



1 NGC 14-08

2

3

4

STATE OF NEVADA

5

BEFORE THE NEVADA GAMING COMMISSION

6

STATE GAMING CONTROL BOARD,

7

Complainant,

8

vs.

9

HERDA'S BAR AND GRILL, INC., dba
FOXY GIRLS,

AMENDED COMPLAINT

10

JOHN JAMES HERDA,

11

and

12

NICHOLAS HERDA,

13

Respondents.

14

The State of Nevada, on relation of its State Gaming Control Board (BOARD),
Complainant herein, by and through its counsel, ADAM PAUL LAXALT, Attorney General, and
MICHAEL P. SOMPS, Senior Deputy Attorney General, hereby files this Complaint for
disciplinary action against Respondents pursuant to Nevada Revised Statute
(NRS) 463.310(2) and alleges as follows:

20

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
and the Regulations of the Nevada Gaming Commission.

24

2. Respondent, HERDA'S BAR AND GRILL, INC., dba FOXY GIRLS (FOXY GIRLS),
located at 3013 South Highland, Las Vegas, Nevada holds a restricted gaming license issued
by the Nevada Gaming Commission (Commission). Respondent, JOHN JAMES HERDA,
holds a license issued by the Nevada Gaming Commission as an officer and director of FOXY
GIRLS and is also found suitable as a trustee and beneficiary of the Susan and John Herda

28

1 Trust, which is a 50 percent shareholder of FOXY GIRLS. Respondent, NICHOLAS HERDA,
2 holds a license issued by the Nevada Gaming Commission as an officer and director of FOXY
3 GIRLS and is also found suitable as the trustee and beneficiary of the Nicholas Herda
4 Revocable Family Trust, which is a 50 percent shareholder of FOXY GIRLS.

5 **RELEVANT LAW**

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

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

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

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

25 (d) All establishments where gaming is conducted and
26 where gaming devices are operated, and manufacturers, sellers
27 and distributors of certain gaming devices and equipment, and
28 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.

(e) To ensure that gaming is conducted honestly,
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.

NRS 463.0129(1).

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

.....

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

4 6. This continuing obligation is repeated in Nevada Gaming Commission Regulation
5 5.040, which provides as follows:

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

11 Nev. Gaming Comm'n. Reg. 5.040.

12 7. Nevada Gaming Commission Regulation 5.010(2) further provides that
13 “[r]esponsibility for the employment and maintenance of suitable methods of operation rests
14 with the licensee, and willful or persistent use or toleration of methods of operation deemed
15 unsuitable will constitute grounds for license revocation or other disciplinary action.” Nev.
16 Gaming Comm’n. Reg. 5.010(2).

17 8. NRS 463.170 provides in relevant part the following:

18 2. An application to receive a license or be found suitable
19 must not be granted unless the Commission is satisfied that the
20 applicant is:
21 (a) A person of good character, honesty and integrity;
22 (b) A person whose prior activities, criminal record, if any,
23 reputation, habits and associations do not pose a threat to the
24 public interest of this State or to the effective regulation and control
25 of gaming or charitable lotteries, or create or enhance the dangers
26 of unsuitable, unfair or illegal practices, methods and activities in
27 the conduct of gaming or charitable lotteries or in the carrying on of
28 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.

.....

8. Any person granted a license or found suitable by the
Commission shall continue to meet the applicable standards and
qualifications set forth in this section and any other qualifications
established by the Commission by regulation. The failure to

1 continue to meet such standards and qualifications constitutes
2 grounds for disciplinary action.

3 NRS 463.170(2) and (8).

4 9. Nevada Gaming Commission Regulation 3.010 states, in relevant part, as follows:

5 The board may recommend that an application for a state
6 gaming license be denied, if the board deems that the place or
7 location for which the license is sought is unsuitable for the conduct
8 of gaming operations. The commission may deny an application for
9 a state gaming license if the commission deems that the place or
10 location for which the license is sought is unsuitable for the conduct
11 of gaming operations.

12 Without limiting the generality of the foregoing, the following
13 places or locations may be deemed unsuitable:

14

15 4. Premises lacking adequate supervision or surveillance.

16 5. Premises difficult to police.

17

18 7. Any other premises where the conduct of gaming would
19 be inconsistent with the public policy of the State of Nevada.

20 Nev. Gaming Comm'n. Reg. 3.010(4), (5), and (7).

21 10. Nevada Gaming Commission Regulation 5.011 states, in relevant part, as follows:

22 The board and the commission deem any activity on the part
23 of any licensee, his agents or employees, that is inimical to the
24 public health, safety, morals, good order and general welfare of the
25 people of the State of Nevada, or that would reflect or tend to
26 reflect discredit upon the State of Nevada or the gaming industry, to
27 be an unsuitable method of operation and shall be grounds for
28 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.

. . . .

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

. . . .

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

10. Failure to conduct gaming operations in accordance with proper standards of custom, decorum and decency, or permit any type of conduct in the gaming establishment which reflects or tends to reflect on the repute of the State of Nevada and act as a detriment to the gaming industry.

Nev. Gaming Comm'n. Regs. 5.011(1), (8), and (10).

11. Nevada Gaming Commission Regulation 5.030 provides as follows:

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

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

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

(a) Limit, condition, suspend or revoke the license of any licensed gaming establishment or the individual license of any licensee without affecting the license of the establishment;

....

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

....

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

NRS 463.310(4)(a) and (d)(2).

....

....

BACKGROUND

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

13. Herda’s Bar and Grill, Inc. was originally issued a restricted gaming license in 1986.

14. Until approximately May of 2001, Herda’s Bar and Grill, Inc. operated as a bar with gaming. In approximately May of 2001, Herda’s Bar and Grill, Inc. obtained an adult entertainment cabaret license from Clark County, began offering adult entertainment, and changed its operating name to Foxy Girls.

15. On or about March 10, 2014, BOARD Enforcement agents met with officers from the Las Vegas Metropolitan Police Department (Metro) to discuss Metro’s numerous calls for service to and contacts with FOXY GIRLS.

16. The BOARD initiated an investigation of FOXY GIRLS.

17. The BOARD learned that in approximately August of 2013, a new general manager for FOXY GIRLS began promoting FOXY GIRLS toward a new type of clientele.

18. The BOARD determined that, beginning in approximately August 2013, the number of incidents involving responses from Metro that occurred at FOXY GIRLS, or were associated with FOXY GIRLS, increased. Those incidents included, but are not limited to, the following:

a. On August 17, 2013, Metro responded to a battery/domestic violence call at FOXY GIRLS.

b. On August 21, 2013, Metro issued to NICHOLAS HERDA, who is a director and 50 percent owner of FOXY GIRLS, five (5) notices of non-compliance with Clark County Code for violations that included: i) three employees and/or independent contractors (including the general manager) not having work cards; ii) a security guard carrying a firearm; and iii) failure to conform to law and cooperate given that Metro had previously notified NICHOLAS HERDA of the requirements imposed on FOXY GIRLS by the Clark County Code.

c. On November 24, 2013, Metro issued a warning citation to a male adult for trespass at FOXY GIRLS.

d. On January 1, 2014, Metro responded to a report of gun shots being fired and a gunshot victim at FOXY GIRLS. Metro’s investigation confirmed that gun shots were

1 fired, but there was no victim. Based on Metro's investigation into the January 1, 2014
2 incident, Metro issued to NICHOLAS HERDA two notices of non-compliance with Clark
3 County Code for violations that included: i) failing to maintain and conduct all activities
4 upon the premises in a decent, orderly and respectful manner and for failing to maintain
5 adequate security; and ii) failing to ensure that FOXY GIRLS' general manager had
6 applied to Clark County for a finding of suitability as a key employee.

7 e. On January 22, 2014, NICHOLAS HERDA was issued a misdemeanor
8 citation for failing to conform to law and cooperate, in violation of Clark County Code,
9 due to his failure to abide by work card requirements related to his employees.

10 f. On February 1, 2014, Metro initiated a traffic stop in the vicinity of FOXY
11 GIRLS of a vehicle driven by an individual who was later identified as a VIP host for
12 FOXY GIRLS. The driver of the vehicle was arrested for an outstanding warrant.
13 Subsequently, marijuana was found in his possession.

14 g. On February 2, 2014, Metro initiated a traffic stop for speeding on a male
15 adult driver of a car who had just exited the FOXY GIRLS' parking lot. Metro learned
16 that the driver had an extensive criminal record.

17 h. On February 2, 2014, Metro officers in the vicinity of FOXY GIRLS observed a
18 vehicle strike another vehicle in the parking lot of FOXY GIRLS and then drive away.
19 Metro initiated a traffic stop and, after a foot chase, the driver of the vehicle was
20 arrested and was found in possession of a handgun. Ultimately, the driver of the
21 vehicle was charged with, among other charges, hit and run, obstructing a police officer,
22 and felon in possession of a firearm.

23 i. On February 16, 2014, a Metro officer in the vicinity of FOXY GIRLS observed
24 a large crowd form outside the entrance of FOXY GIRLS followed by a male adult firing
25 two rounds into the air from a handgun. After a vehicle pursuit, Metro arrested the male
26 adult. Further, Metro determined that the male adult is a three-time convicted felon.

27

28

1 j. On February 20, 2014, Metro arrested FOXY GIRLS' general manager for his
2 failure to submit an application to Clark County for a finding of suitability as a key
3 employee.

4 k. On March 9, 2014, Metro officers in the vicinity of FOXY GIRLS observed
5 individuals running out of FOXY GIRLS due to an altercation. Metro officers entered
6 FOXY GIRLS and subsequently arrested a male adult for "challenging to fight/affray."
7 Statements made by the male adult to Metro officers indicated his affiliation with a gang.

8 l. On March 10, 2014, Metro arrested an individual in the parking lot of FOXY
9 GIRLS for a probation violation.

10 m. On March 16, 2014, a Metro officer in the vicinity of FOXY GIRLS was hailed
11 by a FOXY GIRLS security guard due to a concern that a male adult was going to
12 retrieve a firearm from his vehicle after having been escorted out of FOXY GIRLS.
13 Metro contacted the male adult. The male adult, a convicted felon and affiliated with a
14 gang, was arrested by Metro for possession of a firearm by a prohibited person.

15 n. On March 21, 2014, Metro issued a notice of noncompliance to NICHOLAS
16 HERDA for not having a current employee list.

17 o. On March 28, 2014, Metro arrested a female dancer at FOXY GIRLS who had
18 an outstanding warrant. Further, the female dancer did not have a work card on her
19 and was in possession of Xanax and methamphetamine. Metro also issued three
20 notices of non-compliance with Clark County Code to NICHOLAS HERDA for violations
21 that included: i) allowing two employees to work without work cards in their possession;
22 ii) not having a current employee list; and iii) allowing a minor inside FOXY GIRLS.
23 Metro further issued to NICHOLAS HERDA a misdemeanor citation for not having an
24 employee list.

25 p. On March 29, 2014, Metro initiated a traffic stop on a vehicle stopped in the
26 street in front of FOXY GIRLS. The male adult passenger of the vehicle was arrested
27 by Metro for two probation violations. The male adult passenger was also in possession
28 of gang paraphernalia.

1 q. On May 31, 2014, Metro prepared an incident report after making contact with
2 an individual involved in an altercation at FOXY GIRLS. Following the altercation, the
3 individual had left FOXY GIRLS in his vehicle. Subsequently, the individual, while
4 driving, was shot at by individuals in another vehicle. All individuals were possibly
5 affiliated with gangs.

6 r. On June 21, 2014, Metro responded to a shooting at the Red Label Lounge
7 that resulted in a gunshot victim. Metro's investigation determined that the altercation
8 that led to the shooting originated at FOXY GIRLS and involved gang members.

9 19. On December 8, 2014, the BOARD filed a Complaint against Respondents.

10 20. On January 1, 2015, Metro responded to a report of a person shot at FOXY GIRLS
11 where the following occurred:

12 a. Upon arriving at FOXY GIRLS, Metro officers observed a person placing what
13 appeared to be a handgun in the trunk of a vehicle and then security guards ushering
14 people inside FOXY GIRLS before closing the entrance door.

15 b. After arriving at FOXY GIRLS, Metro officers attempted to gain access to
16 FOXY GIRLS but were initially hindered from gaining access to FOXY GIRLS.

17 c. While trying to gain entry to FOXY GIRLS, Metro officers discovered a trail of
18 blood leading to or from the establishment to or from the parking lot. Subsequently,
19 Metro gained access to FOXY GIRLS.

20 d. Over the course of Metro's investigation of the January 1, 2015 incident,
21 Metro determined the following:

22 i. An argument between members of rival gangs occurred immediately
23 outside the entrance of FOXY GIRLS. The argument led to at least one
24 individual producing a firearm and discharging a round. However, no gunshot
25 victim was located.

26 ii. A FOXY GIRLS security guard (Security Guard 1) produced a handgun
27 he was carrying concealed and discharged two rounds into the air before
28

....

1 handing the handgun to another FOXY GIRLS security guard (Security Guard 2)
2 who hid the handgun in a vehicle.

3 iii. Security Guard 1 subsequently obtained an AR15 rifle from a vehicle
4 belonging to another FOXY GIRLS security guard (Security Guard 3) and held
5 the rifle until placing it in a vehicle when police arrived.

6 iv. Another FOXY GIRLS security guard (Security Guard 4), who was in
7 possession of a stolen handgun and upon hearing gunshots, retrieved a ballistics
8 vest and shotgun from his vehicle and held the shotgun until returning it to his
9 vehicle before Metro arrived.

10 v. A handgun was found in a vehicle belonging to Security Guard 3.

11 e. FOXY GIRLS security guards are not allowed to carry firearms pursuant to
12 Clark County Code.

13 f. As a result of the January 1, 2015 incident at FOXY GIRLS, Metro issued to
14 NICHOLAS HERDA misdemeanor citations for failure to have a current employee list,
15 for an employee not having a work card, and for failure to conduct activities in a decent
16 manner and failure to maintain adequate security. Metro also issued to NICHOLAS
17 HERDA a Notice of Non-Compliance for failure to Conform to Law and Cooperate.
18 Further, Metro issued to a FOXY GIRLS security guard a misdemeanor citation for
19 possessing a firearm while on the premises of FOXY GIRLS. Finally, Metro issued an
20 emergency 8-hour closure of FOXY GIRLS.

21 21. Due to the incidents and criminal activity that occurred at or are associated with
22 FOXY GIRLS, Metro constantly staged uniformed officers near the property to police it which
23 placed a drain on limited police resources.

24 22. In an effort to improve FOXY GIRLS' operations and minimize the numbers of calls
25 for service to FOXY GIRLS, Metro met with NICHOLAS HERDA on numerous occasions to
26 discuss with him the policing issues arising from FOXY GIRLS' operations, and to notify him of
27 the requirements of the Clark County Code applicable to FOXY GIRLS' operations.

28

1 **COUNT ONE**
2 **VIOLATION OF NEVADA GAMING COMMISSION REGULATION 5.011(8)**

3 23. Complainant BOARD realleges and incorporates by reference as though set forth in
4 full herein paragraphs 1 through 22 above.

5 24. Since approximately August of 2013, Metro has issued to FOXY GIRLS and/or
6 NICHOLAS HERDA at least 12 notices of non-compliance with Clark County Code in addition
7 to at least four misdemeanor citations.

8 25. Respondents knew, or should have known, of the above-described conduct that
9 resulted in the issuance of the notices of non-compliance and/or citations and failed to prevent
10 it from occurring.

11 26. The failure of Respondents, their employees and/or its agents to comply with Clark
12 County Code constitutes a failure to comply with or make provision for compliance with all
13 federal, state and local laws and regulations pertaining to the operations of a licensed
14 establishment in violation of Nevada Gaming Commission Regulation 5.011(8).

15 27. The failure to comply with Nevada Gaming Commission Regulation 5.011(8) is an
16 unsuitable method of operation and is grounds for disciplinary action against Respondents.
17 See Nev. Gaming Comm'n. Regs. 5.010(2) and 5.030.

18 **COUNT TWO**
19 **VIOLATION OF NEVADA REVISED STATUTE 463.170 and/or**
20 **NEVADA GAMING COMMISSION REGULATIONS 5.011(1) and/or 5.011(10)**

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

23 29. Respondents' business operations resulted in numerous and excessive calls for
24 service to Metro due to conduct, disturbances and/or activities occurring at and/or originating
25 on the premises of FOXY GIRLS, some of which involved the discharge of firearms, gunshot
26 victims and arrests by Metro.

27 30. Respondents' business operations attracted individuals who have criminal histories
28 and/or who engaged in criminal activities that made the premises of FOXY GIRLS difficult to
police, that placed significant and undue demands on police resources, that created an unsafe

1 environment for FOXY GIRLS' guests and employees, and that endangered the health and
2 safety of police officers.

3 31. Respondents knew, or should have known, of the above-described conduct and
4 failed to prevent it from occurring.

5 32. The actions, as set forth herein, constitute a failure by Respondents to continue to
6 meet the applicable standards and qualifications necessary to hold a gaming license and/or a
7 finding of suitability in violation of NRS 463.170(8).

8 33. Respondents' failure to prevent the above-described conduct, either in whole or in
9 part, constitutes a failure to exercise discretion and sound judgment to prevent incidents which
10 might reflect on the repute of the State of Nevada and act as a detriment to the development of
11 the industry in violation of Nevada Gaming Commission Regulation 5.011(1).

12 34. Respondents' failure to prevent the above-described conduct, either in whole or in
13 part, constitutes a failure to conduct gaming operations in accordance with proper standards of
14 custom, decorum and decency and/or reflects or tends to reflect on the repute of the State of
15 Nevada and act as a detriment to the gaming industry in violation of Nevada Gaming
16 Commission Regulation 5.011(10).

17 35. The failure to comply with NRS 463.170 and/or Nevada Gaming Commission
18 Regulations 5.011(1), and/or 5.011(10) is an unsuitable method of operation and is grounds for
19 disciplinary action against Respondents. See Nev. Gaming Comm'n. Reg. 5.010(2) and Nev.
20 Gaming Comm'n. Reg. 5.030.

21 **COUNT THREE**
22 **VIOLATION OF NEVADA REVISED STATUTE 463.170 and/or**
NEVADA GAMING COMMISSION REGULATIONS 5.011(1) and/or 5.011(10)

23 36. Complainant BOARD realleges and incorporates by reference as though set forth in
24 full herein paragraphs 1 through 35 above.

25 37. Respondents' employees possessed, brandished, and discharged firearms on the
26 premises of FOXY GIRLS.

27 38. Respondents' employees are prohibited under Clark County Code from possessing
28 firearms.

1 39. Respondents knew, or should have known, of the above-described conduct and
2 failed to prevent it from occurring.

3 40. The actions, as set forth herein, constitute a failure by Respondents to continue to
4 meet the applicable standards and qualifications necessary to hold a gaming license and/or a
5 finding of suitability in violation of NRS 463.170(8).

6 41. Respondents' failure to prevent the above-described conduct, either in whole or in
7 part, constitutes a failure to exercise discretion and sound judgment to prevent incidents which
8 might reflect on the repute of the State of Nevada and act as a detriment to the development of
9 the industry in violation of Nevada Gaming Commission Regulation 5.011(1).

10 42. Respondents' failure to prevent the above-described conduct, either in whole or in
11 part, constitutes a failure to conduct gaming operations in accordance with proper standards of
12 custom, decorum and decency and/or reflects or tends to reflect on the repute of the State of
13 Nevada and act as a detriment to the gaming industry in violation of Nevada Gaming
14 Commission Regulation 5.011(10).

15 43. The failure to comply with NRS 463.170 and/or Nevada Gaming Commission
16 Regulations 5.011(1), and/or 5.011(10) is an unsuitable method of operation and is grounds for
17 disciplinary action against Respondents. See Nev. Gaming Comm'n. Reg. 5.010(2) and Nev.
18 Gaming Comm'n. Reg. 5.030.

19 **COUNT FOUR**
20 **VIOLATION OF NEVADA REVISED STATUTE 463.170 and/or**
21 **NEVADA GAMING COMMISSION REGULATIONS 5.011(1) and/or 5.011(10)**

22 44. Complainant BOARD realleges and incorporates by reference as though set forth in
23 full herein paragraphs 1 through 43 above.

24 45. Respondents' employees attempted to and/or did hinder Metro's investigation of
25 what occurred at FOXY GIRLS on January 1, 2015.

26 46. Respondents knew, or should have known, of the above-described conduct and
27 failed to prevent it from occurring.

28

. . . .

1 47. The actions, as set forth herein, constitute a failure by Respondents to continue to
2 meet the applicable standards and qualifications necessary to hold a gaming license and/or a
3 finding of suitability in violation of NRS 463.170(8).

4 48. Respondents' failure to prevent the above-described conduct, either in whole or in
5 part, constitutes a failure to exercise discretion and sound judgment to prevent incidents which
6 might reflect on the repute of the State of Nevada and act as a detriment to the development of
7 the industry in violation of Nevada Gaming Commission Regulation 5.011(1).

8 49. Respondents' failure to prevent the above-described conduct, either in whole or in
9 part, constitutes a failure to conduct gaming operations in accordance with proper standards of
10 custom, decorum and decency and/or reflects or tends to reflect on the repute of the State of
11 Nevada and act as a detriment to the gaming industry in violation of Nevada Gaming
12 Commission Regulation 5.011(10).

13 50. The failure to comply with NRS 463.170 and/or Nevada Gaming Commission
14 Regulations 5.011(1), and/or 5.011(10) is an unsuitable method of operation and is grounds for
15 disciplinary action against Respondents. *See* Nev. Gaming Comm'n. Reg. 5.010(2) and Nev.
16 Gaming Comm'n. Reg. 5.030.

17 WHEREFORE, based upon the allegations contained herein which constitute
18 reasonable cause for disciplinary action against Respondents, pursuant to Nevada Revised
19 Statute 463.310, and Nevada Gaming Commission Regulations 5.010, 5.011 and 5.030, the
20 STATE GAMING CONTROL BOARD prays for the relief as follows:

21 1. That the Nevada Gaming Commission serve a copy of this Amended Complaint on
22 Respondents pursuant to Nevada Revised Statute 463.312(2);

23 2. That the Nevada Gaming Commission fine Respondents a monetary sum pursuant
24 to the parameters defined at Nevada Revised Statute 463.310(4) for each separate violation of
25 the provisions of the Nevada Gaming Control Act or the Regulations of the Nevada Gaming
26 Commission;

27

28

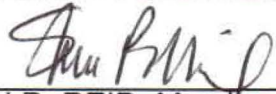
1 3. That the Nevada Gaming Commission take action against Respondents' licenses
2 and/or findings of suitability pursuant to the parameters defined in Nevada Revised Statute
3 463.310(4); and


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

6 DATED this 17th day of February, 2015.

7 STATE GAMING CONTROL BOARD


8 
9 _____
A.G. BURNETT, Chairman

10 
11 _____
SHAWN R. REID, Member

12 
13 _____
TERRY JOHNSON, Member

14
15 Submitted by:

16 ADAM PAUL LAXALT
17 Attorney General

18 By: 
19 _____
MICHAEL P. SOMPS
20 Senior Deputy Attorney General
Gaming Division
(775) 850-4152