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STATE OF NEVADA

6

BEFORE THE NEVADA GAMING COMMISSION

7 NEVADA GAMING CONTROL BOARD,

8 Complainant,

9 vs.

**FIRST
AMENDED COMPLAINT**

10 C.O.D. CASINO CORPORATION,
11 dba: COD CASINO;

12 CARSON CACTUS JACK'S
13 CORPORATION,
14 dba: CACTUS JACK'S SENATOR CLUB;

15 and

16 CARSON BONANZA CORPORATION,
17 dba: JACKPOT CROSSING CASINO;

18 Respondents.

19

20 The State of Nevada, on relation of its NEVADA GAMING CONTROL BOARD
21 (BOARD), Complainant herein, by and through its counsel, AARON D. FORD, Attorney
22 General, and MICHAEL P. SOMPS, Senior Deputy Attorney General, hereby files this
23 First Amended Complaint before the Nevada Gaming Commission (Commission) for
24 disciplinary action against C.O.D. CASINO CORPORATION, dba: COD CASINO;
25 CARSON CACTUS JACK'S CORPORATION, dba: CACTUS JACK'S SENATOR CLUB;
26 and CARSON BONANZA CORPORATION, dba: JACKPOT CROSSING CASINO;
27 collectively RESPONDENTS herein, pursuant to Nevada Revised Statute (NRS)
28 463.310(2), and alleges as follows:

...

...

1 **JURISDICTION**

2 1. Complainant, BOARD, is an administrative agency of the State of Nevada duly
3 organized and existing under and by virtue of Chapter 463 of NRS and is charged with the
4 administration and enforcement of the gaming laws of this State as set forth in Title 41 of
5 NRS (Nevada Gaming Control Act) and the Regulations of the Commission.

6 2. C.O.D. CASINO CORPORATION, dba: COD CASINO (COD), located at 1595
7 Esmeralda Avenue, Minden, Nevada 89423 currently holds a nonrestricted gaming license
8 (Group II), and, as such, is charged with the responsibility of complying with all of the
9 provisions of the Nevada Gaming Control Act and the Regulations of the Commission.

10 3. CARSON CACTUS JACK'S CORPORATION, dba: CACTUS JACK'S SENATOR
11 CLUB (CACTUS JACK'S), located at 420 North Carson Street, Carson City, Nevada 89701
12 currently holds a nonrestricted gaming license (Group II), and, as such, is charged with the
13 responsibility of complying with all of the provisions of the Nevada Gaming Control Act
14 and the Regulations of the Commission.

15 4. CARSON BONANZA CORPORATION, dba: JACKPOT CROSSING CASINO
16 (JACKPOT CROSSING), located at 1897 North Edmonds Drive, Carson City, Nevada
17 89701, currently holds a nonrestricted gaming license (Group II), and, as such, is charged
18 with the responsibility of complying with all of the provisions of the Nevada Gaming
19 Control Act and the Regulations of the Commission.

20 **INTRODUCTION**

21 5. On March 12, 2020, Nevada Governor Sisolak declared an emergency due to the
22 COVID-19 pandemic declared by the World Health Organization. COVID-19 is a highly
23 contagious respiratory illness spread through the close proximity of persons and that has
24 been spreading throughout the world, including Nevada. In an effort to contain the
25 COVID-19 pandemic and in an effort to save lives, protect property, and protect the health
26 and safety of the public, Governor Sisolak has imposed restrictions on individuals and
27 businesses as further described herein. The BOARD, tasked with ensuring that all
28 establishments where gaming is conducted and where gaming devices are operated be

1 licensed, controlled and assisted to protect the public health, safety, morals, good order and
2 general welfare of the inhabitants of the State, is therefore making every effort to ensure
3 compliance by Nevada gaming licensees with Governor Sisolak's directives.

4 **RELEVANT LAW**

5 6. The Nevada Legislature set forth the importance of the gaming industry to the
6 State of Nevada and its responsibility to the State's inhabitants in NRS 463.0129(1), which
7 provides as follows:

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

10 (b) The continued growth and success of gaming is
11 dependent upon public confidence and trust . . . that
12 establishments which hold restricted and nonrestricted licenses
13 where gaming is conducted and where gambling devices are
14 operated do not unduly impact the quality of life enjoyed by
15 residents of the surrounding neighborhoods

16 (c) Public confidence and trust can only be maintained by
17 strict regulation of all persons, locations, practices, associations
18 and activities related to the operation of licensed gaming
19 establishments

20 (d) All establishments where gaming is conducted and
21 where gaming devices are operated . . . must therefore be
22 licensed, controlled and assisted to protect the public health,
23 safety, morals, good order and general welfare of the inhabitants
24 of the State, to foster the stability and success of gaming and to
25 preserve the competitive economy and policies of free
26 competition of the State of Nevada.

27 (e) To ensure that gaming is conducted honestly,
28 competitively and free of criminal and corruptive elements, all
gaming establishments in this state must remain open to the
general public and the access of the general public to gaming
activities must not be restricted in any manner except as
provided by the Legislature.

21 NRS 463.0129(1).

22 7. To ensure proper oversight and control over the gaming industry, the Nevada
23 Legislature has granted the Commission "full and absolute power and authority to limit,
24 condition, restrict, revoke or suspend any license . . . or fine any person licensed . . . for any
25 cause deemed reasonable by the Commission." NRS 463.1405(4).

26 8. The BOARD is authorized to observe the conduct of licensees in order to
27 ensure that gaming operations are not being operated in an unsuitable manner or by an
28 unqualified or unsuitable person. NRS 463.1405(1) and Nev. Gaming Comm'n Reg. 5.040.

1 9. Nevada Revised Statute 463.170 provides in relevant part as follows:

2 1. Any person who the Commission determines is
3 qualified to receive a license, to be found suitable or to
4 receive any approval required under the provisions of this
5 chapter, or to be found suitable regarding the operation of
6 a charitable lottery under the provisions of chapter 462 of
7 NRS, having due consideration for the proper protection of
8 the health, safety, morals, good order and general welfare
9 of the inhabitants of the State of Nevada and the declared
10 policy of this State, may be issued a state gaming license,
11 be found suitable or receive any approval required by this
12 chapter, as appropriate. The burden of proving an
13 applicant's qualification to receive any license, be found
14 suitable or receive any approval required by this chapter is
15 on the applicant.

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

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

21 (b) A person whose prior activities, criminal record,
22 if any, reputation, habits and associations do not pose a
23 threat to the public interest of this State or to the effective
24 regulation and control of gaming or charitable lotteries, or
25 create or enhance the dangers of unsuitable, unfair or
26 illegal practices, methods and activities in the conduct of
27 gaming or charitable lotteries or in the carrying on of the
28 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.

3. A license to operate a gaming establishment or an
inter-casino linked system must not be granted unless the
applicant has satisfied the Commission that:

(a) The applicant has adequate business probity,
competence and experience, in gaming or generally; and

(b) The proposed financing of the entire operation
is:

(1) Adequate for the nature of the proposed
operation; and

(2) From a suitable source.

↪ Any lender or other source of money or credit
which the Commission finds does not meet the standards
set forth in subsection 2 may be deemed unsuitable.

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

1 privileged and does not impose liability for defamation or
2 constitute a ground for recovery in any civil action.

3 ...

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

11 NRS 463.170(1)-(4) and (8).

12 10. The burden of proving a licensee's qualifications to continue to hold a license
13 rests at all times on the licensee. Nev. Gaming Comm'n Reg. 5.040.

14 11. Nevada Gaming Commission Regulation 5.010(1) states that it is "the policy
15 of the Commission and the Board to require that all establishments wherein gaming is
16 conducted in this state be operated in a manner suitable to protect the public health, safety,
17 morals, good order and general welfare of the inhabitants of the State of Nevada."

18 12. Nevada Gaming Commission Regulation 5.010(2) states that responsibility
19 "for the employment and maintenance of suitable methods of operation rests with the
20 licensee, and willful or persistent use or toleration of methods of operation deemed
21 unsuitable will constitute grounds for license revocation or other disciplinary action."

22 13. Nevada Gaming Commission Regulation 5.011 states, in relevant part, as
23 follows:

24 1. The Board and the Commission deem any activity on
25 the part of a licensee, registrant, or person found suitable by the
26 Commission, or an agent or employee thereof, that is inimical to
27 the public health, safety, morals, good order, or general welfare
28 of the people of the State of Nevada, or that would reflect or tend
to reflect discredit upon the State of Nevada or the gaming
industry, to be an unsuitable method of operation and shall be
grounds for disciplinary action by the Board and the
Commission in accordance with the Nevada Gaming Control Act
and the regulations of the Commission. The following acts or
omissions, without limitation, may be determined to be
unsuitable methods of operation:

(a) 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 (h) Failure to comply with or make provision for
2 compliance with all federal, state, or local laws and regulations
3 and with all conditions and limitations approved by the
4 Commission relating to the operations of a licensed gaming
5 establishment or other gaming business.

6 ...

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

12 ...

13 2. The Commission, in the exercise of its sound
14 discretion, may make its own determination as to whether or
15 not a licensed gaming establishment or other gaming business
16 has failed to comply with a law or regulation described in
17 paragraph (h) of subsection 1, but any such determination shall
18 make use of established precedents when interpreting the
19 applicable statute. Nothing in this section affects the right of a
20 licensee to judicial review.

21 Nev. Gaming Comm'n Reg. 5.011(1)(a), (h), and (k), and (2).

22 14. NRS 414.070 provides in relevant part the following:

23 The provisions of this section are operative only during
24 the existence of a state of emergency or declaration of disaster.
25 The existence of such an emergency or disaster may be
26 proclaimed by the Governor or by resolution of the Legislature
27 if the Governor in his or her proclamation, or the Legislature in
28 its resolution, finds that an attack upon the United States has
occurred or is anticipated in the immediate future, or that a
natural, technological or man-made emergency or disaster of
major proportions has actually occurred within this State, and
that the safety and welfare of the inhabitants of this State
require an invocation of the provisions of this section. Any such
emergency or disaster, whether proclaimed by the Governor or
by the Legislature, terminates upon the proclamation of the
termination thereof by the Governor, or the passage by the
Legislature of a resolution terminating the emergency or
disaster. During the period when a state of emergency or
declaration of disaster exists or continues, the Governor may
exercise the following additional powers:

4. To provide for and compel the evacuation of all or part
of the population from any stricken or threatened area or areas
within the State and to take such steps as are necessary for the
receipt and care of those persons.

...

7. To perform and exercise such other functions,
powers and duties as are necessary to promote and secure
the safety and protection of the civilian population.

NRS 414.070(4) and (7).

1 15. Nevada Gaming Commission Regulation 5.030 provides as follows:

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

9 Nev. Gaming Comm'n Reg. 5.030.

10 16. Nevada Revised Statute 463.310 states in relevant part as follows:

11 1. The Board shall make appropriate investigations:

12 (a) To determine whether there has been any violation of
13 this chapter or chapter 462, 464, 465 or 466 of NRS or any
14 regulations adopted thereunder.

15 (b) To determine any facts, conditions, practices or
16 matters which it may deem necessary or proper to aid in the
17 enforcement of any such law or regulation.

18 ...

19 2. If, after any investigation the Board is satisfied that:

20 (a) A license, registration, finding of suitability,
21 preliminary finding of suitability, pari-mutuel license or prior
22 approval by the Commission of any transaction for which the
23 approval was required or permitted under the provisions of this
24 chapter or chapter 462, 464 or 466 of NRS should be limited,
25 conditioned, suspended or revoked; or

26 (b) A person or entity which is licensed, registered, found
27 suitable pursuant to this chapter or chapter 464 of NRS or
28 which previously obtained approval for any act or transaction
under the provisions of this chapter or chapter 464 of NRS
should be fined,

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

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

...

...

1 **BACKGROUND**

2 17. On or about March 12, 2020, Steve Sisolak, Governor of the State of Nevada,
3 issued a Declaration of Emergency for COVID-19 to facilitate the State's response to the
4 COVID-19 pandemic declared by the World Health Organization.

5 18. On or about March 17, 2020, in furtherance of his Declaration of Emergency,
6 Governor Sisolak verbally mandated that all gaming machines, devices, table, games, and
7 any equipment related to gaming activity be shut down effective at midnight.

8 19. On or about March 18, 2020, Governor Sisolak issued Declaration of
9 Emergency Directive 002, reaffirming his March 17, 2020 verbal order wherein he ordered
10 that "the Nevada general public shall cease gathering at gaming establishments, and all
11 gaming devices, machines, tables, games, and any equipment related to gaming activity
12 shall cease operations effective March 17, 2020, at 11:59 p.m., for the duration that this
13 Directive shall be in effect."

14 20. On or about April 29, 2020, Governor Sisolak issued Declaration of Emergency
15 Directive 016 wherein he ordered the following:

16 Section 13: Gaming operations, not including licensed online
17 gaming or mobile wagering operations, shall remain closed until
18 the Gaming Control Board determines that operations may
19 safely resume. The Gaming Control Board shall promulgate
guidance for a phased and incremental resumption of gaming
operations, as well as criteria regarding when operations may
resume.

20 21. On or about May 1, 2020, the BOARD issued Health and Safety Policies for
21 Reopening after Temporary Closure pursuant to Section 13 of Governor Sisolak's
22 Declaration of Emergency Directive 016 in order to effectuate a safe, measured, and
23 incremental resumption of gaming operations.

24 22. On or about May 7, 2020, Governor Sisolak issued Declaration of Emergency
25 Directive 018 -- Phase One Reopening wherein he ordered the following:

26 Section 9: All employers must take proactive measures to
27 ensure compliance with the social distancing and sanitation
28 guidelines. All employers shall require employees who interact
with the public to wear face coverings to the maximum extent
possible, and shall abide by all other guidelines promulgated by

1 the Nevada State Occupational Safety and Health
Administration (NV OSHA).

2 Section 21: Section 13 of Directive 016 is hereby amended.
3 Gaming operations, not including licensed online gaming or
4 mobile wagering operations, shall remain closed through Phase
One. The Gaming Control Board shall promulgate guidance for
a phased and incremental resumption of gaming operations.”

5 23. On or about May 27, 2020, the BOARD issued Updated Health and Safety
6 Policies for Reopening after Temporary Closure. The May 27, 2020 updated and amended
7 health and safety policies impose operational requirements on licensees to mitigate and
8 reduce the risk of exposure to COVID-19 for all employees, patrons, and other guests and
9 states, in relevant part, the following: “When required or recommended, licensees must
10 ensure that PPE is available to employees and provide training on how to properly use and
11 dispose of all PPE.”

12 24. On or about May 28, 2020, Governor Sisolak issued Declaration of Emergency
13 Directive 021 – Phase Two Reopening Plan wherein he ordered in relevant part the
14 following:

15 Section 12: All employers shall continue to require employees
16 who interact with the public to wear face coverings to the
maximum extent possible . . .

17 Section 35: Directive 002 and Section 021 of Directive 018 are
18 hereby terminated. The Nevada Gaming Control Board shall
19 promulgate requirements for a phased and incremental
20 resumption of gaming operations, with openings commencing no
21 sooner than 12:01 am June 4, 2020. Failure of a gaming licensee
22 to comply with any such requirements shall be considered
23 injurious to the public health, safety, morals, good order and
24 general welfare of the inhabitants of the State, and constitute a
failure to comply with this Directive. The Nevada Gaming
Control Board is hereby authorized to enforce this Directive as
necessary, including, but without limitation, pursuing
disciplinary action to limit, condition, suspend, and/or revoke a
license, and/or impose a monetary fine against a licensee in
accordance with the Gaming Control Act.

25 25. On or about June 17, 2020 the BOARD issued Updated Health and Safety
26 Policies for Reopening after Temporary Closure, which state for nonrestricted licensees, in
27 relevant part, the following: “When required or recommended, licensees must ensure that
28 . . .

1 PPE is utilized and properly worn by employees, and provide training on how to properly
2 use, wear, and dispose of all PPE.”

3 26. As of June 24, 2020, 1) Nevada was experiencing an increase in both its
4 cumulative test positivity rate and its seven-day moving average of daily new COVID-19
5 cases; 2) Nevada was experiencing an increasing trend of hospitalizations for confirmed
6 COVID-19 cases since May 31, 2020; 3) infectious diseases scientists and experts advised
7 that “masks indisputably protect individuals against airborne transmission of respiratory
8 diseases;” 4) infectious diseases scientists and experts advised that “universal masking at
9 80% adoption flattens the curve significantly more than maintaining a strict lock-down,”
10 and “masking at only 50% adoption is not sufficient to prevent continued spread” of
11 COVID-19; and 5) the Governor’s COVID-19 Medical Advisory Team advised that “a
12 mouth-and-nose lockdown is far more sustainable than a full-body lockdown.” Therefore,
13 on or about June 24, 2020, Governor Sisolak issued Declaration of Emergency Directive
14 024 wherein he ordered in relevant part, and with limited exceptions, the following:

15 Section 5: Individuals . . . shall be required to cover their nose
16 and mouth with a mask or face covering when in a public space.

17 Section 6: Businesses operating during Phase Two of the
18 Nevada Roadmap to Recovery shall ensure that all patrons,
19 customers, patients, or clients utilize face coverings . . .
including prohibiting persons without face coverings from
entering the premises.

20 . . .

21 Section 7: The mandatory provisions of this directive shall not
22 apply to:

23 . . .

24 (3) Individuals who cannot wear a face covering due to a medical
25 condition or disability, or who are unable to remove a mask
26 without assistance. Persons exempted under this provision
should wear a non-restrictive alternative, such as a face shield.
Persons exempted under this provision shall not be required to
produce documentation verifying the condition.

27 27. On or about June 25, 2020, the BOARD issued Updated Health and Safety
28 Policies for Reopening after Temporary Closure, which states for nonrestricted licensees,

1 in relevant part, the following: "Pursuant to Governor Sisolak's Emergency Directive 024,
2 licensees shall ensure that all patrons and guests properly utilize face coverings, subject to
3 the guidelines in the Directive."

4 28. The COD, CACTUS JACK'S, and JACKPOT CROSSING are affiliates and all
5 indirectly 100% owned by David Scott Tate

6 29. On or about July 7, 2020, a BOARD agent received a telephone call from the
7 Vice President of Operations (VPO) for COD, CACTUS JACK'S and JACKPOT CROSSING
8 who sought clarification regarding the requirement that patrons wear face coverings. The
9 BOARD agent informed the VPO that patrons smoking and drinking at the casino could
10 only remove their face coverings to take a sip of their beverage or a puff of their cigarette;
11 otherwise, face coverings must be worn.

12 **Background Relevant to the COD**

13 30. On or about July 15, 2020, the BOARD received an anonymous complaint
14 alleging that the management of the COD was not enforcing the requirement to wear face
15 coverings in the smoking section of the casino.

16 31. On or about July 15, 2020, a BOARD agent arrived at the COD to conduct an
17 inspection. Upon arrival, the BOARD agent met with the VPO and advised him of the
18 anonymous complaint. The BOARD agent again explained the requirement that patrons
19 must wear face coverings. However, the VPO did not believe that Directive 024 applied to
20 patrons drinking and smoking inside a Nevada casino and repeatedly insisted on a specific
21 written order stating that patrons smoking and drinking inside a casino are required to
22 wear a face covering. The VPO was informed by the BOARD agent of the possible
23 consequences for failing to comply with Directive 024 and given an opportunity to inform
24 his staff of the face covering requirements for COD patrons before the BOARD agent
25 conducted his inspection.

26 32. On or about July 15, 2020, subsequent to his initial meeting with the VPO
27 and providing him with an opportunity to speak with his managers to ensure COD staff
28 was aware of and enforced the face covering requirements, the BOARD agent again spoke

1 with the VPO. When questioned by the BOARD agent further whether the face covering
2 requirements would be enforced for patrons smoking and drinking, the VPO did not answer
3 the question directly. Instead, he repeatedly stated "I spoke with my managers."

4 33. On or about July 15, 2020, the BOARD agent conducted an inspection of the
5 COD casino floor and immediately observed four (4) patrons not wearing or improperly
6 wearing a face covering while playing slot machines. The BOARD agent informed the VPO
7 of the agent's observations. However, the VPO did not appear concerned and claimed one
8 of the patrons had health issues. Further, the VPO provided no explanation why patrons
9 were not instructed to wear their face coverings properly. Subsequently, the BOARD agent
10 observed an additional two (2) patrons improperly wearing their face coverings.

11 34. During the BOARD agent's interactions with the VPO on July 15, 2020, the
12 VPO appeared upset, dismissive and defiant.

13 35. On or about July 20, 2020, BOARD agents conducted a follow-up inspection of
14 the COD.

15 36. On or about July 20, 2020, BOARD agents observed that the COD Property
16 Shift Manager, COD Slot Shift Manager, and a COD Slot Employee were improperly
17 wearing their face coverings. Further, the Slot Shift Manager and the Slot Employee
18 interacted with each other while improperly wearing their face coverings.

19 37. On or about July 20, 2020, BOARD agents also observed three (3) COD
20 patrons not wearing face coverings while at slot machines. BOARD agents further observed
21 several additional patrons at slot machines improperly wearing their face coverings.

22 **Background Relevant to CACTUS JACK'S**

23 38. On or about July 20, the VPO provided BOARD agents with a document
24 applicable to RESPONDENTS entitled, "Face Covering Protocols – Guests – July 15, 2020,"
25 which states in relevant part the following:

26 The Manager should ask the patron if they have a medical
27 condition or disability which precludes them from wearing a
28 face covering if they refuse to wear one. Managers are not to ask
for any additional details beyond a "yes" or "no" answer.
If the patron answers "yes" they may stay as is.

1 39. The VPO was informed by BOARD agents on July 20, 2020 that its "Face
2 Covering Protocols" was not in compliance with Directive 024 as patrons are required to
3 wear some type of alternative, such as a face shield, if they are unable to wear a face
4 covering

5 40. On or about July 21, 2020, a BOARD agent received an e-mail from a CACTUS
6 JACK'S patron alleging that there were three (3) CACTUS JACK'S employees not wearing
7 face coverings at that time.

8 41. On or about July 21, 2020, the BOARD agent conducted an inspection of
9 CACTUS JACK'S. Upon entering CACTUS JACK'S, the BOARD agent observed five (5)
10 out of approximately twelve (12) patrons improperly wearing their face coverings or not
11 wearing face coverings at all. In addition, the BOARD agent observed that a CACTUS
12 JACK'S bartender was improperly wearing her face covering while also interacting with a
13 CACTUS JACK'S Shift Manager.

14 42. On or about July 21, 2020, the BOARD agent met with the CACTUS JACK'S
15 Shift Manager who informed the BOARD agent that some of the patrons were not wearing
16 face coverings due to medical conditions and that one patron had specific permission from
17 management to not wear a face covering. The CACTUS JACK'S Shift Manager further
18 informed the BOARD agent that some customers were not required to wear face coverings
19 because they were drinking and smoking.

20 **Background Relevant to JACKPOT CROSSING**

21 43. On or about July 21, 2020, the BOARD received an anonymous report that
22 JACKPOT CROSSING'S employees were not properly wearing face coverings.

23 44. On or about July 21, 2020, a BOARD agent conducted an inspection of
24 JACKPOT CROSSING. The BOARD agent observed nine (9) patrons wearing their face
25 coverings improperly. In addition, two JACKPOT CROSSING'S employees, the Casino
26 Shift Manager and the Marketing Manager, were speaking with each other while
27 improperly wearing their face coverings on their chin.

28 ...

1 45. On or about July 21, 2020, the BOARD agent met with JACKPOT
2 CROSSING'S Casino Shift Manager and Marketing Manager who were informed of the
3 BOARD agent's observations. The Casino Shift Manager informed the BOARD agent that
4 she was aware that patrons are to wear face coverings over their mouth and nose, but
5 indicated it is difficult to repeatedly remind patrons to place face coverings over their face
6 between sips of a beverage or a puff from a cigarette.

7 **COUNT I**
8 **VIOLATION OF NEVADA GAMING COMMISSION REGULATIONS 5.011,**
9 **5.011(a), 5.011(h), and/or 5.011(k)**

10 46. The BOARD realleges and incorporates the above paragraphs by reference as
11 though set forth in full herein.

12 47. On or about July 15, 2020, a BOARD agent conducted an inspection of the
13 COD.

14 48. On or about July 15, 2020, the BOARD agent observed a total of six (6) patrons
15 not wearing face coverings or improperly wearing face coverings.

16 49. The COD failed to comply with Governor Sisolak's June 24, 2020 Directive
17 024 and the BOARD'S Updated Health and Safety Policies for Reopening after Temporary
18 Closure, which constitutes a violation of Nevada Gaming Commission Regulations 5.011,
19 5.011(a), 5.011(h), and/or 5.011(k).

20 50. The failure to comply with Nevada Gaming Commission Regulations 5.011,
21 5.011(a), 5.011(h), and/or 5.011(k) is an unsuitable method of operation and provides
22 grounds for disciplinary action against RESPONDENT. See Nev. Gaming Comm'n Reg.
23 5.010(2) and 5.030.

24 **COUNT II**
25 **VIOLATION OF NEVADA GAMING COMMISSION REGULATIONS 5.011,**
26 **5.011(a), 5.011(h), and/or 5.011(k)**

27 51. The BOARD realleges and incorporates the above paragraphs by reference as
28 though set forth in full herein.

52. On or about July 20, 2020, BOARD agents conducted a follow-up inspection of
the COD.

1 53. On or about July 20, 2020, BOARD agents observed three (3) COD employees
2 improperly wearing their face coverings. These observations by the BOARD agents
3 occurred more than a month after the BOARD notified licensees in its June 17, 2020
4 Updated Health and Safety Policies that PPE must be utilized and properly worn by
5 employees and more than two months subsequent to the Governor requiring employers to
6 require their employees who interact with the public to wear face coverings.

7 54. On or about July 20, 2020, the BOARD agents also observed more than three
8 (3) COD patrons not wearing face coverings or improperly wearing face coverings.

9 55. The COD failed to comply with Governor Sisolak's May 7, 2020 Directive 018,
10 May 28, 2020, Directive 021, and June 24, 2020 Directive 024, and the BOARD'S Updated
11 Health and Safety Policies for Reopening after Temporary Closure, which constitutes a
12 violation of Nevada Gaming Commission Regulations 5.011, 5.011(a), 5.011(h), and/or
13 5.011(k).

14 56. The failure to comply with Nevada Gaming Commission Regulations 5.011,
15 5.011(a), 5.011(h), and/or 5.011(k) is an unsuitable method of operation and provides
16 grounds for disciplinary action against RESPONDENT. See Nev. Gaming Comm'n Reg.
17 5.010(2) and 5.030.

18 **COUNT III**
19 **VIOLATION OF NEVADA GAMING COMMISSION REGULATIONS 5.011,**
20 **5.011(a), 5.011(h), and/or 5.011(k)**

21 57. The BOARD realleges and incorporates the above paragraphs by reference as
22 though set forth in full herein.

23 58. On or about July 21, 2020, a BOARD agent conducted an inspection of
24 CACTUS JACK'S.

25 59. On or about July 21, 2020, the BOARD agent observed a total of five (5)
26 patrons not wearing face coverings or improperly wearing face coverings.

27 60. On or about July 21, 2020, the BOARD agent observed a CACTUS JACK'S
28 bartender improperly wearing a face covering.

29 ...

1 61. The BOARD'S July 21, 2020 observations occurred more than a month after
2 the BOARD notified licensees in its June 17, 2020 Updated Health and Safety Policies that
3 PPE must be utilized and properly worn by employees and more than two months
4 subsequent to the Governor requiring employers to require their employees who interact
5 with the public to wear face coverings. The observations also occurred after the VPO had
6 on three prior occasions been informed by the BOARD of the face covering requirements.

7 62. CACTUS JACK'S failed to comply with Governor Sisolak's May 7, 2020
8 Directive 018, May 28, 2020, Directive 021, and June 24, 2020 Directive 024, and the
9 BOARD'S Updated Health and Safety Policies for Reopening after Temporary Closure,
10 which constitutes a violation of Nevada Gaming Commission Regulations 5.011, 5.011(a),
11 5.011(h), and/or 5.011(k).

12 63. The failure to comply with Nevada Gaming Commission Regulations 5.011,
13 5.011(a), 5.011(h), and/or 5.011(k) is an unsuitable method of operation and provides
14 grounds for disciplinary action against RESPONDENT. *See* Nev. Gaming Comm'n Reg.
15 5.010(2) and 5.030.

16 COUNT IV
17 VIOLATION OF NEVADA GAMING COMMISSION REGULATIONS 5.011,
18 5.011(a), 5.011(h), and/or 5.011(k)

18 64. The BOARD realleges and incorporates the above paragraphs by reference as
19 though set forth in full herein.

20 65. On or about July 21, 2020, a BOARD agent conducted an inspection of
21 JACKPOT CROSSING.

22 66. On or about July 21, 2020, the BOARD agent observed a total of nine (9)
23 patrons improperly wearing face coverings.

24 67. On or about July 21, 2020, the BOARD agent observed JACKPOT
25 CROSSING'S Casino Shift Manager interact with the JACKPOT CROSSING'S Marketing
26 Manager while improperly wearing their face coverings.

27 68. The BOARD'S July 21, 2020 observations occurred more than a month after
28 the BOARD notified licensees in its June 17, 2020 Updated Health and Safety Policies that

1 PPE must be utilized and properly worn by employees and more than two months
2 subsequent to the Governor requiring employers to require their employees who interact
3 with the public to wear face coverings. The observations also occurred after the VPO had
4 on three prior occasions been reminded by the BOARD of the face covering requirements.

5 69. JACKPOT CROSSING failed to comply with Governor Sisolak's May 7, 2020
6 Directive 018, May 28, 2020 Directive 021, and June 24, 2020 Directive 024, and the
7 BOARD'S Updated Health and Safety Policies for Reopening after Temporary Closure,
8 which constitutes a violation of Nevada Gaming Commission Regulations 5.011, 5.011(a),
9 5.011(h), and/or 5.011(k).

10 70. The failure to comply with Nevada Gaming Commission Regulations 5.011,
11 5.011(a), 5.011(h), and/or 5.011(k) is an unsuitable method of operation and provides
12 grounds for disciplinary action against RESPONDENT. See Nev. Gaming Comm'n Reg.
13 5.010(2) and 5.030.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, based upon the allegations contained herein, which constitute
16 reasonable cause for disciplinary action against RESPONDENTS, pursuant to
17 NRS 463.310 and/or NGC Regulations 5.010, 5.011, and/or 5.030, the Board prays for relief
18 as follows:

19 1. That the Commission serve a copy of this Complaint on RESPONDENTS
20 pursuant to NRS 463.312(2);

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

24 3. That the Commission take action against RESPONDENTS' licenses pursuant
25 to the parameters defined in NRS 463.310(4); and

26 ...

27 ...

28 ...

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

3 DATED this 31st day of August, 2020.

4 NEVADA GAMING CONTROL BOARD

5 
6 SANDRA MORGAN, Chairwoman

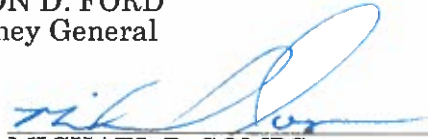
7 
8 TERRY JOHNSON, Member

9 
10 PHILIP KATSAROS, Member

11 Submitted by:

12 AARON D. FORD
13 Attorney General

14 By:


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