



1 NGC 22-04

2  
3 **STATE OF NEVADA**  
4 **BEFORE THE NEVADA GAMING COMMISSION**

5  
6 NEVADA GAMING CONTROL BOARD, )  
7 Complainant, )  
8 vs. )  
9 RIVER PLATE, INC., )  
10 dba LA JOLLA; )  
11 Respondent. )

**COMPLAINT**

12 The State of Nevada, on relation of its Nevada Gaming Control Board (BOARD),  
13 Complainant herein, by and through its counsel, AARON FORD, Attorney General, and  
14 MICHAEL P. SOMPS, Senior Deputy Attorney General, hereby files this Complaint for  
15 disciplinary action against Respondent pursuant to Nevada Revised Statute (NRS)  
16 463.310(2) and alleges as follows:

17 **JURISDICTION**

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

22 2. Respondent, RIVER PLATE, INC., dba LA JOLLA, holds a restricted license  
23 issued by the Commission and is located at 2245 East Flamingo Road, Las Vegas, Nevada  
24 89119.

25 **RELEVANT LAW**

26 3. NRS 463.0129 provides in relevant part the following:

27 1. The Legislature hereby finds, and declares to be the public policy of this state,  
28 that:

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

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

13 (c) Public confidence and trust can only be maintained by  
14 strict regulation of all persons, locations, practices, associations  
15 and activities related to the operation of licensed gaming  
16 establishments, the manufacture, sale or distribution of gaming  
17 devices and associated equipment and the operation of inter-  
18 casino linked systems.

19 (d) All establishments where gaming is conducted and  
20 where gaming devices are operated, and manufacturers, sellers  
21 and distributors of certain gaming devices and equipment, and  
22 operators of inter-casino linked systems must therefore be  
23 licensed, controlled, and assisted to protect the public health,  
24 safety, morals, good order and general welfare of the inhabitants  
25 of the State, to foster the stability and success of gaming and to  
26 preserve the competitive economy and policies of free  
27 competition of the State of Nevada.

28 (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.

2. No applicant for a license or other affirmative  
commission approval has any right to a license or the granting of  
the approval sought. Any license issued or other commission  
approval granted pursuant to the provisions of this chapter or  
chapter 464 of NRS is a revocable privilege, and no holder  
acquires any vested right therein or thereunder.

21 NRS 463.0129(1) and (2).

22 4. The BOARD is authorized to observe the conduct of all licensees and other persons  
23 having a material involvement directly or indirectly with a licensed gaming operation or  
24 registered holding company in order to ensure that licenses are not issued or held by, nor  
25 is there any material involvement directly or indirectly with a licensed gaming operation  
26 or registered holding company by unqualified, disqualified or unsuitable persons, or  
27 persons whose operations are conducted in an unsuitable manner. See NRS 463.1405(1).

28 ///

1           5.     The Commission has full and absolute power and authority to limit, condition,  
2 restrict, revoke or suspend any license, registration, finding of suitability or approval or  
3 fine any person licensed, registered, found suitable or approved for any cause deemed  
4 reasonable by the Commission. *See* NRS 463.1405(4).

5           6.     Commission Regulation 5.010 provides the following:

6                     1. It is the policy of the commission and the board to  
7 require that all establishments wherein gaming is conducted in  
8 this state be operated in a manner suitable to protect the public  
9 health, safety, morals, good order and general welfare of the  
10 inhabitants of the State of Nevada.

11                    2. Responsibility for the employment and maintenance of  
12 suitable methods of operation rests with the licensee, and willful  
13 or persistent use or toleration of methods of operation deemed  
14 unsuitable will constitute grounds for license revocation or other  
15 disciplinary action.

16 Nev. Gaming Comm'n Reg. 5.010.

17           7.     Commission Regulation 5.030 provides the following:

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

Nev. Gaming Comm'n Reg. 5.030.

          8.     Commission Regulation 5.040 provides the following:

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

Nev. Gaming Comm'n Reg. 5.040.

          9.     Commission Regulation 5.011 provides in relevant part the following:

///

1           1. The Board and the Commission deem any activity on  
2 the part of a licensee, registrant, or person found suitable by the

3 Commission, or an agent or employee thereof, that is inimical to  
4 the public health, safety, morals, good order, or general welfare  
5 of the people of the State of Nevada, or that would reflect or tend  
6 to reflect discredit upon the State of Nevada or the gaming  
7 industry, to be an unsuitable method of operation and shall be  
8 grounds for disciplinary action by the Board and the Commission  
9 in accordance with the Nevada Gaming Control Act and the  
10 regulations of the Commission. The following acts or omissions,  
11 without limitation, may be determined to be unsuitable methods  
12 of operation:

13           (a) Failure to exercise discretion and sound judgment to  
14 prevent incidents which might reflect on the repute of the State  
15 of Nevada and act as a detriment to the development of the  
16 industry.

17           .....

18           (h) Failure to comply with or make provision for  
19 compliance with all federal, state, or local laws and regulations  
20 and with all conditions and limitations approved by the  
21 Commission relating to the operations of a licensed gaming  
22 establishment or other gaming business . . .

23           .....

24           (k) Failure to conduct gaming operations in accordance  
25 with proper standards of custom, decorum, and decency, or  
26 permit a type of conduct in a gaming establishment that reflects  
27 or tends to reflect on the repute of the State of Nevada and act  
28 as a detriment to the gaming industry.

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

10. NRS 368A.160(1) provides the following:

1. Each person responsible for maintaining the records of a taxpayer shall:

(a) Keep such records as may be necessary to determine the amount of the liability of the taxpayer pursuant to the provisions of this chapter;

(b) Preserve those records for:

(1) At least 5 years if the taxpayer is a licensed gaming establishment or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; or

(2) At least 4 years if the taxpayer is not a licensed gaming establishment or until any litigation or prosecution pursuant to this chapter is finally determined, whichever is longer; and

(c) Make the records available for inspection by the Board or the Department upon demand at reasonable times during regular business hours.

NRS 368A.160(1).

1 11. NAC 368A.510 states in relevant part as follows:

2 1. Each:

3 . . . .

4 (b) Group II licensee that provides live entertainment and  
5 each taxpayer that holds a restricted license shall comply with  
6 any procedures for internal control for entertainment adopted by  
7 the Chair pursuant to Regulation 6.100 of the Nevada Gaming  
8 Commission.

↳ Except as otherwise approved in writing by the Chair, a  
taxpayer shall not carry out any procedures for internal control  
that deviate from any standards or procedures for internal  
control for entertainment adopted and published by the Chair.

9 Nevada Administrative Code 368A.510(1)(b).

10 12. Commission Regulation 6.100 states in relevant part as follows:

11 . . . .

12 1. The Chair shall prepare and publish internal control  
13 procedures that in the Chair's opinion establish administrative  
14 and accounting procedures for the purpose of determining the  
licensee's liability for taxes and fees under chapters 463 and 464  
of NRS and for the purpose of exercising effective control over  
the licensee's internal fiscal affairs.

15 . . . .

16 6. Not later than 30 days after service of written notice  
17 that the internal control procedures adopted or revised pursuant  
18 to this section are effective, each licensee shall comply with the  
19 procedures. The Chair, in the Chair's sole and absolute  
discretion, may extend the time for complying with this  
subsection.

20 7. A licensee may not implement internal control  
21 procedures that deviate from the published internal control  
22 procedures unless the deviations are approved in writing by the  
Chair.

23 8. Failure to follow the internal control procedures  
24 issued by the Chair, or approved deviations from the  
procedures, is an unsuitable method of operation.

25 Nev. Gaming Comm'n Reg. 6.100(1) and (6) – (8).

26 13. Internal Control Procedures (ICP) (Version 3) for Entertainment  
27 (hereinafter "ICP") provides in relevant part the following:

28 1. All entertainment sales are recorded in such a manner

1 as to be readily identifiable by individual sale, in total, and by  
2 area for applicable periods of entertainment status. For sales  
3 recorded in a computerized point-of-sale system, the date/time  
4 and transaction number is also recorded for each individual sale.

5 .....  
6 2. Each sale is identifiable by type (i.e., taxable,  
7 nontaxable and complimentary).

8 .....  
9 8. The bartenders'/cashiers' banks are reconciled to the  
10 entertainment sales documentation with an investigation being  
11 performed, and findings documented, into large cash overages or  
12 shortages.

13 .....  
14 11. The dates and time periods during which taxable  
15 entertainment is provided are documented and reconciled to the  
16 periods during which entertainment sales were reported.

17 .....  
18 12. A breakdown of gross sales into taxable and  
19 nontaxable components for each date and time period is prepared  
20 that summarizes the total of sales by type (using documents as  
21 required by ICP #1 and #2).

22 .....  
23 17. Complimentaries can only be deducted from  
24 entertainment revenue if an adequate audit trail exists.  
25 Estimates may not be used.

26 .....  
27 20. For locations with non-computerized entertainment  
28 sales systems, all cash register tapes or other equivalent records  
are reviewed to ensure that sales subject to the LET were  
totaled/subtotaled properly.

.....  
22. Recording procedures for entertainment sales (see ICP  
#1 and #2) are monitored for correctness at least monthly by  
management personnel.

Note: For areas of entertainment that are not always in  
entertainment status, cash register/point-of-sale system  
procedures and controls are tested to ensure that all sales during  
entertainment status are properly classified as entertainment  
sales.

1 23. All entertainment period sales, including  
2 complimentaries, are summarized and posted to the accounting  
3 records.

4 Note: Live entertainment taxable revenue should be posted to a  
5 different general ledger account than non-live entertainment  
6 taxable revenue, or in some other way is distinguishable or  
7 specifically identifiable.

8 ICP (Version 3) for Entertainment Nos. 1 – 2, 8, 11 – 12, 17, 20, and 22 – 23.

9 14. NRS 463.310(4) states in relevant part that the Commission may:

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

13 (b) Limit, condition, suspend or revoke any registration,  
14 finding of suitability, preliminary finding of suitability, pari-  
15 mutuel license, or prior approval given or granted to any  
16 applicant by the Commission;

17 . . . .

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

24 . . . .

25 (2) Except as otherwise provided in subparagraph (1), not  
26 more than \$100,000 for each separate violation of the provisions  
27 of this chapter or chapter 368A, 464 or 465 of NRS or of any  
28 regulations adopted thereunder, 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 368A, 464 or  
465 of NRS or of any regulations adopted thereunder, which is  
the subject of any subsequent complaint.

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

## BACKGROUND

15. Respondent is a restricted gaming licensee that offers taxable live  
entertainment.

16. NAC 368A.510(1)(b) requires restricted licensees offering taxable live  
entertainment to comply with Commission Regulation 6.100 as it pertains to the Internal  
Control Procedures for Live Entertainment.

1 17. The BOARD's Tax and License Division performed a scheduled live  
2 entertainment tax review of Respondent for the period of July 1, 2019 through September  
3 30, 2021 (Review Period).

4 18. As more specifically alleged herein, the BOARD's live entertainment tax  
5 review found that Respondent's internal control structure was inadequate for the Review  
6 Period. Furthermore, Respondent did not comply with material aspects of NRS 368A.160  
7 as well as Commission Regulation 6.100.

8 19. As a result of the BOARD'S live entertainment tax review for the Review  
9 Period, the BOARD sent a violation letter to Respondent on April 11, 2022. However,  
10 Respondent did not respond to the BOARD'S April 11, 2022 violation letter.

11 20. As a result of the BOARD'S live entertainment tax review for the Review  
12 Period and Respondent's failure to respond to the BOARD's April 11, 2022 violation letter,  
13 the BOARD issued an Order to Show Cause (OSC) to Respondent on June 15, 2022.  
14 Although Respondent provided a response to the BOARD's OSC, the BOARD found the  
15 response inadequate.

16 21. This is not the first time the BOARD found violations by Respondent related  
17 to the live entertainment tax. Specifically, the BOARD sent Respondent violation letters  
18 on March 9, 2020 and on October 3, 2017 notifying it of specific violations. Respondent  
19 responded to both violation letters indicating corrections to prevent future violations.

20 **COUNT ONE**  
21 **VIOLATION OF NRS 368A.160, NAC 368A.510, and/or**  
22 **COMMISSION REGULATIONS**  
23 **5.011(1), 5.011(1)(a), 5.011(1)(h) (1)(k), and/or 6.100**

24 22. Complainant BOARD realleges and incorporates by reference the above  
25 paragraphs as though set forth in full herein.

26 23. For the Review Period:

27 a. Respondent failed to maintain, and make available to the BOARD, "Z-  
28 Tapes" and "Cashier Close-Out" reports for admission sales from entertainment  
taxable events for the period of May 11, 2020 through September 30, 2021 in



1 violation of NRS 368A.160(1). The preceding is a recurring violation previously cited  
2 in the BOARD's violation letters to Respondent dated October 3, 2017 and March 9,  
3 2020.

4 b. Respondent failed to maintain, and make available to the BOARD,  
5 accounting records to verify entertainment revenue for the Review Period in  
6 violation of NRS 368A.160(1).

7 c. Respondent failed to record admission sales so as to be identifiable by  
8 individual sale for the period of May 11, 2020 through September 30, 2021 in  
9 violation of ICP (Version 3) for Entertainment No. 1. The preceding is a recurring  
10 violation previously cited in the BOARD's violation letters to Respondent dated  
11 October 3, 2017 and March 9, 2020.

12 d. Complimentary admission was offered by Respondent to military personnel  
13 and to other individuals on a discretionary basis. However, individual  
14 complimentary admission sales were not recorded by Respondent in an identifiable  
15 manner and no documentary evidence was available to support complimentary  
16 deductions from entertainment revenue for the period of May 11, 2020 through  
17 September 30, 2021 in violation of ICP (Version 3) for Entertainment Nos. 2 and 17.  
18 The preceding is a recurring violation previously cited in the BOARD'S violation  
19 letter to Respondent dated March 9, 2020.

20 e. Respondent failed to provide evidence of a cash count down reconciliation  
21 or evidence of an investigation into large variances for the period of May 11, 2020  
22 through September 30, 2021 in violation of ICP (Version 3) for Entertainment No. 8.  
23 The preceding is a recurring violation previously cited in the BOARD's violation  
24 letter to Respondent dated March 9, 2020.

25 f. Respondent failed to perform or document a reconciliation of taxable  
26 entertainment sales for the period of May 11, 2020 through September 30, 2021 in  
27 violation of ICP (Version 3) for Entertainment No. 11. The preceding is a recurring  
28 violation previously cited in the BOARD's violation letter to Respondent dated March

1 9, 2020.

2 g. Respondent failed to classify gross sales into taxable and nontaxable  
3 components for the Review Period, in violation of ICP (Version 3) for Entertainment  
4 No. 12.

5 h. Respondent failed to provide cash register tapes or other equivalent records  
6 for admission sales for the Review Period, in violation of ICP (Version 3) for  
7 Entertainment No. 20.

8 i. Respondent failed to perform procedures to monitor correctness of  
9 entertainment sales at least monthly during the period of May 11, 2020 through  
10 September 30, 2021 in violation of ICP (Version 3) for Entertainment No. 22. The  
11 preceding is a recurring violation previously cited in the BOARD's violation letters  
12 to Respondent dated October 3, 2017 and March 9, 2020.

13 j. Respondent failed to post to accounting records entertainment transactions  
14 for the period of May 11, 2020 through September 30, 2021 in violation of ICP  
15 (Version 3) for Entertainment No. 23. The preceding is a recurring violation  
16 previously cited in the BOARD's violation letters to Respondent dated October 3,  
17 2017 and March 9, 2020.

18 24. Respondent's conduct, as described herein, is in violation of NRS 368A.160(1),  
19 NAC 368A.510, and/or Commission Regulations 5.011(1), 5.011(1)(a), 5.011(1)(h),  
20 5.011(1)(k), and/or 6.100.

21 25. Respondent's failure to comply with NRS 368A.160(1), NAC 368A.510 and/or  
22 Commission Regulations 5.011(1), 5.011(1)(a), 5.011(1)(h), 5.011(1)(k), and/or 6.100 is  
23 grounds for disciplinary action against Respondent. See NRS 463.1405(4) and Commission  
24 Regs. 5.010(2), and 5.030.

25 WHEREFORE, based upon the allegations contained herein which constitute  
26 reasonable cause for disciplinary action against Respondent, pursuant to NRS 463.310, and  
27 Commission Regulations 5.010, 5.011 and 5.030, the NEVADA GAMING CONTROL  
28 BOARD prays for the relief as follows:

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

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

6           3.       That the Commission take action against Respondent's licenses, registrations,  
7 and/or findings of suitability pursuant to the parameters defined in NRS 463.310(4); and

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

9 DATED this 26th day of October, 2022.


10 NEVADA GAMING CONTROL BOARD

11   
12 \_\_\_\_\_  
13 J. BRIN GIBSON, Chairman

14   
15 \_\_\_\_\_  
16 PHILIP KATSAROS, Member

17   
18 \_\_\_\_\_  
19 BRITTANIE WATKINS, Member

20 Submitted by:  
21 AARON FORD  
22 Attorney General

23 By:   
24 \_\_\_\_\_  
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