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**IN THE SUPREME COURT OF
THE UNITED STATES**

Francis Katen, an individual.

Petitioner,

vs.

Syn Resorts, Inc., a Nirvana corporation.

Respondent

Case No.: A-8675309-C

WRIT OF CERTIORARI GRANTED

The petition for writ of certiorari is hereby GRANTED, limited to the following four questions:

1. Whether a patron gambling under the alleged influence of marijuana is entitled to receive a payout from a licensed casino operator?
2. Whether there is a private cause of action for a patron against a licensee under the Gaming Control Board Regulations.
3. Whether there has been an intrusion on a patron's seclusion when a security guard enters their room without explicit consent and searches through the patron's belongings while the patron is in the connecting bathroom.
4. Whether a patron has a claim for disclosure of private facts against a security guard who discloses information regarding the patron's personal life and his gambling and substance use.

1 **UNITED STATES COURT OF APPEALS**
2 **FOR THE THIRTEENTH CIRCUIT**

3 Francis Katen, an individual.

4 Petitioner,

5 vs.
6

7 Syn Resorts, Inc., a Nirvana corporation.

8 Respondent
9
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Case No.: A-8675309-C

ORDER

11 This matter involves claims that Francis Katen was discriminated against by Syn
12 Resorts after gambling while under the influence of marijuana. Before the court is Syn
13 Resort’s motion for summary judgment. For the reasons stated below, Syn Resort’s motion
14 for summary judgment is GRANTED.

15 **BACKGROUND**

16 On June 8, 2017, Frances Katen, also known as \$u\$picious Kat, checked into Syn
17 Resorts, a highly prominent casino and hotel located in Syn City in the State of Nirvana. Mr.
18 Katen is a well-known celebrity musician, who features the usage of marijuana and
19 gambling prominently in his songs and album artwork. He has stayed at Syn Resorts
20 multiple times and is friends with the owner and several members of the upper management.
21 Upon checking-into Syn Resorts, Mr. Katen was given a fully comped suite, and a VIP
22 Rewards Player Card. Mr. Katen was specifically given a “smoking” suite, as he has always
23 requested a smoking room and has been seen smoking cigarettes on multiple occasions. Mr.
24 Katen also holds a registered medical marijuana card, issued by the State of California
25 pursuant to their regulations and requirements. Following the passage of Nirvana’s
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1 recreational marijuana laws effective January 1, 2017, Syn Resorts instated a “no-marijuana
2 policy” and posted signs at every entrance of the casino informing passerby that possession
3 of and/or smoking marijuana is prohibited on the resort premises.

4 On the evening of June 8th, Mr. Katen received a line of credit (a “marker”) in the
5 amount of \$10,000. He proceeded to use the money to play black jack, poker, and roulette at
6 Syn Resort’s tables. Throughout the evening, multiple dealers noticed Mr. Katen reach into
7 his pocket and consume, what they believed, were marijuana gummy edibles. Several
8 dealers noted that Mr. Katen appeared to be intoxicated and reported to the pit boss that he
9 had bloodshot eyes, was unstable while walking, and “reeked of marijuana.” However, Mr.
10 Katen was allowed to continue playing and eventually won \$100,000 in a high-stakes poker
11 game. The pit boss then denied the release of the winnings to Mr. Katen because she stated
12 Mr. Katen should not have been allowed to play while visibly intoxicated. Upon questioning
13 by Syn Resorts Staff, Mr. Katen reportedly denied the allegations he was using marijuana
14 edibles on the casino floor.
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17 It is uncontested however, that Mr. Katen admitted that he had consumed marijuana
18 in his hotel suite immediately prior to playing on the casino floor. He told the Syn Resorts
19 staff that he had a medical marijuana card for treating his generalized anxiety disorder
20 (“GAD”) and had smoked marijuana his friend had purchased that day to celebrate the
21 unnamed friend’s birthday. Syn Resorts staff continued to deny him the jackpot winnings
22 and told him to return to his suite until they “could figure out what to do.” The pit boss then
23 reported the incident to the Nirvana Gaming Control Board, who launched an investigation.
24
25 *See Exhibit 1.*
26

1 Angered by his denial of the jackpot, Mr. Katen returned to his hotel suite. Mr.
2 Katen, while spending the remainder of the evening in his suite, smoked a marijuana
3 cigarette and watched television. A Syn Resorts security guard, Doug Jones, was sent to
4 investigate a disturbance call on the same floor as Mr. Katen's suite. Mr. Jones had seen Mr.
5 Katen on multiple occasions and personally disliked him because of music. After tending to
6 the disturbance complaint, Mr. Jones walked by Mr. Katen's suite on his way back to the
7 elevator. Upon passing Mr. Katen's suite, Mr. Jones smelled marijuana. After getting closer
8 to the door, Mr. Jones could tell the smell was coming directly from Mr. Katen's room.
9

10 Mr. Jones then returned to work, but periodically checked in to see whether Mr.
11 Katen was still in his room. Approximately two hours later, Mr. Jones walked by Mr.
12 Katen's suite, and again smelled marijuana. Mr. Jones also saw a slight amount of smoke
13 drift out from under the door of the suite. Using his master key, Mr. Jones entered the suite
14 and was immediately overcome with the smoke that filled the air. Mr. Jones did not see Mr.
15 Katen upon entering the room but heard the sounds of a shower running from behind the
16 closed bathroom door. Mr. Jones then took a minute and looked around the suite, opening a
17 few cabinet drawers and rifling through their contents until he saw marijuana sitting on a
18 coffee table, which he took as proof to show his supervisor in the hopes of having Mr. Katen
19 removed from the premises. As he was leaving the room, Mr. Jones heard a ding, which
20 turned out to be Mr. Katen's cell phone, sitting on a table charging. Mr. Jones walked over
21 to the phone and noticed on the screen was the following message from a contact named
22 "wifey" whom Mr. Jones assumed to be Mr. Katen's wife: "That's it! I'm done and filing
23 for divorce tomorrow morning. Enjoy the rest of your life." Mr. Jones heard the water shut
24 off and then quickly left the room.
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1 Later that day, after his shift ended, Mr. Jones called a highly prominent local
2 television reporter, Sally Smith, with whom he was very close friends. Mr. Jones told Sally
3 that Mr. Katen was a guest at Syn Resorts, that he had been permanently cut off from
4 gambling at Syn Resorts and denied his jackpot winnings because he was a drug and
5 gambling addict. Mr. Jones also told Sally that Mr. Katen's marriage was on the rocks and
6 quoted to her the text message he had seen on Mr. Katen's phone. The next morning, a story
7 regarding Mr. Katen, aka \$u\$picious Kat, was broadcast across Syn City detailing Mr.
8 Katen's jackpot and subsequent denial of the winnings in Syn Resorts the previous day,
9 along with allegations that his wife was divorcing him due to his behavior and his drug and
10 gambling addictions.
11

12 **PROCEDURAL HISTORY**

13
14 On August 22, 2017, Francis Katen filed a Complaint against Syn Resorts in the
15 District Court of Nirvana. Mr. Katen alleged discrimination against a person with a
16 disability under the Americans with Disabilities Act (ADA), violation of Nirvana Gaming
17 Regulations, and violation of his right to privacy. This matter was removed to the federal
18 court on September 30, 2017, and the District Court of Nirvana agreed with the investigative
19 findings of the Nirvana Control Board, finding in favor of Syn Resorts and dismissing on all
20 charges. Mr. Katen appealed the District Court's decision to the Court of Appeals for the
21 Thirteenth Circuit. Mr. Katen is seeking the winnings of his jackpot, and compensation for
22 the invasion of privacy.
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CONCLUSIONS OF LAW

A. Standard of Review

Pursuant to 28 U.S.C. § 1331, this court has original jurisdiction over this matter to determine the application of federal law. Viewing the evidence in the light most favorable to the nonmoving party, we must decide whether there are any genuine issues of material fact. *Margolis v. Ryan*, 140 F.3d 850, 852 (9th Cir. 1998). Summary judgment is appropriate only if “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(a).

We must follow the approach outlined in *Celotex Corp v. Catrett*, 477 U.S. 317, 323, 106 S. Ct. 2548, 2553 (1986), with respect to burdens of proof and persuasion in the summary judgment context. Under *Celotex*, the moving party bears the initial burden of production to show the absence of a genuine issue of material fact. *Id.* at 323. Only after the moving party makes this showing does the burden shift to the party opposing summary judgment to show the existence of a genuine issue of material fact. *Id.* at 331 (emphasis added).

B. Private Causes of Action Under Nirvana Gaming Commission Regulations

Under NRS 463.362, whenever a patron and licensee get into a dispute regarding winnings or losses in an amount of \$500, then the licensee must immediately notify the Nirvana Gaming Control Board and the Board shall conduct an investigation. Moreover, pursuant to NRS 463.3668, a party may appeal the Board’s decision regarding the dispute and request judicial review. Here, the issue is whether there is a private cause of action

1 under Gaming Control Regulation 5.011. Mr. Katen contends that he is owed his winnings
2 regardless of his inebriation state. Alternatively, he also pleads that he should not have been
3 allowed to gamble once employees of Syn Resorts say that he was visibly intoxicated. Mr.
4 Katen proposes that much like the duty of care a bartender owes his/her patrons, we should
5 adopt dram shop liability for a casino that would create duty and liability for casinos who
6 allow patrons to gamble while in a state of intoxication. However, Syn Resorts contends that
7 they did indeed follow the Gaming Regulations by denying Mr. Katen his winnings.
8

9 According to *Fleeger v. Bell*, 23 F. App'x 741, 743 (9th Cir. 2001), "In an attempt to
10 maintain and regulate uniformly Nirvana's gaming success, the Nirvana Supreme Court has
11 been unwilling to recognize a private cause of action under the gaming laws "absent express
12 language to the contrary." (*citing* Sports Form, Inc. v. Leroy's Horse & Sports Place, 108
13 Nev. 37, 823 P.2d 901, 903–04 (Nev.1992). Thus, we hold where there is no overt language
14 recognizing a private cause of action, there is no private cause of action.
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16 Moreover, while a casino must answer to the State's Gaming Commission, the
17 Commission's statutes and regulations do not create a private cause of action. *See* Merrill v.
18 Trump Indiana, Inc., 320 F.3d 729, 729-733 (7th Cir. 2003). According to Regulation 5.011,
19 a casino shall not permit "persons who are visibly intoxicated to participate in gaming
20 activity." Mr. Katen alleges that the term "visibly intoxicated" encompasses intoxication
21 from marijuana. However, Regulation 5.011 also provides that casinos shall not provide
22 "[c]omplimentary service of intoxicating **beverages** in the casino area to persons who are
23 visibly intoxicated" (emphasis added). By applying the statutory interpretation principle of
24 *noscitur a sociis*, we conclude that the term "visibly intoxicated" refers only to the use of
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1 alcoholic beverages. Thus, because there is no express cause of action stated in Regulation
2 5.011, Mr. Katen's claims against Syn Resorts fail.

3 Additionally, we must also address Mr. Katen's claim that there is a dram shop duty
4 between casinos and patrons. According to cases from the Ninth and Third Circuits, there is
5 no dram shop duty for casinos to protect patrons who are under the influence of alcohol. *See*
6 *Rodriguez v. Primadonna Co., LLC*, 125 Nev. 578, 581, 216 P.3d 793, 796 (2009), *and*
7 *Hakimoglu v. Trump Taj Mahal Assocs.*, 70 F. 3d 291 (3d Cir. 1995). As dram shop liability
8 arises out of the potentially liable party's act of providing the patron with the means of
9 intoxication (ie. bartender supplies the customer with alcohol), we see no reason to create a
10 new, overly burdensome duty for casinos whose patron bring such substances onto the
11 premises on their own volition. Therefore, we rule that there is no dram shop duty between
12 casinos and their patrons.
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15 **C. Discrimination Under the ADA for Users of Medical Marijuana**

16 According the ADA, a place of public accommodation cannot discriminate against a
17 person with a disability. However, the question before the court is whether allowing the use
18 of medical marijuana is a reasonable accommodation by a place of public accommodation
19 under existing legislation. Nirvana's medical and recreational marijuana statutes require
20 users to consume marijuana in private places, not public places. Construing the facts in the
21 light most favorable to Mr. Katen, we agree that he consumed marijuana in his hotel room
22 and not on the casino floor. Our next inquiry then, is whether a hotel room is a private or
23 public place. According to Ninth Circuit precedence, an occupant of a hotel room has a
24 reasonable expectation of privacy under certain circumstances. *United States v. Young*, 573
25 F.3d 711, 713 (9th Cir. 2009). Based on the facts presented, we conclude Mr. Katen did
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1 indeed consume medical marijuana in a private place, as required by both the recreational
2 and medical marijuana legislation.

3 Next, we must determine whether there is any merit to the claims that Syn Resorts
4 discriminated against Mr. Katen for his disability. Currently, there is no legislation in
5 Nirvana that details the legality of a medical marijuana card-holder who chooses to also
6 indulge in marijuana usage for recreational purposes. Marijuana remains a Schedule I drug
7 that is illegal according to the Federal Government under the Controlled Substances Act.
8 Moreover, the ADA § 12114 states that an employee or job applicant who engages in the use
9 of illegal drugs is not considered a qualified individual with a disability.
10

11 Additionally, recent litigation in other district courts across the nation have revealed
12 a diverse approach to tackling the issue of whether the supremacy clause preempts state
13 legislation allowing recreational and medical marijuana usage. For example, in Connecticut,
14 a court recently held that § 12114 of the ADA should not be read so narrowly as to allow an
15 employer to prohibit an employee from using illegal drugs outside of the workplace, the
16 ADA was not intended to preclude the States from preventing employers from adversely
17 taking action against someone who fails a drug test. *Noffsinger v. SSC Niantic Operating*
18 *Co. LLC*, No. 3:16-CV-01938(JAM), 2017 WL 3401260, at *8 (D. Conn. Aug. 8, 2017). On
19 the other hand, Massachusetts recently denied a plaintiff a private cause of action after she
20 was fired for using medical marijuana at home to treat her disability. *Barbuto v. Advantage*
21 *Sales & Mktg., LLC*, 477 Mass. 456, 470, 78 N.E.3d 37, 50 (2017). However, the court did
22 state in dicta, “[t]he fact that the employee's possession of medical marijuana is in violation
23 of Federal law does not make it per se unreasonable as an accommodation.” *Id.* at 46. While
24 this split is persuasive, it does not present law that is binding on this Court. As no precedent
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1 currently exists in this Circuit, we shall follow the determination of Ninth Circuit precedent,
2 which provides “that doctor-recommended marijuana use permitted by state law, but
3 prohibited by federal law, is an illegal use of drugs for purposes of the ADA, and that the
4 plaintiffs' federally proscribed medical marijuana use therefore brings them within the
5 ADA's illegal drug exclusion.” *James v. City of Costa Mesa*, 700 F.3d 394, 405 (9th Cir.
6 2012). Thus, Mr. Katen’s claims of discrimination fail.

8 **D. Invasion of Privacy**

9 The State of Nirvana recognizes four privacy torts: 1) Intrusion upon seclusion, 2)
10 Appropriation of likeness or identity, 3) Public disclosure of private facts, and 4) Portrayal
11 in a false light. While the State of Nirvana recognizes these claims, the state has no existing
12 precedent beyond the definitions of these claims and thus, we look to surrounding circuits in
13 our analysis of Mr. Katen’s claims. Mr. Katen contends that the security guard violated his
14 right to privacy both in entering his hotel room in his search for the marijuana, and in
15 disclosing details about Mr. Katen’s gambling and private life to the reporter.

17 **1. Intrusion on Seclusion**

18 The state of Nirvana has adopted the following definition as their intrusion on
19 seclusion tort: One who intentionally intrudes, physically or otherwise, upon the solitude or
20 seclusion of another or his private affairs or concerns, is subject to liability to the other for
21 invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.
22 N.R.S. 555.111; Restatement (Second) of Torts § 652B. The Third Circuit has found that
23 publication is not an element of the claim for intrusion on seclusion, and thus we must
24 examine the harm caused by the intrusion itself. *Boring v. Google Inc.*, 362 F. App'x 273,
25 279 (3d Cir. 2010). We agree. Thus, in order for Mr. Katen to have a claim for intrusion on
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1 seclusions, he must be able to demonstrate an intentional intrusion upon the seclusion of
2 their private concerns which was substantial and highly offensive to a reasonable person,
3 and aver sufficient facts to establish that the information disclosed would have caused
4 mental suffering, shame or humiliation to a person of ordinary sensibilities. *Id.*

5
6 In determining whether petitioner had an interest in seclusion, we adopt the
7 following language “a plaintiff must show that he or she had an actual expectation of
8 seclusion or solitude and that that expectation was objectively reasonable. *People for Ethical*
9 *Treatment of Animals v. Bobby Berosini, Ltd.*, 111 Nev. 615, 631 (1995). Based upon
10 various analysis in other circuits, it is a majority opinion that an intrusion into seclusion
11 cannot occur in a place where the individual is in a location open or observable to the public.
12 *Med. Lab. Mgmt. Consultants v. Am. Broad. Companies, Inc.*, 306 F.3d 806, 813 (9th Cir.
13 2002) We agree.

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15 Thus, in order for Mr. Katen to have a valid claim for intrusion on seclusion, he must
16 had had a reasonable expectation of solitude within his hotel room. While in the criminal
17 context, an occupant of a hotel room had a reasonable expectation of privacy similar to what
18 he would have had at home. *United States v. Young*, 573 F.3d 711, 713 (9th Cir. 2009).
19 While it is true that guest in a hotel naturally gives consent, explicit or implied, for hotel
20 workers such as maids, janitors, security, or repairmen to enter their hotel room in the
21 performance of their employment duties. *Stoner v. State of Cal.*, 376 U.S. 483, 489 (1964).
22 However, this implicit consent does not extend to allowing police to enter the room, even if
23 the hotel employees justifiably in the room found illegal evidence. “A guest has a legitimate
24 and significant privacy interest in the room's contents, and does not lose his expectation of
25 privacy against unlawful government intrusions into his closed briefcase or the contents of
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1 his computer hard drive when hotel staff sees the briefcase, laptop, or other belongings
2 while cleaning the room or changing a light bulb.” *United States v. Young*, 573 F.3d 711,
3 721 (9th Cir. 2009). We find that while hotel employees may have been able to enter the
4 room to perform their job duties, Mr. Katen still held a reasonable expectation of privacy
5 regarding his hotel room.
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7 Next, in our determination of the offensiveness of the intrusion, we look at “the
8 degree of the intrusion, the context, conduct and circumstances surrounding the intrusion as
9 well as the intruder's motives and objectives, the setting into which he intrudes, and the
10 expectations of those whose privacy is invaded.” *Deteresa v. Am. Broad. Companies, Inc.*,
11 121 F.3d 460, 465 (9th Cir. 1997). Mr. Katen was showering in the bathroom when Mr.
12 Jones entered the hotel room without a knock or anything else to announce his presence.
13 Furthermore, Mr. Jones rifled through various cabinets without consent and read Mr.
14 Katen’s text message on the screen of his phone. These actions are likely to be considered
15 highly offensive to a reasonable person as it is akin to entering someone’s home without
16 permission while they are vulnerable. However, the District Court concluded based on
17 *Boring v. Google Inc.*, that no actual harm came to Mr. Katen from Mr. Jones entrance into
18 the room, especially as Mr. Katen was not even aware of Mr. Jone’s entry until the
19 television broadcast occurred. Therefore, the District Court found that he had no claim for
20 intrusion on seclusion as he cannot establish a harm. We agree and therefore affirm the
21 District Court’s ruling regarding Mr. Katen’s intrusion on seclusion claim.
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2. Disclosure of Private Facts

In the state of Nevada, one who gives publicity to a matter concerning the private life of another is subject to liability to the other for invasion of his privacy, if the matter publicized is of a kind that (a) would be highly offensive to a reasonable person, and (b) is not of legitimate concern to the public. N.R.S. 555.112; Restatement (Second) of Torts § 652D. Should the individual make their information public of their own accord, disclosure of that or similar information will not constitute disclosure of private fact. *See M & R Inv. Co. v. Mandarino*, 103 Nev. 711, 719 (1987).

In order to prevail on this claim, the defendant must have given “publicity” to private facts. Publicity in this regard means that the matter is made public, by communicating it to the public at large, or to so many persons that the matter must be regarded as substantially certain to become one of public knowledge. *Virgil v. Time, Inc.*, 527 F.2d 1122, 1126 (9th Cir. 1975). Mr. Katen contends that Mr. Jones disseminated the private information to the public at large because he knew the reporter was going to publicize the information in a news broadcast. However, we find that the information was not given publicity as Mr. Jones merely told one individual the information.

Further, we find that much of the information disclosed was already public information. Regarding the disclosure of information about Mr. Katen smoking marijuana and having gambling issues, we find this to be a case of a publication of public facts which Mr. Katen himself made public. As his music discusses these topics in manners that make a listener feel they apply to the rapper, disclosure of these facts by another party only reinforces what he himself raps about.

1 Finally, there is a privilege that applies when information is disseminated by the
2 media. *Gilbert v. Med. Econ. Co.*, 665 F.2d 305, 307 (10th Cir. 1981). This constitutional
3 privilege clearly applies to the public disclosure of private facts, the invasion of privacy tort
4 alleged in this action. *Cox Broadcasting Co. v. Cohn*, 420 U.S. at 489, 95 S.Ct. at 1043. The
5 privilege extends to public figures, as well as to those private individuals “who have not
6 sought publicity or consented to it, but through their own conduct or otherwise have become
7 a legitimate subject of public interest.” *Gilbert* at 307. In attempting to strike an acceptable
8 balance between these competing interests, liability may be imposed for publicizing matters
9 concerning the private life of another “if the matter publicized is of a kind that (a) would be
10 highly offensive to a reasonable person, and (b) is not of legitimate concern to the public. *Id.*
11 The District Court found that while Mr. Jones is not a media source, the individual he
12 relayed the information to was, and therefore, the case should fall under the same analysis.
13 The District Court found that Mr. Katen is a public figure who routinely makes his money
14 through music that discusses intimate details of his personal life. Therefore, the information
15 regarding Mr. Katen’s marriage, while very personal, is newsworthy and of legitimate public
16 concern through his own choices. The information regarding Mr. Katen’s gambling and drug
17 use is also of legitimate public concern. Therefore, we affirm the District Court’s dismissal
18 of Mr. Katen’s claim for public disclosure of private facts.
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22 For the foregoing reasons, we affirm the District Court’s rulings.
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EXHIBIT 1

STATE OF NIRVANA GAMING CONTROL BOARD
INVESTIGATION REPORT

Investigator Name: Jack Smith
Investigation Date: 7/08/2017
Licensee Name: Syn Resorts, Inc.

FINDINGS:

1. On June 8, 2017 \$uspicious Kat checked in as a guest of Syn Resorts, under the name Francis Katen, at 6:57 PM.. He was given a comped guest suite, #8118.
2. On June 8, 2017 at approximately 7:15 PM, guests in room #8117 called the front desk to complain of the smell of marijuana coming from room #8118.
3. On June 8th at 8:30 PM, Mr. Katen received a marker in the amount of \$10,000.
4. On June 8th at 8:45 PM, several guests complained that a man matching Mr. Katen's description was smoking marijuana in the men's restroom located in the lobby.
5. On June 8th from 9:00 – 11:00 PM, security footage shows Mr. Katen on the floor of the casino playing black-jack, poker, and roulette. Footage shows him having difficulty maintaining his balance as he moves around the casino floor.
6. At 10:00 PM, the pit boss, Patricia Bossley received information from two dealers that Mr. Katen appeared to be under the influence of marijuana. However, Mr. Katen was allowed to continue playing.
7. On June 8th at 11:00 PM, Mr. Katen was playing poker and won \$100,000.
8. At 11:05 PM, Patricia Bossley suspended release of the \$100,000 winnings until after a review of security footage.
9. At 11:15 PM, Mr. Katen was informed by Patricia Bossley that he would be denied the tournament winnings because he was competing, while under the influence of marijuana, which is against tournament rules and Syn Resorts policy.
10. On June 9th at 9:00 AM, Syn Resorts informed the NV Gaming Control Board about the dispute with Mr. Katen.

1 CONCLUSION:

2 Based on the foregoing, we find that it was appropriate for Syn Resorts to stop Mr. Katen
3 from gambling and that he was not entitled to the \$100,0000 jackpot.

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EXHIBIT 2

SYN RESORTS POLICIES AND PROCEDURES MANUAL
A1146

Document ID: A1146	Title: MARIJUANA USAGE PROHIBITION	Print Date: 01/01/2017
Effective Date: 01/01/2017	Prepared By: HR Associate Director	Date Prepared: 09/01/2016
	Reviewed By: HR Director	Date Reviewed: 12/30/2017
	Approved By: Internal Operations Executive	Date Approved: 12/31/2017

Policy: Both marijuana possession and usage is strictly prohibited on the premises of Syn Resorts.

Purpose: To provide a safe environment for guests and employees alike.

Procedure: All Syn Resorts Employees are responsible to prevent and stop the usage and possession of marijuana on the premises. If the Employee is unsure of how to stop the usage/possession of marijuana on the premises, they must activate the chain of command for their division and consult his or her Supervisor.

Any X Resort Employee who confronts a guest or fellow Employee about the usage/possession of marijuana on the premises must report the incident to his or her Supervisor as soon as possible.

Any X Resort Employee may be requested to take a drug test at any time. Failure to comply with the request may result in termination of the Employee. If the Employee tests positive for marijuana usage, they may be subject to termination.

Signs must be posted at all entrances notifying guests that usage and possession of marijuana is strictly prohibited on the premises.

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EXHIBIT 3



BRIAN SANDOVAL
Governor

MARIE BELL
Executive Secretary

NEVADA GAMING COMMISSION

1919 College Parkway, P.O. Box 8003
Carson City, Nevada 89702
(775) 684-7750

TONY ALAMO, M.D., *Chairman*
JOHN T. MORAN JR., *Member*
RANDOLPH J. TOWNSEND, *Member*
HON. PHILIP M. PRO (RET.), *Member*
DEBORAH J. FUETSCH, *Member*

NEVADA GAMING COMMISSION RESOLUTION ON THE INTERSECTION OF MARIJUANA AND THE GAMING INDUSTRY

Whereas at its August 24, 2017, meeting, the Nevada Gaming Commission (Commission) discussed issues related to marijuana and the gaming industry. Specifically, the Commission considered the following topics:

1. Events on the premises of a licensed gaming establishment that cater to or promote the use, sale, and cultivation or distribution of marijuana.
2. Contracting with or maintaining a business relationship with an individual or entity engaged in the sale, cultivation or distribution of marijuana.
3. Licensees receiving financing from or providing financing to an individual, entity or establishment that sells, cultivates, or distributes marijuana.

Therefore, be it resolved that the Nevada Gaming Commission (Commission) reaffirms, based on provisions of the Nevada Gaming Control Act, Commission Regulations and federal law and regulation, that gaming licensees shall not participate in the marijuana industry. Moreover, the Commission reminds gaming licensees of the existing prohibition against public consumption of marijuana set forth in Nevada state law. Licensees should take care to ensure that any events on the premises of a licensed gaming establishment do not promote illegal activities or foster incidents which might negatively impact the reputation of Nevada's gaming industry. Licensees should not contract with, maintain business relationships with, or provide financing to individuals, entities or establishments that sell, cultivate or distribute marijuana and should avoid all transactions and associations that may implicate them under federal law, including financial crimes related to the receipt of proceeds from unlawful activities.

In accordance with the state's policy of strict regulation of gaming, set forth in NRS 463.0129 of the Gaming Control Act, and commensurate with the outline of unsuitable methods of operation detailed in Regulation 5.011 the Commission reminds all licensees that involvement with the marijuana industry through events, business relationships or financial transactions may be a violation of the Gaming Control Act and advises licensees to exercise discretion and sound judgment to 1) follow all applicable laws, and 2) to avoid any incidents that might negatively affect the reput of the State of Nevada and the gaming industry. It is worth reflecting on the over half-century this state and its gaming licensees have spent building the current strong reputation of Nevada gaming. Nevada's gaming regulators intend to protect this hard won reputation, which is central to future development of the industry and to Nevada's leading position in it.

Please be advised that this Resolution is intended to provide guidance to licensees as to the Commission's understanding and sense of current Nevada law and regulation and of federal law. Nevada licensees are encouraged and advised to conduct their own due diligence reviews and to consult with private legal counsel regarding any specific fact patterns implicated by this Resolution.

DATED this 21st day of September, 2017

NEVADA GAMING COMMISSION

TONY ALAMO, M.D., Chairman

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APPENDIX A (STATUTES AND REGULATIONS)

FEDERAL STATUTES AND REGULATIONS

42 U.S.C. §12182

(a) General rule

No individual shall be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation by any person who owns, leases (or leases to), or operates a place of public accommodation.

(b) Construction

(1) General prohibition

(A) Activities

(i) Denial of participation

It shall be discriminatory to subject an individual or class of individuals on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements, to a denial of the opportunity of the individual or class to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity.

(ii) Participation in unequal benefit

It shall be discriminatory to afford an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with the opportunity to participate in or benefit from a good, service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other individuals.

(iii) Separate benefit

It shall be discriminatory to provide an individual or class of individuals, on the basis of a disability or disabilities of such individual or class, directly, or through contractual, licensing, or other arrangements with a good, service, facility, privilege, advantage, or accommodation that is different or separate from that provided to other individuals, unless such action is necessary to provide the individual or class of individuals with a good, service, facility, privilege, advantage, or accommodation, or other opportunity that is as effective as that provided to others.

(iv) Individual or class of individuals

For purposes of clauses (i) through (iii) of this subparagraph, the term “individual or class of individuals” refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

1
2 **(B) Integrated settings**

3 Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to
4 an individual with a disability in the most integrated setting appropriate to the needs of the
5 individual.

6 **(C) Opportunity to participate**

7 Notwithstanding the existence of separate or different programs or activities provided in
8 accordance with this section, an individual with a disability shall not be denied the
9 opportunity to participate in such programs or activities that are not separate or different.

10 **(D) Administrative methods**

11 An individual or entity shall not, directly or through contractual or other arrangements,
12 utilize standards or criteria or methods of administration—

- 13 (i) that have the effect of discriminating on the basis of disability; or
14 (ii) that perpetuate the discrimination of others who are subject to common
15 administrative control.

16 **(E) Association**

17 It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities,
18 privileges, advantages, accommodations, or other opportunities to an individual or entity
19 because of the known disability of an individual with whom the individual or entity is
20 known to have a relationship or association.

21 **(2) Specific prohibitions**

22 **(A) Discrimination**

23 For purposes of subsection (a) of this section, discrimination includes--

- 24 (i) the imposition or application of eligibility criteria that screen out or tend to
25 screen out an individual with a disability or any class of individuals with
26 disabilities from fully and equally enjoying any goods, services, facilities,
27 privileges, advantages, or accommodations, unless such criteria can be shown
28 to be necessary for the provision of the goods, services, facilities, privileges,
29 advantages, or accommodations being offered;
- 30 (ii) a failure to make reasonable modifications in policies, practices, or
31 procedures, when such modifications are necessary to afford such goods,
32 services, facilities, privileges, advantages, or accommodations to individuals
33 with disabilities, unless the entity can demonstrate that making such
34 modifications would fundamentally alter the nature of such goods, services,
35 facilities, privileges, advantages, or accommodations;
- 36 (iii) a failure to take such steps as may be necessary to ensure that no individual
37 with a disability is excluded, denied services, segregated or otherwise treated
38 differently than other individuals because of the absence of auxiliary aids and

1 services, unless the entity can demonstrate that taking such steps would
2 fundamentally alter the nature of the good, service, facility, privilege,
3 advantage, or accommodation being offered or would result in an undue
4 burden;

5 (iv) a failure to remove architectural barriers, and communication barriers that are
6 structural in nature, in existing facilities, and transportation barriers in
7 existing vehicles and rail passenger cars used by an establishment for
8 transporting individuals (not including barriers that can only be removed
9 through the retrofitting of vehicles or rail passenger cars by the installation of
10 a hydraulic or other lift), where such removal is readily achievable; and

11 (v) where an entity can demonstrate that the removal of a barrier under clause
12 (iv) is not readily achievable, a failure to make such goods, services,
13 facilities, privileges, advantages, or accommodations available through
14 alternative methods if such methods are readily achievable.

15 (B) Fixed route system

16 (i) Accessibility

17 It shall be considered discrimination for a private entity which operates a fixed route
18 system and which is not subject to section 12184 of this title to purchase or lease a
19 vehicle with a seating capacity in excess of 16 passengers (including the driver) for
20 use on such system, for which a solicitation is made after the 30th day following the
21 effective date of this subparagraph, that is not readily accessible to and usable by
22 individuals with disabilities, including individuals who use wheelchairs.

23 (ii) Equivalent service

24 If a private entity which operates a fixed route system and which is not subject to
25 section 12184 of this title purchases or leases a vehicle with a seating capacity of 16
26 passengers or less (including the driver) for use on such system after the effective
date of this subparagraph that is not readily accessible to or usable by individuals
with disabilities, it shall be considered discrimination for such entity to fail to
operate such system so that, when viewed in its entirety, such system ensures a level
of service to individuals with disabilities, including individuals who use wheelchairs,
equivalent to the level of service provided to individuals without disabilities.

27 (C) Demand responsive system

28 For purposes of subsection (a) of this section, discrimination includes--

29 (i) a failure of a private entity which operates a demand responsive system and
30 which is not subject to section 12184 of this title to operate such system so
31 that, when viewed in its entirety, such system ensures a level of service to
32 individuals with disabilities, including individuals who use wheelchairs,
33 equivalent to the level of service provided to individuals without disabilities;
34 and

- 1 (ii) the purchase or lease by such entity for use on such system of a vehicle with
2 a seating capacity in excess of 16 passengers (including the driver), for which
3 solicitations are made after the 30th day following the effective date of this
4 subparagraph, that is not readily accessible to and usable by individuals with
5 disabilities (including individuals who use wheelchairs) unless such entity
6 can demonstrate that such system, when viewed in its entirety, provides a
7 level of service to individuals with disabilities equivalent to that provided to
8 individuals without disabilities.

6 **(D) Over-the-road buses**

7 **(i) Limitation on applicability**

8 Subparagraphs (B) and (C) do not apply to over-the-road buses.

9 **(ii) Accessibility requirements**

10 For purposes of subsection (a) of this section, discrimination includes (I) the
11 purchase or lease of an over-the-road bus which does not comply with the
12 regulations issued under section 12186(a)(2) of this title by a private entity which
13 provides transportation of individuals and which is not primarily engaged in the
14 business of transporting people, and (II) any other failure of such entity to comply
15 with such regulations.

13 **(3) Specific construction**

14 Nothing in this subchapter shall require an entity to permit an individual to participate in or
15 benefit from the goods, services, facilities, privileges, advantages and accommodations of
16 such entity where such individual poses a direct threat to the health or safety of others. The
17 term “direct threat” means a significant risk to the health or safety of others that cannot be
18 eliminated by a modification of policies, practices, or procedures or by the provision of
19 auxiliary aids or services.

18 **NIRVANA STATUTES AND REGULATIONS**

19 **NRS 453A.300 Acts for which holder of registry identification card or letter of**
20 **approval is not exempt from state prosecution and may not raise affirmative defense;**
21 **additional penalty.**

22 1. A person who holds a registry identification card or letter of approval issued to him or
23 her pursuant to NRS 453A.220 or 453A.250 is not exempt from state prosecution for, nor
24 may the person establish an affirmative defense to charges arising from, any of the following
25 acts:

26 (a) Driving, operating or being in actual physical control of a vehicle or a vessel
 under power or sail while under the influence of marijuana.

 (b) Engaging in any other conduct prohibited by NRS 484C.110, 484C.120,
 484C.130, 484C.430, subsection 2 of NRS 488.400, NRS 488.410, 488.420, 488.425
 or 493.130.

 (c) Possessing a firearm in violation of paragraph (b) of subsection 1 of NRS
 202.257.

(d) Possessing marijuana in violation of NRS 453.336 or possessing paraphernalia in violation of NRS 453.560 or 453.566:

(1) If the possession of the marijuana or paraphernalia is discovered because the person engaged or assisted in the medical use of marijuana in:

(I) Any public place or in any place open to the public or exposed to public view; or

(II) Any local detention facility, county jail, state prison, reformatory or other correctional facility, including, without limitation, any facility for the detention of juvenile offenders; or

(2) If the possession of the marijuana or paraphernalia occurs on school property.

(e) Delivering marijuana to another person who he or she knows does not lawfully hold a registry identification card or letter of approval issued by the Division or its designee pursuant to NRS 453A.220 or 453A.250.

(f) Delivering marijuana for consideration to any person, regardless of whether the recipient lawfully holds a registry identification card or letter of approval issued by the Division or its designee pursuant to NRS 453A.220 or 453A.250.

2. Except as otherwise provided in NRS 453A.225 and in addition to any other penalty provided by law, if the Division determines that a person has willfully violated a provision of this chapter or any regulation adopted by the Division to carry out the provisions of this chapter, the Division may, at its own discretion, prohibit the person from obtaining or using a registry identification card or letter of approval for a period of up to 6 months.

3. As used in this section, "school property" means the grounds of any public school described in NRS 388.020 and any private school as defined in NRS 394.103.

NRS 453A.310 Affirmative defenses.

1. Except as otherwise provided in this section and NRS 453A.300, it is an affirmative defense to a criminal charge of possession, delivery or production of marijuana, or any other criminal offense in which possession, delivery or production of marijuana is an element, that the person charged with the offense:

(a) Is a person who:

(1) Has been diagnosed with a chronic or debilitating medical condition within the 12-month period preceding his or her arrest and has been advised by his or her attending physician that the medical use of marijuana may mitigate the symptoms or effects of that chronic or debilitating medical condition;

(2) Is engaged in the medical use of marijuana; and

(3) Possesses, delivers or produces marijuana only in the amount described in paragraph (b) of subsection 3 of NRS 453A.200 or in excess of that amount if the person proves by a preponderance of the evidence that the greater amount is medically necessary as determined by the person's attending physician to mitigate the symptoms or effects of the person's chronic or debilitating medical condition; or

(b) Is a person who:

(1) Is assisting a person described in paragraph (a) in the medical use of marijuana; and

(2) Possesses, delivers or produces marijuana only in the amount described in paragraph (b) of subsection 3 of NRS 453A.200 or in excess of that amount if the person

1 proves by a preponderance of the evidence that the greater amount is medically necessary as
2 determined by the assisted person's attending physician to mitigate the symptoms or effects
3 of the assisted person's chronic or debilitating medical condition.

4 2. A person need not hold a registry identification card or letter of approval issued to
5 the person by the Division or its designee pursuant to NRS 453A.220 or 453A.250 to assert
6 an affirmative defense described in this section.

7 3. Except as otherwise provided in this section and in addition to the affirmative
8 defense described in subsection 1, a person engaged or assisting in the medical use of
9 marijuana who is charged with a crime pertaining to the medical use of marijuana is not
10 precluded from:

11 (a) Asserting a defense of medical necessity; or

12 (b) Presenting evidence supporting the necessity of marijuana for treatment of a specific
13 disease or medical condition,
14 if the amount of marijuana at issue is not greater than the amount described in paragraph (b)
15 of subsection 3 of NRS 453A.200 and the person has taken steps to comply substantially
16 with the provisions of this chapter.

17 4. A defendant who intends to offer an affirmative defense described in this section
18 shall, not less than 5 days before trial or at such other time as the court directs, file and serve
19 upon the prosecuting attorney a written notice of the defendant's intent to claim the
20 affirmative defense. The written notice must:

21 (a) State specifically why the defendant believes he or she is entitled to assert the
22 affirmative defense; and

23 (b) Set forth the factual basis for the affirmative defense.

24 A defendant who fails to provide notice of his or her intent to claim an affirmative defense
25 as required pursuant to this subsection may not assert the affirmative defense at trial unless
26 the court, for good cause shown, orders otherwise.

**NRS 453A.400 Possession of registry identification card, letter of approval,
registration certificate or registration card not permissible grounds for search or
inspection; care and return of seized property.**

1 The fact that a person possesses a registry identification card or letter of approval
2 issued to the person by the Division or its designee pursuant to NRS 453A.220 or 453A.250,
3 a medical marijuana establishment registration certificate issued to the person by the
4 Division or its designee pursuant to NRS 453A.322 or a medical marijuana establishment
5 agent registration card issued to the person by the Division or its designee pursuant to NRS
6 453A.332 does not, alone:

7 (a) Constitute probable cause to search the person or the person's property; or

8 (b) Subject the person or the person's property to inspection by any governmental
9 agency.

10 2. Except as otherwise provided in this subsection, if officers of a state or local law
11 enforcement agency seize marijuana, paraphernalia or other related property from a person
12 engaged in, facilitating or assisting in the medical use of marijuana:

13 (a) The law enforcement agency shall ensure that the marijuana, paraphernalia or
14 other related property is not destroyed while in the possession of the law
15 enforcement agency.

1 (b) Any property interest of the person from whom the marijuana, paraphernalia or
2 other related property was seized must not be forfeited pursuant to any provision of
3 law providing for the forfeiture of property, except as part of a sentence imposed
4 after conviction of a criminal offense.

5 (c) Upon:

- 6 (1) A decision not to prosecute;
- 7 (2) The dismissal of charges; or
- 8 (3) Acquittal,

9 the law enforcement agency shall, to the extent permitted by law, return to that person any
10 usable marijuana, marijuana plants, paraphernalia or other related property that was seized.
11 The provisions of this subsection do not require a law enforcement agency to care for live
12 marijuana plants.

13 **NRS 453D.100 Effect of chapter. [This section was proposed by an initiative petition
14 and approved by the voters at the 2016 General Election and therefore is not subject to
15 legislative amendment or repeal until after November 22, 2019.]**

16 1. The provisions of this chapter do not permit any person to engage in and do not prevent
17 the imposition of any civil, criminal, or other penalty for:

18 (a) Driving, operating, or being in actual physical control of a vehicle, aircraft, or
19 vessel under power or sail while under the influence of marijuana or while impaired
20 by marijuana;

21 (b) Knowingly delivering, giving, selling, administering, or offering to sell,
22 administer, give, or deliver marijuana to a person under 21 years of age, unless:

23 (1) The recipient is permitted to possess marijuana pursuant to chapter 453A
24 of NRS; or

25 (2) The person demanded and was shown bona fide documentary evidence
26 of the majority and identity of the recipient issued by a federal, state, county,
or municipal government, or subdivision or agency thereof;

(c) Possession or use of marijuana or marijuana paraphernalia on the grounds of, or
within, any facility or institution under the jurisdiction of the Nevada Department of
Corrections;

(d) Possession or use of marijuana on the grounds of, or within, a school providing
instruction in preschool, kindergarten, or any grades 1 through 12; or

(e) Undertaking any task under the influence of marijuana that constitutes
negligence or professional malpractice.

2. The provisions of this chapter do not prohibit:

(a) A public or private employer from maintaining, enacting, and enforcing a
workplace policy prohibiting or restricting actions or conduct otherwise permitted
under this chapter;

(b) A state or local government agency that occupies, owns, or controls a building
from prohibiting or otherwise restricting the consumption, cultivation, processing,
manufacture, sale, delivery, or transfer of marijuana in that building;

(c) A person who occupies, owns, or controls a privately owned property from
prohibiting or otherwise restricting the smoking, cultivation, processing,
manufacture, sale, delivery, or transfer of marijuana on that property; or

1 (d) A locality from adopting and enforcing local marijuana control measures
2 pertaining to zoning and land use for marijuana establishments.

3 3. Nothing in the provisions of this chapter shall be construed as in any manner affecting
4 the provisions of chapter 453A of NRS relating to the medical use of marijuana.

5 **NRS 453D.110 Exemption from state or local prosecution for certain acts involving**
6 **marijuana and marijuana paraphernalia. [This section was proposed by an initiative**
7 **petition and approved by the voters at the 2016 General Election and therefore is not**
8 **subject to legislative amendment or repeal until after November 22, 2019.]**

9 Notwithstanding any other provision of Nirvana law and the law of any political subdivision
10 of Nirvana, except as otherwise provided in this chapter, it is lawful, in this State, and must
11 not be used as the basis for prosecution or penalty by this State or a political subdivision of
12 this State, and must not, in this State, be a basis for seizure or forfeiture of assets for persons
21 years of age or older to:

13 1. Possess, use, consume, purchase, obtain, process, or transport marijuana paraphernalia,
14 one ounce or less of marijuana other than concentrated marijuana, or one-eighth of an ounce
15 or less of concentrated marijuana;

16 2. Possess, cultivate, process, or transport not more than six marijuana plants for personal
17 use and possess the marijuana produced by the plants on the premises where the plants were
18 grown, provided that:

19 (a) Cultivation takes place within a closet, room, greenhouse, or other enclosed area
20 that is equipped with a lock or other security device that allows access only to
21 persons authorized to access the area; and

22 (b) No more than 12 plants are possessed, cultivated, or processed at a single
23 residence, or upon the grounds of that residence, at one time;

24 3. Give or otherwise deliver one ounce or less of marijuana, other than concentrated
25 marijuana, or one-eighth of an ounce or less of concentrated marijuana without remuneration
26 to a person provided that the transaction is not advertised or promoted to the public; or

4. Assist another person who is 21 years of age or older in any of the acts described in this
section.

19 **NRS 453D.120 Additional exemption from state or local prosecution for certain acts**
20 **involving marijuana and marijuana products. [This section was proposed by an**
21 **initiative petition and approved by the voters at the 2016 General Election and**
22 **therefore is not subject to legislative amendment or repeal until after November 22,**
23 **2019.]** Notwithstanding any other provision of Nirvana law and the law of any political

24 subdivision of Nirvana, except as otherwise provided in this chapter or the regulations
25 adopted pursuant to NRS 453D.200, it is lawful and must not, in this State, be used as the
26 basis for prosecution or penalty by this State or a political subdivision of this State, and must
not, in this State, be a basis for seizure or forfeiture of assets for persons 21 years of age or
older to:

1. Possess marijuana and marijuana products, purchase marijuana from a marijuana
cultivation facility, purchase marijuana and marijuana products from a marijuana product
manufacturing facility, return marijuana or marijuana products to a facility from which they
were purchased, transport marijuana and marijuana products to or from a marijuana testing
facility, use the services of a marijuana distributor to transport marijuana or marijuana

1 products to or from marijuana establishments, or sell marijuana and marijuana products to
2 consumers, if the person conducting the activities described in this subsection has a current,
3 valid license to operate a retail marijuana store or is acting in the person's capacity as an
4 agent of a retail marijuana store.

5 2. Cultivate, harvest, process, package, or possess marijuana, sell marijuana to a marijuana
6 cultivation facility, a marijuana product manufacturing facility, or a retail marijuana store,
7 transport marijuana to or from a marijuana cultivation facility, a marijuana product
8 manufacturing facility, or a marijuana testing facility, use the services of a marijuana
9 distributor to transport marijuana to or from marijuana establishments, or purchase
10 marijuana from a marijuana cultivation facility, if the person conducting the activities
11 described in this subsection has a current, valid license to operate a marijuana cultivation
12 facility or is acting in his or her capacity as an agent of a marijuana cultivation facility.

13 3. Package, process, manufacture, or possess marijuana and marijuana products, transport
14 marijuana and marijuana products to or from a marijuana testing facility, a marijuana
15 cultivation facility, or a marijuana product manufacturing facility, use the services of a
16 marijuana distributor to transport marijuana or marijuana products to or from marijuana
17 establishments, sell marijuana and marijuana products to a retail marijuana store or a
18 marijuana product manufacturing facility, purchase marijuana from a marijuana cultivation
19 facility, or purchase marijuana and marijuana products from a marijuana product
20 manufacturing facility, if the person conducting the activities described in this subsection
21 has a current, valid license to operate a marijuana product manufacturing facility or is acting
22 in his or her capacity as an agent of a marijuana product manufacturing facility.

23 4. Possess marijuana and marijuana products and transfer and transport marijuana and
24 marijuana products between marijuana establishments, if the person transporting the
25 marijuana and marijuana products has a current, valid license to operate as a marijuana
26 distributor or is acting in his or her capacity as an agent of a marijuana distributor.

5. Possess, process, repackage, transport, or test marijuana and marijuana products if the
person has a current, valid license to operate a marijuana testing facility or is acting in his or
her capacity as an agent of a marijuana testing facility.

6. Lease or otherwise allow property owned, occupied, or controlled by any person,
corporation, or other entity to be used for any of the activities conducted lawfully in
accordance with this section.

NRS 463.361 Enforceability and resolution of gaming debts.

1. Except as otherwise provided in NRS 463.361 to 463.366, inclusive, and 463.780,
gaming debts that are not evidenced by a credit instrument are void and unenforceable and
do not give rise to any administrative or civil cause of action.

2. A claim by a patron of a licensee for payment of a gaming debt that is not evidenced by
a credit instrument may be resolved in accordance with NRS 463.362 to 463.366, inclusive:

(a) By the Board; or

1 (b) If the claim is for less than \$500, by a hearing examiner designated by the
2 Board.

3 **NRS 463.362 Resolution of disputes.**

4 1. Whenever a patron and a licensee, or any person acting on behalf of or in conjunction
5 with a licensee, have any dispute which cannot be resolved to the satisfaction of the patron
6 and which involves:

7 (a) Alleged winnings, alleged losses or the award or distribution of cash, prizes,
8 benefits, tickets or any other item or items in a game, tournament, contest, drawing,
9 promotion or similar activity or event; or

10 (b) The manner in which a game, tournament, contest, drawing, promotion or
11 similar activity or event is conducted,
12 È the licensee is responsible for notifying the Board or patron in accordance with the
13 provisions of subsection 2, regardless of whether the licensee is directly or indirectly
14 involved in the dispute.

15 2. Whenever a dispute described in subsection 1 involves:

16 (a) At least \$500, the licensee shall immediately notify the Board; or

17 (b) Less than \$500, the licensee shall notify the patron of the patron's right to
18 request that the Board conduct an investigation.

19 3. Upon being notified of a dispute, the Board, through an agent, shall conduct whatever
20 investigation it deems necessary and shall determine whether payment should be made. The
21 agent of the Board shall mail written notice to the Board, the licensee and the patron of the
22 agent's decision resolving the dispute within 45 days after the date the Board first receives
23 notification from the licensee or a request to conduct an investigation from the patron. The
24 failure of the agent to mail notice of the agent's decision within the time required by this
25 subsection does not divest the Board of its exclusive jurisdiction over the dispute.

26 4. Failure of the licensee to notify the Board or patron as provided in subsection 2 is
grounds for disciplinary action pursuant to NRS 463.310 to 463.3145, inclusive.

5. The decision of the agent of the Board is effective on the date the aggrieved party
receives notice of the decision. Notice of the decision shall be deemed sufficient if it is
mailed to the last known address of the licensee and patron. The date of mailing may be
proven by a certificate signed by an officer or employee of the Board which specifies the
time the notice was mailed. The notice shall be deemed to have been received by the
licensee or the patron 5 days after it is deposited with the United States Postal Service with
the postage thereon prepaid.

21 **NRS 463.363 Petition for hearing by Board; notice and conduct of hearing.**

22 1. Within 20 days after the date of receipt of the written decision of the agent, the
23 aggrieved party may file a petition with the Board requesting a hearing to reconsider the
24 decision.

25 2. The petition must set forth the basis of the request for reconsideration.

26 3. If no petition for reconsideration is filed within the time prescribed in subsection 1, the
decision shall be deemed final action on the matter and is not subject to reconsideration by
the Board or to review by the Commission or any court.

4. The party requesting the hearing must provide a copy of the petition to the other party.

1 5. Within 15 days after service of the petition, the responding party may answer the
2 allegations contained therein by filing a written response with the Board.

3 6. The Board shall schedule a hearing and may conduct the hearing as provided in
4 subsection 4 of NRS 463.110, except that notice of the date, time and place of the hearing
5 must be provided by the Board to both parties.

6 7. The hearing must be conducted in accordance with regulations adopted by the
7 Commission.

8 **NRS 463.364 Burden of proof on party seeking reconsideration; decision of Board or**
9 **hearing examiner.**

10 1. The party seeking reconsideration bears the burden of showing that the agent's decision
11 should be reversed or modified.

12 2. After the hearing, the Board or the hearing examiner may sustain, modify or reverse the
13 agent's decision. The decision by the Board or the hearing examiner must be in writing and
14 must include findings of fact. A copy of the decision must be delivered or mailed forthwith
15 to each party or to the party's attorney of record.

16 **NRS 463.366 Payment of claim after decision of Board or hearing examiner becomes**
17 **final; deposit and withdrawal of amount of claim upon judicial review.**

18 1. Except as otherwise provided in subsection 2, a licensee shall pay a patron's claim
19 within 20 days after the decision of the Board or the hearing examiner directing the licensee
20 to do so becomes final. Failure to pay within that time is grounds for disciplinary action
21 pursuant to NRS 463.311 to 463.3145, inclusive.

22 2. If a licensee intends to file a petition for judicial review of the decision pursuant to NRS
23 463.3662 to 463.3668, inclusive, the licensee must first deposit in an interest-bearing
24 account in a financial institution an amount equal to the amount in dispute. The licensee
25 shall pay the full amount of the patron's claim, including interest, within 20 days after a
26 final, nonappealable order of a court of competent jurisdiction so directs.

3. The licensee may withdraw the amount deposited in the financial institution upon:

(a) Payment of the full amount of the patron's claim, plus interest, if the licensee
has given notice to the Board of the payment; or

(b) A final determination by the court that the licensee is not required to pay the
claim.

NRS 463.3662 Judicial review: Petition; intervention; stay of enforcement.

1. Any person aggrieved by a final decision or order of the Board or the hearing examiner
made after hearing by the Board pursuant to NRS 463.361 to 463.366, inclusive, may obtain
a judicial review thereof in the District Court of the county in which the dispute between the
licensee and patron arose.

2. The judicial review must be instituted by filing a petition within 20 days after the
effective date of the final decision or order. The petition must set forth the order or decision
appealed from and the grounds or reasons why the petitioner contends that a reversal or
modification should be ordered.

3. Copies of the petition must be served upon the Board and all other parties of record, or
their counsel of record, either personally or by certified mail.

1 4. The court, upon a proper showing, may permit other interested persons to intervene as
2 parties to the appeal or as friends of the court.

3 5. The filing of the petition does not stay enforcement of the decision or order of the Board
4 or the hearing examiner, but the Board itself may grant a stay upon such terms and
5 conditions as it deems proper.

6 **NRS 463.3664 Judicial review: Record on review.**

7 1. Upon written request of petitioner and upon payment of such reasonable costs and fees
8 as the Board may prescribe, the complete record on review, or such parts thereof as are
9 designated by the petitioner, must be prepared by the Board.

10 2. The complete record on review must include copies of:

11 (a) All pleadings in the case;

12 (b) All notices and interim orders issued by the Board in connection with the
13 case;

14 (c) All stipulations;

15 (d) The decision and order appealed from;

16 (e) A transcript of all testimony, evidence and proceedings at the hearing;

17 (f) The exhibits admitted or rejected; and

18 (g) Any other papers in the case.

19 The original of any document may be used in lieu of a copy thereof. The record on
20 review may be shortened by stipulation of all parties to the review proceedings.

21 3. The record on review must be filed with the reviewing court within 30 days after service
22 of the petition for review, but the court may allow the Board additional time to prepare and
23 transmit the record on review.

24 **NRS 463.3666 Judicial review: Additional evidence taken by Board or hearing
25 examiner; review confined to record; court may affirm, remand or reverse.**

26 1. The reviewing court may, upon motion therefor, order that additional evidence in the
case be taken by the Board or the hearing examiner upon such terms and conditions as the
court deems just and proper. The motion must not be granted except upon a showing that the
additional evidence is material and necessary and that sufficient reason existed for failure to
present the evidence at the hearing conducted by the Board or the hearing examiner. The
motion must be supported by an affidavit of the moving party or his or her counsel showing
with particularity the materiality and necessity of the additional evidence and the reason why
it was not introduced in the administrative hearing. Rebuttal evidence to the additional
evidence must be permitted. In cases in which additional evidence is presented to the Board
or the hearing examiner, the Board or the hearing examiner may modify the decisions and
orders as the additional evidence may warrant and shall file with the reviewing court a
transcript of the additional evidence together with any modifications of the decision and
order, all of which become a part of the record on review.

2. The review must be conducted by the court sitting without a jury, and must not be a trial
de novo but is confined to the record on review. The filing of briefs and oral argument must
be made in accordance with the rules governing appeals in civil cases unless the local rules
of practice adopted in the judicial district provide a different procedure.

1 3. The reviewing court may affirm the decision and order of the Board or the hearing
2 examiner, or it may remand the case for further proceedings or reverse the decision if the
substantial rights of the petitioner have been prejudiced because the decision is:

- 3 (a) In violation of constitutional provisions;
4 (b) In excess of the statutory authority or jurisdiction of the Board or the hearing
examiner;
5 (c) Made upon unlawful procedure;
6 (d) Unsupported by any evidence; or
7 (e) Arbitrary or capricious or otherwise not in accordance with law.

8 **NRS 463.3668 Judicial review: Appeal; exclusive method of review; costs to**
9 **transcribe proceedings and transmit record.**

10 1. Any party aggrieved by the final decision in the District Court after a review of the
11 decision and order of the Board or the hearing examiner may appeal to the appellate court of
competent jurisdiction pursuant to the rules fixed by the Supreme Court pursuant to Section
4 of Article 6 of the Nirvana Constitution in the manner and within the time provided by law
for appeals in civil cases. The appellate court of competent jurisdiction shall follow the same
procedure thereafter as in appeals in civil actions, and may affirm, reverse or modify the
decision as the record and law warrant.

12 2. The judicial review by the District Court and the appellate court of competent
13 jurisdiction afforded in this chapter is the exclusive method of review of any actions,
14 decisions and orders in hearings held pursuant to NRS 463.361 to 463.366, inclusive.
Judicial review is not available for extraordinary common-law writs or equitable
proceedings.

15 3. The party requesting judicial review shall bear all of the costs of transcribing the
16 proceedings before the Board or the hearing examiner and of transmitting the record on
review.

17 **NRS 555.111 Intrusion on Seclusion**

18 One who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of
19 another or his private affairs or concerns, is subject to liability to the other for invasion of
his privacy, if the intrusion would be highly offensive to a reasonable person.

20 **NRS 555.112 Public Disclosure of Private Facts**

21 One who gives publicity to a matter concerning the private life of another is subject to
22 liability to the other for invasion of his privacy, if the matter publicized is of a kind that (a)
would be highly offensive to a reasonable person, and (b) is not of legitimate concern to the
public.

23 **REGULATIONS OF THE NIRVANA GAMING COMMISSION AND NIRVANA**
24 **GAMING CONTROL BOARD**

25 **5.011 Grounds for disciplinary action.** The board and the commission deem any activity
26 on the part of any licensee, his agents or employees, that is inimical to the public health,
safety, morals, good order and general welfare of the people of the State of Nirvana, or that
would reflect or tend to reflect discredit upon the State of Nirvana or the gaming industry, to

1 be an unsuitable method of operation and shall be grounds for disciplinary action by the
2 board and the commission in accordance with the Nirvana Gaming Control Act and the
3 regulations of the board and the commission. Without limiting the generality of the
4 foregoing, the following acts or omissions may be determined to be unsuitable methods of
5 operation:

6 1. Failure to exercise discretion and sound judgment to prevent incidents which might reflect
7 on the repute of the State of Nirvana and act as a detriment to the development of the
8 industry.

9 2. Permitting persons who are visibly intoxicated to participate in gaming activity.

10 3. Complimentary service of intoxicating beverages in the casino area to persons who are
11 visibly intoxicated.

12 4. Failure to conduct advertising and public relations activities in accordance with decency,
13 dignity, good taste, honesty and inoffensiveness, including, but not limited to, advertising
14 that is false or materially misleading.

15 5. Catering to, assisting, employing or associating with, either socially or in business affairs,
16 persons of notorious or unsavory reputation or who have extensive police records, or
17 persons who have defied congressional investigative committees, or other officially
18 constituted bodies acting on behalf of the United States, or any state, or persons who are
19 associated with or support subversive movements, or the employing either directly or
20 through a contract, or any other means, of any firm or individual in any capacity where the
21 repute of the State of Nirvana or the gaming industry is liable to be damaged because of the
22 unsuitability of the firm or individual or because of the unethical methods of operation of the
23 firm or individual.

24 6. Employing in a position for which the individual could be required to be licensed as a key
25 employee pursuant to the provisions of Regulations 3.100 and 3.110, any person who has
26 been denied a state gaming license on the grounds of unsuitability or who has failed or
refused to apply for licensing as a key employee when so requested by the commission.

7. Employing in any gaming operation any person whom the commission or any court has
found guilty of cheating or using any improper device in connection with any game, whether
as a licensee, dealer, or player at a licensed game or device; as well as any person whose
conduct of a licensed game as a dealer or other employee of a licensee resulted in revocation
or suspension of the license of such licensee.

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 The Nirvana gaming commission in the exercise of its sound discretion can make its own
2 determination of whether or not the licensee has failed to comply with the aforementioned,
3 but any such determination shall make use of the established precedents in interpreting the
4 language of the applicable statutes. Nothing in this section shall be deemed to affect any
5 right to judicial review.

6 9. (a) Possessing or permitting to remain in or upon any licensed premises any cards, dice,
7 mechanical device or any other cheating device whatever, the use of which is prohibited by
8 statute or ordinance, or

9 (b) Conducting, carrying on, operating or dealing any cheating or thieving game or device
10 on the premises, either knowingly or unknowingly, which may have in any manner been
11 marked, tampered with or otherwise placed in a condition, or operated in a manner, which
12 tends to deceive the public or which might make the game more liable to win or lose, or
13 which tends to alter the normal random selection of criteria which determine the results of
14 the game.

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

19 11. Whenever a licensed game or a slot machine, as defined in the Gaming Control Act, is
20 available for play by the public:

21 (a) At a nonrestricted location, failure to have an employee of the licensee present on
22 the premises to supervise the operation of the game or machine;

23 (b) At a restricted location, failure to have a responsible person who is at least 21
24 years old present on the premises to supervise the operation of the game or machine.

25 12. Except as provided in NGC Regulation 5.140 and except as to transfers of interest under
26 NGC Regulation 8.030, the sale or assignment of any gaming credit instrument by a
licensee, unless the sale is to a publicly traded or other bona fide financial institution
pursuant to a written contract, and the transaction and the terms of the contract, including
but not limited to the discount rate, are reported to the board for approval pursuant to NGC
Regulation 8.130.

13 Issuing credit to a patron to enable the patron to satisfy a debt owed to another licensee
or person, including an affiliate (as that term is defined in NGC Regulation 15.482–3) of the
licensee. This subsection shall not prohibit a licensee from collecting a debt owed to an
affiliate of the licensee.

1 14. Denying any board or commission member or agent, upon proper and lawful demand,
2 access to, inspection or disclosure of any portion or aspect of a gaming establishment as
3 authorized by applicable statutes and regulation.

4 **5.030 Violation of law or regulations.** Violation of any provision of the Nirvana Gaming
5 Control Act or of these regulations by a licensee, his agent or employee shall be deemed
6 contrary to the public health, safety, morals, good order and general welfare of the
7 inhabitants of the State of Nirvana and grounds for suspension or revocation of a license.
8 Acceptance of a state gaming license or renewal thereof by a licensee constitutes an
9 agreement on the part of the licensee to be bound by all of the regulations of the commission
10 as the same now are or may hereafter be amended or promulgated. It is the responsibility of
11 the licensee to keep himself informed of the content of all such regulations, and ignorance
12 thereof will not excuse violations.

9 **5.040 Investigation of conduct of licensees, generally.** A gaming license is a revocable
10 privilege, and no holder thereof shall be deemed to have acquired any vested rights therein
11 or thereunder. The burden of proving his qualifications to hold any license rests at all times
12 on the licensee. The board is charged by law with the duty of observing the conduct of all
13 licensees to the end that licenses shall not be held by unqualified or disqualified persons or
14 unsuitable persons or persons whose operations are conducted in an unsuitable manner.

13 **5.055 Reports of violations and of felony convictions.**

14 1. Each licensee shall immediately notify the board's enforcement division by telephone of
15 the discovery of any violation of chapter 465 of NRS and of any violation or suspected
16 violation of any gaming law regarding which the licensee has notified the local police or
17 sheriff.

17 1. Each licensee and club venue operator, as relevant, shall immediately notify the board's
18 enforcement division by telephone or, for reports pursuant to subsection (b) and (c), by
19 telephone or via email, of:

19 (a) The discovery of any violation of chapter 465 of NRS;

20 (b) The discovery of any suspected theft, larceny, embezzlement or other crime
21 involving property, if such crime has been committed against a licensee or club
22 venue operator or patron of a licensee or the club venue operator, or while on the
23 premises of a licensee or club venue operator, by a gaming employee, a person
24 required to be registered pursuant to Regulation 5.320 or 5.345, or any other person
25 who has received an approval from the commission, and the person allegedly
26 committing the crime has been separated from employment or whose business
relationship with the licensee or club venue operator has been terminated, regardless
of whether such crime is a misdemeanor, gross misdemeanor or felony;

(c) The discovery of any suspected unlawful possession, sale, or use of a controlled
substance on the premises of the licensee or club venue operator if such possession,
sale or use was committed by a gaming employee, a person required to be registered
pursuant to Regulation 5.320 or 5.345, or any other person who has received an

1 approval from the commission, and the person allegedly committing the crime has
2 been separated from employment or whose business relationship with the licensee or
club venue operator has been terminated; and

3 (d) Any suspected violation of any gaming law regarding which the licensee has
4 notified the local police or sheriff.

5 2. Any person holding a license, registration, or finding of suitability who is convicted of a
6 felony in this state or is convicted of an offense in another state or jurisdiction which would
7 be a felony if committed in this state shall notify the board's enforcement division in writing
within 10 business days of such conviction.