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STATE OF NEVADA
BEFORE THE NEVADA GAMING COMMISSION

NEVADA GAMING CONTROL BOARD,

Complainant,

vs.

S & P GAMING, INC.,
dba THE WATERING HOLE; PETER
LAWRENCE LUSICH, III; DIANE KESLER
LUSICH,

Respondents.

COMPLAINT

The State of Nevada, on relation of its NEVADA GAMING CONTROL BOARD (BOARD), Complainant herein, by and through its counsel, AARON D. FORD, Attorney General, and JOHN S. MICHELA, Senior Deputy Attorney General, hereby files this Complaint before the Nevada Gaming Commission (Commission) for disciplinary action against S & P GAMING, INC, dba THE WATERING HOLE, herein, pursuant to Nevada Revised Statute (NRS) 463.310(2), and alleges as follows:

JURISDICTION

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

2. RESPONDENT, S & P GAMING, INC., dba THE WATERING HOLE (S&P GAMING), located at 559 Spring Valley Court, Suite #2, Spring Creek, Nevada, currently holds a restricted gaming license and, as such, is charged with the responsibility of complying with all provisions of the Nevada Gaming Control Act and the Regulations of the Commission.

1 3. RESPONDENT, PETER LAWRENCE LUSICH, III, (PETER LUSICH III) is
2 licensed by the Commission as an officer and director of S&P GAMING. PETER LUSICH
3 III, as of April 4, 2023, was not licensed as a shareholder of S&P GAMING and was not
4 then a direct owner of an interest in S&P GAMING.

5 4. RESPONDENT, DIANE KESLER LUSICH (DIANE LUSICH) is licensed by
6 the Commission as an officer and director of S&P GAMING. DIANE LUSICH, as of April
7 4, 2023, was not licensed as a shareholder of S&P GAMING and was not then a direct
8 owner of an interest in S&P GAMING.

9 5. The Nevada Legislature set forth the importance of the gaming industry to
10 the State of Nevada and its responsibility to the State's inhabitants in NRS 463.0129. The
11 Legislature specifically set out that the continued growth and success of gaming is
12 dependent on public confidence and trust and that such public confidence and trust "can
13 only be maintained by strict regulation of all persons, locations, practices, associations and
14 activities related to the operation of licensed gaming establishments..." NRS 463.0129.

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

19 7. The BOARD is statutorily charged with determining whether a violation of
20 the Gaming Control Act has occurred. NRS 463.310(1). If the BOARD is satisfied that
21 discipline is warranted, it shall initiate disciplinary action by filing a complaint with the
22 Commission. NRS 463.310(2).

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

26 9. A person approved by the Nevada Gaming Commission has an ongoing
27 obligation to meet the standards required to obtain such approval including, without
28 limitation, to be a person of good character, honesty and integrity and to refrain from

1 activities and associations which may impact the interests of Nevada, the regulation of
2 gaming, or the reputation of gaming in Nevada. NRS 463.170.

3 10. In addition to remedies the Nevada Gaming Commission has against a
4 holding or intermediary company for its actions, the Nevada Gaming Commission may also
5 take action against the licensee. NRS 463.615.

6 11. The Nevada Gaming Commission may take action with regard to a
7 registration or finding of suitability on the same grounds as it may take action with regard
8 to a license. Nev. Gaming Comm'n Reg. 3.080.

9 12. Nevada Gaming Commission Regulation 5.030 provides as follows:

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

22 Nev. Gaming Comm'n Reg. 5.030.

23 GENERAL ALLEGATIONS

24 13. As of April 4, 2023, BOARD records reflected PETER LUSICH III was the
25 President and Chairman of the Board of Directors for S&P GAMING and was licensed by
26 the Commission in those capacities as an officer and director of S&P GAMING.

27 14. As of April 4, 2023, BOARD records reflected DIANE LUSICH was the
28 Assistant Secretary and a Director for S&P GAMING and was licensed by the Commission
in those capacities as an officer and Director of S&P GAMING.

15. As of April 4, 2023, BOARD records reflected the Lusich Family Trust was
registered by the Commission as a holding company and licensed by the Commission as a
shareholder to hold a 25% interest in S&P GAMING with PETER LUSICH III and DIANE

1 LUSICH found suitable by the Commission as trustees and beneficiaries of the Lusich
2 Family Trust.

3 16. As of April 4, 2023, BOARD records reflected Sean Wyatt Mowray was the
4 Secretary and Treasurer and a Director of S&P GAMING as well as the holder of a 25%
5 interest in S&P GAMING. Sean Wyatt Mowray was licensed in those capacities by the
6 Commission.

7 17. As of April 4, 2023, BOARD records reflected Judith Elaine Hott was the
8 Assistant Treasurer and a Director of S&P GAMING as well as the holder of a 25% interest
9 in S&P GAMING. Judith Elaine Hott was licensed in those capacities by the Commission.

10 18. As of April 4, 2023, BOARD records reflected Peter Lawrence Lusich, IV, was
11 the Vice President and a Director of S&P GAMING as well as the holder of a 25% interest
12 in S&P GAMING. Peter Lawrence Lusich, IV, was licensed in those capacities by the
13 Commission.

14 19. On or about February 26, 2020, S&P GAMING's Board of Directors voted to
15 remove Sean Wyatt Mowray as an officer and director of S&P GAMING. DIANE LUSICH
16 replaced Sean Wyatt Mowray as Secretary and Treasurer of S&P GAMING. The Nevada
17 Secretary of State was notified of these changes. The BOARD was not notified of these
18 changes.

19 20. On or about July 31, 2020, Sean Wyatt Mowray transferred his 25%
20 ownership interest in S&P GAMING to PETER LUSICH III and DIANE LUSICH for a
21 \$25,000 credit against amounts Sean Wyatt Mowray owed to the Lusich Family Trust. The
22 transfer of interest and credit occurred on or about July 31, 2020, and were not escrowed.

23 21. On or about December 3, 2020, Judith Elaine Hott transferred her 25%
24 ownership interest in S&P GAMING to PETER LUSICH III and DIANE LUSICH for
25 \$20,000. The transfer of interest and payment occurred on or about December 3, 2020, and
26 were not escrowed.

27 22. On or about March 6, 2021, S&P GAMING filed a required NGC-09 form with
28 the BOARD. On this form, S&P GAMING certified and declared that "under penalties of

1 perjury that all information listed on this license and provided in this report is true,
2 complete, and accurate to the best of my knowledge, information, and belief..." The
3 information provided in the form indicated Sean Wyatt Mowray was a 25% owner of S&P
4 GAMING and was the Secretary and Treasurer and a Director of S&P GAMING. The
5 information provided in the form indicated Judith Elaine Hott was a 25% owner of S&P
6 GAMING and was the Assistant Treasurer and a Director of S&P GAMING.

7 23. On or about March 1, 2022, S&P GAMING filed a required NGC-09 form with
8 the BOARD. On this form, S&P GAMING certified and declared that "under penalties of
9 perjury that all information listed on this license and provided in this report is true,
10 complete, and accurate to the best of my knowledge, information, and belief..." The
11 information provided in the form indicated Sean Wyatt Mowray was a 25% owner of S&P
12 GAMING and was the Secretary and Treasurer and a Director of S&P GAMING. The
13 information provided in the form indicated Judith Elaine Hott was a 25% owner of S&P
14 GAMING and was the Assistant Treasurer and a Director of S&P GAMING.

15 **COUNT ONE**
16 **UNSUITABLE METHOD OF OPERATION**
17 **REGARDING UNAPPROVED**
TRANSFER OF INTEREST FROM SEAN WYATT MOWRAY

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

20 25. The purported transfer of an interest in a corporation which holds a gaming
21 license is void unless approved by the Commission in advance of the transfer. NRS 463.510;
22 Nev. Gam'g Comm'n Reg. 8.030.

23 26. Unless it is placed in escrow, no consideration for the transfer of an interest
24 in a gaming operation shall be paid until compliance has been had with all laws regarding
25 the transfer, including Commission pre-approval. Nev. Gam'g Comm'n Reg. 8.050.

26 27. On or about July 31, 2020, Sean Wyatt Mowray transferred his 25% interest
27 in S&P GAMING to PETER LUSICH III and DIANE LUSICH. On the same date, PETER
28

1 LUSICH III AND DIANE LUSICH cancelled debt owed by Sean Wyatt Mowray to the
2 Lusich Family Trust in payment for his interest in S&P GAMING.

3 28. Neither PETER LUSICH III nor DIANE LUSICH filed an application
4 concerning the transfer with the BOARD prior to this transfer. It is the burden of the
5 transferee to file such application. See Nev. Gam'g Comm'n Reg. 8.030.

6 29. The BOARD did not receive an application concerning this transfer until on
7 or about March 10, 2021, when an application concerning the transfers was filed.

8 30. RESPONDENTS' actions as set out above are violations of Nevada Revised
9 Statutes 463.170 and/or 463.510 and/or Nevada Gaming Commission Regulations 5.010,
10 5.011, 8.030, and/or 8.050. This constitutes an unsuitable method of operation, and, as
11 such, is grounds for disciplinary action. See NRS 463.170(8); Nev. Gaming Comm'n Regs.
12 5.010(2), 5.011(1) and 5.030.

13 **COUNT TWO**
14 **UNSUITABLE METHOD OF OPERATION**
15 **REGARDING UNAPPROVED**
TRANSFER OF INTEREST FROM JUDITH ELAINE HOTT

16 31. The BOARD realleges and incorporates the above paragraphs by reference as
17 though set forth in full herein.

18 32. The purported transfer of an interest in a corporation which holds a gaming
19 license is void unless approved by the Commission in advance of the transfer. NRS 463.510;
20 Nev. Gam'g Comm'n Reg. 8.030.

21 33. Unless it is placed in escrow, no consideration for the transfer of an interest
22 in a gaming operation shall be paid until compliance has been had with all laws regarding
23 the transfer, including Commission pre-approval. Nev. Gam'g Comm'n Reg. 8.050.

24 34. On or about December 3, 2020, Judith Elaine Hott transferred her 25%
25 interest in S&P GAMING to PETER LUSICH III and DIANE LUSICH. On the same date,
26 PETER LUSICH III AND DIANE LUSICH issued a check to Judith Elaine Hott in
27 payment for her interest in S&P GAMING.

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1 35. Neither PETER LUSICH III nor DIANE LUSICH filed an application
2 concerning the transfer with the BOARD prior to this transfer. It is the burden of the
3 transferee to file such application. See Nev. Gam'g Comm'n Reg. 8.030.

4 36. The BOARD did not receive an application concerning this transfer until on
5 or about March 10, 2021, when an application concerning the transfers was filed.

6 37. RESPONDENTS' actions as set out above are violations of Nevada Revised
7 Statutes 463.170 and/or 463.510 and/or Nevada Gaming Commission Regulations 5.010,
8 5.011, 8.030, and/or 8.050. This constitutes an unsuitable method of operation, and, as
9 such, is grounds for disciplinary action. See NRS 463.170(8); Nev. Gaming Comm'n Regs.
10 5.010(2), 5.011(1) and 5.030.

11 **COUNT THREE**
12 **UNSUITABLE METHOD OF OPERATION**
13 **REGARDING UNTRUE STATEMENTS ON A**
REPORT FILED WITH THE BOARD

14 38. The BOARD realleges and incorporates the above paragraphs by reference as
15 though set forth in full herein.

16 39. It is grounds for disciplinary action if a person makes an untrue statement of
17 material fact in a report filed with the BOARD. Nev. Gam'g Comm'n Reg. 4.040.

18 40. On or about March 6, 2021, and March 1, 2022, S&P GAMING attested on
19 form NGC-09 that its owners included Sean Wyatt Mowray and Judith Elaine Hott. S&P
20 GAMING also attested that its direct owners did not include PETER LUSICH III and
21 DIANE LUSICH.

22 41. On or about March 6, 2021, and March 1, 2022, S&P GAMING attested on
23 form NGC-09 that its officers and directors included Sean Wyatt Mowray and Judith Elaine
24 Hott.

25 42. On or about March 6, 2021, and March 1, 2022, S&P GAMING attested on
26 form NGC-09 that DIANE LUSICH held the officer position of Assistant Secretary. These
27 forms did not indicate DIANE LUSICH held the officer positions of Secretary and
28 Treasurer.

1 43. Form NGC-09 is a report filed with the BOARD in compliance with the
2 Gaming Control Act.

3 44. As set out above, Sean Wyatt Mowray and Judith Elaine Hott ceased being
4 owners, officers, and directors of S&P GAMING prior to March 6, 2021.

5 45. As set out above, DIANE LUSICH became Secretary and Treasurer of S&P
6 GAMING prior to March 6, 2021.

7 46. As set out above, PETER LUSICH III and DIANE LUSICH became
8 shareholders of S&P GAMING prior to March 6, 2021.

9 47. The owners, officers, and directors of a gaming licensee are material facts.

10 48. RESPONDENTS have not attempted to correct these erroneous attestations.
11 This is in spite of the fact that correct information was provided on the applications for
12 transfers of interest filed with the BOARD on or about March 10, 2021.

13 49. RESPONDENTS made untrue attestations on reports filed with the BOARD
14 which constitutes a violation of Nevada Gaming Commission Regulations 5.011, 5.011(a),
15 5.011(h), 5.011(k), and/or 4.040. The failure to comply with Nevada Gaming Commission
16 Regulations 5.011, 5.011(a), 5.011(h), 5.011(k), and/or 4.040 is an unsuitable method of
17 operation and provides grounds for disciplinary action against RESPONDENTS. See Nev.
18 Gaming Comm'n Reg. 5.010(2) and 5.030.

19 50. RESPONDENTS' actions as set out above are violations of Nevada Revised
20 Statutes 463.170 and/or Nevada Gaming Commission Regulations 5.010, 5.011, and/or
21 4.040. This constitutes an unsuitable method of operation, and, as such, is grounds for
22 disciplinary action. See NRS 463.170(8); Nev. Gaming Comm'n Regs. 5.010(2), 5.011(1) and
23 5.030.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, based upon the allegations contained herein, which constitute
26 reasonable cause for disciplinary action against RESPONDENTS, pursuant to
27 NRS 463.310 and/or NGC Regulations 5.010, 5.011, and/or 5.030, the BOARD prays for
28 relief as follows:

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

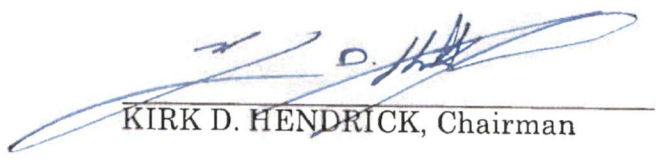
2. That the Commission fine RESPONDENTS a monetary sum pursuant to the parameters defined at NRS 463.310(4) for each separate violation of the provisions of the Nevada Gaming Control Act or the Regulations of the Commission;

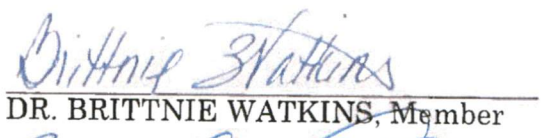
3. That the Commission take action against RESPONDENTS' licenses pursuant to the parameters defined in NRS 463.310(4); and

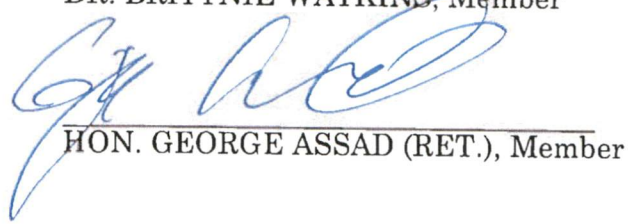
4. For such other and further relief as the Commission may deem just and proper.

DATED this 2nd day of May, 2023.

NEVADA GAMING CONTROL BOARD

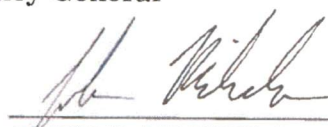

KIRK D. HENDRICK, Chairman


DR. BRITTNE WATKINS, Member


HON. GEORGE ASSAD (RET.), Member

Submitted by:

AARON D. FORD
Attorney General

By: 
JOHN S. MICHELA
Senior Deputy Attorney General
Gaming Division
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