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STATE OF NEVADA

4

BEFORE THE NEVADA GAMING COMMISSION

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NEVADA GAMING CONTROL BOARD,

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Complainant,

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vs.

COMPLAINT

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TAHOE NUGGET, INC.,
dba JIM KELLEY'S TAHOE NUGGET,

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Respondent.

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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 TAHOE NUGGET, INC., dba JIM KELLEY'S TAHOE NUGGET, 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 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.

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2. RESPONDENT, TAHOE NUGGET, INC., dba JIM KELLEY'S TAHOE NUGGET (RESPONDENT), located at 20 State Route 28, Crystal Bay, Nevada, currently holds a grandfathered nonrestricted 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.

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

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

11 5. The BOARD is statutorily charged with determining whether a violation of
12 the Gaming Control Act has occurred. NRS 463.310(1). If the BOARD is satisfied that
13 discipline is warranted, it shall initiate disciplinary action by filing a complaint with the
14 Commission. NRS 463.310(2).

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

18 7. A person approved by the Nevada Gaming Commission has an ongoing
19 obligation to meet the standards required to obtain such approval including, without
20 limitation, to be a person of good character, honesty and integrity and to refrain from
21 activities and associations which may impact the interests of Nevada, the regulation of
22 gaming, or the reputation of gaming in Nevada. NRS 463.170.

23 8. In addition to remedies the Nevada Gaming Commission has against a
24 holding or intermediary company for its actions, the Nevada Gaming Commission may also
25 take action against the licensee. NRS 463.615.

26 9. The Nevada Gaming Commission may take action with regard to a
27 registration or finding of suitability on the same grounds as it may take action with regard
28 to a license. Nev. Gaming Comm'n Reg. 3.080.

1 10. 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
9 to be bound by all of the regulations of the Commission as the
10 same now are or may hereafter be amended or promulgated. It
11 is the responsibility of the licensee to keep informed of the
12 content of all such regulations, and ignorance thereof will not
13 excuse violations.

14 Nev. Gaming Comm'n Reg. 5.030.

15 **GENERAL ALLEGATIONS**

16 11. On February 7, 2023, the BOARD served an Order to Show Cause (OSC) on
17 RESPONDENT. The OSC highlighted issues with the ability to contact RESPONDENT
18 and RESPONDENT's deficiencies in complying with gaming employee registration
19 requirements. On or about March 8, 2023, RESPONDENT submitted a response to the
20 OSC to the BOARD.

21 12. Subsequent to the response, the BOARD performed a supplemental
22 investigation concerning the responsiveness of RESPONDENT and RESPONDENT's
23 compliance with gaming employee registration requirements. The BOARD's supplemental
24 investigation uncovered continuing issues with the ability to contact RESPONDENT and
25 continuing gaming employee registration compliance deficiencies. Based on the discoveries
26 of the initial investigation and supplemental investigation, the BOARD converted the OSC
27 to the present Complaint.

28 **OSC Contact Issues**

 13. On September 21, 2022, a BOARD agent attempted to contact RESPONDENT
concerning gaming employee registration issues. The BOARD agent called the telephone
number on record with the BOARD. The telephone number was inoperative and did not
connect to RESPONDENT. It appears RESPONDENT did not have an active telephone
number for anyone, including the BOARD and patrons, to reach RESPONDENT.

1 14. The BOARD agent attempted further contact with RESPONDENT by calling
2 and leaving messages with the owners of RESPONDENT, James Kelley and Jeff Kelley, as
3 well as sending e-mails to the owners. The BOARD agent did not receive any response or
4 reply by e-mail or telephone.

5 15. Contact with RESPONDENT was finally achieved through another agent of
6 the BOARD physically travelling to RESPONDENT and speaking with the manager on
7 duty.

8 16. As a result of this contact, RESPONDENT secured a new telephone number.

9 17. On October 4, 2022, a BOARD agent attempted to contact RESPONDENT at
10 its new telephone number. The number rang a few times and then went to an unidentified
11 voice mail. The agent left a message which was not returned.

12 18. Between October 4, 2022, and January 31, 2023, BOARD agents attempting
13 to contact RESPONDENT did so through the use of Jeff Kelley's mobile phone. On January
14 31, 2023, a BOARD agent attempted to make contact with the RESPONDENT through the
15 telephone number RESPONDENT provided as its new telephone number in October of
16 2022. After ringing several times, the telephone number was answered by a generic
17 voicemail message which did not identify the telephone number as that of RESPONDENT.
18 The agent left a message requesting a call back. The agent did not receive a call back with
19 regard to this message.

20 19. Upon discussing the lack of a return call from RESPONDENT with James
21 Kelley, Mr. Kelley indicated that, unless someone happens to be in the casino cage when
22 the telephone number is called, the number will not be answered. Mr. Kelley stated that
23 nobody checks the telephone number for messages. When queried about how a member of
24 the public or BOARD agent would be able to contact RESPONDENT, Mr. Kelley stated
25 that the person would have to contact him or his brother directly or stop by RESPONDENT
26 in person. Mr. Kelley did not seem to recognize that RESPONDENT not monitoring its
27 telephone line was a problem.

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1 **OSC Gaming Employee Registration Compliance Issues**

2 20. RESPONDENT hired Alesha Noelhy Garcia as a gaming employee on April
3 28, 2022. On or shortly after this date, Ms. Garcia commenced work at RESPONDENT as
4 a gaming employee. As of at least September 22, 2022, the gaming employee registration
5 application of Ms. Garcia had not been submitted to the BOARD.

6 21. RESPONDENT hired Jesse Joel Ault as a gaming employee on April 28, 2022.
7 On or shortly after this date, Mr. Ault commenced work at RESPONDENT as a gaming
8 employee. As of at least September 22, 2022, the gaming employee registration application
9 of Mr. Ault had not been submitted to the BOARD.

10 22. RESPONDENT hired Adelia Stevenson on January 24, 2022. Ms. Stevenson
11 commenced work as a gaming employee on or shortly after this date at RESPONDENT.
12 Ms. Stevenson was registered as an active gaming employee at the Tahoe Biltmore. As of
13 at least October 10, 2022, the change of employment notice for Ms. Stevenson had not been
14 submitted to the BOARD.

15 23. RESPONDENT employs Rogelio Cruz as a gaming employee. Mr. Cruz'
16 gaming employee registration expired on November 2, 2021. As of at least October 10,
17 2022, a registration renewal for Mr. Cruz had not been submitted to the BOARD.

18 24. RESPONDENT employs Brad Barnes as a gaming employee. Mr. Barnes'
19 gaming employee registration expired on March 15, 2021. As of at least October 10, 2022,
20 a registration renewal for Mr. Barnes had not been submitted to the BOARD.

21 25. RESPONDENT failed to submit monthly hire reports regarding gaming
22 employees to the BOARD for January, May, August, and October of 2021. As of October
23 10, 2022, RESPONDENT had failed to submit monthly hire reports regarding gaming
24 employees to the BOARD in 2022 for every month except May.

25 26. RESPONDENT failed to enter termination dates within the required time for
26 at least two employees: Leigh Williams and Brian Gibbs. Ms. Williams' employment with
27 RESPONDENT was terminated on April 17, 2022. Mr. Gibbs' employment with
28 RESPONDENT was terminated on March 6, 2022. As of October 10, 2022, RESPONDENT

1 had failed to enter the termination dates of these two employees into the Board's gaming
2 employee registration system.

3 Post-OSC Issues

4 27. Subsequent to the RESPONDENT's response to the OSC, the Enforcement
5 Division of the BOARD performed a supplemental investigation to ascertain whether
6 RESPONDENT had corrected the issues cited in the OSC concerning patron and BOARD
7 ability to contact RESPONDENT and concerning RESPONDENT's compliance with
8 gaming employee registration requirements.

9 28. On or about March 20, 2023, a BOARD agent verified RESPONDENT had a
10 new telephone number in place and that the telephone number was being monitored by
11 employees of RESPONDENT with messages being returned. However, the agent could not
12 locate the number in any public directory or with an internet search. The only results
13 obtained through these searches were for old, disconnected numbers.

14 29. A BOARD agent spoke to James Kelley regarding the inability to locate the
15 active telephone number for RESPONDENT. Mr. Kelley responded that he would create a
16 website for RESPONDENT to rectify this issue. As of April 20, 2023, this website had not
17 been created.

18 30. A BOARD agent specifically brought the failure of RESPONDENT to ensure
19 Mr. Barnes had submitted his renewal application to the BOARD to the attention of
20 RESPONDENT on October 11, 2022. The BOARD served an OSC to RESPONDENT on
21 February 7, 2023. The OSC specifically referenced the gaming employee compliance
22 violation regarding Mr. Barnes. Mr. Barnes' gaming employee registration renewal was
23 not submitted to the BOARD until March 4, 2023. Throughout this period during which
24 Mr. Barnes was not registered as a gaming employee, RESPONDENT continued to employ
25 Mr. Barnes as a gaming employee.

26 31. RESPONDENT employed Jesus Cabrera in a non-gaming position for
27 approximately 10 years. In December 2022, RESPONDENT reassigned Mr. Cabrera to its
28 count team, a gaming employee position. On March 20, 2023, a BOARD agent requested

1 RESPONDENT provide a list of current gaming employees. Mr. Cabrera's application for
2 registration as a gaming employee was submitted to the BOARD on March 21, 2023.

3 32. RESPONDENT employed Nathaniel Spitze as a gaming employee starting in
4 2019. On March 20, 2023, a BOARD agent requested RESPONDENT provide a list of
5 current gaming employees. Mr. Spitze's application for registration as a gaming employee
6 was submitted to the BOARD on March 20, 2023.

7 33. RESPONDENT employed Thomas Krueger as a gaming employee on March
8 25, 2023. As of April 10, 2023, Mr. Krueger's application for registration as a gaming
9 employee had not been submitted to the BOARD.

10 34. RESPONDENT failed to submit its January 2023 hire report until April 9,
11 2023.

12 35. RESPONDENT listed Mr. Barnes as a new hire on its February 2023 hire
13 report.

14 **COUNT ONE**
15 **UNSUITABLE METHOD OF OPERATION**
16 **REGARDING GAMING EMPLOYEE COMPLIANCE ISSUES**

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

19 37. A licensee shall not employ a person as a gaming employee unless such person
20 is registered or temporarily registered. NRS 463.335(2); Nev. Gam'g Comm'n Reg. 5.101
21 and 5.105(1). A licensee is responsible for checking the BOARD's system of records to
22 ensure such registration. Nev. Gam'g Comm'n Reg. 5.105(1). A person is deemed
23 temporarily registered as a gaming employee upon submission of an application for
24 registration. Nev. Gam'g Comm'n Reg. 5.102(1).

25 38. If a person becomes employed as a gaming employee at another or additional
26 gaming establishment, a change of employment notice must be submitted to the BOARD
27 within 10 calendar days of the change. NRS 463.335(2). A person is deemed temporarily
28 registered as a gaming employee upon submission of a change of employment notice. Nev.
Gam'g Comm'n Reg. 5.106(2).

1 39. As set out above, RESPONDENT employed at least eight individuals in
2 gaming employee positions without ensuring the requisite submission of a gaming
3 employee application, renewal application, or change of employment notice were filed with
4 the BOARD.

5 40. "On or before the fifteenth (15th) day of each month, each licensee shall
6 submit a written report to the Board containing the name, gaming registration number,
7 position held, and date of hire of each gaming employee hired during the immediately
8 preceding month." Nev. Gam'g Comm'n Reg. 5.105(8).

9 41. As set out above, RESPONDENT failed to submit the hire reports as required
10 approximately 16 times.

11 42. "On or before the fifteenth (15th) day of each month, each licensee shall enter
12 a termination date for all gaming employees terminated or separated from service within
13 the immediately preceding month into the Board's online gaming employee registration
14 system." Nev. Gam'g Comm'n Reg. 5.105(9).

15 43. As set out above, RESPONDENT failed to timely enter termination
16 information for at least two gaming employees.

17 44. RESPONDENT's actions as set out above are violations of Nevada Revised
18 Statute 463.170 and/or NRS 463.335 and/or Nevada Gaming Commission Regulations
19 5.010, 5.011, 5.101, 5.102, 5.105, and/or 5.106. This constitutes an unsuitable method of
20 operation, and, as such, is grounds for disciplinary action. See NRS 463.170(8); Nev.
21 Gaming Comm'n Regs. 5.010(2), 5.011(1) and 5.030.

22 **COUNT TWO**
23 **UNSUITABLE METHOD OF OPERATION**
24 **REGARDING THE INABILITY TO CONTACT RESPONDENT**

25 45. The BOARD realleges and incorporates the above paragraphs by reference as
26 though set forth in full herein.

27 46. A licensee is responsible "for the employment and maintenance of suitable
28 methods of operation... and willful or persistent use or toleration of methods of operation

1 deemed unsuitable will constitute grounds for license revocation or other disciplinary
2 action." Nev. Gam'g Comm'n Reg. 5.010(2).

3 47. It is an unsuitable method of operation to fail "to prevent incidents which
4 might reflect on the repute of the State of Nevada..." Nev. Gam'g Comm'n Reg. 5.011(1)(a).

5 48. It is an unsuitable method of operation to fail "to conduct gaming operations
6 in accordance with proper standards of custom, decorum, and decency, or permit a type of
7 conduct in a gaming establishment that reflects or tends to reflect on the repute of the state
8 of Nevada and act as a detriment to the gaming industry." Nev. Gam'g Comm'n Reg.
9 5.011(1)(k).

10 49. As set out above, RESPONDENT failed to maintain a telephone number
11 through which a member of the public, a patron, or the BOARD could contact
12 RESPONDENT.

13 50. As set out above, RESPONDENT, upon obtaining a new telephone number
14 when this issue was raised by the BOARD, failed to monitor the new telephone number
15 and messages left at the new telephone number.

16 51. As set out above, RESPONDENT, upon obtaining a new telephone number
17 when this issue was raised by the BOARD, failed to publicize the new telephone number
18 so that a member of the public or patron could reasonably discover the new telephone
19 number and contact RESPONDENT.

20 52. The inability of a patron of RESPONDENT or member of the general public
21 to contact RESPONDENT, as a Nevada gaming licensee, reflects poorly on the reputation
22 of Nevada and is a detriment to its gaming industry.

23 53. The inability of the BOARD, a member of the general public, or a patron to
24 contact RESPONDENT is not in line with conducting gaming operations in accordance with
25 proper standards of custom, decorum, and decency.

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

3 DATED this 9 day of June, 2023.

4 NEVADA GAMING CONTROL BOARD

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7 KIRK D. HENDRICK, Chairman

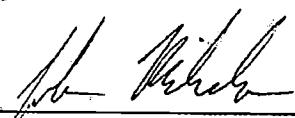
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