

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

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

STATE OF NEVADA ex rel. NEVADA
GAMING CONTROL BOARD,

Plaintiff,

v.

BLOCKRATIZE INC., *et al.*,

Defendants.

Case No. 3:26-cv-00089-MMD-CLB

ORDER

I. SUMMARY

Plaintiff State of Nevada ex rel. Nevada Gaming Control Board (“Board”) sued Blockratize Inc. d/b/a Polymarket; QCX LLC d/b/a Polymarket US; and Adventure One QSS Inc. d/b/a Polymarket (collectively, “Polymarket”) in state court for alleged violations of State of Nevada gaming laws. (ECF No. 1-3.) Polymarket removed the case to this Court. (ECF No. 1 (“Petition”).) The Board now moves to remand, contending that Defendants’ two bases for removal—jurisdiction under the federal officer removal statute and federal question jurisdiction—are meritless. (ECF No. 7 (“Motion”).)¹ The Court has considered the Board’s Motion and the parties’ briefing, and the Court also held a hearing on February 24, 2026.² (ECF No. 36 (“Hearing”).) Because the Court finds that Polymarket does not satisfy the “acting under” requirement for federal officer removal and the Board’s claims arise under state law, thus depriving this Court of federal question jurisdiction, the Court will grant remand.

¹Defendants responded (ECF No. 15 (“Response”)) and Plaintiff replied (ECF No. 20 (“Reply”).

²The Court held a joint hearing in a related removed case where the Board filed a motion to remand, *See Nevada ex rel. Nevada Gaming Control Bd. v. KalshiEX, LLC*, No. 2:26-cv-00406-MMD-MDC.

1 **II. BACKGROUND**

2 Polymarket operates a federally licensed derivatives exchange and prediction
3 market that offers event contracts for sale available to persons in Nevada. (ECF Nos. 1-
4 3 at 4; 1 at 2.) Arising from these operations, the Board filed a civil enforcement action in
5 state court on January 16, 2026, seeking to enjoin Polymarket’s gaming operations in
6 Nevada until Polymarket obtained Nevada gaming licenses and complied with Nevada’s
7 gaming laws. (ECF No. 1-3 at 11-14.) The Board’s Complaint alleges claims that
8 Polymarket’s market violates NRS §§ 436.160, 463.350, 465.086 and 465.092, and
9 sought declaratory and injunctive relief under NRS §§ 463.343, 463.346 and 30.030. (*Id.*
10 at 8-14.)

11 On January 29, 2026, the state court issued a 14-day Temporary Restraining
12 Order and set a hearing on the Board’s motion for a preliminary injunction on February
13 11, 2026. (ECF No. 2-4 at 62-70.) On February 5, 2026, Polymarket filed their Petition.
14 (ECF No. 1.) The Board then filed the Motion. (ECF No. 7.) The Court subsequently
15 granted the parties’ stipulation for a modified briefing schedule on the Motion. (ECF No.
16 23.)

17 **III. DISCUSSION**

18 Federal courts are courts of limited jurisdiction, having subject-matter jurisdiction
19 only over matters authorized by the Constitution and Congress. See U.S. Const. art. III,
20 § 2, cl. 1; *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994).
21 Accordingly, a defendant may remove a suit filed in state court to federal court only if the
22 federal court would have had original jurisdiction over the suit at commencement of the
23 action. See 28 U.S.C. § 1441(a). “If a case is improperly removed, the federal court must
24 remand the action because it has no subject-matter jurisdiction to decide the case.”
25 *ARCO Env’t Remediation, L.L.C. v. Dep’t of Health & Env’t Quality of Montana*, 213 F.3d
26 1108, 1113 (9th Cir. 2000).

27

28

1 Polymarket asserts two grounds for removal: federal officer removal under 28
2 U.S.C. § 1442(a)(1) and federal question jurisdiction under the substantial federal
3 question doctrine. (ECF No. 1 at 7-15.) The Court addresses each ground in turn.

4 **A. Federal Officer Removal**

5 The federal officer removal statute authorizes the removal of an action against
6 “[t]he United States or any agency thereof or any officer (or any person acting under that
7 officer) of the United States or of any agency thereof, in an official or individual capacity,
8 for or relating to any act under the color of such office. . . .” 28 U.S.C. § 1442(a)(1). The
9 statute was intended to protect federal officers and agents working within the scope of
10 their authority from interference with their official duties through state-court litigation. See
11 *Watson v. Philip Morris Cos.*, 551 U.S. 142, 150 (2007). Although the statute is to be
12 “liberally construed,” the Supreme Court has noted that its “broad language is not
13 limitless.” *Id.* at 147.

14 To invoke federal officer removal, a defendant must satisfy a three-part test by
15 demonstrating that “(a) it is a ‘person’ within the meaning of the statute; (b) there is a
16 causal nexus between its actions, taken pursuant to a federal officer’s directions, and
17 plaintiff’s claims; and (c) it can assert a ‘colorable federal defense.’” *Fidelitad, Inc. v. Insitu,*
18 *Inc.*, 904 F.3d 1095, 1099 (9th Cir. 2018) (quoting *Durham v. Lockheed Martin Corp.*, 445
19 F.3d 1247, 1251). For a private person to satisfy the second prong, or the “acting under”
20 requirement, their actions must involve “an effort to *assist*, or to help *carry out*, the duties
21 or tasks of the federal superior.” *Watson*, 551 U.S. at 152. This requires more than simple
22 compliance with a regulation, “even if the regulation is highly detailed and even if the
23 private firm’s activities are highly supervised and monitored.” See *id.* at 152-53.

24 The parties dispute the second factor—whether Polymarket is “acting under” a
25 federal officer.³ Polymarket contends that it is because the Commodity Futures Trading
26 Commission (“CFTC”) approved Polymarket as a designated contract market (“DCM”)

27
28 ³Accordingly, the Court does not address the first and third factors.

1 under the Commodity Exchange Act (“CEA”). (ECF No. 1 at 5.) In operating its DCM,
2 Polymarket acts as a self-regulatory organization that exercises CFTC delegated
3 authority. (ECF No. 1 at 7-12.) Polymarket argues that while it “must comply with the
4 CEA’s 23 core principles and all CFTC rules. . .” it does more than mere compliance
5 because it assists the CFTC in accomplishing tasks that the CFTC would otherwise have
6 to perform. (ECF No. 1 at 8-9.) Polymarket points to several of its delegated functions,
7 including that it “‘must establish, monitor and enforce compliance with the rules of the
8 contract market’ including ‘access requirements,’ ‘the terms and conditions of any
9 contracts to be traded,’ and ‘rules prohibiting abusive trade practices on the contract
10 market.’” (ECF No. 15 at 12.) The Board argues that Polymarket is merely a private entity
11 conducting private business that is subject to federal regulation, and compliance with
12 federal regulation does not create federal-officer jurisdiction. (ECF No. 7 at 10-15.)
13 Moreover, it insists that Polymarket’s ability to self-certify its contracts as CEA compliant
14 is not a basis for federal officer removal in the Ninth Circuit. (*Id.* at 12.)

15 As an initial matter, the Court notes that the relevant inquiry does not concern all
16 of Polymarket’s delegated functions, only the functions relevant to the Board’s claims.
17 *See Goncalves By & Through Goncalves v. Rady Children's Hosp. San Diego*, 865 F.3d
18 1237, 1245 (9th Cir. 2017) (noting that for the second prong of the federal officer removal
19 test “[t]he only real question. . . is whether, when seeking subrogation, [defendant] ‘acted
20 under’ a federal officer.”). Thus, the Court does not consider the “broad array of functions”
21 Polymarket alleges it has been delegated. (ECF No. 1 at 10.) Rather, the Court looks
22 narrowly at functions relevant to the Board’s claims; here that is whether Polymarket has
23 acted under a federal officer by self-certifying that its contracts comply with the CEA and
24 by regulating access to its contracts.⁴

25 _____
26 ⁴During the Hearing, the Court asked Polymarket’s counsel to clarify which of their
27 self-regulating functions are relevant to the claims in this case. Polymarket’s counsel
28 represented to the Court that the relevant function is access, because the Board’s
enforcement action essentially alleges that Polymarket unlawfully allows persons in
Nevada access to its contracts, and Polymarket has been delegated federal authority in
setting access requirements, (ECF Nos. 36; 15 at 17.)

1 The Court agrees with the Board that the delegated functions Polymarket identified
2 demonstrate compliance, not assistance for Polymarket to fall within the scope of “acting
3 under.” The Ninth Circuit’s reasoning in *Riggs v. Airbus Helicopters, Inc.*, 939 F.3d 981
4 (9th Cir. 2019) is particularly instructive here. In *Riggs*, the court held that the district court
5 did not err in finding that the defendant helicopter manufacturer was not “acting under” a
6 federal officer in issuing certificates for FAA approval of aircraft design. The court
7 reasoned that the defendant “‘must perform all delegated functions *in accordance with a*
8 *detailed, FAA-approved procedures manual*” and “[l]anguage such as ‘in accordance
9 with’ and ‘FAA-approved’ suggest a relationship based on compliance.” *Id.* at 989.
10 Moreover, the court found it significant that the FAA had the authority to rescind actions
11 taken in the certification process. *Id.* Here, Polymarket argues that it can self-certify its
12 own contracts, but it also admits that the CFTC retains authority to “investigate, stay or
13 amend” the contract after it has been listed, and that the CFTC has the “discretion to
14 prohibit the listing.” (ECF No. 1 at 11.) In its Response, Polymarket attempts to
15 underscore that such self-certification is permissible only because it possesses a form of
16 delegated authority. (ECF No. 15 at 17.) The Court finds this argument unavailing under
17 *Riggs*. Given the CFTC’s ultimate oversight and control over Polymarket, the Court finds
18 that Polymarket’s delegated function of self-certifying contracts “fit[s] squarely within the
19 precept of mere compliance within regulatory standards and outside the ‘acting under’
20 provision of 1442(a)(1).” See *Riggs*, 939 F.3d at 989, citing *Watson*, 551 U.S. at 153.

21 The Court finds that the same reasoning applies as to Polymarket’s argument that
22 it has a self-regulating function of “establish[ing], monitor[ing] and enforc[ing] compliance
23 with the rules of the contract market “including access requirements” as to third parties.⁵
24 (ECF No. 15 at 19.) But during the Hearing, Polymarket’s counsel clarified, in response
25 to the Court’s question, that the CFTC has the ability to override Polymarket’s decisions
26

27 ⁵The Board counters that this case involves Polymarket’s “own contracts” which
28 the Board claims violate Nevada gaming laws, not Polymarket’s delegated authority to
regulate third party contracts. (ECF No. 20 at 3.)

1 regarding access. Because Polymarket is “duty-bound to follow” CFTC’s requirements,
2 Polymarket’s delegated functions fall within the “simple compliance with the law”
3 circumstance, analogous to the helicopter manufacturer in *Riggs* who “was duty-bound
4 to follow the prescriptive rules set forth by the FAA.” See *Riggs*, 939 F.3d at 989 (noting
5 the significance that the FAA had the authority to rescind any action taken by the
6 defendant helicopter manufacturer in the certification process); cf. *Goncalves*, 865 F.3d
7 at 1247 (finding that the health insurance carrier “go[es] well ‘beyond simple compliance
8 with the law and help[s] officers fulfill other basic government tasks’” because of its
9 delegated authority to seek subrogation, the importance of subrogation recoveries and its
10 obligations to “make reasonable efforts” to “pursue subrogation claims,” including
11 deciding “when filing suit in federal court is a wise decision.”). Thus, Polymarket fails to
12 satisfy the “acting under” prong necessary to invoke the federal removal statute.

13 In sum, the Court finds Polymarket is not “acting under” the CFTC by self-certifying
14 contracts, nor by regulating access to its market. Accordingly, the Court finds that
15 Polymarket is unable to avail itself of the federal officer removal statute.

16 **B. Federal Question Jurisdiction**

17 The Court has federal question jurisdiction under 28 U.S.C. § 1331 as to “only
18 those cases in which a well-pleaded complaint establishes either that the federal law
19 creates the cause of action or that the plaintiff’s right to relief necessarily depends on
20 resolution of a substantial question of federal law.” *Franchise Tax Bd. v. Constr. Laborers*
21 *Vacation Tr.*, 463 U.S. 1, 27-28 (1983). On “rare occasions” federal question jurisdiction
22 may exist for suits containing only state law claims. *Royal Canin U. S. A., Inc. v.*
23 *Wullschleger*, 604 U.S. 22, 26 (2025). The Supreme Court has articulated a four-factor
24 test for determining whether a federal court may exercise federal question jurisdiction
25 over a state law claim. *Grable & Sons Metal Prod., Inc. v. Darue Eng’g & Mfg.*, 545 U.S.
26 308, 314 (2005). This Court may exercise jurisdiction if “a federal issue is: (1) necessarily
27 raised, (2) actually disputed, (3) substantial, and (4) capable of resolution in federal court
28 without disrupting the federal-state balance approved by Congress.” *Gunn v. Minton*, 568

1 U.S. 251, 258 (2013) (citing *Grable*, 545 U.S. at 314). The Supreme Court has often held
2 that federal question jurisdiction is proper where the vindication of a right under state law
3 necessarily turned on construction of federal law. See *Hornish v. King Cnty.*, 899 F.3d
4 680, 688 (9th Cir. 2018) (holding the *Grable* factors were met where plaintiff-appellants
5 sought declaratory relief that the county had acquired certain property rights under the
6 federal Trails Act).

7 Polymarket raises two arguments as to how the Board’s claims necessarily raise
8 a substantial federal issue: (1) the Board’s claims “necessarily require proof that the event
9 contracts at issue are illegal gambling—and those claims cannot be adjudicated without
10 deciding disputed and substantial questions of federal law”; and (2) the Board’s claims
11 turn on the interpretation of federal law embedded in one of the Nevada statutes under
12 which the Board seeks relief. (ECF No. 1 at 13.) The Board counters that the former is
13 essentially a preemption defense and preemption defense is not a basis for removal, and
14 that the Nevada statute in question raises no interpretive questions of federal law. (ECF
15 No. 7 at 16-17.) In its Response, Polymarket reiterates its argument that the state law
16 requires interpretation of federal law, citing to *Georgia Gambling Recovery LLC v. Kalshi*
17 *Inc.*, No. 4:25-CV-310 (CDL), 2026 WL 279375 (M.D. Ga. Feb. 3, 2026), as an example
18 of how the state’s claim for relief relies upon an interpretation of the CEA and the CFTC’s
19 jurisdiction. (ECF No. 17-19.)

20 The Court agrees with the Board that a federal issue is not necessarily raised here.
21 Polymarket cites to a single case from an out of circuit district court, *Georgia Gambling*
22 *Recovery*, 2026 WL 279375, to support its proposition that the Board’s claims rely on
23 interpretation of the CEA. *Georgia Gambling* is neither binding nor persuasive, in large
24 part because the underlying state law is materially different. In *Georgia Gambling*, a
25 private plaintiff brought a claim under a Georgia statute to recover illegal gambling losses.
26 The state statute provides, “all ‘[g]ambling contracts are void’ and authorizes ‘any person’
27 to recover ‘[m]oney paid or property delivered upon a gambling consideration’.” *Id.* at *2
28 (quoting O.C.G.A. § 13-8-3). But as the Board points out in its Motion, for the plaintiff to

1 prevail in that case, it had to prove that the challenged contracts were illegal under federal
2 law. See *id.* at *3; (ECF No. 7 at 18.) Here, the Nevada statutes at issue require no
3 interpretation of federal law as the claims are that Polymarket offers event and sports-
4 based event contracts that are wagers subject to Nevada’s gaming laws. (ECF No. 1-3.)

5 Moreover, Polymarket points to only one statutory provision to argue that the
6 Board’s state law case turns on the interpretation federal law:

7 *Except as otherwise provided by law*, it is unlawful for a person to receive, directly
8 or indirectly, any compensation or reward, or any percentage or share of the
9 money or property played, for accepting any bet or wager upon the result of any
10 event held at a track involving a horse or other animal, sporting event or other
11 event, as defined by regulations adopted by the Nevada Gaming Commission,
without having first procured, and thereafter maintaining in effect, all federal, state,
county and municipal gaming licenses as required by statute, regulation or
ordinance or by the governing body of any unincorporated town.

12 NRS § 465.086(1) (emphasis added). Polymarket argues that “[e]xcept as otherwise
13 provided by law” incorporates federal law, as does the statute’s incorporation of “federal
14 . . . licenses.” (ECF No. 15 at 24-25.) But here, unlike in *Georgia Gambling*, the statute
15 does not require a determination that the contracts are void under federal law.⁶ The Board
16 is not challenging any aspect of Polymarket’s federal licenses; its claims strictly relate to
17 Polymarket’s failure to obtain the requisite Nevada licenses and comply with other
18 Nevada specific requirements. Additionally, as the Court explained during the Hearing,
19 the Court finds persuasive the Board’s argument that “law” as used in NRS § 465.086(1)
20 refers to the law of Nevada.⁷ (ECF Nos. 20 at 8; ECF No. 36.)

21 The Court now turns to Polymarket’s remaining argument that federal law is
22 necessarily raised because the “core question is whether Nevada may. . . impose its own
23

24 ⁶Moreover, the Court rejects Polymarket’s argument that the Nevada Supreme
25 Court has interpreted identical language to refer to federal and state law. (ECF No. 15 at
26 24.) In *Edwards v. Emperor’s Garden Rest.*, 130 P.3d 1280 (Nev. 2006), the court was
interpreting the federal statute of limitations for a private cause of action based on a TCPA
claim, which necessarily deferred to the state’s statute of limitations.

27 ⁷The Court declines to address the Board’s alternative argument, citing to
28 *Cunningham v. Cornell Univ.*, 604 U.S. 693 (2025), that even if the phrase refers to federal
law, it provides for an affirmative defense, not an element of the Board’s claims. (ECF No.
7 at 17.)

1 licensing and enforcement regime on federally licensed derivatives exchanges.” (ECF No.
2 1 at 13.) The Court agrees with the Board that this is essentially a preemption argument
3 raised as a defense. (ECF No. 7 at 16.) But federal issue raised as an anticipated
4 preemption defense is not sufficient to give rise to federal question jurisdiction. See
5 *Caterpillar Inc. v. Williams*, 482 U.S. 386, 393 (1987); *Negrete v. City of Oakland*, 46 F.4th
6 811, 819-20 (9th Cir. 2022) (internal quotation marks and citation omitted) (“A defense
7 that raises a federal question is inadequate to confer federal question jurisdiction because
8 whether an issue is necessarily raised depends on if it is an essential element of a
9 plaintiff’s claim.”)

10 In sum, the Court finds that the Board’s claims do not necessarily raise an issue of
11 federal law under *Grable*.⁸ The Court thus lacks “arising under” jurisdiction over the
12 Board’s state law claims. Accordingly, removal was improper, compelling remand.

13 **C. Attorneys’ Fees**

14 The Board also requests an award of attorneys’ fees and costs incurred in seeking
15 remand. “An order remanding the case may require payment of just costs and any actual
16 expenses, including attorneys fees, incurred as a result of the removal.” 28 U.S.C. §
17 1447(c). The Court cannot find that the grounds for removal were objectively
18 unreasonable to warrant imposition of fees. See *Martin v. Franklin Cap. Corp.*, 546 U.S.
19 132, 136 (2005). Accordingly, the Court denies the Board’s request for attorneys’ fees
20 and costs.

21 **IV. CONCLUSION**

22 The Court notes that the parties made several arguments and cited to several
23 cases not discussed above. The Court has reviewed these arguments and cases and
24 determines that they do not warrant discussion as they do not affect the outcome of the
25 motion before the Court.

26
27
28

⁸Because the Court finds that the Board’s case does not necessarily raise an issue
of federal law, it need not address the remaining *Grable* factors.

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

It is therefore ordered that the Board's motion to remand to state court (ECF No. 7) is granted. This action is remanded to the First Judicial District Court in Carson City, Nevada.

It is further ordered that the Board's request for attorneys' fees is denied.
The Clerk of Court is directed to close this case.

DATED THIS 2nd Day of March 2026.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE