

1 NGC 08-19

2
3 **STATE OF NEVADA**
4 **BEFORE THE NEVADA GAMING COMMISSION**

5 STATE GAMING CONTROL BOARD,)

6 Complainant,)

7 vs.)

COMPLAINT

8 LAS VEGAS GAMING, INC.,)

9 Respondent.)

10
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 MICHAEL P. SOMPS, Senior Deputy Attorney General, hereby files this
14 Complaint for disciplinary action against Respondent pursuant to Nevada Revised Statute
15 (NRS) 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. Respondent, LAS VEGAS GAMING, INC. (LVGI), located at 4000 West Ali Baba
21 Lane, North D, Las Vegas, Nevada, is the holder of a Manufacturer's license, a Distributor's
22 license and is licensed as an Operator of an Inter-Casino Linked System, all of which are
23 Nevada nonrestricted licenses.

24 **RELEVANT LAW**

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

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

28 (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

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

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

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

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

18 5. The BOARD is authorized to observe the conduct of licensees in order to ensure
19 that the gaming operations are not being conducted in an unsuitable manner. See NRS
20 463.1405(1).

21 6. This continuing obligation is repeated in Nevada Gaming Commission Regulation
22 5.040, which provides as follows:

23 A gaming license is a revocable privilege, and no holder
24 thereof shall be deemed to have acquired any vested rights therein
25 or thereunder. The burden of proving his qualifications to hold any
26 license rests at all times on the licensee. The board is charged by
27 law with the duty of observing the conduct of all licensees to the
28 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.

7. Nevada Gaming Commission Regulation 5.010(2) provides that "[r]esponsibility 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."

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

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

13
14 8. Failure to comply with or make provision for compliance
15 with all federal, state and local laws and regulations pertaining to
16 the operations of a licensed establishment . . .

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

18 9. Nevada Gaming Commission Regulation 5.115 provides in relevant part as follows:

19
20 3. Periodic payments of prizes awarded to a patron as a
21 result of conducting any gaming or promotional activity may be
22 made if the method of funding the periodic payments provides such
23 payments to a patron through the establishment of any one of the
24 following funding methods:

25 (a) An irrevocable surety bond or an irrevocable letter of
26 credit with an independent financial institution which will provide for
27 either the periodic payments or a single cash payment for the
28 remaining periodic payments should the licensee default on paying
the scheduled periodic payments for any reason. The form of the
written agreement establishing an irrevocable surety bond or the
irrevocable letter of credit, and a written commitment to execute
such bond or letter from the financial institution, shall be submitted
to the chairman for approval no less than 45 days prior to the
commencement of the gaming or promotional activity.

(b) An irrevocable trust with an independent financial
institution in accordance with a written trust agreement, the form of
which shall be submitted to the chairman for approval at least 45
days prior to the commencement of any new gaming or promotional
activity, and which provides periodic payments from an unallocated

1 pool of assets to a group of patrons and which shall expressly
2 prohibit the patron from encumbering, assigning or otherwise
3 transferring in any way his right to receive the deferred portion of
4 the prizes except to his estate. The assets of the trust shall consist
5 of approved funding sources in an amount sufficient to meet the
6 periodic payments as required.

7 (c) A reserve maintained at all times by a licensee, together
8 with the continuing satisfaction of and compliance with certain
9 financial ratios and tests, and monitoring and reporting procedures
10 related thereto. The conditions under which a reserve method may
11 be used shall be prescribed by the chairman in a written notice
12 distributed to licensees and all interested persons. Licensees shall
13 notify the chairman in writing at least 45 days prior to the
14 commencement of any new gaming or promotional activity for
15 which periodic payments may be used. Unless otherwise informed
16 within such time period in writing by the chairman and assuming a
17 stop order has not been issued during such period, the use of a
18 reserve method for funding periodic payments shall be deemed
19 approved.

20 (d) Another method of providing the periodic payments to a
21 patron consistent with the purpose of this regulation and which is
22 approved by the commission prior to the commencement of the
23 gaming or promotional activity. Proposed modifications to a
24 periodic payment plan previously approved by the commission shall
25 be submitted to the chairman for review at least 45 days prior to the
26 effective date of the change. The chairman, after whatever
27 investigation or review he deems necessary, may administratively
28 approve the modification or require the licensee to submit the
requested modification to the commission for review and approval.

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15. Any failure of the licensee to maintain full compliance
with each and every provision set forth in this regulation, including
the chairman's requirements established pursuant to Regulation
5.115(3)(c), or any failure of the licensee to immediately notify the
chairman of any noncompliance thereof, shall constitute an
unsuitable method of operation. Such noncompliance may subject
the licensee to disciplinary action.

Nev. Gaming Comm'n Reg. 5.115(3) and (15).

10. Nevada Gaming Commission Regulation 6.150 provides in relevant part as follows:

1. The chairman may adopt or revise a bankroll formula that
specifies the minimum bankroll requirements applicable to
restricted gaming licensees, nonrestricted gaming licensees and
persons licensed as an operator of an inter-casino linked system or

1 as an operator of a slot machine route, along with instructions for
2 computing available bankroll.

3 5. Each restricted gaming licensee, nonrestricted gaming
4 licensee and each person licensed as an operator of an inter-
5 casino linked system or as an operator of a slot machine route shall
6 maintain in accordance with the bankroll formula adopted by the
7 chairman pursuant to the requirements of this section, cash or cash
8 equivalents in an amount sufficient to reasonably protect the
9 licensee's or operator's patrons against defaults in gaming debts
10 owed by the licensee or operator. If at any time the licensee's or
11 operator's available cash or cash equivalents should be less than
12 the amount required by this section, the licensee or operator shall
13 immediately notify the board of this deficiency and shall also detail
14 the means by which the licensee shall comply with the minimum
15 bankroll requirements. Failure to maintain the minimum bankroll
16 required by this section, or a higher bankroll as required by the
17 chairman pursuant to this section, or failure to notify the board as
18 required by this section, is an unsuitable method of operation.

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Nev. Gaming Comm'n Reg. 6.150(1) and (5).

11. Nevada Gaming Commission Regulation 5.030 provides as follows:

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

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

12. NRS 463.310(4)(d)(2) states in relevant part that the Commission may:

(d) Fine each person or entity or both, who was licensed, registered or found suitable pursuant to this chapter or chapter 464 of NRS or who previously obtained approval for any act or transaction for which Commission approval was required or permitted under the provisions of this chapter or chapter 464 of NRS:

1 (2) Except as otherwise provided in subparagraph (1) of
2 this paragraph, not more than \$100,000 for each separate violation
3 of the provisions of this chapter or chapter 464 or 465 of NRS or of
4 the regulations of the Commission which is the subject of an initial
5 complaint and not more than \$250,000 for each separate violation
6 of the provisions of this chapter or chapter 464 or 465 of NRS or of
7 the regulations of the Commission which is the subject of any
8 subsequent complaint.

9 NRS 463.310(4)(d)(2).

10 **FACTUAL BACKGROUND**

11 13. On February 23, 2006, the Nevada Gaming Commission (NGC) adopted a revised
12 bankroll formula, with a compliance date of June 26, 2006, and which is published by the
13 BOARD.

14 14. On June 22, 2006, based on a recommendation from the Board, the NGC issued
15 an Order on the application of LVGI for a modification of a periodic payment plan pursuant to
16 NGC Regulation 5.115(3)(d). The Order allows LVGI to use a periodic payment plan subject
17 to certain conditions or limitations, including the maintenance of sufficient reserves.

18 15. Pursuant to LVGI's June 22, 2006 Order, either LVGI, or another entity licensed or
19 found suitable by the NGC, must maintain sufficient reserves in restricted accounts as
20 calculated pursuant to NGC Regulation 5.115(2)(m). Pursuant to the Order, LVGI satisfies
21 this requirement primarily through a contract with a Nevada gaming licensee, which bankrolls
22 \$2.9 million of LVGI's Nevada Numbers jackpot payout on behalf of LVGI, and LVGI reserves
23 the balance.

24 **COUNT ONE**

25 **VIOLATION OF NEVADA GAMING COMMISSION REGULATIONS 5.115(3) and 5.115(15)**

26 **and LVGI's ORDER**

27 16. Complainant BOARD realleges and incorporates by reference as though set forth
28 in full herein paragraphs 1 through 15 above.

17. LVGI was deficient in its restricted account on March 31, 2008, which constitutes a
violation of NGC Regulations 5.115(3)(d) and 5.115(15) and LVGI's June 22, 2006 Order.

1 18. LVGI's failure to comply with NGC Regulations 5.115(3)(d) and 5.115(15) and its
2 June 22, 2006 Order is an unsuitable method of operation and is grounds for disciplinary
3 action. See NGC Regulations 5.010(2) and 5.030.

4 **COUNT TWO**

5 **VIOLATION OF NEVADA GAMING COMMISSION REGULATION 6.150**

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

8 20. On April 23, 2008 and on June 2, 2008, LVGI's bankroll fell below its minimum
9 bankroll requirement, which constitutes violations of NGC Regulation 6.150.

10 21. LVGI's failure to comply with NGC Regulation 6.150 is an unsuitable method of
11 operation and is grounds for disciplinary action. See NGC Regulations 5.010(2) and 5.030.

12 **COUNT THREE**

13 **VIOLATION OF NEVADA GAMING COMMISSION REGULATION 6.150**

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

16 23. On both occasions, April 23, 2008 and June 2, 2008, when LVGI's bankroll fell
17 below its minimum bankroll requirement, the Board was not notified, immediately or otherwise,
18 by LVGI of LVGI's bankroll deficiencies, which constitutes violations of NGC Regulation 6.150.

19 24. LVGI's failure to comply with NGC Regulation 6.150 is an unsuitable method of
20 operation and is grounds for disciplinary action. See NGC Regulations 5.010(2) and 5.030.

21 WHEREFORE, based upon the allegations contained herein which constitute
22 reasonable cause for disciplinary action against Respondent, pursuant to NRS 463.310, and
23 Nevada Gaming Commission Regulations 5.010, 5.011 and 5.030 the STATE GAMING
24 CONTROL BOARD prays for the relief as follows:

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

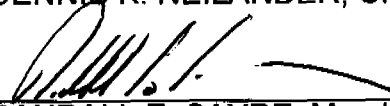

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Office of the Attorney General
Gaming Division
5420 Kietzke Lane, Suite 202
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- 1 2. That the Nevada Gaming Commission fine Respondent a monetary sum pursuant to
2 the parameters defined at NRS 463.310(4) for each separate violation of the provisions of the
3 Nevada Gaming Control Act or the Regulations of the Nevada Gaming Commission;
4 3. That the Nevada Gaming Commission take action against Respondent's license or
5 licenses pursuant to the parameters defined in NRS 463.310(4); and
6 4. For such other and further relief as the Nevada Gaming Commission may deem just
7 and proper.

8 DATED this 13th day of March, 2009.

9 STATE GAMING CONTROL BOARD
10 
11 DENNIS K. NEILANDER, Chairman
12 
13 RANDALL E. SAYRE, Member
14 
15 MARK A. LIPPARELLI, Member

16 Submitted by:
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