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STATE OF NEVADA

5

BEFORE THE NEVADA GAMING COMMISSION

6

STATE GAMING CONTROL BOARD,

7

Complainant,

8

vs.

COMPLAINT

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CASINO FANDANGO, LLC, dba
CASINO FANDANGO; CARSON GAMING,
LLC,

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11

Respondents.

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

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The State of Nevada, on relation of its STATE GAMING CONTROL BOARD (BOARD),
Complainant herein, by and through its counsel, CATHERINE CORTEZ MASTO, Attorney
General, and JOHN S. MICHELA, Senior Deputy Attorney General, hereby files this
Complaint for disciplinary action against CASINO FANDANGO, LLC, dba CASINO
FANDANGO; and CARSON GAMING, LLC (collectively RESPONDENTS herein), pursuant to
Nevada Revised Statute (NRS) 463.310(2) and alleges as follows:

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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 Nevada Gaming Commission
(Commission or NGC).

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2. Respondent, CARSON GAMING, LLC., (individually CARSON) at all times relevant
hereto was a limited liability company registered by the Commission as a holding company to
own 100% of CASINO FANDANGO, LLC, dba CASINO FANDANGO (individually
FANDANGO).

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3. FANDANGO holds a nonrestricted gaming license and is located at 3800 South

1 Carson Street, in Carson City, Nevada.

2 4. Garry Vincent Goett (Goett) is licensed as a Manager and Member of CARSON,
3 holding a 98.90% interest.

4 **RELEVANT LAW**

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

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

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

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

24 (d) All establishments where gaming is conducted and
25 where gaming devices are operated, and manufacturers, sellers
26 and distributors of certain gaming devices and equipment, and
27 operators of inter-casino linked systems must therefore be
28 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.

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

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

24 7. 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).

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1 8. This continuing obligation is repeated in NGC Regulation 5.040, which provides as
2 follows:

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

11 Nev. Gaming Comm'n Reg. 5.040.

12 9. Nevada Gaming Commission Regulation 5.010 provides as follows:

13 1. It is the policy of the commission and the board to require
14 that all establishments wherein gaming is conducted in this state be
15 operated in a manner suitable to protect the public health, safety,
16 morals, good order and general welfare of the inhabitants of the
17 State of Nevada.

18 2. Responsibility for the employment and maintenance of
19 suitable methods of operation rests with the licensee, and willful or
20 persistent use or toleration of methods of operation deemed
21 unsuitable will constitute grounds for license revocation or other
22 disciplinary action.

23 Nev. Gaming Comm'n Reg. 5.010.

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

25 The board and the commission deem any activity on the part
26 of any licensee, his agents or employees, that is inimical to the
27 public health, safety, morals, good order and general welfare of the
28 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 license fees,
withholding any payroll taxes, liquor and entertainment taxes and
antitrust and monopoly statutes.

1 The Nevada gaming commission in the exercise of its sound
2 discretion can make its own determination of whether or not the
3 licensee has failed to comply with the aforementioned, but any
4 such determination shall make use of the established precedents
5 in interpreting the language of the applicable statutes. Nothing in
6 this section shall be deemed to affect any right to judicial review.

7

8 10. Failure to conduct gaming operations in accordance
9 with proper standards of custom, decorum and decency, or permit
10 any type of conduct in the gaming establishment which reflects or
11 tends to reflect on the repute of the State of Nevada and act as a
12 detriment to the gaming industry.

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

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

15 **Violation of any provision of the Nevada Gaming**
16 **Control Act or of these regulations by a licensee, his 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 licensee**
22 **to be bound by all of the regulations of the commission as the**
23 **same now are or may hereafter be amended or promulgated. It is**
24 **the responsibility of the licensee to keep himself informed of**
25 **the content of all such regulations, and ignorance thereof will**
26 **not excuse violations.**

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

28 12. In response to a Complaint brought by the BOARD, NRS 463.310(4) provides in
relevant part that the Commission may:

(a) Limit, condition, suspend or revoke the license of any
licensed gaming establishment or the individual license of any
licensee without affecting the license of the establishment;

.....

(d) Fine each person or entity or both, who was licensed,
registered or found suitable pursuant to this chapter or chapter 464
of NRS ...

.....

(2) ... not more than \$100,000 for each separate
violation of the provisions of this chapter or chapter 464 or
465 of NRS or of the regulations of the Commission which is the
subject of an initial complaint and not more than \$250,000 for each
separate violation of the provisions of this chapter or chapter 464

1 or 465 of NRS or of the regulations of the Commission which is the
2 subject of any subsequent complaint.

3 NRS 463.310(4)(a) and (d)(2).

4 13. NRS 463.162(1)(c) provides:

5 1. Except as otherwise provided in subsections 2 and 3, it is
6 unlawful for any person to:

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8 (c) Furnish services or property, real or personal, on the
9 basis of a contract, lease or license, pursuant to which that person
10 receives payments based on earnings or profits from any gambling
11 game, including any slot machine, without having first procured a
12 state gaming license.

13 NRS 463.162(1)(c).

14 14. Nevada Revised Statute 463.5733(1) provides

15 1. The purported sale, assignment, transfer, pledge,
16 exercise of an option to purchase, or other disposition of any
17 interest in a limited-liability company which holds a state gaming
18 license or which is a holding company or an intermediary company
19 for an entity that holds a state gaming license is void unless
20 approved in advance by the Commission.

21 NRS 463.5733(1).

22 15. NRS 463.5735 provides in relevant part:

23 2. All members holding a 5 percent or less ownership
24 interest in a limited-liability company, other than a publicly traded
25 limited-liability company, which hold or apply for a state gaming
26 license, must register in that capacity with the Board and submit to
27 the Board's jurisdiction. Such registration must be made on forms
28 prescribed by the Chair of the Board. The Chair of the Board may
require a registrant to apply for licensure at any time in the Chair's
discretion. A person who is required to be registered by this section
shall apply for registration within 30 days after the person becomes
a member holding a 5 percent or less ownership interest in a
limited-liability company.

3. If, in the judgment of the Commission, the public interest
will be served by requiring any members with a 5 percent or less
ownership interest in a limited-liability company, or any of the
limited-liability company's lenders, holders of evidence of
indebtedness, underwriters, key executives, agents or employees
to be licensed:

(a) The limited-liability company shall require those persons
to apply for a license in accordance with the laws and requirements
in effect at the time the Commission requires the licensing; and

1 (b) Those persons shall apply for a license within 30 days
2 after being requested to do so by the Commission.

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4 6. A director or manager of a limited-liability company shall
5 apply for a license within 30 days after assuming office.

6 NRS 463.5735(2), (3), and (6).

7 16. Nevada Gaming Commission Regulations 15B.190(1) and (8) provide:

8 1. Each manager of a limited-liability company holding
9 company must be licensed. Each member of a limited-liability
10 company holding company must be licensed if the member owns
11 more than 5 percent of any licensee owned by the limited-liability
12 company holding company, except to the extent delayed licensing
13 is approved by the commission. For the purposes of this section,
14 "own" means the possession of a record or beneficial interest in any
15 business organization.

16

17 8. Notwithstanding NRS 463.5733 and the regulations
18 governing issuance and transfers of interest, an issuance or
19 transfer of interest to a member required to register with the board
20 under this section does not require pre-approval from the
21 commission, as specified by this subsection, for the issuance or
22 transfer of interest.

23 (a) For transfers of interest from a member who owns more
24 than a five percent interest prior to the proposed transfer to a
25 member required to register with the board under this section and
26 for issuance or transfer of interest by a limited-liability corporation
27 holding company to a member required to register with the board
28 under this section:

(1) Prior to such issuance or transfer, the issuer or
transferor shall report the terms of the proposed transfer to the
board on forms designated by the board chairman. Such report
shall include copies of all documents relevant to the proposed
transfer.

(2) Upon receipt of such report, the proposed issuance or
transfer shall be placed on the next available board and
commission agendas for the purposes of notifying the public of
such proposed issuances and transfers and to give each board and
commission member the opportunity to object to the proposed
issuance or transfer taking place without pre-approval from the
commission.

(3) If any board member objects to the proposed issuance or
transfer during the board meeting for which the issuance or transfer
was placed on the agenda or any commission member objects to

1 the proposed issuance or transfer during the commission meeting
2 for which the issuance or transfer was placed on the agenda for
3 any cause deemed reasonable by the board or commission
4 member, the proposed issuance or transfer shall not take place
5 unless the commission approves such proposed issuance or
6 transfer prior to the proposed issuance or transfer occurring and
7 upon application to and recommendation by the board pursuant to
8 NRS 463.5733 and the regulations governing issuances and
9 transfers of interest.

10 (4) Until the objection opportunities set forth in this
11 subsection have passed without any objections, all parties to the
12 proposed issuance or transfer shall follow Regulation 8.050.

13 (5) If no objection is made by a board or commission
14 member as set out in this subsection after a proposed issuance or
15 transfer is placed on the board and commission agendas, the
16 proposed issuance or transfer of interest to a member required to
17 register with the board under this section may occur within six
18 months of the commission meeting for which the proposed
19 issuance or transfer was placed on the agenda. If the proposed
20 issuance or transfer does not occur within six months of the
21 commission meeting for which the proposed issuance or transfer
22 was placed on the agenda, the issuance or transfer shall not occur
23 without again following the provisions of this subsection after the
24 expiration of the six months. The issuance or transfer must be
25 made as agendaed. All board and commission members must
26 have the chance to object, as set out above, to any changes to the
27 proposed issuance or transfer before the issuance or transfer may
28 take place.

17 Nev. Gaming Comm'n Regs. 15B.190(1) and (8).

18 **COUNT ONE**

19 **VIOLATION OF NEVADA REVISED STATUTE 463.5735**

20 **and/or GAMING COMMISSION REGULATION 15B.190**

21 17. Complainant BOARD realleges and incorporates by reference as though set forth
22 in full herein paragraphs 1 through 16 above.

23 18. On or about February 21, 2012, Goett as the controlling member of CARSON,
24 appointed Courtney Edwin Cardinal (Cardinal) as a manager of CARSON.

25 19. Cardinal did not apply to be licensed/found suitable as manager of CARSON prior
26 to his appointment and did not file such application within 30 days of his appointment. Goett
27 did not cause Cardinal to file an application as manager of CARSON prior to his

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1 appointment and did not cause Cardinal to file such application within 30 days of his
2 appointment.

3 20. The acts and/or failures to act, of CARSON and Goett, as set out above, are a
4 violation of NRS 463.5735 and NGC Regulations 5.010, 5.011, and 5.030, and NGC
5 Regulation 15B.190, and constitute an unsuitable method of operation; and, as such, provide
6 grounds for disciplinary action by the BOARD. See Nev. Gaming Comm'n Regs. 5.010(2),
7 5.011 and 5.030.

8 **COUNT TWO**

9 **VIOLATION OF NEVADA REVISED STATUTE 463.5733**

10 **and/or GAMING COMMISSION REGULATION 15B.190**

11 21. Complainant BOARD realleges and incorporates by reference as though set forth
12 in full herein paragraphs 1 through 20 above.

13 22. On or about February 21, 2012, Goett transferred a one percent (1.0%) interest in
14 CARSON to Cardinal.

15 23. Goett did not report the terms of such transfer to the BOARD prior to the transfer
16 taking place.

17 24. The Nevada Gaming Commission had not approved of such transfer prior to the
18 transfer taking place.

19 25. The acts and/or failures to act, as set out above, are a violation of NRS 463.5733
20 and/or NGC Regulations 15B.190, 5.010, 5.011, and 5.030, and thus constitute an unsuitable
21 method of operation; and, as such, provide grounds for disciplinary action by the BOARD.
22 See Nev. Gaming Comm'n Regs. 5.010(2), 5.011 and 5.030.

23 **COUNT THREE**

24 **VIOLATION OF NEVADA REVISED STATUTE 463.162**

25 26. Complainant BOARD realleges and incorporates by reference as though set forth
26 in full herein paragraphs 1 through 25 above.

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

3 DATED this 2nd day of May, 2013.

4 STATE GAMING CONTROL BOARD

5 
6 A.G. BURNETT, Chairman


7 
8 SHAWN R. REID, Member

9 
10 TERRY JOHNSON, Member

11
12 Submitted by:

13 CATHERINE CORTEZ MASTO
14 Attorney General

15 By:

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