishment. NRS 463.380(1).

12 18. Pursuant to NRS 463.380(3):

13 3. All licenses must be issued for the calendar year
14 beginning January 1 and **expiring December 31**. If the operation
15 of the licensee is continuing, the Commission shall charge and
16 collect the fee prescribed in subsection 1 on or before December
17 31 for the ensuing calendar year. . . .

18 NRS 463.380(3) (emphasis added).

19 19. Nevada Revised Statute 463.383(1) provides for a quarterly license fee based on
20 the number of games operated. NRS 463.383(1).

21 20. Nevada Revised Statute 463.383(2) provides that the Commission shall charge
22 and collect the fee prescribed under NRS 463.383(1) for each calendar quarter "[o]n or before
23 the last day of the last month in a calendar quarter, for the ensuing calendar quarter, from a
24 licensee whose operation is continuing." NRS 463.383(2).

25 21. According to NRS 463.270(1), "any state license in force may be renewed by the
26 Commission for the next succeeding license period upon proper application for renewal and
27 payment of state license fees and taxes as required by law and the regulations of the
28 Commission." NRS 463.270(1).

29 22. Under NRS 463.270(5), "[a]ny person failing to pay any license fees or taxes due
at the times respectively provided shall pay in addition to such license fees or taxes a penalty

1 of not less than \$50 or 25 percent of the amount due, whichever is the greater, but not more
2 than \$1,000 if the fees and taxes are less than 10 days late and in no case in excess of
3 \$5,000." NRS 463.270(5).

4 23. Pursuant to NRS 463.270(6) "[a]ny person who operates, carries on or exposes
5 for play any gambling game . . . after his license becomes subject to renewal, and thereafter
6 fails to apply for renewal as provided in this section . . . is liable to the State of Nevada for all
7 license fees, taxes and penalties which would have been due upon application for renewal."
8 NRS 463.270(6).

9 24. Pursuant to NRS 463.270(8):

10 The voluntary surrender of a license by a licensee does not
11 become effective until accepted in the manner provided in the
12 regulations of the Commission. The surrender of the license does
13 not relieve the former licensee of any penalties, fines, fees, taxes
14 or interest due.

15 NRS 463.270(8).

16 FACTS

17 25. On or about September 18, 2008, the Nevada Gaming Commission granted
18 BRANDYWINE BOOKMAKING LLC, dbas LUCKY'S, a license to operate a satellite sports
19 pool and race book and to conduct pari-mutuel race wagering at Whiskey Pete's Hotel &
20 Casino (Whiskey Pete's) in Primm, Nevada. Sometime during the third calendar quarter of
21 2008, BRANDYWINE ceased accepting pari-mutuel wagers at the location and stopped paying
22 its quarterly and annual game fees for its race book operation at Whiskey Pete's, pursuant to
23 NRS 463.380 and 463.383, respectively. BRANDYWINE did continue to pay the applicable fees
24 for its satellite sports pool operation.

25 26. On or about August 20, 2009, the Nevada Gaming Commission granted
26 BRANDYWINE BOOKMAKING LLC, dbas LUCKY'S, a license to operate a satellite sports pool
27 at the Pioneer Hotel and Gambling Hall (Pioneer) in Laughlin, Nevada. The license did not
28 authorize BRANDYWINE to operate a race book at the location.

29 27. In a letter dated October 13, 2009, addressed to the Chief of the BOARD's Tax and
30 License Division, BRANDYWINE promptly self-reported race book wagers that it had discovered

1 were erroneously accepted at its operations at Whiskey Pete's and the Pioneer. These incidents
2 are the subject of the violations cited below.

3 28. BRANDYWINE has had no prior disciplinary actions brought by the BOARD.

4 29. The violations described in this Complaint are solely the result of the actions or
5 inactions of BRANDYWINE at its satellite operations. These violations are in no way directed
6 toward the host locations. Whiskey Pete's and the Pioneer had no involvement whatsoever in
7 the circumstances that lead to the violations presented in this Complaint.

8 **COUNT I**
9 **VIOLATION OF NEVADA REVISED STATUTE 463.160(1)**
10 **AND NEVADA GAMING COMMISSION REGULATION 22.020(1)**

11 30. The BOARD realleges and incorporates by reference paragraphs 1 through 29
12 above as though set forth in full herein.

13 31. During the period from August 1, 2009, through October 31, 2009, BRANDYWINE
14 accepted approximately one hundred and sixty-eight (168) Twin Quinella race wagers at its
15 satellite sports pool operation located at the Pioneer Hotel and Gambling Hall. Combined, the
16 handle on these wagers totaled Two Thousand, Three Hundred Twenty Dollars (\$2,320), and
17 the win totaled Two Thousand, Two Hundred Forty Dollars (\$2,240).

18 32. During the month of November 2009, BRANDYWINE accepted approximately ten
19 (10) Breeders' Cup future race wagers at its satellite sports pool operation located at the
20 Pioneer Hotel and Gambling Hall. Combined, these wagers totaled Seventy-seven Dollars
21 (\$77), and the win totaled the same.

22 33. At all time relevant to this Complaint, BRANDYWINE was not licensed to accept
23 race book wagers at its satellite operation at the Pioneer Hotel and Gambling Hall.

24 34. By accepting the above noted race book wagers when it was not licensed by the
25 State of Nevada to do so, BRANDYWINE violated NRS 463.160(1) and Nevada Gaming
26 Commission Regulation 22.020(1).

27 35. Such violations on the part of BRANDYWINE constitute an unsuitable method of
28 operation and grounds for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2) and
5.030.

COUNT II
VIOLATION OF NEVADA REVISED STATUTE 463.160(1)
AND NEVADA GAMING COMMISSION REGULATION 22.020(1)

36. The BOARD realleges and incorporates by reference paragraphs 1 through 35 above as though set forth in full herein.

37. In or around the months of May and November 2009, BRANDYWINE accepted seven (7) Breeders' Cup future race wagers at its satellite sports pool operation located at Whiskey Pete's Hotel & Casino. Combined, these wagers totaled One Hundred Eighty Dollars (\$180), and the win totaled the same.

38. When it ceased accepting pari-mutuel wagers at Whiskey Pete's, sometime in or around the third calendar quarter of 2008, BRANDYWINE stopped paying its annual and quarterly fees for its satellite race book operation at that location as required under NRS 463.380 and 463.383.

39. According to NRS 463.270(1), by failing to remain current on the above fees, BRANDYWINE failed to renew its license to operate a race book at Whiskey Pete's.

40. By accepting the above noted race book wagers when it was not licensed by the State of Nevada to do so, BRANDYWINE violated NRS 463.160(1), NRS 463.270(6), and Nevada Gaming Commission Regulation 22.020(1).

41. Such violations on the part of BRANDYWINE constitute an unsuitable method of operation and grounds for disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2) and 5.030.

PRAYER FOR RELIEF

WHEREFORE, based upon the allegations contained herein that constitute reasonable cause for disciplinary action against BRANDYWINE pursuant to NRS 463.310 and Nevada Gaming Commission Regulations 5.011 and 5.030, the BOARD prays for relief as follows:

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

///

///


1 2. That BRANDYWINE be fined a monetary sum pursuant to the parameters defined
2 at NRS 463.310(4) for each separate violation of the provisions of the Nevada Gaming Control
3 Act or the Regulations of the Nevada Gaming Commission;

4 3. That the Nevada Gaming Commission take action against BRANDYWINE's license
5 pursuant to the parameters defined in NRS 463.310(4); and,

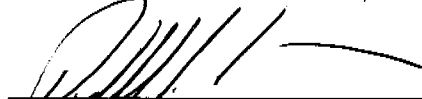
6 4. For such other and further relief as the Nevada Gaming Commission may deem just
7 and proper.

8 DATED this 13th day of July, 2010.

9 STATE GAMING CONTROL BOARD

10 

11 DENNIS K. NEILANDER, Chairman

12 

13 RANDALL E. SAYRE, Member

14 

15 MARK A. LIPPARELLI, Member

16 Submitted by:

17 CATHERINE CORTEZ MASTO
18 Attorney General

19 By: 

20 EDWARD L. MAGAW
21 Deputy Attorney General
22 Gaming Division
23 (702) 486-3082
24
25
26
27
28