

1 NGC 15-06

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3

STATE OF NEVADA

4

BEFORE THE NEVADA GAMING COMMISSION

5

NEVADA GAMING CONTROL BOARD, )

6

Complainant, )

7

vs. )

STIPULATION FOR SETTLEMENT  
AND ORDER

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

9

Respondents. )

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The State of Nevada, on relation of its NEVADA GAMING CONTROL BOARD (BOARD), Complainant herein, filed and served a Complaint in NGC Case No. 15-06, against PERPETUAL GAMING, LLC, PERPETUAL PARTNERS, LLC, and JOHN-MARTIN MEYER, RESPONDENTS herein, alleging certain violations of the Nevada Gaming Control Act and Regulations of the Nevada Gaming Commission (Commission or NGC).

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IT IS HEREBY STIPULATED AND AGREED to by the BOARD and RESPONDENTS that the Complaint, NGC Case No. 15-06, filed against RESPONDENTS in the above-entitled case shall be settled on the following terms and conditions:

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1. RESPONDENTS admit each and every allegation set forth in Counts IV, V, VI, VIII, X, and XI of the Complaint, NGC Case No. 15-06.

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2. RESPONDENTS admit all of the allegations set forth in Count VII of the Complaint, NGC Case No. 15-06, with the exception of the allegations set forth in paragraph 138, which RESPONDENTS deny. However, RESPONDENTS admit and acknowledge that the Nevada Gaming Commission could determine from the allegations set forth in Count VII of the Complaint, NGC Case No. 15-06, that violations of the Nevada Gaming Control Act and/or the Nevada Gaming Commission Regulations adopted thereunder occurred.

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3. RESPONDENTS do not admit nor deny that the factual allegations set forth in Counts I, II, III, and IX of the Complaint, NGC Case No. 15-06, are true and correct. However,

16

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1 RESPONDENTS admit and acknowledge that the Nevada Gaming Commission could  
2 determine from the allegations set forth in those Counts of the Complaint, NGC Case No. 15-  
3 06, that violations of the Nevada Gaming Control Act and/or the Nevada Gaming Commission  
4 Regulations occurred.

5 4. RESPONDENTS deny the factual allegations set forth in Counts XII and XIII of the  
6 Complaint, NGC Case No 15-06. However, RESPONDENTS admit and acknowledge that the  
7 Nevada Gaming Commission could determine from the allegations set forth in those Counts of  
8 the Complaint, NGC Case No. 15-06, that violations of the Nevada Gaming Control Act and/or  
9 the Nevada Gaming Commission Regulations occurred.

10 5. The RESPONDENTS fully understand and voluntarily waive the right to a public  
11 hearing on the charges and allegations set forth in the Complaint, the right to present and  
12 cross-examine witnesses, the right to a written decision on the merits of the Complaint, which  
13 must contain findings of fact and a determination of the issues presented, and the right to  
14 obtain judicial review of the Nevada Gaming Commission's decision.

15 6. To assist the Nevada Gaming Commission in the evaluation of the matter  
16 encompassed by this stipulated settlement, RESPONDENTS offer the following:

17 a. As to Counts I, II, and III, of the Complaint, NGC Case No. 15-06, the  
18 determination as to whether the activities of any unlicensed entities amounted to  
19 manufacturing, distributing or the operation of a slot route is based upon a complex factual  
20 and legal analysis which is subject to reasonable contrary conclusions. RESPONDENTS did  
21 not knowingly facilitate any unlawful activities and relied upon their understanding of the  
22 advice of competent gaming counsel. RESPONDENTS have revised their agreements with  
23 Size Matters Gaming, LLC, and with the unlicensed manufacture and distributor.

24 b. As to Count IV of the Complaint, NGC Case No. 15-06, the gaming devices that  
25 are the subject of this Count are gaming devices originally manufactured by another licensed  
26 manufacturer and modified by RESPONDENT PERPETUAL GAMING, LLC. RESPONDENT  
27 PERPETUAL GAMING, LLC, thought that the original manufacturer's number etched onto a  
28 permanent component should remain etched on that permanent component. When advised

1 of the BOARD's concern that the serial numbers were inconsistent, RESPONDENT  
2 PERPETUAL GAMING, LLC, immediately etched the serial number on the external plate onto  
3 the required internal permanent component.

4 c. As to Count V of the Complaint, NGC Case No. 15-06, the untimely filing of the  
5 shipments described in the Complaint was a single incident and RESPONDENTS represent  
6 that all other Nevada Gaming Commission Regulation 14.180 filings have been timely made.  
7 RESPONDENTS have retained a person conversant in gaming regulatory compliance matters  
8 to ensure that all required filings are made in a timely matter.

9 d. As to Count VI of the Complaint, NGC Case No. 15-06, RESPONDENT  
10 PERPETUAL GAMING, LLC, had previously placed gaming devices pursuant to a  
11 participation agreement (the "original participation agreement") in a foreign jurisdiction. The  
12 original participation agreement was substantially similar to the participation agreements as  
13 described in the Complaint, with RESPONDENT PERPETUAL GAMING, LLC, being paid a  
14 percentage of gaming revenue from the device's operation. The original participation  
15 agreement was reviewed by the BOARD during a licensing investigation and RESPONDENT  
16 PERPETUAL GAMING, LLC, believed that BOARD staff had determined that the original  
17 participation agreement did not require the filing of foreign gaming reports. RESPONDENT  
18 PERPETUAL GAMING, LLC, acknowledges that it should have confirmed with the BOARD  
19 that foreign gaming reports were not required to be filed for the participation agreements  
20 described in the Complaint. RESPONDENTS have retained a person conversant in gaming  
21 regulatory compliance matters to ensure that all required filings are made in a timely matter.

22 e. As to Count VII of the Complaint, NGC Case No. 15-06, RESPONDENTS admit  
23 the allegations that RESPONDENT PERPETUAL GAMING, LLC, did not require certain  
24 individuals to be registered as gaming employees who should have been registered pursuant  
25 to the requirements of NRS 463.335. However, RESPONDENTS deny the allegations of  
26 Paragraph 138 insofar as it implies that RESPONDENT JOHN-MARTIN MEYER  
27 misrepresented the relationship with individuals providing services to RESPONDENT  
28 PERPETUAL GAMING, LLC. Subsequent to the filing of the Complaint, RESPONDENT

1 PERPETUAL GAMING, LLC, has caused the employees of Size Matters Gaming, LLC, and  
2 other contract workers who perform the functions of a gaming employee to register with the  
3 BOARD as such. RESPONDENTS have retained a person conversant in gaming regulatory  
4 compliance matters to ensure that all required filings are made in a timely matter.

5 f. As to Count VIII of the Complaint, NGC Case No. 15-06, subsequent to the filing  
6 of the Complaint, RESPONDENT PERPETUAL GAMING, LLC, filed a NGC Regulation 3.100  
7 Employee Report listing Size Matters Gaming, LLC, as a key employee. RESPONDENTS  
8 have retained a person conversant in gaming regulatory compliance matters to ensure that all  
9 required filings are made in a timely matter.

10 g. As to Count X of the Complaint, NGC Case No. 15-06, subsequent to the filing  
11 of the Complaint, RESPONDENT PERPETUAL GAMING, LLC, filed the requisite  
12 NGC Regulation 8.130 Transaction Reports for all advances made to it by Size Matters  
13 Gaming, LLC.

14 h. As to Count XI of the Complaint, NGC Case No. 15-06, subsequent to the filing  
15 of the Complaint, RESPONDENT PERPETUAL GAMING, LLC, filed amendments to its  
16 articles of organization.

17 i. As to Count XII of the Complaint, NGC Case No. 15-06, RESPONDENTS deny  
18 the allegations contained therein but acknowledge that although Mr. Hawkins has not had the  
19 right to acquire an interest in RESPONDENT PERPETUAL PARTNERS since December  
20 2011, RESPONDENTS failed to request a withdrawal of his application to acquire that  
21 interest.

22 7. RESPONDENTS agree to pay a fine in the amount of TWENTY THOUSAND  
23 DOLLARS (\$20,000) and pay and the additional amount of SEVENTEEN THOUSAND, FIVE  
24 HUNDRED DOLLARS (\$17,500) as reimbursement of part of the costs incurred by the  
25 BOARD in connection with the investigation relating to the Complaint, NGC Case No. 15-06,  
26 pursuant to the following payment schedule:

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28 . . . .

1 a. RESPONDENTS agree to pay a minimum amount of TWELVE THOUSAND,  
2 FIVE HUNDRED DOLLARS (\$12,500) on the date this stipulated settlement is accepted by  
3 the Nevada Gaming Commission;

4 b. RESPONDENTS agree to pay a minimum amount of TWELVE THOUSAND,  
5 FIVE HUNDRED DOLLARS (\$12,500), or the outstanding balance owed, whichever is less,  
6 plus accrued interest, on or before the thirtieth day following the date this stipulated settlement  
7 is accepted by the Nevada Gaming Commission; and

8 c. RESPONDENTS agree to pay any remaining balance owed, plus accrued  
9 interest, on or before the sixtieth day following the date this stipulated settlement agreement is  
10 accepted by the Nevada Gaming Commission.

11 8. Pursuant to NRS 17.130, interest shall accrue at FIVE and 1/2 PERCENT (5.5%)  
12 per annum on any unpaid balance computed from the date payment is due until payment is  
13 made in full.

14 9. All payments shall be made payable to the *Nevada Gaming Commission* via  
15 electronic fund transfer.

16 10. RESPONDENTS agree to execute a confession of judgement for THIRTY-SEVEN  
17 THOUSAND, FIVE HUNDRED (\$37,500), which equals the fine plus the reimbursed costs.

18 11. RESPONDENTS further agree to the placement of the following conditions on the  
19 manufacturer, distributor, and slot route operator licenses held by RESPONDENT  
20 PERPETUAL GAMING, LLC, by the Nevada Gaming Commission:

21 a. Walter Hawkins is to file an application for finding of suitability as a key  
22 employee of Perpetual Gaming, LLC, no later than 45 days of the date the settlement  
23 agreement in NGC Case No. 15-06 is accepted by the Nevada Gaming Commission. If he  
24 fails to do so within that time frame, Perpetual Gaming, LLC shall not permit either Size  
25 Matters Gaming, LLC, or Walter Hawkins to have any involvement whatsoever, consulting or  
26 otherwise, directly or indirectly, in any of its operations or funding activities. Walter Hawkins  
27 may continue to involve himself in Perpetual Gaming, LLC's, operations while his key  
28 employee application is pending.

1           b. Perpetual Gaming, LLC, shall cease doing business as Size Matters Gaming  
2 within 60 days of the date the settlement agreement in NGC Case No. 15-06 is accepted by  
3 the Nevada Gaming Commission unless the Chairman of the Nevada Gaming Control Board,  
4 at his or her sole and absolute discretion, administratively approves it to do so.

5           c. Perpetual Gaming, LLC, shall submit a proposed manufacturing and distribution  
6 plan to the Chairman of the Nevada Gaming Control Board for approval within 30 days of the  
7 date the settlement agreement in NGC Case No. 15-06 is accepted by the Nevada Gaming  
8 Commission, and once the plan is approved, it shall follow such plan unless approved to do  
9 otherwise by the Chairman of the Nevada Gaming Control Board.

10           d. Perpetual Gaming, LLC, shall maintain accurate and organized business records  
11 completely segregated from the business records of Size Matters Gaming, LLC.

12           e. Perpetual Gaming, LLC, shall engage the services of an independent party to  
13 perform quarterly compliance reviews of its operations to verify compliance with the Gaming  
14 Control Act, the regulations adopted thereunder, and any conditions that have been placed on  
15 its manufacturer, distributor, and slot route operator licenses. The results of the quarterly  
16 compliance reviews shall be sent directly to the Chairman of the Nevada Gaming Control  
17 Board by the independent third party within 15 days of the completion of the review.

18           12. In consideration for the execution of this settlement agreement, RESPONDENTS,  
19 for themselves, their heirs, executors, administrators, successors, and assigns, hereby  
20 release and forever discharge the State of Nevada, the Nevada Gaming Commission, the  
21 Nevada Gaming Control Board, the Nevada Attorney General and each of their members,  
22 agents, and employees in their individual and representative capacities, from any and all  
23 manner of actions, causes of action, suits, debts, judgments, executions, claims, and  
24 demands whatsoever known or unknown, in law and equity, that RESPONDENTS ever had,  
25 now have, may have, or claim to have against any and all of the persons or entities named in  
26 this paragraph arising out of, or by reason of, the investigation of the allegations in the  
27 Complaint, this disciplinary action, NGC Case No. 15-06, or any other matter relating thereto.

28       .....

1           13. In consideration for the execution of this Settlement Agreement, RESPONDENTS  
2 hereby indemnify and hold harmless the State of Nevada, the Nevada Gaming Commission,  
3 the Nevada Gaming Control Board, the Nevada Attorney General, and each of their members,  
4 agents, and employees in their individual and representative capacities against any and all  
5 claims, suits and actions, brought against the persons named in this paragraph by reason of  
6 the investigation of the allegations in the Complaint, filed in this disciplinary action, NGC Case  
7 No. 15-06, and all other matters relating thereto, and against any and all expenses, damages,  
8 charges and costs, including court costs and attorney fees, which may be sustained by the  
9 persons and entities named in this paragraph as a result of said claims, suits and actions.

10           14. RESPONDENTS enter into this Stipulation for Settlement freely and voluntarily,  
11 and with the assistance of legal counsel. RESPONDENTS acknowledge that this Stipulated  
12 Settlement is not the product of force, threats, or any other form of coercion or duress, but is  
13 the product of discussions between legal counsel for RESPONDENTS and the attorney for the  
14 BOARD.

15           15. RESPONDENTS affirmatively represent that if RESPONDENTS, this Stipulation  
16 for Settlement and Order, and/or any amounts distributed under this Stipulation for Settlement  
17 and Order are subject to, or will become subject to, the jurisdiction of any bankruptcy court,  
18 the bankruptcy court's approval is not necessary for this Stipulation for Settlement and Order  
19 to become effective, or that the bankruptcy court has already approved this Stipulation for  
20 Settlement and Order.

21           16. RESPONDENTS and the BOARD acknowledge that this Settlement is made to  
22 avoid litigation and economize resources. The parties agree and understand that this  
23 Stipulation for Settlement and Order is intended to operate as full and final settlement of the  
24 Complaint filed against RESPONDENTS in the above-entitled disciplinary case, NGC Case  
25 No. 15-06.

26           17. RESPONDENTS and the BOARD recognize and agree that the Nevada Gaming  
27 Commission has the sole and absolute discretion to determine whether to accept this  
28 Stipulated Settlement Agreement. RESPONDENTS and the BOARD hereby waive any right

1 they may have to challenge the impartiality of the Nevada Gaming Commission to hear the  
2 above-entitled case on the matters embraced in the Complaint if the Nevada Gaming  
3 Commission determines not to accept this Stipulated Settlement Agreement. If the Nevada  
4 Gaming Commission does not accept the Stipulation for Settlement and Order, it shall be  
5 withdrawn as null and void and RESPONDENTS' admissions, if any, that certain violations of  
6 the Nevada Gaming Control Act and the Regulations of the Nevada Gaming Commission  
7 occurred shall be withdrawn.

8 18. RESPONDENTS and the BOARD agree and understand that this Settlement  
9 Agreement is intended to operate as full and final settlement of the Complaint filed in NGC  
10 Case No. 15-06. The parties further agree and understand that any oral representations are  
11 superseded by this Settlement Agreement and that only those terms memorialized in writing  
12 herein shall be effective.

13 19. RESPONDENTS agree and understand that although this Settlement, if approved  
14 by the Nevada Gaming Commission, will settle the Complaint filed in NGC Case No. 15-06  
15 that the allegations contained in the Complaint filed in NGC Case No. 15-06 and the terms of  
16 this settlement agreement may be considered by the BOARD and/or the Nevada Gaming  
17 Commission, with regards to any and all applications by RESPONDENTS that are currently  
18 pending before the BOARD or the Nevada Gaming Commission, or that are filed in the future  
19 with the BOARD.

20 20. RESPONDENTS and the BOARD shall each bear their own costs incurred in this  
21 disciplinary action, NGC Case No. 15-06, with the exception of those costs addressed in  
22 paragraph 7 above.

23 21. RESPONDENTS fully understand and voluntarily waive the 21 day and the 5 day  
24 notice requirements found under NRS 241.033 and 241.034, including the content  
25 requirements of such notices, in relation to any hearing before the Nevada Gaming  
26 Commission on this Settlement Agreement that may be held.

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28 . . . .



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1 22. This stipulated settlement agreement shall become effective immediately upon  
2 approval by the Nevada Gaming Commission.

3 DATED this 15<sup>th</sup> day of March 2016.

DATED this 16<sup>th</sup> day of March 2016.

4 PERPETUAL GAMING, LLC; PERPETUAL  
5 PARTNERS, LLC; and JOHN-MARTIN  
6 MEYER

NEVADA GAMING CONTROL BOARD

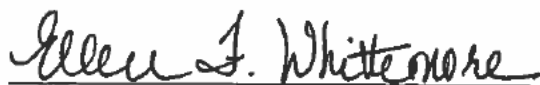
7 By:   
8 JOHN-MARTIN MEYER  
9 Member, Perpetual Partners, LLC

  
A.G. BURNETT, Chairman

  
SHAWN R. REID, Member

10 WHITTEMORE GAMING GROUP

  
TERRY JOHNSON, Member

11 By:   
12 ELLEN F. WHITTEMORE, ESQ.  
13 1975 Village Center Circle, Suite 140  
14 Las Vegas, Nevada 89134

15 Attorney for Respondents

16 Submitted by:

17 ADAM PAUL LAXALT  
18 Attorney General

19 By:   
20 EDWARD L. MAGAW  
21 Deputy Attorney General  
22 Gaming Division


23 Attorneys for Nevada Gaming Control Board

ORDER

24 IT IS SO ORDERED in NGC Case No. 15-06.

25 DATED this 17<sup>th</sup> day of March 2016.

26 NEVADA GAMING COMMISSION

  
27 TONY ALAMO, M.D., Chairman  
28