

1 NGC 11-04

2 STATE OF NEVADA

3 BEFORE THE NEVADA GAMING COMMISSION

4

5 STATE GAMING CONTROL BOARD, )

6 Complainant, )

7 vs. )

8 LA CHOY ENTERPRISES, L.L.C., dba )

9 TEN 99 CLUB; BARBARA LYNN HOSSICK; )

10 FLOYD PAUL HOSSICK III, )

Respondents )

COMPLAINT

11 The State of Nevada, on relation of its State Gaming Control Board (BOARD),

12 Complainant herein, by and through its counsel, CATHERINE CORTEZ MASTO, Attorney

13 General, by JOHN S. MICHELA, Senior Deputy Attorney General, hereby files this Complaint

14 for disciplinary action against RESPONDENTS pursuant to Nevada Revised Statute (NRS)

15 463.310(2) and alleges as follows:

16 1. Complainant, BOARD, is an administrative agency of the State of Nevada duly

17 organized and existing under and by virtue of chapter 463 of NRS and is charged with the

18 administration and enforcement of the gaming laws of this state as set forth in Title 41 of NRS

19 and the Regulations of the Nevada Gaming Commission.

20 2. LA CHOY ENTERPRISES, L.L.C., dba TEN 99 CLUB (TEN 99 CLUB), formerly

21 located at 1099 South Virginia Street, Reno, Nevada, is organized under the laws of Nevada

22 and holds a restricted gaming license.

23 3. BARBARA LYNN HOSSICK is a member/manager of TEN 99 CLUB, holding a 50

24 percent ownership interest.

25 4. FLOYD PAUL HOSSICK III is a member/manager of TEN 99 CLUB, holding a 50

26 percent ownership interest.

27 ...

Office of the Attorney General  
 Gaming Division  
 5420 Kietzke Lane, Suite 202  
 Reno, Nevada 89511

**RELEVANT LAW**

5. 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.

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

6. 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).

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

8. 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).

9. 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 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.

10. 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 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.

2. 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.

Nev. Gaming Comm'n Reg. 5.010.

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

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

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

.....

8. Failure to comply with or make provision for compliance 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.

.....

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

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

1 12. Nevada Gaming Commission Regulation 5.110 states:

2 1. As used in this section:

3 (a) "Base amount" means the amount of a progressive  
4 payoff schedule initially offered before it increases.

5 (b) "Chairman" means the chairman of the state gaming  
6 control board or his designee.

7 (c) "Incremental amount" means the difference between the  
8 amount of a progressive payoff schedule and its base amount.

9 (d) "Progressive payoff schedule" means a game or  
10 machine payoff schedule, including those associated with contests,  
11 tournaments or promotions, that increases automatically over time  
12 or as the game(s) or machine(s) are played.

13 2. The amount of a progressive payoff schedule shall be  
14 conspicuously displayed at or near the games or machines to which  
15 the payoff schedule applies. Each licensee shall record the base  
16 amount of each progressive payoff schedule when first exposed for  
17 play and subsequent to each payoff. At least once a day each  
18 licensee shall log the amount of each progressive payoff schedule  
19 at the licensee's establishment except for those that can be paid  
20 directly from a slot machine's hopper or those offered in conjunction  
21 with an inter-casino linked system. Explanations for reading  
22 decreases shall be maintained with the progressive logs. When the  
23 reduction is attributable to a payoff, the licensee shall record the  
24 payoff form number on the log or have the number reasonably  
25 available.

26 3. A licensee may change the rate of progression of any  
27 progressive payoff schedule provided that records of such changes  
are created.

4. A licensee may limit a progressive payoff schedule to an  
amount that is equal to or greater than the amount of the payoff  
schedule when the limit is imposed. The licensee shall post a  
conspicuous notice of the limit at or near the game(s) or  
machine(s) to which the limit applies.

5. A licensee shall not reduce the amount of a progressive  
payoff schedule or otherwise eliminate a progressive payoff  
schedule unless:

(a) A player wins the progressive payoff schedule;

(b) The licensee adjusts the progressive payoff schedule to  
correct a malfunction or to prevent the display of an amount greater  
than a limit imposed pursuant to subsection 4, and the licensee  
documents the adjustment and the reasons for it;

(c) The licensee distributes the entire incremental amount to  
another single progressive payoff schedule on similar game(s) or  
machine(s) at the licensee's establishment and:

(1) The licensee documents the distribution;

(2) Any game or slot machine offering the payoff schedule  
to which the licensee distributes the incremental amount does not

1 require that more money be played on a single play to win the  
2 payoff schedule than the game or slot machine from which the  
3 incremental amount is distributed unless the incremental amount  
4 distributed is increased in proportion to the increase in the amount  
5 of the wager required to win the payoff schedule;

6 (3) If from a slot machine, any slot machine offering the  
7 payoff schedule to which the incremental amount is distributed  
8 complies with the minimum theoretical payout requirement of  
9 Regulation 14.040(1); and

10 (4) The distribution is completed within 30 days after the  
11 progressive payoff schedule is removed from play or within such  
12 longer period as the chairman may for good cause approve;

13 (d) For games other than slot machines, the incremental  
14 amount may be distributed within 90 days of removal through a  
15 concluding contest, tournament or promotion and the contest,  
16 tournament or promotion is conducted with a game(s) similar to the  
17 game(s) from which the amounts are distributed; or

18 (e) The chairman, upon a showing of exceptional  
19 circumstances, approves a reduction, elimination, distribution, or  
20 procedure not otherwise described in this subsection, which  
21 approval is confirmed in writing.

22 6. A progressive payoff schedule may be temporarily  
23 removed for a period of up to 30 days to allow for the remodeling of  
24 the licensed gaming establishment, or for such longer period or  
25 other good cause as the chairman may approve.

26 7. Except as otherwise provided by this section, the  
27 incremental amount of a progressive payoff schedule is an  
obligation to the licensee's patrons, and it shall be the responsibility  
of the licensee if he ceases operation of the progressive game or  
slot machine for any reason, including a transfer of ownership of  
the licensed gaming establishment, to arrange for satisfaction of  
that obligation in a manner approved by the chairman.

8. Licensees shall maintain the records required by this  
section for at least five years after they are made unless the  
chairman approves otherwise in writing.

21 Nev. Gaming Comm'n Reg. 5.110.

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

23 ***Violation of any provision of the Nevada Gaming Control***  
24 ***Act or of these regulations by a licensee***, his agent or employee  
25 ***shall be deemed*** contrary to the public health, safety, morals, good  
26 order and general welfare of the inhabitants of the State of Nevada  
27 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***

1 **content of all such regulations, and ignorance thereof will not**  
2 **excuse violations.**

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

4 **COUNT ONE**

5 **VIOLATION OF NEVADA GAMING COMMISSION REGULATION 5.110**

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

8 15. On or about June 30, 2011, TEN 99 CLUB ceased gaming operations.

9 16. The Tax and License Division of the BOARD has placed a hold on TEN 99 CLUB's  
10 restricted gaming license preventing any attempted surrender of the license by TEN 99 CLUB.

11 17. Upon ceasing its gaming operations, TEN 99 CLUB failed to properly dispose of or  
12 make suitable arrangements to address the incremental progressive payoff amounts totaling  
13 \$5,471.56.

14 18. TEN 99 CLUB's actions as set out above are a violation of Nevada Gaming  
15 Commission Regulation 5.011 (1), (8), and (10) and Nevada Gaming Commission Regulation  
16 5.110. This constitutes an unsuitable method of operation, and, as such, is grounds for  
17 disciplinary action. See Nev. Gaming Comm'n Regs. 5.010(2), 5.011 and 5.030.

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

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

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

27 ...

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

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

5 DATED this 19 day of January, 2012

6 STATE GAMING CONTROL BOARD

7   
8 \_\_\_\_\_  
9 MARK A. LIPPARELLI, Chairman


10   
11 \_\_\_\_\_  
12 A.G. BURNETT, Member

13   
14 \_\_\_\_\_  
15 SHAWN R. REID, Member

12 Submitted by:

13 CATHERINE CORTEZ MASTO  
14 Attorney General

15 By:

16   
17 \_\_\_\_\_  
18 JOHN S. MICHELA  
19 Senior Deputy Attorney General  
20 Gaming Division  
21 (775) 850-4153