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4

STATE OF NEVADA

5

BEFORE THE NEVADA GAMING COMMISSION

6

NEVADA GAMING CONTROL BOARD, )

7

Complainant, )

8

vs. )

COMPLAINT

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PERPETUAL GAMING, LLC; PERPETUAL )  
PARTNERS, LLC; and JOHN-MARTIN )  
MEYER, )

10

MEYER, )

11

Respondents. )

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

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The State of Nevada, on relation of its NEVADA GAMING CONTROL BOARD (hereinafter "BOARD"), Complainant herein, by and through its counsel, ADAM PAUL LAXALT, Attorney General, by EDWARD L. MAGAW, Deputy Attorney General, hereby files this Complaint for disciplinary action against PERPETUAL GAMING, LLC (hereinafter "PERPETUAL GAMING"), PERPETUAL PARTNERS, LLC (hereinafter "PERPETUAL PARTNERS"), and JOHN-MARTIN MEYER (hereinafter "MEYER"), collectively Respondents herein, pursuant to Nevada Revised Statute (NRS) 463.310(2) and alleges as follows:

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JURISDICTION

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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 the NRS and is charged with the administration and enforcement of the gaming laws of this state as set forth in Title 41 of the NRS (hereinafter "Nevada Gaming Control Act") and the Regulations of the Nevada Gaming Commission ("NGC" or "Commission").

26

2. Respondent PERPETUAL GAMING, doing business at 2273 Coral Ridge Avenue, Henderson, Nevada 89052, and at various other locations in Clark County, Nevada, is a licensed manufacturer, distributor, and slot route operator in the State of Nevada, and, as

1 such, is charged with the responsibility of complying with all of the provisions of the Nevada  
2 Gaming Control Act and the Regulations of the NGC.

3 3. Respondent PERPETUAL PARTNERS is registered with the Commission as a  
4 holding company and has been licensed by the Commission as the sole member of  
5 Respondent PERPETUAL GAMING, and, as such, is charged with the responsibility of  
6 complying with all of the provisions of the Nevada Gaming Control Act and the NGC  
7 Regulations.

8 4. Respondent MEYER has been found suitable by the Commission as the sole  
9 member and manager of Respondent PERPETUAL PARTNERS, and, as such, is charged  
10 with the responsibility of complying with all of the provisions of the Nevada Gaming Control  
11 Act and the NGC Regulations.

12 **RELEVANT LAW**

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

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

16 (b) The continued growth and success of gaming is dependent  
17 upon public confidence and trust that licensed gaming and the  
18 manufacture, sale and distribution of gaming devices and  
19 associated equipment are conducted honestly and competitively,  
20 that establishments which hold restricted and nonrestricted  
21 licenses where gaming is conducted and where gambling devices  
22 are operated do not unduly impact the quality of life enjoyed by  
23 residents of the surrounding neighborhoods, that the rights of the  
24 creditors of licensees are protected and that gaming is free from  
25 criminal and corruptive elements.

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

(d) All establishments where gaming is conducted and where  
gaming devices are operated, and manufacturers, sellers and  
distributors of certain gaming devices and equipment, and  
operators of inter-casino linked systems must therefore be  
licensed, controlled and assisted to protect the public health,  
safety, morals, good order and general welfare of the inhabitants of  
the State, to foster the stability and success of gaming and to  
preserve the competitive economy and policies of free competition  
of the State of Nevada.

NRS 463.0129(1)(a)(b)(c)(d).

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

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

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

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

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

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

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 of  
26                   any licensee, his agents or employees, that is inimical to the public  
27                   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.

1 . . . .

2 8. Failure to comply with or make provision for compliance with  
3 all federal, state and local laws and regulations and with all  
4 commission approved conditions and limitations pertaining to the  
5 operations of a licensed establishment including, without limiting  
6 the generality of the foregoing, payment of all license fees,  
7 withholding any payroll taxes, liquor and entertainment taxes and  
8 antitrust and monopoly statutes.

9 The Nevada gaming commission in the exercise of its sound  
10 discretion can make its own determination of whether or not the  
11 licensee has failed to comply with the aforementioned, but any  
12 such determination shall make use of the established precedents  
13 in interpreting the language of the applicable statutes. Nothing in  
14 this section shall be deemed to affect any right to judicial review.

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

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

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

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

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

1. The Board shall make appropriate investigations:  
(a) To determine whether there has been any violation of this  
chapter or chapter 462, 464, 465 or 466 of NRS or any regulations  
adopted thereunder.  
(b) To determine any facts, conditions, practices or matters  
which it may deem necessary or proper to aid in the enforcement  
of any such law or regulation.

2. If, after any investigation the Board is satisfied that:  
(a) A license, registration, finding of suitability, preliminary  
finding of suitability, pari-mutuel license or prior approval by the  
Commission of any transaction for which the approval was  
required or permitted under the provisions of this chapter or  
chapter 462, 464 or 466 of NRS should be limited, conditioned,  
suspended or revoked; or

1 (b) A person or entity which is licensed, registered, found  
2 suitable or found preliminarily suitable pursuant to this chapter or  
3 chapter 464 of NRS or which previously obtained approval for any  
4 act or transaction for which Commission approval was required or  
5 permitted under the provisions of this chapter or chapter 464 of  
6 NRS should be fined,

7 - the Board shall initiate a hearing before the Commission by  
8 filing a complaint with the Commission in accordance with  
9 NRS 463.312 and transmit therewith a summary of evidence in its  
10 possession bearing on the matter and the transcript of testimony at  
11 any investigative hearing conducted by or on behalf of the Board.

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

13 13. Nevada Revised Statute 463.170 states in relevant part the following:

14 **NRS 463.170 Qualifications for license, finding of**  
15 **suitability or approval; regulations.**

16 1. Any person who the Commission determines is qualified to  
17 receive a license, to be found suitable or to receive any approval  
18 required under the provisions of this chapter, or to be found  
19 suitable regarding the operation of a charitable lottery under the  
20 provisions of chapter 462 of NRS, having due consideration for the  
21 proper protection of the health, safety, morals, good order and  
22 general welfare of the inhabitants of the State of Nevada and the  
23 declared policy of this State, may be issued a state gaming  
24 license, be found suitable or receive any approval required by this  
25 chapter, as appropriate. The burden of proving an applicant's  
26 qualification to receive any license, be found suitable or receive  
27 any approval required by this chapter is on the applicant.

28 2. An application to receive a license or be found suitable must  
not be granted unless the Commission is satisfied that the  
applicant is:

(a) A person of good character, honesty and integrity;

(b) A person whose prior activities, criminal record, if any,  
reputation, habits and associations do not pose a threat to the  
public interest of this State or to the effective regulation and control  
of gaming or charitable lotteries, or create or enhance the dangers  
of unsuitable, unfair or illegal practices, methods and activities in  
the conduct of gaming or charitable lotteries or in the carrying on of  
the business and financial arrangements incidental thereto; and

(c) In all other respects qualified to be licensed or found  
suitable consistently with the declared policy of the State.

....

4. An application to receive a license or be found suitable  
constitutes a request for a determination of the applicant's general  
character, integrity, and ability to participate or engage in, or be  
associated with gaming or the operation of a charitable lottery, as  
appropriate. Any written or oral statement made in the course of an  
official proceeding of the Board or Commission by any member  
thereof or any witness testifying under oath which is relevant to the  
purpose of the proceeding is absolutely privileged and does not

....

1 impose liability for defamation or constitute a ground for recovery  
2 in any civil action.

3 . . . .

4 8. Any person granted a license or found suitable by the  
5 Commission shall continue to meet the applicable standards and  
6 qualifications set forth in this section and any other qualifications  
7 established by the Commission by regulation. The failure to  
8 continue to meet such standards and qualifications constitutes  
9 grounds for disciplinary action.

10 NRS 463.170(1), (2), (4) and (8).

11 14. A "manufacturer" is defined under NRS 463.0172 as "a person who operates,  
12 carries on, conducts or maintains any form of manufacture." See NRS 463.0172 (emphasis  
13 added).

14 15. The term "manufacture" is defined under NRS 463.01715 as follows:

15 1. "Manufacture" means:

16 (a) **To manufacture, produce, program, design, control the  
17 design of or make modifications to a gaming device, cashless  
18 wagering system, mobile gaming system or interactive gaming  
19 system for use or play in Nevada;**

20 (b) To direct, control or assume responsibility for the methods  
21 and processes used to design, develop, program, assemble,  
22 produce, fabricate, compose and combine the components and  
23 other tangible objects of any gaming device, cashless wagering  
24 system, mobile gaming system or interactive gaming system for  
25 use or play in Nevada; or

26 (c) **To assemble, or control the assembly of, a gaming  
27 device, cashless wagering system, mobile gaming system or  
28 interactive gaming system for use or play in Nevada.**

29 2. As used in this section:

30 (a) "Assume responsibility" means to:

31 (1) Acquire complete control over, or ownership of, the  
32 applicable gaming device, cashless wagering system, mobile  
33 gaming system or interactive gaming system; and

34 (2) Accept continuing legal responsibility for the gaming  
35 device, cashless wagering system, mobile gaming system or  
36 interactive gaming system, including, without limitation, any form of  
37 manufacture performed by an affiliate or independent contractor.

38 (b) "**Independent contractor**" means, with respect to a  
39 manufacturer, any person who:

40 (1) **Is not an employee of the manufacturer; and**

41 (2) Pursuant to an agreement with the manufacturer,  
42 **designs, develops, programs, produces or composes a**  
43 **control program** used in the manufacture of a gaming device. As  
44 used in this subparagraph, "control program" has the meaning  
45 ascribed to it in NRS 463.0155.

46 NRS 463.01715 (emphasis added).

1 16. A distributor is defined under NGC Regulation 14.010(6) as "a person who  
2 operates, carries on, conducts or maintains **any** form of distribution."  
3 Nev. Gaming Comm'n Reg. 14.010(6) (emphasis added).

4 17. The terms "distribution" and "distribute" are defined under  
5 NGC Regulation 14.010(5) as "the sale, offering for sale, lease, offering for lease, licensing or  
6 other offer of any gaming device . . . for use or play in Nevada or from a location within  
7 Nevada." Nev. Gaming Reg. 14.010(5).

8 18. The term "license", as defined under NRS 463.0165, includes, among other  
9 licenses, "a manufacturer's or distributor's license . . . ." See NRS 463.0165.

10 19. A "manufacturer's, seller's or distributor's license" is defined under NRS 463.0173  
11 as "a license issued pursuant to NRS 463.650 and 463.660." See NRS 463.0173.

12 20. The requirements for licensure of manufacturers and distributors are found under  
13 NRS 463.650, which reads in relevant part as follows:

14 1. Except as otherwise provided in subsections 2 to 5,  
15 inclusive, **it is unlawful for any person, either as owner, lessee or  
16 employee, whether for hire or not, to operate, carry on, conduct  
17 or maintain any form of manufacture, selling or distribution of  
18 any gaming device, cashless wagering system, mobile gaming  
19 system or interactive gaming system for use or play in Nevada  
20 without first procuring and maintaining all required federal,  
21 state, county and municipal licenses.**

22 . . . .

23 6. Any person who the Commission determines is a suitable  
24 person to receive a license under the provisions of this section and  
25 NRS 463.660 may be issued a manufacturer's or distributor's  
26 license. The burden of proving his or her qualification to receive or  
27 hold a license under this section and NRS 463.660 is at all times  
28 on the applicant or licensee.

7. Every person who must be licensed pursuant to this section  
is subject to the provisions of NRS 463.482 to 463.645, inclusive,  
unless exempted from those provisions by the Commission.

8. The Commission may exempt, for any purpose, a  
manufacturer, seller or distributor from the provisions of  
NRS 463.482 to 463.645, inclusive, if the Commission determines  
that the exemption is consistent with the purposes of this chapter.

9. Any person conducting business in Nevada who is not  
required to be licensed as a manufacturer, seller or distributor  
pursuant to subsection 1, but who otherwise must register with the  
Attorney General of the United States pursuant to Title 15 of  
U.S.C., must submit to the Board a copy of such registration within

10 days after submission to the Attorney General of the United States.

NRS 463.650 (emphasis added).

21. The term "gaming device" is defined under NRS 463.0155 in relevant part as follows:

"Gaming device" means any object used remotely or directly in connection with gaming or any game which affects the result of a wager by determining win or loss and which does not otherwise constitute associated equipment. The term includes, without limitation:

1. A slot machine.
2. A collection of two or more of the following components:
  - (a) An assembled electronic circuit which cannot be reasonably demonstrated to have any use other than in a slot machine;
  - (b) A cabinet with electrical wiring and provisions for mounting a coin, token or currency acceptor and provisions for mounting a dispenser of coins, tokens or anything of value;
  - (c) An assembled mechanical or electromechanical display unit intended for use in gambling; or
  - (d) An assembled mechanical or electromechanical unit which cannot be demonstrated to have any use other than in a slot machine.

.....

5. A control program.
6. Any combination of one of the components set forth in paragraphs (a) to (d), inclusive, of subsection 2 and any other component which the Commission determines by regulation to be a machine used directly or remotely in connection with gaming or any game which affects the results of a wager by determining a win or loss.
7. Any object that has been determined to be a gaming device pursuant to regulations adopted by the Commission.
  - As used in this section, "control program" means any software, source language or executable code which affects the result of a wager by determining win or loss as determined pursuant to regulations adopted by the Commission.

NRS 463.0155.

22. Nevada Gaming Commission Regulation 14.170 requires, among other things, the following in relation to the distribution of gaming devices:

1. Except as otherwise provided in subsection 2, a manufacturer or distributor shall not distribute a gaming device unless the gaming device has:

- (a) A permanent serial number which must be affixed as required by the provisions of the Gaming Device Act of 1962, 15 U.S.C. 1173; and



(b) For devices distributed in this state:

(1) A permanent serial number which must be the same number as given the device pursuant to the provisions of the Gaming Device Act of 1962, 15 U.S.C. 1173, permanently stamped or engraved in lettering no smaller than 5 millimeters on the metal frame or other permanent component of the device and on a removable metal plate attached to the cabinet of the device; and

(2) The board approval number or, if the device has been modified since initial approval of the device, the modification approval number affixed on all program storage media placed in the device.

....

Nev. Gaming Comm'n Reg. 14.170(1).

23. Pursuant to NGC Regulation 14.180, a "category I" manufacturer or distributor must comply with the following requirements:

1. Subject to the exemption set forth in subsection 4, category I manufacturers and distributors shall not distribute gaming devices out of this state without applying for and receiving the prior written approval of the chairman. Applications for such approval to distribute gaming devices out of this state must be made, processed, and determined in such manner and using such forms as the chairman may prescribe. Each application must include, in addition to such other items or information as the chairman may require:

(a) The full name, state of residence, address, telephone number, social security number, and driver's license number of both the purchaser and the person to whom the shipment is being made, if neither is currently licensed by the commission. If the purchaser or person to whom the shipment is being made does not have a social security number or driver's license number, the birth date of the purchaser or person to whom the shipment is being made may be substituted;

(b) The name and permanent address of the purchaser or person to whom the shipment is being made if either is currently licensed by the commission;

(c) The destination, including the port of exit if the destination is outside the continental United States;

(d) The number of devices to be shipped;

(e) The serial number of each device;

(f) The model number of each device and year each device was manufactured, if known;

(g) The denomination of each device;

(h) The expected date and time of shipment; and

(i) The method of shipment and name and address of carrier.

....

4. Category I manufacturers and distributors are exempt from the requirements of subsection 1 of this regulation for shipments of gaming devices provided:

(a) The gaming devices are only distributed to:

(1) Persons licensed to expose such devices for play or for further distribution, in the jurisdiction of destination or by a tribal gaming authority in the jurisdiction of destination;

(2) A federal, state or tribal gaming regulatory authority or law enforcement agency; or

(3) A testing laboratory authorized by an entity identified within subparagraph (2) of this paragraph.

(b) The category I manufacturer and distributor files the information required by subsection 1 on or before the 15th of the month following the month of distribution.

↪ The chairman may publish a list of jurisdictions or licensees to which this exemption does not apply and where category I manufacturers and distributors may not ship gaming devices without prior approval as required by subsection 1 of this regulation.

5. Category I manufacturers and distributors shall obtain and thereafter maintain, a statement by the purchaser under penalty of perjury that each device will be used only for lawful purposes, unless the purchaser is currently licensed by the commission or comparable agency of another state or tribal gaming agency or the destination is outside the United States.

6. Manufacturers and distributors shall, on or before the 15th day of January of each calendar year, give the board a copy of the documentation evidencing registration with the United States Attorney General pursuant to the provisions of the Gaming Devices Act of 1962, 15 U.S.C. 1173, for the ensuing year.

....

8. If the chairman does not deny an application filed by a category I manufacturer or distributor for approval to distribute gaming devices out of this state pursuant to subsection 1 within 5 working days of receipt of a complete application, the application will be deemed to be approved.

9. A category I manufacturer or distributor shall keep a record of all shipments made out of state of parts specifically designed for use in a gaming device. The record must include the information set forth in subsection 1, if applicable. A manufacturer or distributor shall not ship parts specifically designed for use in a gaming device to a destination where possession of a gaming device is unlawful.

10. The chairman may, in his discretion, waive one or more of the requirements of this section upon good cause shown.

11. As used in this section:

(a) "Category I manufacturer or distributor" means any manufacturer or distributor licensed by the Commission that does not qualify as a category II manufacturer or distributor.

(b) "Category II manufacturer or distributor" means any manufacturer or distributor that:

(1) Is and has been licensed in good standing by the Commission for the preceding five years;

(2) Is and has been licensed, registered, approved or qualified in at least ten other domestic United States or tribal jurisdictions for the preceding three years

1 (3) Maintains pursuant to or consistent with the  
requirements of Regulation 5.045 a compliance review and  
reporting system;

2 (4) Has annual gross sales exceeding \$5 Million Dollars for  
such licensee's preceding fiscal year;

3 (5) Maintains an office or other facility in the state of Nevada  
at which the records required by this Regulation are stored and  
may be inspected and copied by the board.

4 (6) Did not during the preceding year exclusively distribute  
used gaming devices. As used in this subparagraph, "used gaming  
5 devices" means gaming devices previously used or played in a  
6 gaming operation in Nevada, including such devices that have  
7 been in any way modified or refurbished since original  
manufacture.

8 (c) "Current customer" means a person to whom the applicable  
9 manufacturer or distributor has shipped or delivered a gaming  
device within the preceding six months pursuant to a contract,  
10 agreement or other arrangement with such manufacturer or  
distributor, or its affiliate, for the purchase, lease, license or other  
right to use such gaming device.

11 Nev. Gaming Comm'n Reg. 14.180(1), (4)-(6), and (8)-(11).

12 24. An "operator of a slot machine route" is defined under NRS 463.018 as "a person  
13 who, under any agreement whereby consideration is paid or payable for the right to place slot  
14 machines, engages in the business of placing and operating slot machines on the business  
15 premises of others at three or more locations." See NRS 463.018.

16 25. A license to operate a slot machine route is a nonrestricted license and the  
17 operation of a slot machine route is a nonrestricted operation. See NRS 463.0177(3).

18 26. The term "operation" is defined under NRS 463.0179 as "the conduct of gaming."  
19 See NRS 463.0179.

20 27. The terms "gaming" and "gambling" are defined under NRS 463.0153 as "to deal,  
21 operate, carry on, conduct, maintain or expose for play any game as defined by NRS  
22 463.0152 . . . ." See NRS 463.0153.

23 28. The definition of the term "game" found at NRS 463.0152 includes, among other  
24 things, a slot machine. See NRS 463.0152.

25 29. Nevada Revised Statute 463.0191 defines the term "slot machine" as follows:

26 "Slot machine" means any mechanical, electrical or other device,  
27 contrivance or machine which, upon insertion of a coin, token or  
similar object, or upon payment of any consideration, is available  
28 to play or operate, the play or operation of which, whether by  
reason of the skill of the operator in playing a gambling game

1 which is presented for play by the machine or application of the  
2 element of chance, or both, may deliver or entitle the person  
3 playing or operating the machine to receive cash, premiums,  
4 merchandise, tokens or anything of value, whether the payoff is  
5 made automatically from the machine or in any other manner.

6 NRS 463.0191.

7 30. The licensing requirements that apply to an operator of a slot route, and the  
8 sharing of revenue generated from the operation of a slot route, are found under  
9 NRS 463.160(1), which reads in relevant part as follows:

10 1. Except as otherwise provided in subsection 4 and  
11 NRS 463.172, it is unlawful for any person, either as owner, lessee  
12 or employee, whether for hire or not, either solely or in conjunction  
13 with others:

14 (a) To deal, operate, carry on, conduct, maintain or expose for  
15 play in the State of Nevada any gambling game, gaming device,  
16 inter-casino linked system, mobile gaming system, slot machine,  
17 race book or sports pool;

18 . . . .

19 (d) To receive, directly or indirectly, any compensation or  
20 reward or any percentage or share of the money or property  
21 played, for keeping, running or carrying on any gambling game,  
22 slot machine, gaming device, mobile gaming system, race book or  
23 sports pool;

24 . . . .

25 ↪ without having first procured, and thereafter maintaining in  
26 effect, all federal, state, county and municipal gaming licenses as  
27 required by statute, regulation or ordinance or by the governing  
28 board of any unincorporated town.

29 NRS 463.160(1).

30 31. Pursuant to NRS 463.220(2), no state gaming license may be assigned either in  
31 whole or in part. See NRS 463.220(2).

32 32. Nevada Revised Statute 463.680, provides the following definitions relating to  
33 foreign gaming:

34 1. "Foreign gaming" means the conduct of gaming outside this  
35 state.

36 2. "Licensee" means a person who:

37 (a) Is licensed or required to be licensed pursuant to NRS  
38 463.160, 463.162, 463.167 or 463.650;

(b) Is or is required to be licensed, registered or found suitable  
pursuant to NRS 463.482 to 463.645, inclusive; or

(c) Directly or through one or more intermediaries controls, is controlled by or is under common control with a person described in paragraph (a) or (b).

NRS 463.680 (emphasis added).

33. Pursuant to NRS 463.700, in order for a licensee to participate in foreign gaming, it must comply with the following requirements:

1. A licensee who proposes to participate in foreign gaming shall, no later than 30 days after the licensee executes a definitive agreement pertaining to the proposed participation in foreign gaming or files an application for licensing or related approval pertaining to the proposed participation, whichever is earlier, deposit with the Board and thereafter maintain a refundable revolving fund in the amount of \$10,000 to pay the expenses of investigation by the Board of the licensee's participation in foreign gaming. The Commission may in a particular case increase or decrease the required amount of the revolving fund, but the Board or Commission shall not require a licensee to establish more than one such revolving fund. Upon the licensee's termination of all proposed and actual participation in foreign gaming, the Board shall refund the remaining balance in the licensee's revolving fund.

2. Before participating in foreign gaming, a licensee shall provide to the Board such information pertaining to the licensee's proposed participation as the Board may request.

NRS 463.700.

34. Pursuant to NRS 463.710, licensees that participate in foreign gaming must comply with the following reporting requirements:

Unless otherwise ordered by the Board or Commission, a licensee who participates in foreign gaming shall file with the Board:

1. As soon as participation in foreign gaming begins:

(a) All documents filed by the licensee or by an affiliate with the foreign jurisdiction; and

(b) The systems of accounting and internal control utilized in the foreign gaming operation and any amendments to the systems as soon as made.

2. Annual operational and regulatory reports describing compliance with regulations, procedures for audit, and procedures for surveillance relating to the foreign gaming operation.

3. Quarterly reports regarding any of the following information which is within the knowledge of the licensee:

(a) Any changes in ownership or control of any interest in the foreign gaming operation;

(b) Any changes in officers, directors or key employees of the foreign gaming operation;

(c) All complaints, disputes, orders to show cause and disciplinary actions, related to gaming, instituted or presided over

1 by an entity of the United States, a state or any other governmental  
jurisdiction concerning the foreign gaming operation;

2 (d) Any arrest of an employee of the foreign gaming operation  
involving cheating or theft, related to gaming, in the foreign  
jurisdiction; and

3 (e) Any arrest or conviction of an officer, director, key employee  
or owner of equity in the foreign gaming operation for an offense  
that would constitute a gross misdemeanor or felony in this state.

4 4. Such other information as the Commission requires by  
5 regulation.

6 NRS 463.700.

7 35. In regards to employees of gaming licensees, NRS 463.335 states:

8 1. The Legislature finds that, to protect and promote the  
9 health, safety, morals, good order and general welfare of the  
inhabitants of the State of Nevada and to carry out the policy  
declared in NRS 463.0129, it is necessary that the Board:

10 (a) Ascertain and keep itself informed of the identity, prior  
11 activities and present location of all gaming employees in the State  
of Nevada; and

12 (b) Maintain confidential records of such information.

13 2. **A person may not be employed as a gaming employee**  
14 **unless the person is temporarily registered or registered as a**  
15 **gaming employee pursuant to this section.** An applicant for  
16 registration or renewal of registration as a gaming employee must  
17 file an application for registration or renewal of registration with the  
Board. Whenever a registered gaming employee, whose  
18 registration has not expired, has not been objected to by the  
Board, or has not been suspended or revoked becomes employed  
19 as a gaming employee at another or additional gaming  
establishment, the registered gaming employee must file a change  
of employment notice within 10 calendar days with the Board. The  
application for registration and change of employment notice must  
be filed through the licensee for whom the applicant will commence  
or continue working as a gaming employee, unless otherwise filed  
with the Board as prescribed by regulation of the Commission.

20 NRS 463.335 (emphasis added).

21 36. Nevada Gaming Commission Regulation 5.101 states:

22 No person shall be employed as a gaming employee unless such  
23 person is temporarily registered or registered as a gaming  
employee in accordance with NRS 463.335 and these regulations.

24 Nev. Gaming Comm'n Reg. 5.101.

25 37. Nevada Gaming Commission Regulation 5.105(11) requires the following:

26 On or before the fifteenth (15<sup>th</sup>) day of each month, each licensee  
shall submit a written report to the board containing the name,

27 . . . .

28 . . . .

1 social security number, position held, and date of hire of each  
2 gaming employee hired during the previous month.

3 Nev. Gaming Comm'n Reg. 5.105(11).

4 38. Nevada Revised Statute 463.0157 defines "gaming employee" in relevant part as  
5 follows:

6 1. "Gaming employee" means any person connected  
7 directly with an operator of a slot route, the operator of a pari-  
8 mutuel system, the operator of an inter-casino linked system or a  
9 manufacturer, distributor or disseminator, or with the operation  
10 of a gaming establishment licensed to conduct any game, 16 or  
11 more slot machines, a race book, sports pool or pari-mutuel  
wagering, including:

(a) Accounting or internal auditing personnel who are directly  
involved in any recordkeeping or the examination of records  
associated with revenue from gaming;

12 . . . .

(i) Employees whose duties are directly involved with the  
manufacture, repair, sale or distribution of gaming devices,  
cashless wagering systems, mobile gaming systems, equipment  
associated with mobile gaming systems, interactive gaming  
systems or equipment associated with interactive gaming;

16 . . . .

(aa) Temporary or contract employees hired by a licensee to  
perform a function related to gaming.

18 NRS 463.0157(1)(a), (i) and (aa) (emphasis added).

19 39. Pursuant to NRS 463.01858, a person who is "registered as a gaming employee"  
20 means that the person is "authorized to be employed as a gaming employee in this State."  
21 See NRS 463.01858.

22 40. Nevada Gaming Commission Regulation 3.100(2)-(6) requires the following:

23 2. All nonrestricted licensees, including each manufacturer,  
24 distributor, service provider, operator of a slot machine route,  
25 of a mobile gaming system, of interactive gaming, or of an inter-  
26 casino linked system, and each pari-mutuel systems operator shall  
27 submit an employee report to the board two times yearly within 30  
28 days after March 31st and within 30 days after September 30th.  
The report shall identify every person who is, as of March 31st or  
September 30th, whichever is most recent, a qualifying employee.  
The report shall also identify, as of March 31st or September 30th,  
whichever is most recent, the following persons who are not  
otherwise qualifying employees:

1 (a) Any person who directly supervises a qualifying employee.  
2 (b) Any person who entered into a contractual arrangement,  
which is reportable pursuant to Regulation 8.130, on behalf of and  
binding upon the licensee.

3 (f) For licensees other than a group I or group II nonrestricted  
licensee:

4 (1) Any person whose compensation exceeds \$200,000, per  
annum, or the five highest compensated persons, whichever  
method results in the greater number of persons;

5 (g) Any person or job position who, upon written notification by  
6 the board chairman or his designee, is considered to be a  
reportable position or person for purposes of this regulation.  
7 Subsequent to notification, the specific person or job position must  
appear on all subsequent employee reports, unless notified  
8 otherwise by the board chairman or his designee or terminated by  
the licensee.

9 3. The employee report shall include the person's name, job  
position title, the last four digits of the person's social security  
number and a complete list of those categories described herein  
10 which apply to each person.

11 4. The employee report shall be confidential and may not be  
disclosed except upon order of the commission or pursuant to the  
terms of NRS 463.120.

12 5. A licensee holding multiple licenses may submit a single  
comprehensive employee report on the condition that such  
employee report identifies and designates for which license a  
13 person is included in the employee report.

14 6. Upon written request and good cause shown by a licensee,  
the board chairman or his designee may waive one or more of the  
15 requirements of this section. If a waiver is granted, the board  
chairman or his designee may impose alternative employee report  
16 requirements.

17 Nev. Gaming Comm'n Reg. 3.100(2)-(6) (emphasis added).

18 41. For purposes of the report required under NGC Regulation 3.100(2), a "qualified  
19 employee" of a manufacturer, distributor, or operator of a slot route is defined under  
20 NGC Regulation 3.100(1)(d) is defined as follows:

21 (d) "Qualifying employee" of a **manufacturer, distributor, [or]**  
22 **slot route operator** . . . means any person whose responsibility is  
to directly oversee the entirety of the following types of  
23 departments or functions of the licensee's operations:

- 24 (1) Accounting.
- (2) Distribution operations.
- 25 (3) Finance.
- (4) Gaming regulatory compliance.
- 26 (5) Gaming related network operations.
- (6) Human resources.
- 27 (7) Interactive gaming.
- (8) Inter-casino linked system operations.
- 28 (9) Internal Audit.
- (10) Internal information technology.
- (11) Manufacture operations.



- (12) Marketing.
- (13) Mobile gaming system operations.
- (14) Pari-mutuel systems operations.
- (15) Sales.
- (16) Security.
- (17) Slot route operations.
- (18) Surveillance.
- (19) Technology and product development.

Nev. Gaming Comm'n Reg. 3.100(1)(d) (emphasis added).

42. Pursuant to NRS 463.300:

It is unlawful for any person to sell, purchase, lease, hypothecate, borrow or loan money, or create a voting trust agreement or any other agreement of any sort to or with any licensee in connection with any gaming operation licensed under this chapter or with respect to any portion of such gaming operation, except in accordance with the regulations of the Commission.

NRS 463.300 (emphasis added).

43. Nevada Gaming Commission Regulation 8.010 states, in relevant part, the following:

1. No person shall sell, purchase, assign, lease, grant or foreclose a security interest, hypothecate or otherwise transfer, convey or acquire in any manner whatsoever any interest of any sort whatever in or to any licensed gaming operation or any portions thereof, or enter into or create a voting trust agreement or any other agreement of any sort in connection with any licensed gaming operation or any portion thereof, except in accordance with law and these regulations.

2. No licensee shall permit any person to make any investment whatever in, or in any manner whatever participate in the profits of, any licensed gaming operations, or any portion thereof, except in accordance with law and these regulations.

3. No person shall transfer or convey in any manner whatsoever any interest of any sort whatever in or to any licensed gaming operation, or any portion thereof, to, or permit any investment therein or participation in the profits thereof by, any person acting as agent, trustee or in any other representative capacity whatever for or on behalf of another person without first having fully disclosed all facts pertaining to such representation to the board. No person acting in any such representative capacity shall hold or acquire any such interest or so invest or participate without first having fully disclosed all facts pertaining to such representation to the board and obtained written permission of the board to so act.

Nev. Gaming Comm'n Reg. 8.010(1)-(3).

....

1 44. Pursuant to NGC Regulation 8.130, a licensed manufacturer, distributor, or  
2 operator of a slot machine route must comply with the following:

3 **8.130 Transaction reports.** As used in this section, "licensee"  
4 means any person to whom a valid nonrestricted gaming license,  
5 including a license as an operator of a slot machine route,  
6 mobile gaming system, or an inter-casino linked system,  
7 manufacturer's, distributor's, or disseminator's license, a  
8 license to engage in off-track pari-mutuel wagering, pari-mutuel  
9 systems operator license, pari-mutuel wagering license, operator  
10 of interactive gaming license, or a service provider license has  
11 been issued. The term does not include a person licensed solely  
12 as a holder of a security or other ownership interest in, as an  
13 officer, director or key employee of, or due to any other relationship  
14 with, a licensed operation.

15 1. Any licensee that receives, accepts, or makes use of  
16 any cash, property, credit, guaranty, benefit or any form of  
17 security loaned to, leased to, or provided for or on behalf of  
18 the licensee or an officer, director, agent, employee or  
19 stockholder of the licensee, in a transaction required to be  
20 reported under subsections 2 through 6, must report the  
21 transaction to the board in the manner required by  
22 subsections 7 and 8 within 30 days after the end of the  
23 calendar quarter in which the transaction is consummated. A  
24 transaction is considered consummated the earlier of the contract  
25 date or the date the cash, property, credit, guaranty, benefit or  
26 security is received.

27 2. Except as provided in subsections 3 and 5, each of the  
28 following transactions must be reported to the board, if the dollar  
amount of the transaction or the fair market value of the assets  
involved exceeds \$300,000 or the average monthly payment  
exceeds \$30,000:

(a) Leases, including leaseback transactions and capital  
leases.

(b) Deposits received by the licensee pursuant to an  
arrangement for use of space at the licensee's establishment.

(c) Installment purchase contracts.

(d) Property donated to the licensee.

3. Except as provided in subsection 5, each of the following  
transactions must be reported to the board, if the dollar amount of  
the transaction exceeds \$30,000:

(a) Loans, mortgages and trust deeds.

(b) Capital contributions and loans by a person who is a  
stockholder, partner or proprietor of the licensee.

(c) Safekeeping deposits which:

(1) Are made by an individual beneficially owning, directly or  
indirectly, a 10 percent or greater interest in the licensee;

(2) Are commingled with the licensee's funds;

(3) Are left for more than 10 days; and

(4) At any time during that period, aggregate to an amount  
greater than 25 percent of cash in the cage.

(d) Lines of credit.

1 (e) Accounts payable and accrued expenses due to unaffiliated  
persons where the payment terms or actual length of payments  
exceed 12 months.

2 (f) Conversions of accounts payable, accrued expenses or  
other liabilities to notes payable.

3 (g) Debts forgiven by a lender.

4 (h) Guaranties received by the licensee.

5 (i) Accruals of salary due to an individual directly or indirectly  
owning an interest in the licensee where the accrual period  
exceeds 90 days.

6 4. Those transactions in subsections 2 and 3 which occur no  
more than 7 days apart from a single source shall be considered a  
single transaction if they exceed the dollar amounts specified in  
those subsections.

8 . . . .

9 6. All renewals, changes or modifications to the terms or  
conditions of transactions previously reported under this section  
must be reported.

10 7. The report to the board required by this section must include  
the names and addresses of all parties to the transaction, the  
amount and source of the funds, property or credit received or  
applied, the nature and amount of security provided by or on behalf  
of the licensee, the purpose of the transaction, and any additional  
information the board may require. For transactions reported  
pursuant to requirements of subsection 4, the report must also  
identify the dates of each loan or contribution. The report must be  
made on a form provided or approved by the board, accompanied  
by a fully executed copy of the financing agreement, and signed by  
an owner or key employee (as defined by Regulation 3.110) under  
oath.

17 8. In the event a party to any transaction reportable pursuant to  
this regulation is a person other than the reporting licensee or a  
financial institution or related subsidiary, or a publicly traded  
company, the report must be accompanied by a supplemental filing  
which must include that person's federal tax identification number  
or social security number and date of birth, banking references,  
and source of funds, and any additional information the board may  
require.

21 Nev. Gaming Comm'n Reg. 8.130(1)-(4) and (6)-(8) (emphasis added).

22 45. Pursuant to NGC Regulation 6.040(2)(a):

23 2. Each nonrestricted licensee shall keep general accounting  
records on a double entry system of accounting, maintaining  
detailed, supporting, subsidiary records, including:

24 (a) Detailed records identifying revenues, expenses, assets,  
25 liabilities, and equity for each establishment;

26 Nev. Gaming Comm'n Reg. 6.040(2)(a).

27 . . . .

28 . . . .

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

1 46. The following requirements regarding record creation and retention were placed  
2 on all licensed manufacturers and distributors through an industry notice issued by the  
3 BOARD Chairman DuCharme dated January 15, 1999:

4 All manufacturers and distributors shall keep general  
5 accounting records on a double entry system of accounting,  
6 maintaining detailed supporting and subsidiary records. All  
7 records shall be retained for a minimum of five years and shall  
include detailed documentation identifying revenues, expenses,  
assets, liabilities and equity.

8 Letter from Steve DuCharme, Chairman, Nevada Gaming Control Board, to All Licensed  
9 Manufacturers and Distributors (January 15, 1999) (on file with the Nevada Gaming Control  
10 Board).

11 47. Nevada Gaming Commission Regulation 15B.110, requires the following:

12 The following provisions must be included in the articles of  
13 organization of every limited-liability company that receives a state  
gaming license:

14 1. The purpose clause shall contain language substantially as  
follows:

15 The character and general nature of the business to be  
16 conducted by the limited-liability company is to operate, manage,  
and conduct gaming in a gaming casino on or within the premises  
known as-----and located at-----

17 2. The articles of organization shall include language  
substantially as follows:

18 Notwithstanding anything to the contrary expressed or implied  
19 in these articles, the sale, assignment, transfer, pledge or other  
20 disposition of any interest in the limited-liability company is  
ineffective unless approved in advance by the commission. If at  
21 any time the commission finds that a member which owns any  
such interest is unsuitable to hold that interest, the commission  
shall immediately notify the limited-liability company of that fact.

22 The limited-liability company shall, within 10 days from the date  
23 that it receives the notice from the commission, return to the  
24 unsuitable member the amount of his capital account as reflected  
on the books of the limited-liability company. Beginning on the date  
25 when the commission serves notice of a determination of  
26 unsuitability, pursuant to the preceding sentence, upon the limited-  
27 liability company, it is unlawful for the unsuitable member: (a) To  
28 receive any share of the distribution of profits or cash or any other  
property of, or payments upon dissolution of, the limited-liability  
company, other than a return of capital as required above; (b) To  
exercise directly or through a trustee or nominee, any voting right  
conferred by such interest; (c) To participate in the management of  
the business and affairs of the limited-liability company; or (d) To

1 receive any remuneration in any form from the limited-liability  
2 company, for services rendered or otherwise.

3 3. The articles of organization shall include language  
4 substantially as follows:

5 Any member that is found unsuitable by the commission shall  
6 return all evidence of any ownership in the limited-liability company  
7 to the limited-liability company, at which time the limited-liability  
8 company shall within 10 days, after the limited-liability company  
9 receives notice from the commission, return to the member in  
10 cash, the amount of his capital account as reflected on the books  
11 of the limited-liability company, and the unsuitable member shall  
12 no longer have any direct or indirect interest in the limited-liability  
13 company.

14 Nev. Gaming Comm'n Reg. 15B.110.

15 48. NGC Regulation 8.060 requires the following relating to the participation of an  
16 applicant in the operations of the licensed gaming operation for which the applicant is seeking  
17 to acquire an ownership interest:

18 1. Except as provided in these regulations pertaining to  
19 emergency situations, or in subsection 2, or on approval of the  
20 commission, no person who proposes to acquire an interest in any  
21 licensed gaming operation; in a licensee, except a restricted  
22 gaming licensee; or in a holding company shall take any part  
23 whatsoever, as an employee or otherwise, in the conduct of such  
24 gaming operations or in the operation of the establishment at  
25 which such gaming operations are conducted while his application  
26 for a license or for approval to acquire such interest is pending.

27 2. An employee subject to subsection 1 may be employed at  
28 the licensed gaming operation, licensee, or holding company  
pending the commission's decision on his application for a license  
or for approval to acquire an interest in the licensed gaming  
operation, licensee, or holding company if, when he files his  
application or becomes so employed, he requests permission from  
the board chairman to continue to be so employed pending  
commission action on his application.

3. The board chairman may grant, deny, limit, restrict or  
condition a request for administrative approval pursuant to this  
section for any cause he deems reasonable, or refer the request  
for administrative approval to the full board and commission for  
consideration. If the board chairman, acting in his sole and  
absolute discretion, does not within thirty (30) days deny the  
request to continue employment, or provide written notification to  
the employee that the request is being referred to the full board  
and commission for consideration, the employee's request to  
participate shall be deemed approved.

4. An employee's employment by a licensed gaming operation,  
licensee, or holding company, pursuant to subsection 3, is limited  
to observing and learning the operations of the licensed location,  
licensee, or holding company, unless otherwise specified by the  
board chairman, and the employee is prohibited from exerting or  
taking control of a licensed gaming operation, licensee, or holding

1 company until approved by the Commission unless the employee  
2 has otherwise been licensed or found suitable to do so.

3 Nev. Gaming Comm'n Reg. 8.060.

4 **SUMMARY OF VIOLATIONS**

5 49. An investigation by the BOARD into the Respondents' business practices  
6 revealed that one or more of the Respondents have allowed one or more unlicensed  
7 companies, including, but not limited to, Size Matters Gaming (hereinafter "SMG"), Size  
8 Matters Gaming, LLC (hereinafter "SMG, LLC"), and/or Perpetual Gaming dba Size Matters  
9 Gaming (hereinafter "Perpetual Gaming dba SMG") to manufacture, distribute, and/or expose  
10 slot machines for use or play in Nevada under PERPETUAL GAMING's manufacturer's,  
11 distributor's, and/or slot route operator's license(s).

12 50. The investigation by the BOARD further revealed that one or more of the  
13 Respondents have used an unlicensed manufacturer and/or distributor (hereinafter "the  
14 ULMD") to assemble and/or distribute gaming devices for use or play in Nevada under  
15 PERPETUAL GAMING's manufacturer's and/or distributor's license(s).

16 51. The investigation by the BOARD also revealed that one or more of the  
17 Respondents participated in foreign gaming operations without being registered with the  
18 Commission to do so.

19 52. In addition to the above, the investigation by the BOARD revealed numerous other  
20 instances where one or more of the Respondents violated provisions of the Nevada Gaming  
21 Control Act, and/or the regulations adopted thereunder, which are set forth in this Complaint.

22 **BACKGROUND FACTS**

23 **A. LICENSING HISTORY OF PERPETUAL GAMING**

24 53. In March 2008, the following actions by the Commission occurred:

- 25 a. PERPETUAL GAMING was licensed as a manufacturer and distributor;
- 26 b. J-M Squared, LLC (hereinafter "J-M Squared"), was registered as a holding  
27 company and licensed as the sole Member of PERPETUAL GAMING; and
- 28 c. MEYER was found suitable as the sole member and manager of J-M Square  
and as the sole manager of PERPETUAL GAMING.

1 54. In October 2010, the following actions by the Commission occurred:

2 a. PERPETUAL GAMING was licensed as an operator of a slot route;

3 b. The transfer of J-M Squared's entire interest in PERPETUAL GAMING to  
4 PERPETUAL PARTNERS was approved;

5 c. PERPETUAL PARTNERS was registered as a holding company and  
6 licensed as the sole member of PERPETUAL GAMING;

7 d. Glenn William Schaeffer (hereinafter "Schaeffer") was found suitable as a  
8 key executive of PERPETUAL GAMING;

9 e. MEYER was found suitable as a member and manager of PERPETUAL  
10 PARTNERS;

11 f. The transfer of 42% of MEYER's ownership interest in PERPETUAL  
12 PARTNERS to Schaeffer was approved; and

13 g. Schaeffer was found suitable as a member and manager of PERPETUAL  
14 PARTNERS.

15 **B. APPLICATIONS CURRENTLY PENDING RELATING TO PERPETUAL GAMING.**

16 55. At the time of the October 2010 meeting of the Commission, the following  
17 applications were also pending before the Board but were not acted upon at that time:

18 a. Transfer of 4.5% of MEYER's interest in PERPETUAL PARTNERS to  
19 Robert C. Fry (hereinafter "Fry");

20 b. Finding of suitability of Fry as a member and manager of PERPETUAL  
21 PARTNERS;

22 c. Transfer of 3.5% of MEYER's interest in PERPETUAL PARTNERS to  
23 Walter L. Hawkins (hereinafter "Hawkins"); and

24 d. Finding of suitability of Hawkins as a member and manager of PERPETUAL  
25 PARTNERS.

26 56. The above applications of Fry and Hawkins were submitted to the BOARD at the  
27 same time as the applications relating to PERPETUAL PARTNERS, MEYER and Schaeffer;  
28 however, because the Fry and Hawkins applications required additional investigation by the

1 Board, they were not acted upon at the same time as those relating to PERPETUAL  
2 PARTNERS, MEYER and Schaeffer.

3 57. On or about August 26, 2010, the BOARD sent a letter to MEYER requesting a  
4 deposit of an additional \$80,500 to cover the costs of the additional investigation of Fry and  
5 Hawkins.

6 58. MEYER failed to deposit any portion of the requested amount with the BOARD.

7 59. On or about January 18, 2011, the BOARD sent a follow-up letter to MEYER  
8 again requesting a deposit to cover the costs of the additional investigation of Fry and  
9 Hawkins, this time reducing the requested amount down to \$68,500.

10 60. MEYER again failed to deposit any portion of the requested amount with the  
11 BOARD.

12 61. While their applications for ownership were pending, Fry and Hawkins had sought  
13 and obtained a waiver from the BOARD Chairman pursuant to NGC Regulation 8.060 to allow  
14 them to continue to work for PERPETUAL GAMING for the following periods:

- 15 a. March 2010 through November 2010;
- 16 b. December 2010 through October 2011; and
- 17 c. November 2011 through October 2012.

18 62. As of the date of this Complaint, no subsequent waiver requests pursuant to NGC  
19 Regulation 8.060 have been submitted by or on behalf of either Fry or Hawkins.

20 63. As of the date of this Complaint, no request to withdraw the applications of Fry or  
21 Hawkins has been received by the BOARD; those applications are still active and pending  
22 before the BOARD.

23 **C. DEPARTURE OF SCHAEFFER AND FORMATION OF SMG, LLC.**

24 64. On or about June 11, 2013, MEYER informed the BOARD that Schaeffer was no  
25 longer a member of PERPETUAL PARTNERS and that Schaeffer's ownership interest was  
26 transferred back to MEYER with NGC approval.

27 65. Shortly thereafter, on or about June 14, 2013, SMG, LLC, registered with the  
28 Nevada Secretary of State's Office as a Nevada Limited Liability Company.



1 **D. SMG, LLC, OWNERSHIP STRUCTURE AND INVESTORS AND/OR LENDERS.**

2 66. Based on a review of various records, it was determined by the BOARD that the  
3 following individuals are the sole Members of SMG, LLC:

- 4 a. Hawkins;
- 5 b. MEYER; and
- 6 c. Patrick Schmit (hereinafter "Schmit")

7 67. Pursuant to records maintained by the Nevada Secretary of State's Office,  
8 Hawkins is the Manager of SMG, LLC.

9 68. Further, as stated previously, Hawkins has pending applications with the BOARD  
10 to be licensed as a member and manager of PERPETUAL PARTNERS and to receive  
11 approval to receive a portion of MEYER's ownership interest of PERPETUAL PARTNERS.

12 69. MEYER is currently the sole member of Respondent PERPETUAL PARTNERS.

13 70. In addition to the above, intermingled with the records of PERPETUAL GAMING  
14 provided to the BOARD by MEYER were certain records of SMG, LLC.

15 71. A review by the BOARD of the records of SMG, LLC, provided by MEYER,  
16 showed that SMG, LLC, received \$1,000,000 from two individuals in the following payments:

17 a. On or about November 1, 2013, the two individuals each invested and/or  
18 loaned SMG, LLC, \$250,000, for a total of \$500,000;

19 b. On or about April 22, 2014, the two individuals each invested and/or loaned  
20 SMG, LLC, \$150,000, for a total of \$300,000; and

21 c. In or around August 2014, the two individuals each invested and/or loaned  
22 SMG, LLC, \$100,000, for a total of \$200,000.

23 **E. JOINT VENTURE BETWEEN PERPETUAL GAMING AND SMG, LLC.**

24 72. On or about June 18, 2013, Respondent PERPETUAL GAMING entered a  
25 partnership agreement (herein after "Partnership Agreement") with SMG, LLC.

26 73. The aforementioned Partnership Agreement described the venture as follows:

27 . . . .

28 . . . .

1 a. SMG, LLC, and PERPETUAL GAMING had "entered into business to build  
2 and lease and/or sell 'Mini-Bertha' and 'Big Bertha' Electronic Gaming Devices" (hereinafter  
3 "EGDs").

4 b. SMG, LLC, in conjunction with PERPETUAL GAMING, "wishes to take  
5 existing IGT EGDs and modify them to work in larger cabinets commonly referred to as 'Mini-  
6 Bertha' and 'Big Bertha' EGDs."

7 c. SMG, LLC, and PERPETUAL GAMING "intend to enter into the License  
8 Agreement ('License Agreement') with IGT, a Nevada corporation to facilitate SMG[,LLC] and  
9 [PERPETUAL GAMING] to create IGT branded 'Mini-Bertha' and 'Big Bertha' EGDs."

10 74. In addition, the aforementioned Partnership Agreement contained the following  
11 terms relevant to this disciplinary action:

12 a. PERPETUAL GAMING was to enter the License Agreement with IGT that is  
13 described in the Partnership Agreement.

14 b. If SMG, LLC, were to obtain a manufacturers license, distributors license,  
15 and/or a license to operate a slot route, PERPETUAL GAMING was to assign the entirety of  
16 its rights and obligations under the referenced License Agreement with IGT to SMG, LLC.

17 c. PERPETUAL GAMING was required to maintain its Nevada gaming licenses  
18 in good standing.

19 d. As part of the arrangement, SMG, LLC, agreed to pay PERPETUAL  
20 GAMING a daily fee of no less than \$.50 for each EGD in operation.

21 e. SMG, LLC, further agreed to be responsible for any and all costs and  
22 expenses incurred by PERPETUAL GAMING as a result of PERPETUAL GAMING's  
23 performance under the Partnership Agreement or the Licensing Agreement with IGT.

24 75. Along with the aforementioned Partnership Agreement, on or about June 18,  
25 2013, SMG, LLC, and PERPETUAL GAMING entered into a personal guarantee (hereinafter  
26 "Personal Guarantee").

27 76. Under the Personal Guarantee, SMG, LLC, agreed that it was responsible for  
28 meeting the minimum obligations set forth in section 3.4 of the License Agreement with IGT.

1           77. The Personal Guarantee states that should SMG, LLC, become insolvent, the  
2 individual members thereof personally guarantee to furnish the funds required under section  
3 3.4 of the License Agreement with IGT.

4           78. The License Agreement with IGT was entered into between PERPETUAL  
5 GAMING and IGT on or about June 30, 2013.

6           79. In section 3.4 of the License Agreement with IGT, PERPETUAL GAMING agrees  
7 to pay a minimum royalty payment to IGT of \$100,000 annually for the term of the License  
8 Agreement.

9           80. Section 3.4 of the License Agreement makes no reference to SMG, LLC.

10           81. On or about August 7, 2014, after having entered into the License Agreement with  
11 IGT, PERPETUAL GAMING and/or SMG, LLC, entered into an agreement with the ULMD to  
12 manufacture the "Mini-Bertha" and "Big Bertha" EGDs described in the Partnership Agreement  
13 between PERPETUAL GAMING and SMG, LLC.

14           82. In a letter dated August 7, 2014, to Petitioner MEYER, the ULMD verifies that the  
15 agreed upon "labor" charge related to the services it has agreed to perform for PERPETUAL  
16 GAMING and/or SMG, LLC, were as follows:

17           a. Receiving and warehousing integration components (up to and including IGT  
18 donor cabinets).

19           b. Transplanting components for the IGT donor cabinets.

20           c. Local delivery in Las Vegas.

21           83. Pursuant to the above agreements, PERPETUAL GAMING acquired old IGT slot  
22 machines and had the ULMD remove the many components therefrom and reassemble them  
23 in either a "Mini-Bertha" or "Big Bertha" cabinet, which contained a large video display along  
24 with other hardware and/or software that allowed for the new gaming devices (*i.e.*, the "Mini-  
25 Berthas" or "Big Berthas") to be played as larger versions of the original IGT slot machines.

26           84. Once the manufacturing process was complete, personnel of the ULMD,  
27 PERPETUAL GAMING, SMG, LLC, and/or Perpetual Gaming dba SMG, delivered and/or  
28 installed the completed "Mini-Bertha" and/or "Big Bertha" slot machines at locations that had

1 ordered the devices, which included licensed gaming establishments located within the State  
2 of Nevada.

3 85. At no time relevant to this Complaint was the ULMD licensed by the Commission  
4 to manufacture and/or distribute gaming devices for use or play in Nevada.

5 86. An examination of numerous business records revealed that transactions related  
6 to PERPETUAL GAMING's and SMG, LLC's, Partnership Agreement were conducted under  
7 multiple names, including, but not necessarily limited to:

- 8 a. PERPETUAL GAMING;
- 9 b. SMG, LLC;
- 10 c. SMG; and/or
- 11 d. Perpetual Gaming dba SMG.

12 87. At no time relevant to this Complaint was SMG and/or SMG, LLC, licensed by the  
13 Commission to manufacture and/or distribute gaming devices for use or play in Nevada, or to  
14 operate a slot route.

15 88. At no time relevant to this Complaint was PERPETUAL GAMING licensed by the  
16 Commission to do business as SMG in any capacity.

17 89. In addition to the above, the BOARD's investigation revealed that PERPETUAL  
18 GAMING and SMG, LLC, share office space as well as certain staff members.

19 **F. WEBSITE FOR SMG INDICATES SMG MANUFACTURES AND DISTRIBUTES**  
20 **PERPETUAL GAMING'S GAMING DEVICES AS WELL AS OPERATES A SLOT**  
21 **ROUTE EXPOSING PERPETUAL GAMING'S GAMING DEVICES FOR PLAY.**

22 90. A review of SMG's website ([www.sizemattersgaming.com](http://www.sizemattersgaming.com)) by the BOARD,  
23 revealed numerous instances where SMG had indicated that it is in the business of  
24 manufacturing, distributing, and/or, exposing for play PERPETUAL GAMING's gaming  
25 devices for use or play in Nevada.

26 91. Such activities, described above, would require SMG to be licensed under  
27 NRS 463.160 and/or NRS 463.650, which it is not.

28 92. The following is a list of some of the items listed on SMG's website that are of  
concern to the BOARD:

1 a. SMG states that it has entered into a licensing agreement with IGT to place  
2 certain IGT content on its large format slot machines.

3 b. SMG lists its satisfied customers, which includes at least ten licensed gaming  
4 establishments located in Nevada.

5 c. SMG claims that it has enjoyed great success in Nevada.

6 d. The website allows viewers to download "spec sheets" on various products,  
7 on which the ULMD is listed as the drafter.

8 e. MEYER is listed as the contact person for Service.

9 f. Schmit is listed as the contact person for Sales and Marketing.

10 g. The address listed for SMG is the same address as PERPETUAL GAMING  
11 and SMG, LLC.

12 93. The information contained on SMG's website further confirms that the business  
13 operations of SMG, LLC, SMG, Perpetual Gaming dba SMG, and PERPETUAL GAMING  
14 have been intermingled and that, as a result, various unlicensed entities have been permitted  
15 to unlawfully manufacture and/or distribute gaming devices for use or play in Nevada, and/or  
16 unlawfully expose gaming devices for play in Nevada, utilizing one or more of the gaming  
17 licenses issued by the Commission to PERPETUAL GAMING.

18 **COUNT I**  
19 **VIOLATION OF NGC REGULATION 5.011, 5.011(1) AND/OR 5.011(8)**  
20 **ASSISTING AND/OR ALLOWING AN UNLICENSED ENTITY OR ENTITIES**  
21 **TO MANUFACTURE GAMING DEVICES**  
22 **FOR USE OR PLAY IN NEVADA**

23 94. The BOARD realleges and incorporates by reference paragraphs 1 through 93  
24 above as though set forth in full herein.

25 95. Pursuant to NRS 463.650, it is unlawful for a person to manufacture gaming  
26 devices for use or play in Nevada without first being licensed to do so. See NRS 463.650(1).

27 96. An investigation by the BOARD revealed that on multiple occasions one or more  
28 of the Respondents allowed certain unlicensed entities to unlawfully manufacture gaming  
devices for use or play in Nevada under PERPETUAL GAMING's manufacturer's license.

.....

1 97. The unlicensed entities at issue included, but were not necessarily limited to, the  
2 following:

- 3 a. SMG, LLC;
- 4 b. SMG;
- 5 c. Perpetual Gaming dba SMG; and/or
- 6 d. The ULMD.

7 98. Such conduct and indiscretion on the part of the Respondents constitutes an  
8 unsuitable method of operation in violation of NGC Regulations 5.011, 5.011(1), and/or  
9 5.011(8), and provides grounds for disciplinary action. See Nev. Gaming Comm'n Reg.  
10 5.010(1) and (2) and 5.030.

11 **COUNT II**  
12 **VIOLATION OF NGC REGULATION 5.011, 5.011(1) AND/OR 5.011(8)**  
13 **ASSISTING AND/OR ALLOWING AN UNLICENSED ENTITY OR ENTITIES**  
14 **TO DISTRIBUTE GAMING DEVICES**  
15 **FOR USE OR PLAY IN NEVADA**

16 99. The BOARD realleges and incorporates by reference paragraphs 1 through 98  
17 above as though set forth in full herein.

18 100. Pursuant to NRS 463.650, it is unlawful for a person to distribute gaming devices  
19 for use or play in Nevada without first being licensed to do so. See NRS 463.650(1).

20 101. An investigation by the BOARD revealed that on multiple occasions one or more  
21 of the Respondents allowed certain unlicensed entities to unlawfully distribute gaming devices  
22 for use or play in Nevada under PERPETUAL GAMING's distributor's license.

23 102. The unlicensed entities at issue included, but were not necessarily limited to, the  
24 following:

- 25 a. SMG, LLC;
- 26 b. SMG;
- 27 c. Perpetual Gaming dba SMG; and/or
- 28 d. The ULMD.

103. Such conduct and indiscretion on the part of the Respondents constitutes an  
unsuitable method of operation in violation of NGC Regulations 5.011, 5.011(1), and/or

1 5.011(8), and provides grounds for disciplinary action. See Nev. Gaming Comm'n Reg.  
2 5.010(1) and (2) and 5.030.

3 **COUNT III**  
4 **VIOLATION OF NGC REGULATION 5.011, 5.011(1) AND/OR 5.011(8)**  
5 **ASSISTING AND/OR ALLOWING AN UNLICENSED ENTITY OR ENTITIES**  
6 **TO EXPOSE GAMING DEVICES FOR PLAY IN NEVADA AND/OR RECEIVE**  
7 **CONSIDERATION FROM GAMING DEVICES EXPOSED FOR PLAY IN NEVADA**

8 104. The BOARD realleges and incorporates by reference paragraphs 1 through 103  
9 above as though set forth in full herein.

10 105. Pursuant to NRS 463.160(1), it is unlawful for a person to expose any gambling  
11 game, including slot machines, for play in Nevada, or receive any compensation from such  
12 exposure, without being licensed to do so. See NRS 463.160(1).

13 106. An investigation by the BOARD revealed that on multiple occasions one or more  
14 of the Respondents allowed certain unlicensed entities to unlawfully expose slot machines for  
15 play in Nevada, and/or receive consideration therefrom, under PERPETUAL GAMING's  
16 license to operate a slot route.

17 107. The unlicensed entities at issue included, but were not necessarily limited to, the  
18 following:

- 19 a. SMG, LLC;
- 20 b. SMG; and/or
- 21 c. Perpetual Gaming dba SMG.

22 108. Such conduct and indiscretion on the part of the Respondents constitutes an  
23 unsuitable method of operation in violation of NGC Regulations 5.011, 5.011(1), and/or  
24 5.011(8), and provides grounds for disciplinary action. See Nev. Gaming Comm'n Reg.  
25 5.010(1) and (2) and 5.030.

26 **COUNT IV**  
27 **VIOLATION OF NGC REGULATION 14.170**  
28 **INTERNAL AND EXTERNAL SERIAL NUMBERS ON GAMING DEVICES DID NOT MATCH**

109. The BOARD realleges and incorporates by reference paragraphs 1 through 108  
above as though set forth in full herein.

.....

1 110. Nevada Gaming Commission Regulation 14.170(1)(a) requires a permanent  
2 serial number be affixed to a gaming device pursuant to the requirements on the Gaming  
3 Device Act of 1962, 15 U.S.C. 1173.

4 111. Nevada Gaming Commission Regulation 14.170(1)(b) further requires a  
5 permanent serial number matching the serial number affixed to the gaming device pursuant to  
6 the Gaming Device Act of 1962 be permanently stamped or engraved on the metal frame or  
7 other permanent component of the gaming device and on a removable metal plate attached to  
8 the cabinet of the device.

9 112. An examination of multiple finished "Mini-Bertha" slot machines at the ULMD's  
10 manufacturing facility revealed the serial numbers on the plates attached to the cabinet of the  
11 slot machines did not match the serial numbers that had been permanently stamped or  
12 engraved on the metal frames or other permanent components of the slot machines.

13 113. The failure of PERPETUAL GAMING to have matching serial numbers on the  
14 inside and outside of the slot machines it had manufactured is a violation of NGC  
15 Regulation 14.170.

16 114. Such violations on the part of PERPETUAL GAMING constitute an unsuitable  
17 method of operation under NGC Regulations 5.011 and 5.011(1) and/or (8), and provide  
18 grounds for disciplinary action. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

19 **COUNT V**  
20 **VIOLATION OF NGC REGULATION 14.180(4)**  
21 **FAILURE TO TIMELY REPORT OUT OF STATE DISTRIBUTIONS OF GAMING DEVICES**

22 115. The BOARD realleges and incorporates by reference paragraphs 1 through 114  
23 above as though set forth in full herein.

24 116. Pursuant to NGC Regulation 14.180(4), a category I manufacturer must provide  
25 the information required under NGC Regulation 14.180(1) regarding distribution of gaming  
26 devices to locations outside of Nevada on or before the 15<sup>th</sup> day of the month following the  
27 month of distribution.

28 117. At all times relevant to this Complaint, PERPETUAL GAMING was a category I  
manufacturer and distributor pursuant to NGC Regulation 14.180(11)(a).



1 118. On or about March 4, 2014, PERPETUAL GAMING shipped four "Mini-Bertha"  
2 slot machines to the Cache Creek Casino Resort, located in Brooks, California.

3 119. On or about May, 19, 2014, PERPETUAL GAMING shipped three "Mini-Bertha"  
4 slot machines to the Eagle Mountain Casino, located in Porterville, California.

5 120. On or about May 22, 2014, PERPETUAL GAMING shipped eight "Mini-Bertha"  
6 slot machines to the Pechanga Resort and Casino, located in Temecula, California.

7 121. PERPETUAL GAMING notified the BOARD via email of the above shipments on  
8 June 17, 2014, past the deadline of the 15<sup>th</sup> of the month following the shipments.

9 122. When making the above submission, PERPETUAL GAMING failed to use the  
10 proper form, which resulted in PERPETUAL GAMING having to resubmit the information.

11 123. PERPETUAL GAMING did not provide the BOARD with the information on the  
12 correct form until around July 10, 2014, well beyond the deadlines required under  
13 NGC Regulation 14.180(4).

14 124. The failures of PERPETUAL GAMING to timely provide the BOARD with the  
15 required information constitute violations of NGC Regulation 14.180.

16 125. Such violations on the part of PERPETUAL GAMING constitute an unsuitable  
17 method of operation under NGC Regulations 5.011 and 5.011(1) and/or (8), and provide  
18 grounds for disciplinary action. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

19 **COUNT VI**  
20 **VIOLATION OF NRS 463.700 AND 463.710**  
21 **FAILURE TO COMPLY WITH FOREIGN GAMING REQUIREMENTS**

22 126. The BOARD realleges and incorporates by reference paragraphs 1 through 125  
23 above as though set forth in full herein.

24 127. Nevada Revised Statutes 463.700 and 463.710 set forth certain requirements  
25 that must be complied with in order for a licensee to lawfully participate in foreign gaming,  
26 which, pursuant to NRS 463.680(1), is the conduct of gaming outside of the State of Nevada.

27 128. Pursuant to NRS 463.680, the foreign gaming requirements apply to licensed  
28 manufacturers, distributors, and operators of slot routes.

.....

1 129. At all times relevant to this Complaint, PERPETUAL GAMING leased slot  
2 machines to various tribal casinos located in the State of California in exchange for a  
3 percentage of the revenue generated therefrom.

4 130. Pursuant to the above referenced leases, PERPETUAL GAMING is considered  
5 to have conducted gaming outside of the State of Nevada, which constitutes foreign gaming  
6 as defined under NRS 463.680(1).

7 131. PERPETUAL GAMING, however, did not comply with the requirements set forth  
8 under NRS 463.700 and 463.710, including, but not limited to submitting a \$10,000 deposit  
9 with the BOARD to cover investigation fees, or providing the Board or Commission with the  
10 various documents required thereunder relating to each of the foreign gaming operations in  
11 which it was involved.

12 132. PERPETUAL GAMING's failure to comply with the various requirements relating  
13 to each of the foreign gaming operations for which it participated constitutes multiple violations  
14 of NRS 463.700 and 463.710.

15 133. Such violations on the part of PERPETUAL GAMING constitute an unsuitable  
16 method of operation under NGC Regulations 5.011 and 5.011(1) and/or (8), and provide  
17 grounds for disciplinary action. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

18 **COUNT VII**  
19 **VIOLATION OF NRS 463.335**  
20 **EMPLOYMENT OF NONREGISTERED GAMING EMPLOYEES**

21 134. The BOARD realleges and incorporates by reference paragraphs 1 through 133  
22 above as though set forth in full herein.

23 135. Pursuant to NRS 463.335(1), no person may be employed as a gaming  
24 employee in the State of Nevada unless that person is temporarily registered or registered as  
25 a gaming employee. NRS 463.335(1).

26 136. The term "gaming employee" includes, among numerous other positions, the  
27 following positions relevant to this Complaint:

28 a. Accounting or internal auditing personnel who are directly involved in any  
recordkeeping or the examination of records associated with revenue from gaming;

1           b. Employees whose duties are directly involved with the manufacture, repair,  
2 sale or distribution of gaming devices; and

3           c. Temporary or contract employees hired by a licensee to perform a function  
4 related to gaming.

5 NRS 463.0157(1)(a), (i), and (aa).

6           137. An examination of BOARD records revealed that, despite the fact that  
7 PERPETUAL GAMING has manufactured and distributed gaming devices within the State of  
8 Nevada, and has exposed gaming devices for play in the State of Nevada, not one person has  
9 registered as a gaming employee of PERPETUAL GAMING pursuant to NRS 463.335.

10           138. Respondent MEYER has represented that the people he has working for him at  
11 PERPETUAL GAMING do so on an advisory and/or consulting basis without any form of  
12 compensation.

13           139. However, a review of the financial records of, or relating to, PERPETUAL  
14 GAMING by the BOARD has revealed that PERPETUAL GAMING did in fact compensate  
15 said individuals with sales commissions, consulting fees, and other monthly payments.

16           140. Further, business records of PERPETUAL GAMING revealed that billings on  
17 behalf of PERPETUAL GAMING were routinely prepared by someone other than MEYER.

18           141. In addition, sales records and other information obtained by the BOARD, along  
19 with observations of PERPETUAL GAMING's operations in general have established that  
20 MEYER is not the only person handling the manufacturing, distribution, and installation of  
21 gaming devices.

22           142. Because PERPETUAL GAMING has employed (either directly or through  
23 contracts) individuals as gaming employees who were not temporarily registered or registered  
24 with the BOARD at the time, it has violated NRS 463.335.

25           143. Such violations on the part of PERPETUAL GAMING constitute an unsuitable  
26 method of operation under NGC Regulations 5.011 and 5.011(1) and/or (8), and provide  
27 grounds for disciplinary action. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

28 . . . .

**COUNT VIII**  
**VIOLATION OF NGC REGULATION 3.100**  
**FAILURE TO COMPLY WITH REPORTING REQUIREMENTS**

144. The BOARD realleges and incorporates by reference paragraphs 1 through 143 above as though set forth in full herein.

145. Pursuant to NGC Regulation 3.100(2), every entity holding a manufacturer's, distributor's, or operator of a slot route license "shall submit an employee report to the BOARD two times yearly within 30 days after March 31<sup>st</sup> and within 30 days after September 30<sup>th</sup>." Nev. Gaming Comm'n Reg. 3.100(2).

146. The report required by NGC Regulation 3.100(2) "shall identify every person who is, as of March 31<sup>st</sup> or September 30<sup>th</sup>, whichever is most recent, a qualifying employee" as defined by NGC Regulation 3.100(1)(d). *Id.*

147. The report required by NGC Regulation 3.100(2) "shall also identify every person who is, as of March 31<sup>st</sup> or September 30<sup>th</sup>, whichever is most recent, the following persons who are not otherwise qualifying employees: (a) any person who directly supervises a qualifying employee. (b) Any person who entered into a contractual arrangement, which is reportable pursuant to [NGC] Regulation 8.130, on behalf of and binding upon the licensee." Nev. Gaming Comm'n Reg. 3.100(2)(a) and (b).

148. A review of the reports submitted by PERPETUAL GAMING pursuant to NGC Regulation 3.100(2) revealed that PERPETUAL GAMING and/or MEYER did not list every person that has functioned as a "qualifying individual" for PERPETUAL GAMING.

149. The failure to submit complete and accurate reports constitutes multiple violations of NGC Regulation 3.100(2).

150. Such violations on the part of PERPETUAL GAMING constitute an unsuitable method of operation under NGC Regulations 5.011 and 5.011(1) and/or (8), and provide grounds for disciplinary action. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

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Attorney General's Office  
Gaming Division  
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1 **COUNT IX**  
2 **VIOLATION OF NGC REGULATION 6.040**  
3 **FAILURE TO MAINTAIN COMPLETE AND ACCURATE RECORDS**

4 151. The BOARD realleges and incorporates by reference paragraphs 1 through 150  
5 above as though set forth in full herein.

6 152. Pursuant to NGC Regulation 6.040(2), each nonrestricted licensee is required to  
7 keep general accounting records on a double entry system, maintaining detailed, supporting,  
8 subsidiary records, including detailed records identifying revenues, expenses, assets,  
9 liabilities and equity for each establishment. Nev. Gaming Comm'n Reg. 6.040(2).

10 153. In an industry notice dated January 15, 1999, the BOARD Chairman informed  
11 manufacturers and distributors they were also required to keep general accounting records on  
12 a double entry system of accounting and to maintain detailed supporting and subsidiary  
13 records. Letter from Steve DuCharme, Chairman, Nevada Gaming Control Bd., to All  
14 Licensed Manufacturers and Distributors (January 15, 1999) (on file with the Nevada Gaming  
15 Control Board).

16 154. The BOARD's review of PERPETUAL GAMING's general ledger for the period of  
17 May 1, 2012, through June 30, 2014, revealed that while capital accounts (*i.e.*, Beginning  
18 Equity and Beginning Balance Equity) have been created, those accounts have not been  
19 maintained properly. Furthermore, the BOARD has been unable to reconcile these accounts  
20 from the initial capital contributions to the current balances.

21 155. The above-referenced review further disclosed accurate and detailed records  
22 identifying revenues, expenses, assets, and liabilities have not been maintained.

23 156. The above discussed violations were previously cited by the BOARD in a letter  
24 dated July 31, 2012.

25 157. In addition to the above violations, a review of PERPETUAL GAMING's general  
26 ledger revealed a capital contribution from Robert Fry on June 4, 2010, in the amount of  
27 \$34,285.71, was not transferred to the parent company, PERPETUAL PARTNERS. During a  
28 previous audit of PERPETUAL GAMING, the BOARD had noted the contribution and cited a  
29 NGC Regulation 8.130 violation. In response PERPETUAL GAMING indicated that the

1 contribution should have been recorded on PERPETUAL PARTNER's books, and not  
2 PERPETUAL GAMING. Based on the subsequent observations by the BOARD, it is clear that  
3 PERPETUAL GAMING never made the necessary journal entry to correct the error.

4 158. The BOARD's review also disclosed that PERPETUAL GAMING does not record  
5 purchased or manufactured gaming devices as assets in its general ledger. The failure to do  
6 so prevented the BOARD from being able to reconcile PERPETUAL GAMING's warehouse  
7 inventory to the general ledger for the period of March 1, 2012 through June 30, 2014.

8 159. Each of the above inaccuracies and/or deficiencies constitutes a violation of NGC  
9 Regulation 6.040 and of the BOARD Chairman's Industry Notice dated January 15, 1999.

10 160. Such violations on the part of PERPETUAL GAMING constitute an unsuitable  
11 method of operation under NGC Regulations 5.011 and 5.011(1) and/or (8), and provide  
12 grounds for disciplinary action. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

13 **COUNT X**  
14 **VIOLATION OF NGC REGULATION 8.130**  
15 **FAILURE TO COMPLY WITH REQUIRED REPORTING REQUIREMENTS**

16 161. The BOARD realleges and incorporates by reference paragraphs 1 through 160  
17 above as though set forth in full herein.

18 162. Nevada Gaming Regulation 8.100(1) requires any licensee that "receives,  
19 accepts, or makes use of any cash, property, credit, guaranty, benefit or any form of security  
20 loaned to, leased to, or provided for or on behalf of the licensee or an officer, director, agent,  
21 employee or stockholder of the licensee, in a transaction required to be reported under  
22 subsection 2 through 6, [to] report the transaction to the board in the manner required by  
23 subsections 7 and 8 within 30 days after the end of the calendar quarter in which the  
24 transaction is consummated," which is "the earlier of the contract date or the date the cash,  
25 property, credit, guaranty, benefit or security is received. . . ." Nev. Gaming Comm'n Reg.  
26 8.130(1).

27 163. Pursuant to NGC Regulation 8.100(3)(h), a licensee must report any guaranties  
28 received by the licensee that exceed \$30,000. Nev. Gaming Comm'n Reg. 8.100(3)(h).

.....

1 164. An examination by the BOARD of general ledger account #2000, Accounts  
2 Payable, and account #26600 ("Loans Size Matters Gaming"), disclosed balances of  
3 \$584,518 and \$186,436, respectively.

4 165. BOARD discussions with an individual knowledgeable of PERPETUAL  
5 GAMING's accounting records revealed that the transaction in account #26600 should have  
6 been recorded in account #2000.

7 166. Further review of the accounts by the BOARD revealed that the majority of the  
8 \$770,954 accounts payable balance were expenses paid by SMG, LLC, per the June 17,  
9 2013 Partnership Agreement.

10 167. A review of BOARD files disclosed that SMG, LLC's guarantee of qualifying  
11 transactions was never reported to the BOARD, which is a violation of NGC Regulation 8.130.

12 168. Such violation on the part of PERPETUAL GAMING constitutes an unsuitable  
13 method of operation under NGC Regulations 5.011 and 5.011(1) and/or (8), and provides  
14 grounds for disciplinary action. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

15 **COUNT XI**  
16 **VIOLATION OF NGC REGULATION 15B.110**  
17 **MISSING REQUIRED PROVISION IN ARTICLES OF INCORPORATION**

18 169. The BOARD realleges and incorporates by reference paragraphs 1 through 168  
19 above as though set forth in full herein.

20 170. NGC Regulation 15B.110 sets out certain provisions that must be included in the  
21 articles of incorporation of every limited-liability company that receives a state gaming license.

22 171. Of the Respondents, PERPETUAL GAMING is the entity that has to comply with  
23 NGC Regulation 15B.110, as it is the entity that holds the gaming licenses at issue.

24 172. An examination of the articles of organization for PERPETUAL GAMING revealed  
25 that the required provisions set forth under NGC Regulation 15B.110 were missing.

26 173. The BOARD instead found the required provisions in an addendum to  
27 PERPETUAL PARTNERS' articles of incorporation, which is not the entity that holds the  
28 applicable gaming licenses.

.....

1 174. Because its articles of incorporation are missing the required provisions,  
2 PERPETUAL PARTNERS is in violation of NGC Regulation 15B.110.

3 175. Such violation on the part of PERPETUAL GAMING constitutes an unsuitable  
4 method of operation under NGC Regulations 5.011 and 5.011(1) and/or (8), and provides  
5 grounds for disciplinary action. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

6 **COUNT XII**  
7 **VIOLATION OF NGC REGULATION 5.011, 5.011(1), AND/OR 5.011(8)**  
8 **PERMITTING APPLICANT FOR OWNERSHIP TO PARTICIPATE IN OPERATION**

9 176. The BOARD realleges and incorporates by reference paragraphs 1 through 175  
10 above as though set forth in full herein.

11 177. Pursuant to NGC Regulation 8.060, except in certain limited circumstances or  
12 unless permitted by the BOARD Chairman to do so, a person who has an application pending  
13 with the BOARD for approval to acquire an ownership interest in a holding company of a  
14 licensee may not "take any part whatsoever, as an employee or otherwise, in the conduct of  
15 gaming operations or in the operation of the establishment at which such gaming operations  
16 are conducted while [the person's] application for a license or for approval to acquire such  
17 interest is pending." Nev. Gaming Comm'n Reg. 8.060(1).

18 178. As of the date of this Complaint, Hawkins has an application pending before the  
19 BOARD to acquire an ownership interest in PERPETUAL PARTNERS, the holding company  
20 of PERPETUAL GAMING.

21 179. A review of various business records relating to PERPETUAL GAMING revealed  
22 that Hawkins is actively involved in PERPETUAL GAMING's operations, including, but not  
23 limited, to PERPETUAL GAMING's slot route operations.

24 180. Further, Hawkins is a Member of SMG, LLC, which has entered into a  
25 Partnership Agreement with PERPETUAL GAMING in which SMG, LLC, has, among other  
26 things, agreed to pay all expenses relating to PERPETUAL GAMING's operations relating to  
27 the manufacturing, sale, and leasing of PERPETUAL GAMING's "Mini-Bertha" and "Big  
28 Bertha" slot machines.

.....



1 181. PERPETUAL GAMING had sought and obtained waivers pursuant to  
2 NGC Regulation 8.060(2) to allow Hawkins to continue to participate in the gaming operations  
3 of PERPETUAL GAMING, however, the last of those waivers expired at the end of  
4 October 2012.

5 182. As of the date of this Complaint, no subsequent NGC Regulation 8.060(2) waiver  
6 requests have been submitted relating to Hawkins' participation in PERPETUAL GAMING's  
7 operations.

8 183. Hawkins involvement in PERPETUAL GAMING's business operations is  
9 therefore a violation of NGC Regulation 8.060.

10 184. By allowing Hawkins to participate in its gaming operations while his application  
11 to acquire an ownership interest in PERPETUAL PARTNERS was pending before the  
12 BOARD, PERPETUAL GAMING facilitated the violation of NGC Regulation 8.060.

13 185. Such conduct and indiscretion constitutes an unsuitable method of operation in  
14 violation of NGC Regulations 5.011, 5.011(1), and/or 5.011(8), and provides grounds for  
15 disciplinary action. See Nev. Gaming Comm'n Reg. 5.010(1) and (2) and 5.030.

16 **COUNT XIII**  
17 **VIOLATION OF NRS 463.170**  
18 **FAILURE TO CONTINUE TO MEET STANDARDS REQUIRED OF GAMING LICENSEE**

19 186. The BOARD realleges and incorporates by reference paragraphs 1 through 185  
20 above as though set forth in full herein.

21 187. Pursuant to NRS 463.170, a person who has been granted a license or found  
22 suitable by the Commission must continue to meet the applicable standards and qualifications  
23 set forth under that section as well as any other qualifications established by the Commission  
24 by regulation. NRS 463.170(8).

25 188. A failure to meet the above ongoing obligation constitutes grounds for disciplinary  
26 action. *Id.*

27 189. Based on the evidence gathered by the BOARD relating to this Complaint, it is  
28 clear that PERPETUAL GAMING's conduct, as described the above Counts, was Improper,  
dishonest, and/or was intended to mislead the Board and/or circumvent certain licensing and

1 other requirements set forth under the Gaming Control Act or the Regulations adopted  
2 thereunder.

3 190. The conduct relating to the violations set forth in this Complaint reflects a lack of  
4 good character, honesty, and/or integrity on the part of PERPETUAL GAMING in violation of  
5 NRS 463.170(8).

6 191. Such violation on the part of PERPETUAL GAMING constitutes an unsuitable  
7 method of operation under NGC Regulations 5.011 and 5.011(1) and/or (8), and provides  
8 grounds for disciplinary action. See NRS 463.170(8), Nev. Gaming Comm'n Reg. 5.010(1)  
9 and (2) and 5.030

10 **PRAYER FOR RELIEF**

11 WHEREFORE, based upon the allegations contained herein that constitute reasonable  
12 cause for disciplinary action against PERPETUAL GAMING, LLC, PERPETUAL PARTNERS,  
13 LLC, and JOHN-MARTIN MEYER pursuant to NRS 463.310 and Nevada Gaming Commission  
14 Regulations 5.011 and 5.030, the BOARD prays for relief as follows:

15 1. That the Nevada Gaming Commission serve a copy of this Complaint on  
16 PERPETUAL GAMING, LLC, PERPETUAL PARTNERS, LLC, and JOHN-MARTIN MEYER;

17 2. That PERPETUAL GAMING, LLC, PERPETUAL PARTNERS, LLC, and/or JOHN-  
18 MARTIN MEYER be fined a monetary sum pursuant to the parameters defined at  
19 NRS 463.310(4) for each separate violation of the provisions of the Nevada Gaming Control  
20 Act or the Regulations of the Nevada Gaming Commission;

21 3. That the Nevada Gaming Commission take action against PERPETUAL GAMING,  
22 LLC, PERPETUAL PARTNERS, LLC, and JOHN-MARTIN MEYER licenses and/or findings of  
23 suitability pursuant to the parameters defined in NRS 463.310(4); and

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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 7<sup>th</sup> day of August, 2015.

4 NEVADA GAMING CONTROL BOARD

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6 \_\_\_\_\_  
A.G. BURNETT, Chairman


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8 \_\_\_\_\_  
SHAWN R. REID, Member

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10 \_\_\_\_\_  
TERRY JOHNSON, Member

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12 Submitted by:

13 ADAM PAUL LAXALT  
14 Attorney General

15 By:

  
16 \_\_\_\_\_  
EDWARD L. MAGAW  
17 Deputy Attorney General  
18 Gaming Division - (702) 486-3082  
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