



## **DISPOSITION APRIL 2021 AGENDA**

IN COMPLIANCE WITH THE GOVERNOR'S EMERGENCY DIRECTIVE #006, DATED MARCH 22, 2020, THE APRIL 2021 MEETING OF THE NEVADA GAMING COMMISSION WAS CONDUCTED BY MEANS OF ELECTRONIC COMMUNICATION.

**April 22, 2021**

### **Members Present:**

**John T. Moran, Jr., Chairman**  
**Deborah J. Fuetsch, Member**  
**Rosa Solis-Rainey, Member**  
**Steven Cohen, Member**  
**Ogonna Brown, Member**

## MEETING AGENDA

10:00 A.M.

- I. **PUBLIC COMMENTS**: This public comment agenda item is provided in accordance with NRS 241.020(2)(c)(3) which requires an agenda provide for a period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken. Comments by the public may be limited to three minutes as a reasonable time, place and manner restriction, but may not be limited based upon viewpoint.

**Refer to Public Comment Attachment 1.**

II. **APPROVAL OF PRIOR MONTH NGC DISPOSITION**

FOR POSSIBLE ACTION: Pursuant to NRS 241.035, approval of Nevada Gaming Commission Disposition for March 2021.

**Approved.**

III. **NONRESTRICTED AGENDA ITEMS**

FOR POSSIBLE ACTION: Consideration of Nonrestricted Items listed in the following pages.

**Action taken as reflected on the following material.**

IV. **RESTRICTED AGENDA ITEMS**

FOR POSSIBLE ACTION: Consideration of Restricted Items listed in the following pages.

**Action taken as reflected on the following material.**

V. **NEW GAME(S)/DEVICE(S)**

FOR POSSIBLE ACTION: Consideration of New Device Item listed in the following pages.

**Action taken as reflected on the following material.**

VI. **NEW SYSTEM(S)**

FOR POSSIBLE ACTION: Consideration of New System Item listed in the following pages.

**Action taken as reflected on the following material.**

**VII. REGULATION(S)**

FOR POSSIBLE ACTION:

**1. FOR FINAL ADOPTION**

**2021-01RP: CONSIDERATION OF ADOPTION OF PROPOSED AMENDMENTS TO NEVADA GAMING COMMISSION REGULATION 22 REGARDING, WITHOUT LIMITATION, DETERMINATION ON THE OUTCOME OF WAGERS FOR HORSE AND OTHER ANIMAL RACES.**

**PURPOSE:** To add, delete or modify a licensed race book to determine the outcome of wagers for horse or other animal races based on nationally televised broadcasts upon a request approved by the Chair; and to take such additional action as may be necessary and proper to effectuate this stated purpose.

**Regulation adopted, draft dated April 8, 2021, with changes as discussed, effective upon adoption.**

**Refer to Regulation Comment Attachment.**

**VIII. ENROLLED AGENT(S)**

FOR POSSIBLE ACTION: Consideration of application for Enrollment to practice as an Agent before the Nevada Gaming Control Board and Nevada Gaming Commission as submitted by **Rahul Sodhi** pursuant to NGC Regulation 10.040(2).

**Enrollment approved.**

**IX. WAIVER REQUEST**

FOR POSSIBLE ACTION: Request for a waiver of Nevada Gaming Commission (NGC) Regulation 26B.100(3) and 26B.100(7), pursuant to NGC Regulation 26B.190 as filed by Sanderina II, LLC.

**Waiver request approved.**

**X. OTHER:**

Administrative Reports

- Board Chair – Update on May Agenda.
- Commission Chair – Comments from Board and Commission Members regarding the departure of Member Johnson.
- Attorney General – No report.

**XI. PUBLIC COMMENTS:** This public comment agenda item is provided in accordance with NRS 241.020(2)(c)(3) which requires an agenda provide for a period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action will be taken. Comments by the public may be limited to three minutes as a reasonable time, place and manner restriction, but may not be limited based upon viewpoint.

**No comments.**

DISPOSITION

INDEX

APRIL 2021

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7-11 Store #25586 .....	R #3	Mohegan Gaming & Entertainment .....	NR #15
7-11 Store #29646 .....	R #4	Mohegan Sun Casino at Virgin Hotels Las Vegas NR #16	
7-11 Store #38362 .....	R #14	Mohegan Tribal Gaming Authority (PTC) .....	NR #15
Ainsworth Game Technology Limited (PTC).....	NR #14	Mummers .....	R #11
Artesian Partners LLC .....	R #2	Nassiry, Arash Steven .....	R #1
Biscuits and Bourbon .....	R #12	New Castle, LLC .....	NR #10
Bonanza Saloon .....	NR #1	Noble, Anita Marie .....	R #2
Boomtown Reno Truckstop .....	NR #9	Pahrump Circle K.....	R #15
Boulder Highway Gaming, LLC .....	NR #2	Pass at Water Street, The .....	NR #8
Boyd Gaming Corporation (PTC) .....	NR #6	Pass at Water Street – Race Book and .....	
Brooks, Michael Eugene .....	NR #2	Sports Pool, The .....	NR #8
Brooks, Timothy John .....	NR #2	Peavine Taphouse Eats and Beats .....	R #2
Cactus Pete’s, LLC .....	NR #5	Pinnacle MLS, LLC .....	NR #5
Century Gaming Technologies.....	R #3, 4, 14, 15, 16	Plantation Investments, LLC.....	NR #13
Delta Saloon.....	NR #1	PNK (RENO), LLC .....	NR #9
Delta Saloon, Inc. ....	NR #1	Polich III, Theodore Peter .....	NR #2
DeRemer, Todd Michael .....	NR #13	Putter’s Bar & Grill #13 .....	R #6
Don’s Market .....	R #7	Rail City Casino .....	NR #13
Eclipse Route Operations LLC.....	R #9,10	Rancho Mesquite Casino, Inc.....	NR #3
Eclipse Gaming .....	R #9,10	Reardon, Matthew Todd .....	R #2
Filosi, Andre Michael.....	NR #7	Rebel Slots, Inc.....	R #12, 13
Flandermeyer Living Trust, The .....	R #8	Rytterstrom, Niklas Thord .....	NR #10
Flandermeyer, Matthew Wayne .....	R #8	S&S Fuels Management IV, LLC .....	R #3, 4
Flandermeyer, Shelley Denise .....	R #8	Sada Enterprises, LLC.....	R #7
Fremont Hotel and Casino .....	NR #7	Sada, Sadon Daood .....	R #7
Golden Gate Casino, LLC .....	NR # 8	Sam-Will, Inc.....	NR #7
Golden Gate Hotel & Casino.....	NR #8	Sartini Gaming, LLC.....	R #5, 8, 11
Golden Route Operations .....	R #8	Sega Sammy Creation USA Inc. ....	NR #3
Golden Route Operations, LLC.....	R #8	Sin City Market.....	R #1
Gregory T.H. Lee 1999 Trust, The .....	NR #4	Snowden, Jay Anthony .....	NR #5
IHOP.....	R #16	Street Burger.....	R #13
J.P.P.J. of Nevada, Inc.....	NR #12	Thoman, Alfred Randall .....	NR #6
Jackpot Joanie’s.....	R #9, 10	United Coin Machine Co.....	R #3, 4, 14, 15, 16
Jaramillo, Michele Ginette .....	NR #12	Virginia City Gaming, LLC .....	NR #1
Jaramillo, Dylan Peter .....	NR #12	Wahoo’s Fish Taco .....	R #8
Kameda, Naoki.....	NR #3	Water Street Gaming, LLC .....	NR #2
Lee, Ernest Tso Hing .....	NR #4	WFTLV01, LLC .....	R #8
Lisa/Carrison Ltd. ....	R #6	WFTLV02, LLC .....	R #8
Malfitano, Vincent Michael .....	NR #1	WFTLV04, LLC .....	R #8
MGM Resorts Interactive, LLC.....	NR #11	WFTLV05, LLC .....	R #8
MGNV, LLC .....	NR #16	WFTLV06, LLC .....	R #8
Mill Street Market & Deli.....	R #5	WFTLV08, LLC .....	R #8
		WFTLVH, LLC.....	R #8
		Z4.....	NR #17
		Z4Poker, LLC.....	NR #17





**DISPOSITION  
NONRESTRICTED AGENDA  
APRIL 2021  
PAGE 3**

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**FOR POSSIBLE ACTION:**

**05-04-21      N21-0208    Re:** 33149-01  
PINNACLE MLS, LLC  
(Pinnacle Entertainment, Inc. – 100%)  
3980 HOWARD HUGHES PKWY  
LAS VEGAS, NV 89169

JAY ANTHONY SNOWDEN  
President/Secretary/Treasurer

**APPLICATION FOR FINDING OF SUITABILITY AS A KEY EXECUTIVE**

33124-01  
CACTUS PETE'S, LLC  
(dba Cactus Petes Resort Casino)  
(dba Horseshu Hotel & Casino)  
(Pinnacle MLS, LLC – 100%)  
1385 93 HWY  
JACKPOT, NV 89825

JAY ANTHONY SNOWDEN  
President/Secretary/Treasurer

**APPLICATION FOR LICENSURE AS A KEY EXECUTIVE**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

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**FOR POSSIBLE ACTION:**

**06-04-21      N21-0041    Re:** 11982-01  
BOYD GAMING CORPORATION (PTC)  
3883 HOWARD HUGHES PKWY 9<sup>TH</sup> FL  
LAS VEGAS, NV 89169

ALFRED RANDALL THOMAN  
Chairman of Audit Committee/Outside Director

**APPLICATION FOR FINDING OF SUITABILITY AS A DIRECTOR**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

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**DISPOSITION  
NONRESTRICTED AGENDA  
APRIL 2021  
PAGE 4**

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**FOR POSSIBLE ACTION:**

**07-04-21      N21-0043    Re:** 06006-01  
00694-03  
SAM-WILL, INC., dba  
FREMONT HOTEL AND CASINO  
200 FREMONT ST  
LAS VEGAS, NV 89101

ANDRE MICHAEL FILOSI  
Vice President/General Manager

**APPLICATION FOR LICENSURE AS A KEY EMPLOYEE**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

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**FOR POSSIBLE ACTION:**

**08-04-21      N21-0286    Re:** 00329-01  
35442-01  
GOLDEN GATE CASINO, LLC, dba  
GOLDEN GATE HOTEL & CASINO, dba  
THE PASS AT WATER STREET – RACE BOOK AND SPORTS POOL  
140 S WATER ST  
HENDERSON, NV 89015

db at

THE PASS AT WATER STREET  
140 S WATER ST  
HENDERSON, NV 89015

**APPLICATION FOR A NONRESTRICTED GAMING LICENSE  
(RACE BOOK AND SPORTS POOL ONLY)**

**APPLICATION FOR LICENSURE TO CONDUCT OFF-TRACK PARI-MUTUEL RACE  
WAGERING**

**GCB RECOMMENDS: APPROVAL, CONDITIONED:**

- (1) THE LICENSEE MUST COMPLY WITH NGC REGULATION 6.090 AS IT RELATES TO THE SUBMISSION OF AN ADEQUATE INTERNAL CONTROL SYSTEM AND COMPLIANCE WITH THE MINIMUM INTERNAL CONTROL STANDARDS FOR A COMPUTERIZED RACE AND SPORTS POOL.**
- (2) PRIOR TO THE COMMENCEMENT OF RACE AND SPORTS AND/OR PARI-MUTUEL WAGERING POOL OPERATIONS, AN EXECUTED RESERVE AGREEMENT MUST BE RECEIVED AND APPROVED BY THE NGCB (AUDIT DIVISION), PURSUANT TO NGC REGULATIONS 5.225 AND 22.040.**

----- Item Continued Next Page -----





DISPOSITION  
NONRESTRICTED AGENDA  
APRIL 2021  
PAGE 6

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REMOVE:

- (1) GAMING SHALL NOT COMMENCE ON THE NEWLY-RELOCATED ESTABLISHMENT UNTIL ADMINISTRATIVE APPROVAL FROM THE CHAIRMAN OF THE BOARD IS RECEIVED.

ADD:

- (1) GAMING SHALL NOT BE MOVED, EXPANDED, OR CHANGED UNLESS ADMINISTRATIVE APPROVAL FROM THE BOARD CHAIR IS RECEIVED.

REMOVE:

- (1) THE SURVEILLANCE SYSTEM MUST BE MAINTAINED AT OR ABOVE THE STANDARD WHICH HAS BEEN APPROVED.

ADD:

- (1) GAMING SHALL NOT COMMENCE UNTIL THE SURVEILLANCE SYSTEM IS INSPECTED AND APPROVED BY THE NGCB ENFORCEMENT DIVISION AND THEREAFTER MUST BE MAINTAINED AT OR ABOVE THE STANDARD THAT HAS BEEN APPROVED.

- (2) THIS LOCATION IS LIMITED TO THE OPERATION OF 16 SLOT MACHINES UNLESS THE BOARD CHAIR, OR THE CHAIR'S DESIGNEE, APPROVES ADDITIONAL SLOT MACHINES AND/OR OTHER GAMES.

**NGC DISPOSITION:** APPROVED, CONDITIONED – SAME.

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FOR POSSIBLE ACTION:

10-04-21      N21-0021    Re: 33222-01  
NEW CASTLE, LLC  
(dba Excalibur Hotel and Casino)  
3850 LAS VEGAS BLVD S  
LAS VEGAS, NV 89109

NIKLAS THORD RYTTERSTROM  
President/Chief Operating Officer

**APPLICATION FOR LICENSURE AS A KEY EXECUTIVE**

**GCB RECOMMENDS:** APPROVAL.

**NGC DISPOSITION:** APPROVED.

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**DISPOSITION  
NONRESTRICTED AGENDA  
APRIL 2021  
PAGE 7**

---

**FOR POSSIBLE ACTION:**

**11-04-21      N21-0165    Re:** 31871-01  
31872-01 (IO)  
MGM RESORTS INTERACTIVE, LLC  
(MGM Resorts International (PTC) – 100%)  
3600 LAS VEGAS BLVD S  
LAS VEGAS, NV 89109

**APPLICATION FOR AN ELEVENTH WAIVER OF THE PROVISIONS OF NGC  
REGULATION 4.080 (WHICH IMPOSES A SIX-MONTH TIME LIMITATION WITHIN  
WHICH COMMISSION ACTION IS EFFECTIVE), IN CONNECTION WITH APPROVAL  
FOR LICENSURE AS AN OPERATOR OF INTERACTIVE GAMING AS GRANTED IN  
NOVEMBER 2012**

**GCB RECOMMENDS: APPROVAL, CONDITIONED:**

**(1) THE WAIVER OF THE PROVISIONS OF THE NGC REGULATION 4.080, IN CONNECTION WITH THE APPROVALS  
GRANTED IN NOVEMBER 2012, SHALL EXPIRE ON THE DATE OF THE REGULARLY SCHEDULED NGC  
MEETING IN APRIL 2022.**

**NGC DISPOSITION: APPROVED, CONDITIONED – SAME.**

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**FOR POSSIBLE ACTION:**

**12-04-21      N19-0595    Re:** 06004-01  
N17-0630      J.P.P.J. OF NEVADA, INC.  
(dba Mardi Gras Inn)  
3500 PARADISE RD  
LAS VEGAS, NV 89169

DYLAN PETER JARAMILLO  
Director

**APPLICATION FOR LICENSURE AS A DIRECTOR**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

**(MORAN RECUSED)**

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**DISPOSITION  
NONRESTRICTED AGENDA  
APRIL 2021  
PAGE 8**

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**FOR POSSIBLE ACTION:**

**13-04-21      N21-0092    Re:** 31250-01  
03112-02  
PLANTATION INVESTMENTS, LLC, dba  
RAIL CITY CASINO  
2121 VICTORIAN AVE  
SPARKS, NV 89431

TODD MICHAEL DEREMER  
Vice President/General Manager

**APPLICATION FOR LICENSURE AS A KEY EMPLOYEE**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

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**FOR POSSIBLE ACTION:**

**14-04-21      N21-0198    Re:** 30028-01  
AINSWORTH GAME TECHNOLOGY LIMITED (PTC)  
10 HOLKER ST  
NEWINGTON, NEW SOUTH WALES 2127  
AUSTRALIA

**APPLICATION FOR A CONTINUOUS OR DELAYED PUBLIC OFFERING**

**GCB RECOMMENDS: APPROVAL, SHELF ORDER, DRAFT #1.**

**NGC DISPOSITION: APPROVED, SHELF ORDER – SAME.**

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**DISPOSITION  
NONRESTRICTED AGENDA  
APRIL 2021  
PAGE 9**

---

**FOR POSSIBLE ACTION:**

**15-04-21      N21-0232    Re:** 35147-01  
MOHEGAN TRIBAL GAMING AUTHORITY (PTC), dba  
MOHEGAN GAMING & ENTERTAINMENT  
1 MOHEGAN SUN BLVD  
UNCASVILLE, CT 06382

**APPLICATION TO PLEDGE THE MEMBERSHIP INTEREST OF MGNV HOLDING, LLC  
TO CITIZENS BANK, N.A., AS COLLATERAL TRUSTEE, IN CONJUNCTION WITH A  
CREDIT AGREEMENT**

**APPLICATION TO PLEDGE THE MEMBERSHIP INTEREST OF MGNV HOLDING, LLC  
TO CITIZENS BANK, N.A., AS COLLATERAL TRUSTEE, IN CONJUNCTION WITH  
SECOND PRIORITY SENIOR SECURED NOTES**

**APPLICATION FOR AMENDMENT TO ORDER OF REGISTRATION**

**GCB RECOMMENDS: APPROVAL, REVISED ORDER, DRAFT #1.**

**NGC DISPOSITION: APPROVED, REVISED ORDER – SAME.**

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**16-04-21      WITHDRAWN.**

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**FOR POSSIBLE ACTION:**

**17-04-21      N21-0180    Re:** 31979-01  
31980-01 (IM)  
31981-01 (IP)  
32108-01 (D)  
Z4POKER, LLC, dba  
Z4  
323 ORVILLE WRIGHT CT  
LAS VEGAS, NV 89119

**APPLICATION FOR AN ELEVENTH WAIVER OF THE PROVISIONS OF NGC  
REGULATION 4.080 (WHICH IMPOSES A SIX-MONTH TIME LIMITATION WITHIN  
WHICH COMMISSION ACTION IS EFFECTIVE), IN CONNECTION WITH APPROVALS  
FOR LICENSURE AS A MANUFACTURER OF AN INTERACTIVE GAMING SYSTEM,  
DISTRIBUTOR (INTERACTIVE GAMING SYSTEM ONLY) AND AN INTERACTIVE  
GAMING SERVICE PROVIDER AS GRANTED IN NOVEMBER 2012**

**GCB RECOMMENDS: APPROVAL, CONDITIONED:**

**(1) THE WAIVER OF THE PROVISIONS OF THE NGC REGULATION 4.080, IN CONNECTION WITH THE APPROVALS  
GRANTED IN NOVEMBER 2012, SHALL EXPIRE ON THE DATE OF THE REGULARLY SCHEDULED NGC  
MEETING IN APRIL 2022.**

**NGC DISPOSITION: APPROVED, CONDITIONED – SAME.**

**(BROWN RECUSED)**

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**DISPOSITION  
RESTRICTED AGENDA  
APRIL 2021  
PAGE 11**

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**FOR POSSIBLE ACTION:**

**03-04-21 R21-0316 Re:** 04789-01  
04765-06  
5 Machines UNITED COIN MACHINE CO., dba  
CENTURY GAMING TECHNOLOGIES, db at  
7-11 STORE #25586  
1705 LAS VEGAS BLVD S  
LAS VEGAS, NV 89104

S&S FUELS MANAGEMENT IV, LLC  
Business Operator

**APPLICATION FOR A RESTRICTED GAMING LICENSE**

**APPLICATION FOR LICENSURE OF S&S FUELS MANAGEMENT IV, LLC,  
TO RECEIVE A PERCENTAGE OF GAMING REVENUE FROM UNITED COIN  
MACHINE CO., DBA CENTURY GAMING TECHNOLOGIES, DB AT 7-11 STORE  
#25586**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

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**FOR POSSIBLE ACTION:**

**04-04-21 R21-0317 Re:** 04789-01  
04155-03  
6 Machines UNITED COIN MACHINE CO., dba  
CENTURY GAMING TECHNOLOGIES, db at  
7-11 STORE #29646  
4325 W SAHARA AVE  
LAS VEGAS, NV 89102

S&S FUELS MANAGEMENT IV, LLC  
Business Operator

**APPLICATION FOR A RESTRICTED GAMING LICENSE**

**APPLICATION FOR LICENSURE OF S&S FUELS MANAGEMENT IV, LLC,  
TO RECEIVE A PERCENTAGE OF GAMING REVENUE FROM UNITED COIN  
MACHINE CO., DBA CENTURY GAMING TECHNOLOGIES, DB AT 7-11 STORE  
#29646**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

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**DISPOSITION  
RESTRICTED AGENDA  
APRIL 2021  
PAGE 13**

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**FOR POSSIBLE ACTION:**

**08-04-21      R21-0385    Re:** 31602-01  
29313-03  
WFTLV01, LLC, dba  
WAHOO'S FISH TACO  
7020 W SUNSET RD  
LAS VEGAS, NV 89113

and

32510-01  
29729-03  
WFTLV04, LLC, dba  
WAHOO'S FISH TACO  
76 W HORIZON RIDGE PKWY STE 100  
HENDERSON, NV 89012

SHELLEY DENISE FLANDERMEYER 100%  
(Transferor)

WFTLVH, LLC 100%  
(Transferee)  
Member/Manager

THE FLANDERMEYER LIVING TRUST 100%  
Member/Manager

SHELLEY DENISE FLANDERMEYER  
Trustee/Beneficiary

MATTHEW WAYNE FLANDERMEYER  
Trustee/Beneficiary

**Re:** 14180-01  
31822-01  
GOLDEN ROUTE OPERATIONS LLC, dba  
GOLDEN ROUTE OPERATIONS, db at  
WAHOO'S FISH TACO  
1000 S RAMPART BLVD STE 21  
LAS VEGAS, NV 89145

WFTLV02, LLC  
Business Operator

SHELLEY DENISE FLANDERMEYER 100%  
(Transferor)

WFTLVH, LLC 100%  
(Transferee)  
Member/Manager

THE FLANDERMEYER LIVING TRUST 100%  
Member/Manager

SHELLEY DENISE FLANDERMEYER  
Trustee/Beneficiary

MATTHEW WAYNE FLANDERMEYER  
Trustee/Beneficiary

**DISPOSITION  
RESTRICTED AGENDA  
APRIL 2021  
PAGE 14**

---

**Re:** 10753-01  
34454-01  
SARTINI GAMING, LLC, db at  
WAHOO'S FISH TACO  
3891 W FLAMINGO RD  
LAS VEGAS, NV 89103

WFTLV05, LLC  
Business Operator

SHELLEY DENISE FLANDERMEYER 100%  
(Transferor)

WFTLVH, LLC 100%  
(Transferee)  
Member/Manager

THE FLANDERMEYER LIVING TRUST 100%  
Member/Manager

SHELLEY DENISE FLANDERMEYER  
Trustee/Beneficiary

MATTHEW WAYNE FLANDERMEYER  
Trustee/Beneficiary

**Re:** 10753-01  
34453-01  
SARTINI GAMING, LLC, db at  
WAHOO'S FISH TACO  
7930 W TROPICAL PKWY STE 110  
LAS VEGAS, NV 89149

WFTLV06, LLC  
Business Operator

SHELLEY DENISE FLANDERMEYER 100%  
(Transferor)

WFTLVH, LLC 100%  
(Transferee)  
Member/Manager

THE FLANDERMEYER LIVING TRUST 100%  
Member/Manager

SHELLEY DENISE FLANDERMEYER  
Trustee/Beneficiary

MATTHEW WAYNE FLANDERMEYER  
Trustee/Beneficiary

----- Item Continued Next Page -----

**DISPOSITION  
RESTRICTED AGENDA  
APRIL 2021  
PAGE 15**

---

**Re:** 10753-01  
28188-06  
SARTINI GAMING, LLC, db at  
WAHOO'S FISH TACO  
10430 S EASTERN AVE  
HENDERSON, NV 89052

WFTLV08, LLC 100%  
Business Operator

WFTLVH, LLC 100%  
Member/Manager

THE FLANDERMAYER LIVING TRUST 100%  
Member/Manager

SHELLEY DENISE FLANDERMAYER  
Trustee/Beneficiary

MATTHEW WAYNE FLANDERMAYER  
Trustee/Beneficiary

**APPLICATION FOR A WAIVER OF THE PROVISIONS OF NGC REGULATION 4.080 (WHICH IMPOSES A SIX-MONTH TIME LIMITATION WITHIN WHICH COMMISSION ACTION IS EFFECTIVE), IN CONNECTION WITH APPROVALS FOR TRANSFERS OF INTEREST; LICENSURE OF WFTLVH, LLC AS SOLE MEMBER AND MANAGER OF WFTLV01, LLC, WFTLV02, LLC, WFTLV04, LLC, WFTLV05, LLC WFTLV06, LLC, AND WFTLV08, LLC; REGISTRATION OF WFTLVH, LLC AS A HOLDING COMPANY OF WFTLV01, LLC, WFTLV02, LLC, WFTLV04, LLC, WFTLV05, LLC, WFTLV06, LLC, AND WFTLV08, LLC, AND A FINDING OF SUITABILITY OF THE FLANDERMAYER LIVING TRUST AS MEMBER AND MANAGER OF WFTLVH, LLC; REGISTRATION OF THE FLANDERMAYER LIVING TRUST AS AN INTERMEDIARY COMPANY, AND FINDINGS OF SUITABILITY OF SHELLEY DENISE FLANDERMAYER AND MATTHEW WAYNE FLANDERMAYER AS TRUSTEES AND BENEFICIARIES; AND LICENSURE OF WFTLV08, LLC, TO RECEIVE A PERCENTAGE OF GAMING REVENUE FROM SARTINI GAMING, LLC, DB AT WAHOO'S FISH TACO, AT 10430 SOUTH EASTERN AVENUE, HENDERSON, NEVADA, AS GRANTED IN OCTOBER 2020**

**GCB RECOMMENDS: APPROVAL, CONDITIONED:**

**(1) THE WAIVER OF THE PROVISIONS OF NGC REGULATION 4.080, IN CONJUNCTION WITH THE APPROVALS GRANTED IN APRIL 2021, SHALL EXPIRE ON THE DATE OF THE REGULARLY SCHEDULED NGC MEETING IN OCTOBER 2021.**

**NGC DISPOSITION: APPROVED, CONDITIONED – SAME.**

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**DISPOSITION  
RESTRICTED AGENDA  
APRIL 2021  
PAGE 17**

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**FOR POSSIBLE ACTION:**

**12-04-21 R21-0093 Re:** 16442-01  
35446-01  
8 Machines REBEL SLOTS, INC., db at  
BISCUITS AND BOURBON  
109 S WATER ST  
HENDERSON, NV 89015

**APPLICATION FOR A RESTRICTED GAMING LICENSE**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

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**FOR POSSIBLE ACTION:**

**13-04-21 R21-0094 Re:** 16442-01  
35071-02  
15 Machines REBEL SLOTS, INC., db at  
STREET BURGER  
37 S WATER ST STE 100  
HENDERSON, NV 89015

**APPLICATION FOR A RESTRICTED GAMING LICENSE**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

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**FOR POSSIBLE ACTION:**

**14-04-21 R21-0218 Re:** 04789-01  
35401-01  
7 Machines UNITED COIN MACHINE CO., dba  
CENTURY GAMING TECHNOLOGIES, db at  
7-11 STORE #38362  
9015 BLUE DIAMOND RD  
LAS VEGAS, NV 89178

**APPLICATION FOR A RESTRICTED GAMING LICENSE**

**GCB RECOMMENDS: APPROVAL.**

**NGC DISPOSITION: APPROVED.**

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**DISPOSITION  
NEW GAMING DEVICE(S) – FINAL APPROVAL ITEMS  
APRIL 2021  
PAGE 19**

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**FOR POSSIBLE ACTION:**

**NG01-04-21 D2020-0078 GAMING DEVICE: "ICE-II PLATFORM"**

**SUBMITTED BY:** 29380-01  
NEXT GAMING  
202 FREMONT ST  
LAS VEGAS, NV 89101

**TRIAL LOCATIONS:** 00370-02  
BINION'S GAMBLING HALL & HOTEL  
128 FREMONT ST  
LAS VEGAS, NV 89101

27574-01  
THE CANNERY HOTEL CASINO  
2121 E CRAIG RD  
NORTH LAS VEGAS, NV 89030

29154-02  
SOUTH POINT HOTEL AND CASINO  
9777 LAS VEGAS BLVD S  
LAS VEGAS, NV 89183

**REQUEST FOR FINAL APPROVAL**

**GCB RECOMMENDS: FINAL APPROVAL.**

**NGC DISPOSITION: FINAL APPROVAL GRANTED.**

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**DISPOSITION  
INTER-CASINO LINKED SYSTEM(S) – FINAL APPROVAL ITEMS  
APRIL 2021  
PAGE 20**

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**FOR POSSIBLE ACTION:**

**LS01-04-21 D2019-0096 INTER-CASINO SYSTEM: “MLINK WAP CENTRAL CONTROLLER 4.2  
MULTI-JURISDICTIONAL WAP”**

**MANUFACTURER:**

EVERI GAMES, INC.  
7250 S TENAYA WAY STE 100  
LAS VEGAS, NV 89113

**TRIAL LOCATIONS:**

00336-03  
GOLDEN NUGGET  
129 EAST FREMONT ST  
LAS VEGAS, NV 89101

20778-01  
ORLEANS HOTEL AND CASINO  
4500 W TROPICANA AVE  
LAS VEGAS, NV 89103

29154-02  
SOUTH POINT HOTEL AND CASINO  
9777 LAS VEGAS BLVD S  
LAS VEGAS, NV 89183

**REQUEST FOR FINAL APPROVAL FOR THE  
OPERATION OF A NEW INTER-CASINO LINKED  
SYSTEM**

**GCB RECOMMENDS: FINAL APPROVAL.**

**NGC DISPOSITION: FINAL APPROVAL GRANTED.**

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**From:** michael chole [REDACTED]  
**Sent:** Friday, April 16, 2021 4:32 PM  
**To:** publiccomment  
**Subject:** Kentucky Derby Betting ( Lack of it!)

To whom it may concern,

I write to you in hopes that the two parties can come to common ground and stop punishing the horse bettors and tourists who make a special trip to Nevada to enjoy the Kentucky Derby / Oaks Experience. Myself, friends and family have made coming to Nevada a 25 year tradition until recently when the Nevada Pari Mutuel Association and Churchill Downs can't seem to find some common ground it's utterly astonishing and unbelievable that this fight has lasted since October of 2019!. People from all over the country come to Las Vegas for the sole purpose of "fully" betting the derby/ oaks card. I have friends from Portland, Seattle, Iowa , Kansas City and St. Louis who spend several days and several thousands of dollars just for Derby Weekend. Similar to March Madness and the Super Bowl. I hear advertisements that Las Vegas and Nevada is the "gaming capitol" of the world. Who gave that title? Nevada is falling behind in so many ways but I feels its impossible to claim that title if the greatest race in the world and best 2 minutes in sports is restricted with lame limits and zero to no opportunity to bet all the other fabulous races that surround these gems of Americana. We didn't come last year because of this dispute and we are now in the process of canceling this years trip because of the greed, lack of value and respect for people who play this find game and support Nevada. Its sad to think about it but we will be taking our business somewhere else. I know there are many others that share these feelings. GET IT TOGETHER!!!!

Michael Chole

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**From:** Michael Alosco [REDACTED]  
**Sent:** Saturday, April 17, 2021 11:56 AM  
**To:** publiccomment  
**Subject:** Horse racing wagering

To whom it may concern:

It is an absolute that the supposed gambling capital of the world cannot find a way to take horse action on Churchill Downs, Oaklawn Park...etc. I moved to Las Vegas last year and have been unable to wager on these tracks.

This is frustrating for all gamblers and also represents a substantial LOSS in revenue for every casino that accepts horse bets.

The fact that this dispute has been going on for 18 months with no end in sight is a disgrace!!!!

Let the governor know and other state representatives that they will be losing my vote next election cycle if this situation is not rectified.

Whoever is responsible for settling this situation needs to put forth a greater effort!

Also, the gaming control board should allow TVG to exist in Nevada!

Yours truly,

Registered Independent Voter,

Michael Alosco  
[REDACTED]  
Las Vegas NV 89166

Mark E. Ferrario  
Tel 702.938.6870  
Fax 702.792.9002  
ferrariom@gtlaw.com

April 20, 2021

Via Email [regcomments@gcb.nv.gov](mailto:regcomments@gcb.nv.gov)

Marie Bell, Executive Secretary  
Nevada Gaming Commission  
1919 College Parkway  
Carson City, Nevada 89706

Re: **2021-01RP: Comments to Proposed Amendments to NGC Regulation 22.080**

Dear Executive Secretary Bell:

I am counsel to Las Vegas Dissemination, Inc. (“LVDC”), and to Nevada Disseminator Service, Inc. (“NDS”).

By letter dated August 26, 2020 I provided comments to proposed amendments to Regulation 22. See attached Exhibit A. Comments regarding the proposed amendments were made by me and Todd Roberts of NDS during the Commission hearing that was held on August 27, 2020. Additional comments regarding the proposed amendments to NGC Regulation 22 were made in my letter dated September 21, 2020, see Exhibit B attached, followed by my participation in the September 22, 2020 workshop which addressed issues regarding the proposed amendments.

On April 22, 2021 the Nevada Gaming Commission will again consider the adoption of proposed amendments to NGC Regulation 22. The latest action was precipitated by a petition filed by the Nevada Pari Mutuel Association (“NPMA”) in February of 2021.

On behalf of my clients I want to lodge our objections to the latest request to amend NGC Regulation 22. The proposed amended regulation suffers from the same infirmities as the prior version that was adopted in August of last year. For the record I would like to incorporate our prior letters (Exs. A & B attached) and the comments made during the hearing in opposition to the regulation being proposed.

Greenberg Traurig, LLP | Attorneys at Law

10845 Griffith Peak Drive | Suite 600 | Las Vegas, Nevada 89135 | T +1 702.792.3773 | F +1 702.792.9002

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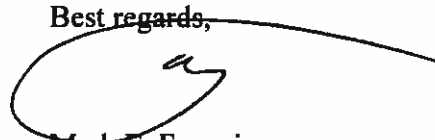
ACTIVE 56755952v2

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Finally, I need to address comments made by the NPMA in its petition. Any comments that the problems that gave rise to the proposed regulation are of my clients making are incorrect. We find ourselves in this position because the NPMA and Churchill Downs, Incorporated (“CDI”) were unable to reach an agreement as they had many times in the past.

LVDC and NDS respectfully request that the Commission reject the request to further amend NGC Regulation 22.

Best regards,

A handwritten signature in black ink, appearing to be 'M. Ferrario', enclosed within a large, loopy oval shape.

Mark E. Ferrario  
Shareholder

MEF:alr

Attachments/

cc: John Gaughan  
Gregory Wright  
Todd J. Roberts

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# EXHIBIT A

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Mark E. Ferrario  
Tel 702.792.3773  
Fax 702.792-9002  
ferrariom@gtlaw.com

August 26, 2020

Marie Bell, Executive Secretary  
Nevada Gaming Commission  
1919 College Parkway  
Carson City, Nevada 89706

**Re: 2020-06R: Comments to Proposed Amendments to NGC Regulation 22**

Dear Executive Secretary Bell:

I am counsel to Las Vegas Dissemination, Inc. (“LVDC”). Please accept this letter as comments to the proposed amendments to NGC Regulation 22.080 in draft dated August 12, 2020 (“Proposed Amendments”).

As you know, LVDC has been a licensed disseminator of race information in Nevada since 1988. LVDC was founded by John Gaughan. Since its inception, LVDC has been an integral part of Nevada’s race wagering industry.

LVDC does not believe that the Proposed Amendment can be adopted without a legislative change to Nev. Rev. Stat. § 463.430. The statute provides:

“[i]t is unlawful for any person in this state to receive, supply or disseminate in this state by any means information received from any source outside of this state concerning racing, when the information is to be used to maintain and operate any gambling game and particularly any race book, except off-track pari-mutuel wagering for which the user is licensed pursuant to chapter 464 of NRS, without first having obtained a license so to do as provided in NRS 463.430 to 463.480, inclusive.” Nev. Rev. Stat. § 463.430(1) (emphasis added).

This is further bolstered by the public policy statement in Nev. Rev. Stat. § 463.440(1)(b), which states that: “[i]n order to protect the health, safety, morals, good order and general welfare of the public, all persons, associations, locations, practices and activities related to the dissemination and use of information concerning such racing should be controlled, supervised and properly licensed.” *Id.* (emphasis added). In other words, it is public policy that the dissemination and use of race information must be controlled and handled by licensed parties.

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MILAN\*\*  
NEW JERSEY  
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- STRATEGIC ALLIANCE  
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\* OPERATES AS GT TOKYO HORTSUI JURUSHO  
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August 26, 2020

Page 2

There are two limited exceptions. The first is for a person who provides a “televised broadcast...without charge to any person who receives the broadcast.” *Id.* § 463.430(2)(a). The second is for a licensee who receives or provides to an affiliated licensee race information using a bookmaking system. *Id.* § 463.430(2)(b).

This statutory provision addresses two main points: who can receive information and who can provide information. The main provision (subsection 1) provides that only a licensed disseminator may receive or share racing information from outside Nevada to maintain and operate the race book. Said another way, as a general rule, a race book may not receive racing information from outside Nevada to maintain and operate the race book unless that information comes from a licensed disseminator.

Notwithstanding the general rule, a race book may *receive or provide* race information from/to one of its licensed affiliates through a computerized bookmaking system, pursuant to the second statutory exception (“2(b) Exception”). Additionally, a broadcaster may *provide* a televised broadcast for free to a race book pursuant to the first statutory exception (“2(a) Exception”). Unlike the 2(b) Exception, which specifically allows for the provision and receipt of race information, the 2(a) Exception only allows the broadcaster’s *provision* of a televised broadcast, it does not address any *receipt* or use of such broadcast.

In other words, a broadcaster can provide the broadcast in Nevada without the broadcaster violating the statute, but a race book in Nevada cannot accept or use the broadcast directly from the broadcaster for the maintenance or operation of the race book without violating the statute. Rather, the race book must obtain the broadcast through a licensed disseminator if such will be used to maintain or operate the race book (including to confirm winners or payouts).

The current version of NGC Regulation 22.080(4) aligns with these statutory requirements. It states:

“[a] licensed race book shall determine the winners of or payouts on wagers on horse and other animal races only with information the book receives from licensed disseminators pursuant to Regulations 20 and 21.”  
NGC Reg. 22.080(4) (emphasis added).

The Proposed Amendments would allow a race book, with permission of the Board Chair, to determine the winners or wager payouts on a horse race based on nationally televised broadcasts of races, which broadcasts it would not receive from a licensed disseminator. This does not comport with the statutory requirements. As detailed above, the statute requires that race information used for the operation of a race book, which would include the determination of race winners or payouts on wagers, come from a licensed disseminator or an affiliated licensee. The statute does not allow for the waiver of these requirements by regulation or by other disposition of the Board or Commission.

August 26, 2020

Page 3

In sum:

- No person can receive racing information from outside Nevada to operate the race book, including information to determine winners or payouts, unless the information comes from:
  - A licensed disseminator (*id.* § 463.430(1)) or
  - An affiliated licensee (*id.* § 463.430(2)(b)).
- Nevada's public policy requires that the dissemination and use of race information be controlled by licensed parties. *Id.* § 463.440(1)(b).
- Based on the 2(a) Exception, a broadcaster can provide a televised broadcast at no charge in accordance with the statute (*id.* § 463.430(2)(a)). However, such exception does not allow a race book to use that broadcast or any race information provided directly from that broadcaster to maintain and operate the race book. In other words, the Nevada Gaming Control Act does not allow a race book to determine winners or payouts from that broadcast. The Nevada Legislature established that the race book must obtain race information through a licensed disseminator.
- A statute cannot be waived by regulation unless the statute expressly allows for such waiver, and there is no statutory provision in Nev. Rev. Stat. § 463.430 authorizing a regulatory waiver.
- If the Commission desires a race book to be allowed to use race information from a person not licensed by the Commission, then a legislative amendment is required.

Thank you for your consideration of these comments.

Best regards,

*Mark Ferrario*

Mark E. Ferrario  
Shareholder

cc: *John Gaughan*  
*Gregory Wright*



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## EXHIBIT B

---

Mark E. Ferrario  
Tel 702.938.6870  
Fax 702.792.9002  
ferrariom@gtlaw.com

September 21, 2020

*Via Email [regcomments@gcb.nv.gov](mailto:regcomments@gcb.nv.gov)*

Marie Bell, Executive Secretary  
Nevada Gaming Commission  
1919 College Parkway  
Carson City, Nevada 89706

Re: **2020-07R: Comments to Proposed Amendments to NGC Regulation 22**

Dear Executive Secretary Bell:

I am counsel to Las Vegas Dissemination, Inc. (“LVDC”), and to Nevada Disseminator Service, Inc. (“NDS”). Please accept this letter as comments regarding the amendment to NGC Regulation 22.080 recently adopted with a sunset provision (“Amendment”), for the workshop to be held on September 22, 2020.

As you know, LVDC has been a licensed disseminator of race information in Nevada since 1988. LVDC was founded by John Gaughan. Since its inception, LVDC has been an integral part of Nevada’s race wagering industry. And has been supplying the pari-mutuel industry since 1984, and was a pioneer in the creation of simulcasting for the racing industry.

**Executive Summary**

Notwithstanding the statements made by proponents of the Amendment at the August 27, 2020 Nevada Gaming Commission (“Commission”) meeting, LVDC maintains its belief that the Amendment is contrary Nevada’s statutes. This belief is based not only on the plain language of NRS 463.430 and related statutes, but also on the legislative history of these statutes. The Nevada Legislature has made it clear that information regarding out of state horse racing to be used to the operation or maintenance of a race book in Nevada must be *received* from a person who either is a licensee under NRS 463.430-480, or from an affiliate licensee by means of a computerized system for bookmaking. The exception in NRS 463.430(2)(a) only exempts those who *provide* a free televised broadcast from violating the statute.; thus, the use of a free broadcast to maintain and operate... any race book remains unlawful.

Greenberg Traurig, LLP | Attorneys at Law

10845 Griffith Peak Drive | Suite 600 | Las Vegas, Nevada 89135 | T +1 702.792.3773 | F +1 702.792.9002

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**Requirement for Licensed Disseminators**

The Nevada Gaming Control Act requires that: (1) those wishing to supply or disseminate with Nevada race information from outside the state must be licensed as a disseminator, and (2) race books must only use race information from licensed disseminators to maintain and operate their books, including determining the results of races.

Specifically, NRS § 463.430, provides, in its entirety:

1. It is unlawful for any person in this state to receive, supply or disseminate in this state by any means information received from any source outside of this state concerning racing, when the information is to be used to maintain and operate any gambling game and particularly any race book, except off-track pari-mutuel wagering for which the user is licensed pursuant to chapter 464 of NRS, without first having obtained a license so to do as provided in NRS 463.430 to 463.480, inclusive.
2. The provisions of this section do not apply to:
  - (a) Any person who provides a televised broadcast which is presented without charge to any person who receives the broadcast.
  - (b) Any licensee who has been issued a gaming license and receives from or supplies to any affiliated licensee, by means of a computerized system for bookmaking used by the licensee and the affiliated licensee, information concerning racing.
3. For the purposes of this section:
  - (a) Any broadcasting or display of information concerning racing held at a track which uses the pari-mutuel system of wagering is an incident of maintaining and operating a race book.
  - (b) "Affiliated licensee" means any person to whom a valid gaming license or pari-mutuel wagering license has been issued that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, a licensee.

However, the current language of this statute has changed numerous times since its adoption, and such changes are relevant to the Amendment.

Nevada first required disseminators of race information to be licensed in 1949. 1949 Statutes of Nevada, Ch. 152, p. 236. Such licensing was deemed to be for the purpose of protecting the public and the public interest. *See Dunn v. Tax Commission*, 67 Nev. 173 (Nev. 1950) (setting forth history of racing dissemination in Nevada, and rejecting contention that such regulation was not for intended for the protection of the public). Such licensing was brought within the Commission's authority in 1959, when the Commission was established. 1959 Statutes of Nevada, p. 45 (amending NRS 463.440).

Originally, it was unlawful merely to supply or disseminate race information from out of state to be used for a race book inside Nevada, with public utilities excluded from the prohibition, an exception that would have included free television broadcasts. But in 1983, the legislature made it unlawful to receive such information, as well, 1983 Statutes of Nevada Ch. 416, p. 1035. At the same time, the Legislature also amended NRS 436.440, to add the following statement, which is also relevant to the issues raised by the Amendment

1. In addition to the state policy concerning gaming as set forth in NRS 463.0129, the legislature hereby finds, and declares to be the public policy of this state concerning activities and information related to wagering on horse races that:

(a) All persons licensed to operate and maintain a sports pool or horse race book are entitled to receive on a fair and equitable basis all information concerning horse racing that is being disseminated into and within this state.

(b) In order to protect the health, safety, morals, good order and general welfare of the public, *all persons, associations, locations, practices and activities related to the dissemination and use of information concerning horse racing should be controlled, supervised and properly licensed.*

NRS 463.440, adopted 1983 Statutes of Nevada, Ch. 416, p. 1036 (emphasis added).

### **Exception to Prohibition on Providing Free Broadcast**

#### **History of the Exception**

The exception in NRS 463.430 (2)(a), which has been the focal point of discussion in connection with the Amendment, has evolved. This evolution helps to illustrate the legislative intent for the exception.

In 1985, NRS 463.430(2) was amended to replace the language exempting public utilities from the statutory prohibition to the following:

2. The provisions of this section do not apply to any televised broadcast which is presented without charge to any person who receives the broadcast.

1985 Statutes of Nevada, Ch. 654, p. 2141. Thus, following the 1985 change, it was unlawful to receive, supply or disseminate out of state race information without the proper licenses, but this prohibition did not apply to a free televised broadcast. Had the language remained thus, then the arguments set forth by the proponents of the change to NGC Regulation 22.080 would have an argument that the statute permitted the proposed change.

However, in 1989, NRS 463.430(2) was amended *again*. A new subsection (b) was added and the language from 1985 was changed to what is now found in NRS 463.430(2)(a) (the "Exception") as follows:

2. The provisions of this section do not apply to:

(a) *Any person who provides* a televised broadcast which is presented without charge to any person who receives the broadcast

(b) Any licensee who has been issued a gaming license and receives from or supplies to any affiliated licensee, by means of a computerized system for bookmaking used by the licensee and the affiliated licensee, information concerning racing.

1989 Statutes of Nevada, Ch. 519, p. 1097.

Interpreting the Exception

Courts generally give great deference to an agency's interpretation of a statute that the agency is charged with enforcing, provided that the regulation does not conflict with existing statutory provisions. *State, Div. of Insurance v. State Farm*, 116 Nev. 290, 293 (Nev. 2000). Here, the interpretation of NRS 463.430 upon which the amendment to NGC Regulation 22.080 is based conflicts with the statutory provision.

Where the language of a statute is plain and unambiguous, and its meaning is clear and unmistakable, there is no room for construction, and the courts are not permitted to search for its meaning beyond the statute itself. *Attorney General v. Board of Regents*, 114 Nev. 388, 392 (Nev. 1998). Words must be given their plain meaning, unless this violates the spirit of the act. *McKay v. Bd. Of Supervisors*, 102 Nev. 644, 648, 730 P.2d 438, 441 (1986). Here, the 1989 amendment removed language that arguably could have allowed both the *provision* and *receipt* of free televised race information by race books. The revised language limits the Exception to the *person who provides* free broadcasts of race information. Removal of such language is a clear indication of the Legislature's intent. *McKay v. Bd. Of Supervisors*, 102 Nev. at 651 (noting that deletion of a previously permitted practice during a statutory amendment indicated that the practice was intended to be prohibited).

Following the 1989 amendments, the general rule prohibits the receipt, supplying, or dissemination of out of state racing information when such information will be used to operate or maintain a sports book. The Exception, as modified in 1989, no longer exempts the free broadcast of race information, but instead, only exempts the broadcaster from providing a free broadcast. In other words, the Legislature intended to (a) exempt from liability a person who provides a free television broadcast to a race book without securing a disseminator's license, while (b) assuring that a race book obtain race information from a state licensed disseminator in connection with race book operations (i.e. confirming winners, making payouts, etc.).

The Amendment, however, allows a race book, with permission of the Board Chair, to determine the winners or wager payouts on a horse race based on nationally televised broadcasts of races, which broadcasts it would not receive from a licensed disseminator from within the State of Nevada. Thus, the Amendment is inconsistent with NRS 463.430.

The Amendment also is inconsistent with the legislative mandate of NRS 463.440 (1)(b) that “*all persons, associations, locations, practices and activities related to the dissemination and use of information concerning horse racing should be controlled, supervised and properly licensed*” because the Amendment would allow a race book to operate using information that comes from a source that is not “*controlled, supervised and properly licensed.*”

While, during the hearing, DAG Michela cited the statutory language in subsection (1)(a), stating that race books are entitled “to receive on a fair and equitable basis all information concerning horse racing that is being disseminated into and within this state,” he failed to acknowledge the above language in the immediately following subsection, which makes clear that the purpose of requiring licensure for all aspects of out of state race information is to ensure that said information is fairly and equitably available, and under this State’s regulation. Free televised broadcast are not under this Commission’s control, and therefore, should not be used to maintain and operate race books in this state.

Similarly, the contention of the DAG that the amendment is consistent with the statute does not appear to have taken the legislative history, including the narrowing of the exemption found in 463.430(2)(a), into consideration.

Nor can it be said that the Exception is meaningless if race books are not permitted to use information from free broadcasts for maintaining and operating the race book. As the 1989 amendment to NRS 463.430 made clear, the purpose of the Exception is to avoid the criminalization of the conduct of those who broadcast race information for the free entertainment of television viewers. It did not permit such race information from broadcasters to be used by race books to determine race winners or payouts (i.e. “maintain and operate” the race book).

And finally, the statement that the interpretation put forth by LVDC (and supported by NDS) would mean that race books could not receive race information unless the race books were themselves licensed as disseminators does not take into account the state’s prohibition against receiving information from outside the state. A race book that receives race information from a Nevada licensed disseminator is not receiving the information from out of state, and therefore, is not in violation of the statute. Similarly, a race book does not need to be licensed as a disseminator because it is receiving the information from within the state (i.e. from a licensed disseminator).

### **Conclusion**

In sum, the Legislature has adopted a policy that all persons and activities associated with disseminating race information should be “controlled, supervised and properly licensed.” Similarly, it requires that (1) those wishing to supply or disseminate with Nevada race information from outside the state must be licensed as a disseminator, and (2) race books must only use race information from licensed disseminators to maintain and operate their books, including determining the results of races. There are only two exceptions – one for licensed affiliates and the other is the Exception. The Exception allows a person to provide, without a license, a free televised broadcast. The Exception does not allow a race book to receive that broadcast for use to “maintain or operate” the race book (including to determine winners or payouts).


We believe the now-prior version of NGC Regulation 22.080(4) aligns with the statutory requirements. It stated:

“[a] licensed race book shall determine the winners of or payouts on wagers on horse and other animal races only with information the book receives from licensed disseminators pursuant to Regulations 20 and 21.”

NGC Reg. 22.080(4) (emphasis added).

LVDC would respectfully request that the Commission repeal the amended version of NGC Regulation 22, or in the alternative, allow the sunset provision to run its course.

Best regards,

A handwritten signature in black ink, appearing to read 'Mark E. Ferrario', is written over a large, loopy flourish that extends to the right and then loops back down to the left.

Mark E. Ferrario  
Shareholder

MEF:TDC

cc: John Gaughan  
Gregory Wright  
Todd J. Roberts

April 21, 2021

**VIA EMAIL (regcomments@gcb.nv.gov)**

Nevada Gaming Commission

Attn: Executive Secretary

**RE: Consideration of proposed amendments to Nevada Gaming Commission Regulation 22.080 related to determination on the outcome of wagers for horse and other animal races**

Churchill Downs Incorporated ("CDI"), as a leader in the horse racing industry and the owner of numerous racetracks, previously expressed concerns to the Nevada Gaming Commission (the "NGC") regarding booking wagers on horseracing in general and the request last year by Nevada race books to benefit themselves with respect to horseracing's premier events, including our events, such as the Kentucky Derby and Kentucky Oaks, by allowing them to merely take racing results information from a television broadcast intended for entertainment purposes and not licensed, sanctioned or authorized for wagering purposes. This approach exploited horseracing's premiere events, and was intended as leverage in contractual negotiations against CDI and others in the racing industry. The result of this action left Nevada customers with limited wagering opportunities, while depriving us and others like us with any returns for our content development and intellectual property.

We understand that the NGC is now considering making a permanent change to Regulation 22.080 similar to last year's change, except now broadening the application to even more horseraces, in a further attack on our business, our industry and others. Once again, this is right before the Kentucky Derby and has to be interpreted as a direct affront to CDI, its intellectual property rights over its horseracing content, and the federal statutes that protect our commercial activities, including, without limitation, the Interstate Horseracing Act and the Sherman Act. Were Regulation 22.080 to be codified as proposed, it would be an unprecedented decision by a government entity to usurp for the benefit of certain of its constituents the intellectual property rights of others, in violation of federal law. Moreover, if Regulation 22.080 were to be amended in its much expanded form, as proposed by the Nevada Pari-Mutuel Association (the "NPMA"), the protected content taken, without license or compensation, for the benefit of Nevada race books would put each of the NPMA's members at substantial risk of claims by all horseracing venues and each and every participant in our industry's races. And, the stated purposes for obtaining content from out-of-state horseracing venues – "to determine the outcome of wagers" - - does not support the broad overreach by the Regulation 22.080. There are many less intrusive ways to determine the outcome of a race or outcome of a wager than the wholesale taking of our protected content for the duration of a "nationally televised broadcast." That broadcast includes far more than just the results. The Nevada race books want the entertainment value AND the money to be generated by it from our broadcasts. They want the content, not just the results. They also want it for free and the NGC is being asked to give it to them, without regard to the legality of such an action.

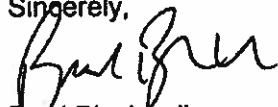


The horseracing industry as a whole relies on wagering to fund the horseracing ecosystem, including the equine participants' welfare (*i.e.*, horses, jockeys, backside workers, and other staff employees), participant and bettor regulations, track operations, and funding purses to name a few. Booked wagers addressed with this proposed amendment by Nevada race books returns absolutely nothing to the horseracing industry, while the race books look to profit unfairly off the efforts and rights of others. Further, we are certain that Nevada customers want to wager into track pools and get access to all wager types at track odds without the limitations the Nevada race books put in place to cap their own exposure at the expense of their own customers. We believe that racetracks and horsemen should be fairly compensated for any wagers on the races that they produce consistent with their rights, including those granted to us and others under the Interstate Horseracing Act, the Copyright Act and the Sherman Act.

We also note that the NGC and the Nevada race books are further engaging in behavior that implicates, if not violates, state and federal law -- namely, engaging in concerted activities, without justification, to boycott our races, to demand reduced fees for accessing our races and the pari-mutuel pools we host, and to take our protected content for a commercial and competitive purpose (without license or compensation). Even putting aside the apparent direct conflict with the federal statutes implicated by the proposed Regulation and behavior of the NGC, the NPMA and the Nevada race books, the fact that NGC and the Nevada race books utilize an association, which has also pressed for a much expanded proposed Regulation, to collectively bargain and ultimately refuse to accept commercially offered terms, is further reason to object to the system of rules and regulations that Nevada has chosen to deploy to discriminate against the out-of-state horseracing market participants. We are not aware of the Nevada casinos using a similar cartel approach when negotiating or buying anything else on behalf of all casinos, and it should not be permitted here. We further believe that each Nevada race book that wants our content and access to our races should pay for it, just like every other racing outlet in the United States is required to do pursuant to federal law. To be clear, CDI does not consent to the use of its content and intellectual property for the purposes expressed in the proposed Regulation and the proposed expansion of that Regulation by the NPMA. We reserve all rights to pursue claims against any unauthorized user of such material, for any purpose, including the Nevada race books, and claims against the NGC, the NPMA or any other entity that facilitates such an unauthorized use.

We ask the NGC to deny the proposed amendments to Regulation 22.080. To do anything else would simply be perceived as nothing other than permitting one group of market participants to take what is not theirs so they can profit from it -- and to support that taking by action that will put those market participants and Nevada's gaming system in direct conflict with rights of others and the laws that are meant to be fair to all market participants. We appreciate your consideration to our concerns.

Sincerely,



Brad Blackwell

Senior Vice President, General Counsel



April 22, 2021

Via Email (regcomments@gcb.nv.gov)

Nevada Gaming Commission  
Attn: Executive Secretary

**DREW FLEMING**  
*President and Chief Executive Officer*

RE: Proposed amendments to Nevada Gaming Commission Regulation 22.080

Breeders' Cup LTD ("BCL"), is a not-for-profit corporation that conducts the Breeders' Cup World Championships (the "BCWC") at racetracks across the country. Its mission is to support the growth of the Thoroughbred industry. It is an international, two-day event that features fourteen races with approximately 170 runners from around the world. We will be celebrating our 37<sup>th</sup> Championship this year in Del Mar. The BCWC is a high-quality racing product that offers the best horses, trainers, jockeys, and large competitive fields that result in outstanding payouts. Purses and awards of approximately \$31,000,000 are traditionally offered annually and the majority of horse players consider the BCWC to be the most popular wagering weekend of the year. The BCWC premium racing product is appreciated by horse racing fans and the hundreds of locations offering our signal to their customers both internationally and domestically.

We understand that the Nevada Gaming Commission ("NGC") is considering Regulation 22.080, by significantly extending the regulation to cover races beyond the Kentucky Derby, Kentucky Oaks and other major races that it included in an earlier ruling.

The horse racing industry's success has always depended upon revenues generated from wagering by the general public. The horse racing industry, directly and indirectly, employs approximately 500,000 people with an overall economic impact estimated to be \$36,600,000,000. In addition to underwriting the entire Thoroughbred industry including the participants, such as horses, jockeys, trainers, backside workers, other related businesses, the wagering is also a source of revenues to 38 states around the company who utilize their share of wagering revenues to help fund a wide range of statewide programs beyond the Thoroughbred industry. This wagering revenue also provides the funding needed to offer competitive purses for graded stake races that occur on horse racing's biggest days throughout the year; without purses, racing would not exist. The ability of the Thoroughbred industry to present compelling races to effectively compete with other sports offerings is critical for its future viability.

It should be noted that the Nevada Pari-Mutuel Association (the "NPMA") will not be using any of its own resources to take advantage of the presentation of the racing product, but will merely be free riding on the extensive, longstanding investment by the Thoroughbred industry, including BCL, in conducting racing across the United States and securing national television coverage. In addition to significantly adversely affecting the financial ecosystem for racing, a willful taking and infringement upon the intellectual property rights is obviously a matter of grave concern to organizations that comprise the Thoroughbred industry, as well as the bettors and fans. This has the prospect of

establishing a course of dealing with other nationally televised events in complete disregard to the significant investment that Churchill Downs, Inc., BCL, and other similarly situated organizations have made to present world class events and in their respective brands. The potential diminishment of the value of their brands, as well as potential significant loss of wagering related revenue, raises serious legal and financial concerns. Including issues relating to the Interstate Horseracing Act, the Sherman Act, and other relevant laws, including those relating to the intellectual property rights of these organizations.

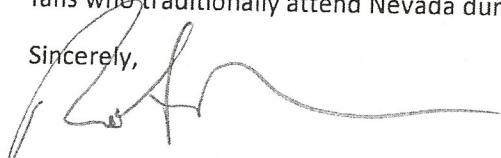
The concept of an unrelated organization and, most disconcerting, a regulatory agency, disregarding the highly valuable investments made over more than a century, to build an unparalleled brand in an effort to avoid paying what every other similarly situated organizations is disturbing. Essentially stealing the production to increase revenues upsets years of a course of dealing, supported by an established legal structure protecting a substantial investment, has the potential to derail the most commonly understood rights of presenters and those who seek to take without compensation.

The NPMA have not paid their fair share for premium race days like the BCWC but have been quick to reap the benefits; their contribution rate is already well below the market. Again, this is unfortunate, since the possibilities for a successful Thoroughbred industry and NPMA partnership are significant.

If the NPMA were now permitted to book wagers, NGC would not be enhancing your customer's experience but instead severely limiting their experience in Las Vegas. For example, your customers would be unable to participate in the large multi-race betting pools that have become extremely popular the past 5 to 10 years. This includes both the Pick 5 and Pick 6 wagering pools that have paid hundreds of thousands and even millions of dollars for a \$2 wager at prior events. In addition, players that typically wager large amounts will be hesitant since their wagers will be capped by the smaller pools offered in Las Vegas. It's no secret that your VIP players see the large common pools as an attractive opportunity. Booking wagers would allow the NPMA to free ride on the racing industries premium content. This will no doubt annoy the most passionate of horse players and it will become troublesome for Las Vegas to retain the avid horse player.

Please accept this letter as the Breeders' Cup's opposition to the booking of wagers by the NPMA without compensation to the presenting entity and is looking forward to the Commission's upcoming discussion. We trust that the Commission will consider our position and do the best for the horse racing fans who traditionally attend Nevada during big racing days.

Sincerely,



Drew Fleming

President & CEO