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5 **STATE OF NEVADA**

6 **BEFORE THE NEVADA GAMING COMMISSION**

7 NEVADA GAMING CONTROL BOARD,

8 Complainant,

9 vs.

10 BETTE M. LARSEN
(100% Owner of The Timbers)

11 Respondent.

COMPLAINT

12
13 The State of Nevada, on relation of its NEVADA GAMING CONTROL BOARD
14 (BOARD), Complainant herein, by and through its counsel, AARON D. FORD, Attorney
15 General, and MICHAEL P. SOMPS, Senior Deputy Attorney General, hereby files this
16 Complaint before the Nevada Gaming Commission (Commission) for disciplinary action
17 against BETTE M. LARSEN (100% Owner of The Timbers), RESPONDENT herein,
18 pursuant to Nevada Revised Statute (NRS) 463.310(2), and alleges as follows:

19 **JURISDICTION**

20 1. Complainant, BOARD, is an administrative agency of the State of Nevada
21 duly organized and existing under and by virtue of Chapter 463 of NRS and is charged with
22 the administration and enforcement of the gaming laws of this State as set forth in Title
23 41 of NRS (Nevada Gaming Control Act) and the Regulations of the Commission.

24 2. RESPONDENT, BETTE M. LARSON is the 100% owner of The Timbers,
25 located at 124 East 8th Street, Carson City, Nevada 89701 and currently holds a restricted
26 gaming license. As such, RESPONDENT is charged with the responsibility of complying
27 with all of the provisions of the Nevada Gaming Control Act and the Regulations of the
28 Commission.

1 INTRODUCTION

2 1. On March 12, 2020, Nevada Governor Sisolak declared an emergency due to
3 the COVID-19 pandemic declared by the World Health Organization. COVID-19 is a highly
4 contagious respiratory illness spread through the close proximity of persons and that has
5 been spreading throughout the world, including Nevada. In an effort to contain the
6 COVID-19 pandemic and in an effort to save lives, protect property, and protect the health
7 and safety of the public, Governor Sisolak has imposed restrictions on individuals and
8 businesses as further described herein. The BOARD, tasked with ensuring that all
9 establishments where gaming is conducted and where gaming devices are operated be
10 licensed, controlled and assisted to protect the public health, safety, morals, good order and
11 general welfare of the inhabitants of the State, is therefore making every effort to ensure
12 compliance by Nevada gaming licensees with Governor Sisolak's directives.

13 RELEVANT LAW

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

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

19 (b) The continued growth and success of gaming is
20 dependent upon public confidence and trust . . . that
21 establishments which hold restricted and nonrestricted licenses
22 where gaming is conducted and where gambling devices are
23 operated do not unduly impact the quality of life enjoyed by
24 residents of the surrounding neighborhoods . . .

25 (c) Public confidence and trust can only be maintained by
26 strict regulation of all persons, locations, practices, associations
27 and activities related to the operation of licensed gaming
28 establishments . . .

(d) All establishments where gaming is conducted and
where gaming devices are operated . . . 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

1 activities must not be restricted in any manner except as
2 provided by the Legislature.

3 NRS 463.0129(1).

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

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

11 5. Nevada Revised Statute 463.170 provides in relevant part as follows:

12 1. Any person who the Commission determines is
13 qualified to receive a license, to be found suitable or to receive
14 any approval required under the provisions of this chapter, or to
15 be found suitable regarding the operation of a charitable lottery
16 under the provisions of chapter 462 of NRS, having due
17 consideration for the proper protection of the health, safety,
18 morals, good order and general welfare of the inhabitants of the
19 State of Nevada and the declared policy of this State, may be
20 issued a state gaming license, be found suitable or receive any
21 approval required by this chapter, as appropriate. The burden
22 of proving an applicant's qualification to receive any license, be
23 found suitable or receive any approval required by this chapter
24 is on the applicant.

25 2. An application to receive a license or be found suitable
26 must not be granted unless the Commission is satisfied that the
27 applicant is:

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

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

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

1 (2) From a suitable source.

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

5 4. An application to receive a license or be found suitable
6 constitutes a request for a determination of the applicant's
7 general character, integrity, and ability to participate or engage
8 in, or be associated with gaming or the operation of a charitable
9 lottery, as appropriate. Any written or oral statement made in
10 the course of an official proceeding of the Board or Commission
11 by any member thereof or any witness testifying under oath
12 which is relevant to the purpose of the proceeding is absolutely
13 privileged and does not impose liability for defamation or
14 constitute a ground for recovery in any civil action.

15 ...

16 8. Any person granted a license or found suitable by the
17 Commission shall continue to meet the applicable standards and
18 qualifications set forth in this section and any other
19 qualifications established by the Commission by regulation. The
20 failure to continue to meet such standards and qualifications
21 constitutes grounds for disciplinary action.

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

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

25 7. Nevada Gaming Commission Regulation 5.010(1) states that "[i]t is the policy
26 of the Commission and the Board to require that all establishments wherein gaming is
27 conducted in this state be operated in a manner suitable to protect the public health, safety,
28 morals, good order and general welfare of the inhabitants of the State of Nevada."

29 8. Nevada Gaming Commission Regulation 5.010(2) states that "[r]esponsibility
30 for the employment and maintenance of suitable methods of operation rests with the
31 licensee, and willful or persistent use or toleration of methods of operation deemed
32 unsuitable will constitute grounds for license revocation or other disciplinary action."

33 9. Nevada Gaming Commission Regulation 5.011 states, in relevant part, as
34 follows:

35 1 The Board and the Commission deem any activity on
36 the part of a licensee, registrant, or person found suitable by the
37 Commission, or an agent or employee thereof, that is inimical to
38 the public health, safety, morals, good order, or general welfare
of the people of the State of Nevada, or that would reflect or tend

1 to reflect discredit upon the State of Nevada or the gaming
2 industry, to be an unsuitable method of operation and shall be
3 grounds for disciplinary action by the Board and the Commission
4 in accordance with the Nevada Gaming Control Act and the
5 regulations of the Commission. The following acts or omissions,
6 without limitation, may be determined to be unsuitable methods
7 of operation:

8 (a) Failure to exercise discretion and sound judgment to
9 prevent incidents which might reflect on the repute of the State
10 of Nevada and act as a detriment to the development of the
11 industry.

12 ...

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

18 ...

19 (k) Failure to conduct gaming operations in accordance
20 with proper standards of custom, decorum, and decency, or
21 permit a type of conduct in a gaming establishment that reflects
22 or tends to reflect on the repute of the State of Nevada and act
23 as a detriment to the gaming industry.

24 ...

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

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

10. NRS 414.070 provides in relevant part the following:

The provisions of this section are operative only during the
existence of a state of emergency or declaration of disaster. The
existence of such an emergency or disaster may be proclaimed by
the Governor or by resolution of the Legislature if the Governor
in his or her proclamation, or the Legislature in 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

1 termination thereof by the Governor, or the passage by the
2 Legislature of a resolution terminating the emergency or
3 disaster. During the period when a state of emergency or
4 declaration of disaster exists or continues, the Governor may
5 exercise the following additional powers:

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

10

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

14 NRS 414.070(4) and (7).

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

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

28 Nev. Gaming Comm'n Reg. 5.030.

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

1. The Board shall make appropriate investigations:

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

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

. . .

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

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

1 (b) A person or entity which is licensed, registered, found
2 suitable . . . pursuant to this chapter or chapter 464 of NRS or
3 which previously obtained approval for any act or transaction for
4 which Commission approval was required or permitted under
5 the provisions of this chapter or chapter 464 of NRS should be
6 fined,

7 ↪ the Board shall initiate a hearing before the Commission by
8 filing a complaint with the Commission in accordance with NRS
9 463.312 and transmit therewith a summary of evidence in its
10 possession bearing on the matter and the transcript of testimony
11 at any investigative hearing conducted by or on behalf of the
12 Board.

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

14 **BACKGROUND**

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

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

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

27 16. On or about April 29, 2020, Governor Sisolak issued Declaration of Emergency
28 Directive 016 wherein he ordered, in relevant part, the following:

SECTION 13: Gaming operations, not including licensed online
gaming or mobile wagering operations, shall remain closed until
the Gaming Control Board determines that operations may
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.

...

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

5 18. On or about May 7, 2020, Governor Sisolak issued Declaration of Emergency
6 Directive 018 – Phase One Reopening wherein he ordered, in part, the following:

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

12 19. On or about May 27, 2020, the BOARD issued Updated Health and Safety
13 Policies for Reopening after Temporary Closure. The May 27, 2020 updated and amended
14 health and safety policies impose operational requirements on licensees to mitigate and
15 reduce the risk of exposure to COVID-19 for all employees, patrons, and other guests.

16 20. On or about May 28, 2020, Governor Sisolak issued Declaration of Emergency
17 Directive 021 – Phase Two Reopening Plan wherein he ordered, in part, the following:

18 SECTION 7: The phrase “social distancing” references guidance
19 promulgated by the United States Centers for Disease Control
20 and Prevention, including without limitation, maintaining at
21 least six feet of physical distancing from other individuals.

22 ...

23 SECTION 12: All employers must take proactive measures to
24 ensure compliance with the social distancing and sanitation
25 guidelines. All employers shall continue to require employees
26 who interact with the public to wear face coverings to the
27 maximum extent possible and shall abide by all other guidelines
28 promulgated by NV OSHA.

SECTION 35: Directive 002 and Section 021 of Directive 018 are hereby terminated. The Nevada Gaming Control Board shall promulgate requirements for a phased and incremental resumption of gaming operations, with openings commencing no sooner than 12:01 am June 4, 2020. Failure of a gaming licensee to comply with any such requirements shall be considered injurious to the public health, safety, morals, good order and general welfare of the inhabitants of the State, and constitute a failure to comply with this Directive. The Nevada Gaming

1 Control Board is hereby authorized to enforce this Directive as
2 necessary, including, but without limitation, pursuing
3 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.

4 21. As of June 24, 2020, 1) Nevada was experiencing an increase in both its
5 cumulative test positivity rate and its seven-day moving average of daily new COVID-19
6 cases; 2) Nevada was experiencing an increasing trend of hospitalizations for confirmed
7 COVID-19 cases since May 31, 2020; 3) infectious diseases scientists and experts advised
8 that “masks indisputably protect individuals against airborne transmission of respiratory
9 diseases;” 4) infectious diseases scientists and experts advised that “universal masking at
10 80% adoption flattens the curve significantly more than maintaining a strict lock-down,”
11 and “masking at only 50% adoption is not sufficient to prevent continued spread” of
12 COVID-19; and 5) the Governor’s COVID-19 Medical Advisory Team advised that “a
13 mouth-and-nose lockdown is far more sustainable than a full-body lockdown.” Therefore,
14 on or about June 24, 2020, Governor Sisolak issued Declaration of Emergency Directive
15 024 wherein he ordered, in part and with limited exceptions, the following:

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

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

21 22. On or about June 25, 2020, the BOARD issued Updated Health and Safety
22 Policies for Reopening after Temporary Closure, which states for restricted licensees, in
23 part, the following:

24 Appropriate personal protective equipment (PPE) may be
25 required or recommended by federal, state, or local authorities.
26 When required or recommended, licensees must ensure that PPE
27 is utilized and properly worn by employees, and provide training
on how to properly use, wear, and dispose of all PPE.

28 . . .

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

4 23. On or about August 17, 2020, the BOARD received an anonymous complaint
5 that patrons at The Timbers bar were not wearing face coverings, that the bar was crowded,
6 and that patrons were not practicing social distancing.

7 24. On or about August 26, 2020, at approximately 8:00 p.m., BOARD agents
8 conducted an inspection of The Timbers bar. During their inspection, BOARD agents
9 immediately observed that all nine (9) patrons and the bartender at the location were not
10 wearing face coverings. In addition, BOARD agents observed patrons grouped together in
11 front of the bar.

12 25. On or about August 26, 2020, BOARD agents met with the bartender at The
13 Timbers bar and explained that bartenders are required to wear face coverings while
14 performing their job duties. The bartender was further advised of the anonymous
15 complaint received by the BOARD. While the bartender acknowledged the face covering
16 requirements and, in fact, showed the BOARD agent her face covering, she continued to do
17 her job duties without wearing her face covering.

18 26. On or about August 26, 2020, a BOARD agent contacted RESPONDENT and
19 informed her of the violations observed by BOARD agents at The Timbers bar.

20
21 **COUNT I**
22 **VIOLATION OF NEVADA GAMING COMMISSION REGULATIONS 5.011,**
5.011(a), 5.011(h), and/or 5.011(k)

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

25 28. On or about August 26, 2020, BOARD agents conducted an inspection of The
26 Timbers bar.

27 29. On or about August 26, 2020, BOARD agents observed all nine (9) patrons at
28 The Timbers bar not wearing face coverings.

